

City of Los Angeles

Los Angeles World Airports

LAX Master Plan Program

Alternative D

Draft Relocation Plan

April 2004

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Preface

Los Angeles International Airport (LAX) is the primary commercial air transportation hub of the Los Angeles region and is the dominant U.S. international gateway to the Pacific Rim. It is the third busiest airport in the United States in terms of aircraft operations and the world's fifth busiest in terms of passengers. It plays an essential role in meeting the current and projected transportation needs of passengers and shippers, and in producing economic vitality, within the surrounding five-county region. But LAX's aircraft and traffic activity produce noise, congestion, air pollution and other environmental impacts that need to be mitigated. In 1995, Los Angeles World Airports (LAWA), the operator of LAX, began the LAX Master Plan Program with the goal of producing plans, policies, and mitigation programs that would strike an appropriate balance in addressing these challenges.

In early 2001, LAWA published the Draft LAX Master Plan describing and analyzing four alternatives: the No Action/No Project Alternative and Alternatives A, B and C. In accord with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR), which used the Draft LAX Master Plan as the basis for its project descriptions of each alternative, analyzed the potential environmental impacts of these alternatives. At that time, the DEIS/EIR was publicly circulated to start the agency review and comment process and obtain public input.

Taking into account the public comments on Alternatives A, B and C and the DEIS/EIR, as well as the September 11, 2001 terrorist attacks, the Mayor of the City of Los Angeles directed LAWA to develop a security and safety plan now known as Alternative D as a fifth LAX Master Plan alternative, which is the staff-preferred alternative. In mid-2003, a two-volume Addendum to the Draft LAX Master Plan was published, describing Alternative D in the same manner that the previous alternatives were described. Additionally, using the two-volume Addendum as the basis for its project description of Alternative D, a Supplement to the DEIS/EIR, evaluating the potential environmental impacts of the new alternative, was prepared and publicly circulated at that time.

The proposed Final LAX Master Plan, which is based on the two-volume Addendum published in mid-2003, presents the essential elements of the staff-preferred alternative, Alternative D. Accordingly, this document has provided the basis for LAWA's preparation of the following proposed regulatory entitlements and/or mitigation measures that would implement Alternative D: the LAX Plan, the LAX Specific Plan, the Airport Layout Plan, the Tentative Tract Maps, the Mitigation Monitoring and Reporting Program, and the LAX Master Plan Program Relocation Plan. It is anticipated that the City Planning Commission and the Los Angeles City Council will review and approve this Final LAX Master Plan. Upon such approval, LAWA would use this document as a broad policy statement regarding the conceptual strategic framework for future improvements at LAX and as working guidelines to be consulted by LAWA as it formulates and processes future site-specific projects under the LAX Master Plan Program.

The documents comprising the regulatory entitlements and mitigation measures that implement Alternative D are as follows:

- ◆ **LAX Plan.** The LAX Plan is the City's general plan for the airport, setting out goals, policies, objectives and programs for the long-term development and use of the airport consistent with the vision established by the preferred alternative, Alternative D. It also sets forth policy for the LAX/EI Segundo Dunes and LAX Northside. As a component of the City's land use element of the General Plan, the LAX Plan establishes land use categories that are consistent with the goals and objectives for modernization of the airport, first identified in the LAX Master Plan, and provides policies and programs that further these goals and objectives.
- ◆ **LAX Specific Plan.** Whereas the LAX Plan establishes a land use policy framework, the LAX Specific Plan establishes zoning and development regulations and standards consistent with the LAX Plan for the airport and LAX Northside. It is a principal mechanism by which the goals and objectives of the LAX Plan are achieved and the policies and programs are implemented. It establishes

procedures for processing future specific projects and activities that are anticipated under the LAX Master Plan Program. The LAX Specific Plan is also to be approved by the Los Angeles City Council.

- ◆ **Airport Layout Plan.** The proposed Airport Layout Plan (ALP) consists of a series of drawings that illustrate the layout of existing facilities at the airport and proposed facilities that are consistent with Alternative D. The FAA-required ALP is intended to serve as a record drawing for the airport, as well as a guide for the airport's future development. The ALP package also includes a narrative description of the drawings that explains the reasoning behind, and the key features of, the ALP. More specifically, the ALP provides a graphic depiction of existing and proposed airport layouts for runways, roadways, parking, and other airport facilities. It shows (a) the existing and proposed boundaries of the airport and all off-site area owned and controlled by the airport for airport purposes, (b) the location of existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), and (c) the location of all existing and proposed non-aviation areas and of all existing improvements thereon. The ALP also includes an airport airspace plan, runway protection zone plan, and a property inventory map. Planning, budgeting, and implementation for FAA activities on airports are based on the ALP. LAWA will review and approve the proposed ALP before it is forwarded to the FAA. Revisions, modifications, and alterations of an ALP must be approved by the FAA before they take effect, and will be reviewed by that agency in terms of airport safety, utility, and efficiency.
- ◆ **Proposed Tentative Tract Maps.** The primary purpose of the tentative tract maps is to vacate public streets that would no longer be necessary if Alternative D is approved and to provide for the orderly and proper abandonment or relocation of utilities that may be affected. It will also consolidate parcels that are no longer necessary. The proposed tentative tract maps fulfill requirements under the California Subdivision Map Act and the Division of Land Regulations. All subdivision maps are consistent with the applicable general and specific plans. The proposed tract maps must be approved by the City's Advisory Agency, and their approval is subject to appeal to the City Planning Commission and to the Los Angeles City Council.
- ◆ **Mitigation Monitoring and Reporting Program.** The Mitigation Monitoring and Reporting Program (MMRP) is a program by which compliance with the proposed mitigation measures identified in the Final EIR is ensured. It also includes various master plan commitments. The MMRP describes the method and timing of implementation, monitoring frequency, and actions indicating compliance. Oversight will be conducted by way of annual status reports submitted to the Board of Airport Commissioners and the City Planning Department. The MMRP will be approved by the Los Angeles City Council as part of the Final EIR environmental review process.
- ◆ **LAX Master Plan Program Relocation Plan.** To address the acquisition of properties and relocation of businesses and residents, if any, associated with Alternative D, LAWA will adopt a residential and business relocation plan in compliance with federal, state, and local law prior to the commencement of acquisition. The objectives of the relocation plan, as discussed in Section 4.4.2.5 of the Final EIR, include fully informing eligible residential occupants and business owners of the nature of and procedures for obtaining relocation assistance and benefits, and providing such assistance and benefits in accordance with federal, state, and local law. The plan is also to be approved by the Los Angeles City Council and provided to the FAA for reference.
- ◆ **Other General Plan Amendments.** Other general plan amendments are required in order to approve the project and establish consistency between the LAX Plan and other elements of the City's General Plan. These amendments include changes to the boundaries of the Westchester Playa del Rey Community Plan, to incorporate all airport property and master plan program boundaries into one plan under the LAX Plan, to delete or otherwise amend policies, programs, and any other LAX references (land use, transportation improvements, recreation facilities) to those areas. Amendments to the City's Framework Element include updating references to the "LAX Interim Plan" and the "Department of Airports" to the "LAX Plan" and "LAWA" and revising various maps as a result of new LAX boundaries. Changes to the Noise Element will update new noise contours based on the approved plan and will update several facts regarding LAX, such as airport background, statistics, zoning, noise, and master plan efforts. Transportation Element amendments will mostly involve revisions to various maps as transportation improvements and classifications will be revised with the adoption of the LAX Master Plan Program. Lastly, the LAX Interim Plan will be amended to replace its text and maps with the LAX Plan text and maps.

- ◆ **Other Zoning Actions.** Other zoning actions include changes to the Los Angeles Municipal Zoning Code to add the new LAX Zone and any references to that zone that may be pertinent in other sections of the code.

1. EXECUTIVE SUMMARY

In January 2001, Los Angeles World Airports (LAWA) published the Los Angeles International Airport (LAX) Master Plan (MP), the Draft Environmental Impact Statement (DEIS), and the Draft Environment Impact Report (DEIR). These documents are required by federal and California state law to analyze and mitigate, to the extent possible, the impacts of infrastructure projects on their surrounding communities.

The objectives of the LAX MP and supporting documents are to:

- ◆ Respond to local and regional demand for air transportation during the period 2000-2015, taking into consideration the amount, type, location, and timing of such demand.
- ◆ Ensure that new investments in airport capacity are efficient and cost-effective, maximizing the return on existing infrastructure capital.
- ◆ Sustain and advance the international trade component of the regional economy and the international commercial gateway role of the City of Los Angeles.

In response to federal, state and local requirements, LAWA has prepared the LAX MP Relocation Plan (Plan) as the implementing document for LAWA's LAX MP Relocation Assistance Program (RAP). The purpose of this Plan is to identify:

- ◆ The location of all properties required for purchase or use by LAWA to construct LAX MP projects and operate the facilities to be built or modified during implementation of the LAX MP Program.
- ◆ The requirements of federal and state law, and Los Angeles City ordinances as they apply to this LAX MP Program.
- ◆ All appropriate benefits available to eligible commercial (nonresidential) and residential property owners and/or tenants displaced by the LAX MP Program.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act), and Title 49 Code of Federal Regulations Part 24 (Title 49 CFR 24) serve as the basis for the policies and procedures established by LAWA to ensure that persons displaced as a result of the implementation of the LAX MP Program are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and to ensure that LAWA implements the Uniform Act and Title 49 CFR 24 in a manner that is efficient and cost effective.

The LAX MP Program requires the acquisition of approximately 77 acres of light industrial, airfreight, office, and retail uses. Acquisition and relocation activities are expected to occur during Phase 1 of LAX MP implementation. At present the project calls for the acquisition and relocation of approximately 34 businesses located on approximately 25 properties. In addition, there are approximately 40 single and double-sided billboards located on these properties. There are no residential properties included in the LAX MP, but there is a possibility that approximately 9 to 12 residential properties located in the City of Inglewood adjacent to the I-405 freeway at Lennox Boulevard may be acquired to support surface transportation Mitigation Measure MM-ST-13. This LAX MP mitigation measure will create a new interchange at I-405 and Lennox Boulevard.

Virtually all of the acquired businesses can be accommodated either on the airport or in airport-owned developments.¹ However, at the point at which acquisition occurs, sufficient relocation space may not be available for all of the displacees. While specific types of businesses have been targeted to relocate to LAX Northside, a number of affected businesses are expected to be absorbed by the local market. A total of approximately 223,400 SF of office, retail, hotel and light industrial uses are expected to be

¹ In addition to the businesses located on property to be acquired, a number of businesses currently leasing property from LAWA will be affected by LAX MP implementation. At the discretion of LAWA, these businesses may be relocated to other airport property.

relocated within available space in the surrounding areas. These businesses could also potentially relocate to future development at LAX Northside upon buildout of that site.

In order to coordinate the MP Relocation Assistance Program (RAP), LAWA shall establish a Relocation Assistance office in close proximity to the airport. The office will be open during normal LAWA administration business hours. LAWA will administer the RAP in accordance with federal, state and local laws policies and procedures, many of which are incorporated herein.

Acquisition and relocation benefits are available to both eligible residential and commercial (non-residential) displacees. The benefits available are specifically identified in the Uniform Act and Title 49 CFR Part 24. This relocation plan defines the eligibility requirements for receipt of benefits, and outlines the benefits available to eligible business and residential displacee.

Any business or nonprofit organization (nonresidential) which qualifies as an eligible displacee is entitled to relocation benefits if the acquisition of the property in whole or part causes a need to relocate the operation or eligible personal property to another location.

The Uniform Act does not require that business (nonresidential) displacees be made whole by the relocation process. Thus, they may receive different benefits under the Uniform Act than residential displacees. Benefits for commercial (nonresidential) displacees include:

1. Advisory assistance available to eligible persons who occupy the real property acquired by LAWA.
2. Approved moving and related expenses (with no provision to assist in acquiring a replacement property).
3. Certain reimbursable search expenses for replacement space within a 50-mile radius of the current location.
4. Reimbursement of eligible business reestablishment expenses.

Eligible residential displacees may be entitled to:

1. Advisory Assistance available to eligible persons who occupy the real property acquired by LAWA.
2. Moving costs including reimbursement for actual, reasonable and necessary expenses. Payments are available to eligible displacees who must move his or her personal property from the real property acquired by LAWA.
3. Replacement housing payments available for eligible residential occupants based on type and length of occupancy at the time LAWA initiates formal negotiations to acquire the real property.

Hardship situations may arise with residential or commercial property owners or their tenants. Commercial property hardship situations generally involve the timing of the acquisition or relocation. In this case, LAWA will determine, in its sole discretion, if arrangements can be made to accommodate the property acquisition or relocation to support a hardship request by the displacee.

Residential and/or commercial property acquisition and relocation associated with the LAX MP Program is intended to provide real property required for the construction of airfield and related facilities. Every effort will be made by LAWA to time the acquisition and/or relocation so that the property will be available in accordance with the approved construction schedule.

When escrow closes on each LAX MP property purchase, LAWA will have any remaining leases in the previous owners name assigned to LAWA. Tenant services and/or amenities will continue in accordance with the lease either by existing service providers or LAWA obtained services. Tenants must continue to pay rent to LAWA according to the terms and conditions of the lease until they have been relocated.

The property will be maintained in accordance with policies and procedures established by LAWA to ensure that all permits necessary for the start of any planned construction are secured when needed. This process will normally require that all displacees are relocated from the property when required, subject to a 90-day notice to vacate, and that extended occupancy involving short or long-term leases after the close of escrow will not be permitted. Leases for existing tenants on LAWA-owned property

required for MP implementation will be terminated, and LAWA approved relocation benefits paid to eligible displacees in accordance with the Uniform Act coupled with any requirements in their lease.

In accordance with California Government Code, Section 7260 et seq. and Title 49 CFR Section 24.209, relocation payments (this does not include payments for the purchase of any real property, fixtures, improvements, or business “goodwill”) are not considered as income. No relocation payment received by a displaced person under this program shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing assistance.

All persons will be informed of their right to appeal LAWA’s determination as to eligibility for payment or the amount of any authorized relocation payment. In part, LAWA’s procedure shall include that any aggrieved person may file a written appeal in any case in which the person believes that eligibility was improperly denied or that the amount of a relocation benefit has been incorrectly calculated, or is insufficient.

LAWA’s RAP is designed to meet all federal, state and local guidelines; and provide fair, consistent and professional support during the acquisition of required property and the relocation of eligible business or residential displacees. Questions or concerns relating to this program should be directed to LAWA’s RAP office.

2. INTRODUCTION

The LAX Master Plan Program Relocation Plan (Plan) has been prepared under the direction of Los Angeles World Airports (LAWA). This Plan is subject to both the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601 et seq.), and the California Relocation Assistance Act (Gov. Code Section 7260 et seq.) along with its implementation regulations, the Relocation Assistance and Real Property Acquisition Guidelines (California Code of Regulations Title 25, Section 6000 et seq.). Where no particular federal law obligation exists, the Plan’s federal law requirements are supplemented by the state law requirements and LAWA’s policies and procedures. Thus, to the extent that federal law does not, and state law does, provide a certain category of benefits, state law applies, with consideration to local laws, and the displacee would be entitled to his or her benefits under state law. Federally allowed payments are the minimum which must be paid; the California Relocation Assistance Act and its implementing guidelines are intended to provide the displacee with the maximum benefits allowed under state or federal law.

All LAX MP development, property acquisition, and displacee relocation is intended to be accomplished with the use of a variety of airport revenues and available federal funding. These may include approved Passenger Facility Charges (PFC) and Federal Aviation Administration Airport Improvement Program (AIP) grants.

3. PURPOSE

This Plan covers procedures for implementing LAWA’s LAX MP Relocation Assistance Program (RAP) in accordance with applicable laws, regulations, and policies. The Uniform Act and Title 49 CFR Part 24 serve as the basis for the policies and procedures established herein.²

The purpose of LAWA’s RAP is to ensure that persons displaced as a result of the implementation of the LAX Master Plan Program are treated fairly, consistently, and equitably so that such persons will not

² For reference purposes, Title 49 Code of Federal Regulations (CFR) Part 24 is included as Exhibit 1 to this document.

suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and to ensure that LAWA implements the Uniform Act and Title 49 CFR 24 in a manner that is efficient and cost effective.

Public Law 91-646, the Uniform Act, became effective January 2, 1971. For the first time, the United States had adopted measures to be uniformly applied whenever the federal government acquired real property or when property acquisition involved the use of federal funds.

The Uniform Act set minimum standards of assistance and compensation for relocation advisory and financial assistance, and established basic standards and requirements for appraisal and acquisition to be followed in acquiring real property.

The Code of Federal Regulations (CFRs) provides the rules that must be followed in order to comply with the law. Title 49, CFR Part 24 ensures Uniform Act compliance. Its purpose is:

To provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

Compliance with the Uniform Act is required for all federal-aid projects. The overview policies and procedures in this Plan will ensure that all persons impacted by the LAX MP Program are treated fairly and equitably. Further, the uniform application of these policies and procedures will prevent fraud, waste, and abuse of LAWA's resources. Periodic reviews of delegations, quality, and compliance are conducted to ensure full compliance.

All acquisition and relocation services and benefits covered by this Plan are administered without regard to race, color, national origin, or sex in compliance with Title VI of the Civil Rights Act (42 United States Code Section 2000d et seq.).

4. LAX MASTER PLAN PROGRAM BACKGROUND

The LAX MP Program is a modernization plan that provides the first major new facilities for, and improvements to, the airport since 1984, and plans how projected growth in passengers and cargo at LAX can be accommodated, in whole or in part, through the year 2015. The LAX MP Program began in 1995 with the development of several concepts that were evaluated, screened, and refined through several iterations. The planning objectives for the LAX MP Program have undergone continued refinement throughout the development of the Master Plan reflecting input from the airport users, the community, and environmental oversight agencies.

The purpose and need for the LAX MP Program has not changed since the inception of the planning process. An overarching consideration during the planning process has been to achieve the project objectives in an environmentally sound manner. In particular, the MP project objectives are to:

- ◆ Respond to local and regional demand for air transportation during the period 2000-2015, taking into consideration the amount, type, location, and timing of such demand.
- ◆ Ensure that new investments in airport capacity are efficient and cost-effective, maximizing the return on existing infrastructure capital.
- ◆ Sustain and advance the international trade component of the regional economy and the international commercial gateway role of the City of Los Angeles.

Large development projects typically require acquisition of land, often developed land, in order to provide room for the proposed improvements. Thus, the LAX MP Program Environmental Impact Statement/Environmental Impact Report (EIS/EIR) assesses the potential impacts of the acquisition

process associated with the preferred alternative (Alternative D) on residents and businesses in the vicinity of LAX.

Under federal law, with certain exceptions, all relocated homeowners, renters, and businesses are entitled to compensation and relocation assistance. All relocation must comply with the Uniform Act and implementing regulation, and in some cases the California Relocation Assistance Act (Gov. Code Section 7260 et seq.) along with its implementation regulations, the Relocation Assistance and Real Property Acquisition Guidelines (California Code of Regulations Title 25, Section 6000 et seq.) and City of Los Angeles ordinances. For example, the Uniform Act states explicitly that no resident will be required to move until comparable, decent, safe, and sanitary housing is made available. The Uniform Act also requires that fair compensation or adequate assistance be provided. LAWA's RAP meets all federal, state and local relocation requirements.

Independent of the LAX Master Plan Program, LAWA is currently operating its Voluntary Residential Acquisition/Relocation Program to mitigate aircraft noise impacts on area residences, as part of LAWA's Aircraft Noise Mitigation Program (ANMP). Single and multi-family houses and apartments in the Manchester Square and Airport/Belford residential areas have or will be acquired, and the residents relocated under the program. Voluntary property acquisition is estimated to be completed during calendar year 2006.

5. LAX MASTER PLAN PROGRAM COMMITMENTS

LAX MP Program commitments are specific procedures, plans, policies or activities included in the LAX MP Program that serve to avoid or reduce environmental impacts. They constitute assurances that LAWA will adhere to the standards and objectives of sound environmental planning.

To address the acquisition of properties and the relocation of businesses and residents associated with the LAX MP Program, LAWA has identified the following LAX MP Program Commitments for all alternatives (A, B, C and D) addressed in the project Final EIS/EIR. In addition to the project mitigation measures, they are intended to ensure that this Plan is in full compliance with the Uniform Act, state and local Regulations, and FAA Advisory Circular 150/5100-17. They include the following:

- ◆ Fully inform eligible project-area residential occupants and business owners (displacees) of the nature of and procedures for obtaining relocation assistance and benefits.
- ◆ Determine the needs of each residential relocatee (if any) and business owner.
- ◆ Provide an adequate number of referrals to comparable, decent, safe, and sanitary housing units within a reasonable time prior to relocation. No residential occupant would be required to move until comparable decent, safe, and sanitary housing is made available.
- ◆ Provide at least 90 days advance written notice to vacate, as required by law. The notice period may be extended according to the needs of the affected relocatees, in consideration of LAWA's construction schedule.
- ◆ Provide current and continuously updated information concerning replacement housing and business choices and opportunities.
- ◆ Ensure that the relocation process does not result in different or separate treatment because of race, religion, national origin, gender, marital status, or other arbitrary circumstances.
- ◆ Ensure that the unique needs of minority and low-income persons and businesses are addressed, including the provision of assistance and materials in Spanish and other languages as necessary.
- ◆ Supply information concerning federal, state, city, and other governmental programs providing assistance to displaced persons or businesses.
- ◆ Assist each eligible person or business in the completion of all applications and claims for payment of benefits.

- ◆ Make relocation payments in accordance with federal relocation regulations, including the provisions of Last Resort Housing, where applicable.
- ◆ Inform all affected occupants of LAWA's policies with regard to eviction and property management.
- ◆ Establish and maintain a formal grievance procedure for use by relocatees seeking administrative review of LAWA decisions with respect to relocation assistance.

Although it is expected that comparable replacement housing resources are available, LAWA will take all reasonable steps to make such resources available, including but not limited to the following:

- ◆ Provide vacated project structures to agencies that could relocate the structures to new sites and make them available for program-affected residents.
- ◆ Provide funding for possible construction of replacement housing.
- ◆ Provide funding for rehabilitation of housing units being sold or rented to program affected residents.
- ◆ Consider other innovative actions to ensure the availability of replacement housing.

In addition to the above services, distinct business assistance services will include but not be limited to the following:

- ◆ LAWA will implement a business relocation assistance program to insure prompt and equitable relocation and re-establishment of businesses displaced as a result of the proposed MP. The business relocation assistance program will include: 1) a determination of the relocation needs and preferences of each business to be displaced; 2) the maintenance of listings and contacts with commercial real estate brokers, commercial lenders, and government economic development agencies to assist displaced businesses in locating suitable replacement sites; 3) the provision to displaced businesses of information on programs administered by the City of Los Angeles, Small Business Administration and other federal and state programs offering assistance to displaced persons; 4) the provision of special assistance to those who wish to remain close to their current sites or close to an airport in finding such sites, including sites on the airport such as LAX Northside, or other airport owned properties or developments; and 5) the provision of special assistance to address the specific needs of minority-owned businesses.
- ◆ LAWA will look to other areas of the City of Los Angeles and coordinate with the County of Los Angeles and the cities of Inglewood, Hawthorne, and El Segundo to locate properties within their jurisdictions suitable for businesses displaced by the acquisition program.
- ◆ LAWA will investigate and consider the use of the Aircraft Noise Mitigation Program 's Airport/Belford area to redevelop noise impacted residential areas into commercial areas suitable for businesses displaced by the acquisition program.
- ◆ LAWA will provide opportunities for airfreight, flight kitchens and other airport-related uses displaced by the acquisition program to relocate onto airport property, to the maximum extent practicable.
- ◆ LAWA will, to the maximum practicable extent, develop its property so as to provide relocation opportunities for businesses displaced by the acquisition program.
- ◆ With respect to any and all residential acquisitions under the LAX MP, LAWA will investigate the implementation of a "Move On Housing Program" similar to the existing program by the same name in the separate Manchester Square/Belford ANMP Relocation Plan. This is a collaborative effort between public and not-for-profit organizations to move and rehabilitate Manchester Square and Belford area structures in order to transfer housing assets to residential areas in Los Angeles County, provide reasonable housing for displaced tenants, and provide construction-related employment opportunities to community residents.

6. LAX AREA OVERVIEW

6.1 Introduction

For the purposes of this Plan, the LAX Area includes all areas within the geographic boundaries of LAX MP and all alternatives considered in the Final EIS/EIR, including the No Project alternative. This area encompasses some or all of census tracts (CTs) 2766.02, 2772.00, 2774.00, 2780.00, 2781.00, 2766.01, 2771.00, 2760.00, 2770.00, 2764.00, 2765.00, 2756.01 and 2761.00. Specifically, the census tracts identified in this Plan were chosen in order to analyze general population demographics; employment; transportation; households; residential and apartments; office, industrial, and retail markets; and billboards.

6.2 Population³

The Los Angeles region is the second largest metropolitan area in the U.S., accounting for nearly 6 percent of the national population and 50 percent of the population of the State of California. In addition, Los Angeles County is forecasted to remain the most populous area in 2015, exceeding 11.9 million residents.

The LAX Area, defined by the aforementioned census tract numbers, recorded a total population of 52,608 in 2002 according to the City of Los Angeles Planning Department. This population represents a 1.05 percent annual growth rate since the 1990 Census with a density of 3,822 people per square mile. Of the total LAX Area population, approximately 95 percent, or 50,098 persons, are recognized as living in housing units (resident population). Approximately 5 percent of the total population, or 2,510 persons, are recognized as living in group quarters, defined as student dormitories, military barracks, prisons and health care institutions. Of the resident population, 26,011 single-family unit residents were recorded, representing a 0.53 percent annual growth rate. Multiple-family unit residents recorded a 1.56 percent annual growth rate, accounting for 24,032 residents; and nonsingle-family unit residents yielded a 1.65 percent annual growth rate accounting for 12,872 residents. Nonsingle-family units include mobile homes and boats. These definitions are consistent with the definitions used by the Southern California Association of Governments (SCAG) and the California Department of Finance (DoF).

6.3 Employment⁴

According to the California Employment Development Department (EDD), in 2003 Los Angeles County had 4,746,200 million persons in the labor force. The employed persons totaled 4,439,000 and the unemployed persons totaled 307,200 representing a 6.5 percent unemployment rate.

Within the Los Angeles region, SCAG expects that employment will increase at the same rate as population, increasing the region's employment to 9.9 million in 2015. SCAG forecasts indicate that employment will increase at 1.5 percent annually and per capita income will increase at 1.9 percent annually.⁵

According to EDD, in 2003 the City of Los Angeles recorded a 7.3 percent unemployment rate. The City of Inglewood reported an 8.8 percent unemployment rate. The City of Hawthorne reported an unemployment rate of 6.1 percent.

In defining business sectors, SCAG reports that manufacturing jobs have claimed a steadily declining share of the employment base.⁶ Services, technology, tourism, entertainment, and international trade

³ U.S. Census 2000 provided statistical information on population. Specific population data includes census tract numbers 2766.02, 2772.00, 2774.00, 2780.00, 2781.00, 2766.01, 2771.00, 2760.00, 2770.00, 2764.00, 2765.00, 2756.01 and 2761.00, unless otherwise noted.

⁴ California Employment Development Department (EDD), January 2004, provided the statistical data on the labor market unless otherwise noted.

⁵ Source: LAX Master Plan Program Draft EIS/EIR reference of SCAG projections.

⁶ Source: LAX Master Plan Program Draft EIS/EIR reference of SCAG employment conditions.

have outstripped manufacturing and national defense as important components in the region's economy. These growing sectors are among the areas of economic activity that most heavily depend on air transportation.

In addition, employment has benefited from both public and private capital investment in LAX and airport-related commercial facilities totaling tens of billions of dollars. Many businesses in the region that depend on air transportation chose to locate near LAX and make substantial investments in facilities and improvements. There is an extensive network of warehousing, customs brokers, and airfreight handlers in and around LAX. In addition, vehicle parking, rental car agencies, hotels, tour operators, international trade enterprises, and similar airport-dependent businesses have developed around LAX.

6.4 Transportation

A key factor in the economic health of the Los Angeles region is the ability of transportation to keep pace with the growth in population and economic activity. A well-developed network of essential transportation facilities currently sustains the population and economic activities of the region. In addition to the regional airport system, two railroad lines and an extensive highway system serve the region.

For travel within Los Angeles, the county's Metropolitan Transportation Authority (MTA) oversees the coordination of over 200 bus routes in the region, which provides an extensive network of public transportation available to residents near LAX. In addition, the MTA metro-rail system, comprised of four rail lines, provides efficient public transportation for residents near LAX. The Green Line runs approximately 20 miles from El Segundo to Norwalk with an average daily ridership of approximately 23,000, and connects to the other three rail lines. The Blue Line runs 22 miles from Long Beach to downtown Los Angeles with an average daily ridership of approximately 52,000 passengers. The Red Line (the only heavy rail line in the system) serves as the hub of the metro-rail system. With the addition of six miles from downtown Los Angeles to the Hollywood neighborhood, the Red Line will total 16 miles with an average daily ridership of approximately 49,000 passengers. The recently completed Gold Line runs approximately 13.7 miles from Los Angeles to Pasadena with an average daily ridership of approximately 29,000 persons.

6.5 Household⁷

According to the City of Los Angeles Planning Department estimates for 2002, based on the U.S. Census 2000 data, the LAX Area recorded 22,960 total housing units, yielding a low annual growth rate of 0.29 percent. Single-family housing units totaled 10,088, recording a -0.32 percent (negative) annual growth rate, with single-family housing defined as only including detached dwellings. Multiple-family housing units totaled 12,866, yielding a 0.78 percent annual growth rate, while nonsingle-family housing units totaled 12,872, yielding a 0.77 percent annual growth rate. Multiple-family housing units include apartment buildings (both "for rent" and condominiums), duplexes, artist-in-residence lofts, and attached single-family housing units. Nonsingle-family housing units are defined to include mobile homes, marina boat live-aboards and other living quarters aside from multiple-family housing units.

Of the total makeup of housing units within the LAX Area, housing occupancy statistics help identify vacancy trends and housing opportunities. Specifically, the occupied housing units yield a 3.44 percent vacancy rate. Within the housing unit breakdown, occupied single-family housing units totaled 9,868, with a 2.18 percent vacancy rate. Occupied multiple-family housing units totaled 12,297, with a 4.42 percent vacancy rate. Occupied nonsingle-family housing units totaled 12,303, with a 4.42 percent vacancy rate.

⁷ The Los Angeles City Planning Department, U.S. Census 2000, provided statistical information on households. Specific household data includes census tract numbers 2766.02, 2772.00, 2774.00, 2780.00, 2781.00, 2766.01, 2771.00, 2760.00, 2770.00, 2764.00, 2765.00, 2756.01 and 2761.00, unless otherwise noted.

6.6 Residential Market⁸

Fueled by lower interest rates and an increased flow of capital into real estate, the residential real estate market in the LAX Area is accumulating significant value resulting in higher home prices. According to the California Association of Realtors, the Westchester region recorded median housing prices at \$585,000 during January 2004, a 27.5 percent increase from the previous year. In the City of Inglewood, median housing prices were recorded at \$300,000 representing a 48.5 percent gain over the previous year. The City of Hawthorne recorded median housing prices at \$325,000 representing a 26 percent increase over the previous year. The community of Playa Del Rey recorded median housing prices at \$405,000, yielding a 30.9 percent increase over the previous year.

Housing prices for residential real estate are increasing due to a strong demand for housing, and new residential neighborhoods open for sale or in the planning phase. The new developments include Playa Vista, a mixed use “new town” development located one and one-half miles directly north of LAX. Plans call for approximately 5,800 new dwelling units. In addition, Loyola Marymount University, located 1 mile north of LAX, is planning to add 673 dwelling units for students. This will free up a corresponding number of currently occupied dwelling units within the local market for the general renting public. Also, the community of Playa Del Rey local coastal plan allows for the development of an additional 2,420 single-family dwelling units.

6.7 Apartment Market⁹

Apartment units surround the LAX Area. As with local housing prices, apartment rents are steadily rising. Specifically, according to the Los Angeles Business Journal, Econowatch L.A. County, 4th Quarter, 2003, Los Angeles apartment gross occupancy rates were 96.7 percent, a small decrease from the 4th Quarter, 2002. This represents a 5.6 percent increase from a year ago. The average monthly rent for apartments in the 4th Quarter of 2003 was \$1,290, compared to \$1,196 a year ago. This represents a 7.9 percent increase from the previous year.

Additionally, the apartment complex at 4251 – 4750 Lincoln Ave (Lincoln Apartments) has increased local market apartment availability. This multiple-family residential development is located 2 miles north of LAX and includes a total of 1,312 units. The Pacific Concourse Project, located south of LAX on La Cienega Blvd., includes development of 450 units in two apartment buildings.

6.8 Office Market¹⁰

As more businesses operate globally, proximity to a full-service hub airport is important for many companies. The LAX Area office market is a beneficiary of the airport’s status as a gateway to the Pacific Rim, yet local office market conditions have been affected by the slowing of the national economy.

Within the LAX Area, total inventory of office space for the LAX/Century Boulevard market, representing 14 buildings, includes 3,884,481 square feet. Vacant space totals 1,160,018 square feet, representing a 29.9 percent vacancy rate. The average monthly asking rent for Class-A office space in the 4th Quarter of 2003 was \$1.51 per square foot, one of the lowest in the metropolitan Los Angeles region. Overall, the LAX and El Segundo office markets remain relatively weak due to over-capacity, which in effect, allows tenants to request lower than market rates.

With developers expecting an upturn in the economy, the office market is expanding in capacity. New commercial developments include the Playa Vista mixed use “new town” which includes approximately 2.1 million square feet of new office space. The Howard Hughes Center commercial development is located in Culver City two miles north of LAX where Sepulveda Boulevard meets the I-405 freeway. The

⁸ The California Association of Realtors, Los Angeles County, January 2004, provided the statistical data on the residential real-estate market.

⁹ The Los Angeles Business Journal, Econowatch L.A. County, 4th Quarter, 2003, provided the statistical data on the apartment market.

¹⁰ The Los Angeles Business Journal, Real Estate Quarterly Review Q4, 2003, provided statistical data on the office market.

Howard Hughes Center is expected to contain 1.5 million square feet of office space. In addition, the Pacific Concourse Project, located south of LAX on La Cienega Blvd., will include 450 units in two apartment buildings. In the City of El Segundo, the Media Center includes 1.5 million square feet of studio/office space and is located on a 47-acre site on North Douglas Street north of Rosecrans Avenue.

6.9 Industrial Market¹¹

LAX and the surrounding business areas create competitive advantages for industries that depend on, or learn to take advantage of, efficient air transportation to access domestic and international markets. The LAX Area industrial market has the benefit of offering these competitive advantages to businesses covering a wide array of industries. Most of the demand for industrial space comes from traditional warehousing, distribution and basic manufacturing firms that seek close proximity to the major trade gateways, especially LAX. Within the South Bay region, the inventory of industrial space totals 207,650,153 square feet. Vacancy rates are recorded at 4 percent, representing 8,271,885 square feet. The average rental rate in the 4th Quarter of 2003 was \$0.49 per square foot. In the LAX/El Segundo sub market, located within the northern section of this defined industrial market area, the average rental rate per square foot of industrial space is \$0.84, comparatively the highest in the larger South Bay market for industrial space.¹²

6.10 Retail Market

The LAX Area provides a unique opportunity for the retail market given that Los Angeles is an important worldwide tourist destination, and the center of the world's entertainment and movie industries. In general, the Los Angeles region has recorded overall retail vacancy rates at 4 percent, with urban retail recording lower vacancy rates¹³. In the LAX Area, retail space availability is increasing due to recent or planned construction. New developments include Playa Vista, including over 185,000 square feet of retail space, and the Howard Hughes Center, with 100,000 square feet of retail space. The Fox Hills Mall expansion in Culver City includes a 160,000 square foot addition to the existing mall located 2.5 miles north of LAX on Sepulveda Boulevard north of the I-405. The Hawthorne Gateway Center in the City of Hawthorne located 2.5 miles southeast of LAX, where Rosecrans Avenue meets the I-405, includes 450,000 square feet of mixed retail and 300 hotel rooms.

6.11 Billboard Market

In June 2002, the City of Los Angeles adopted an ordinance (No 174,547 of June 10, 2002) that put in place a citywide ban on off-site signs (billboards). Currently, no off-site signs are allowed in any zone, and the legally permitted existing signs cannot be altered, relocated or enlarged.

According to several media/advertising companies, the billboard market surrounding LAX is highly competitive compared to other sites within the City of Los Angeles. Specifically, the average rate for a one-sided premiere panel in the LAX Area is \$40,000 per month.¹⁴ As billboard locations move away from the immediate LAX Area, the average price range drops to \$12,000 to \$6,000 per month. The three media companies that represent the majority of the billboard market in the LAX Area include Clear Channel, Viacom and Regency.

The existence of a ban on the relocation of existing billboards, and restrictions on the construction of new signs in the vicinity of LAX will effectively eliminate the opportunity to replace those signs that must be removed to support the modernization of LAX, unless they are permitted in the LAX Specific Plan for relocation on airport property.

¹¹ The Los Angeles Business Journal, *Real Estate Quarterly Review Q4, 2003*, provided statistical data on the industrial market, unless otherwise footed.

¹² Collier Seeley, *Industrial Market Report – South Bay, Third Quarter, 2003*, provided the statistical data on average industrial market rates per square foot.

¹³ Grubb & Ellis, 2004 Market Report – Southern California – Retail - provided the statistical data on the retail market.

¹⁴ The average was taken by survey of three of the most common outdoor media companies, including *Regency*, *Viacom*, and *Clear Channel*.

7. DESCRIPTION OF LAX MASTER PLAN PROGRAM –ALTERNATIVE D

The terrorist attacks that occurred on September 11, 2001, greatly elevated the issue of airport security. In response to these events, the Mayor of Los Angeles directed the Los Angeles Board of Airport Commissioners (BOAC) to develop an LAX MP Program alternative that, consistent with public comment calling for a regional approach alternative, is designed to accommodate passenger and cargo activity levels at LAX that would approximate those of the No Action/No Project Alternative, have fewer environmental impacts than the No Action/No Project Alternative, and enhance airport safety and security. Alternative D, chosen as the preferred alternative by the Los Angeles City Council, satisfies these requirements.

The facilities associated with the LAX MP Program are designed to serve approximately 78.9 million annual passengers (MAP) and 3.1 million annual tons (MAT) of air cargo activity, which is similar to the activity level identified in the scenario adopted by the Southern California Association of Government's (SCAG's) Regional Council for the 2001 Regional Transportation Plan (RTP). This level of aviation activity is projected to accommodate approximately 78.7 MAP and 3.1 MAT of air cargo. The facilities planned for the LAX MP Program will reduce airport congestion and delay by accommodating less of the projected regional aviation demand at LAX than other previously considered alternatives, and will encourage the growth of aviation activity at airports other than LAX.

Airport improvements envisioned will increase passenger convenience by replacing existing remote gates with contact gates, improve roadway access to curb front and parking areas by decentralizing ground access points, and reduce airfield operational delay by improving the airfield layout to fit the future aircraft fleet. These physical improvements are also intended to enhance the safety and security of passengers, employees, visitors and aircraft at LAX.

A new Ground Transportation Center (GTC) and an Intermodal Transportation Center (ITC) will be constructed east of Aviation Boulevard and will be the primary access points for all passenger drop-off and pick-up and vehicle parking. Passengers and employees will access the CTA via an Automated People Mover (APM) system from new GTC, ITC and consolidated Rental Car facilities (RAC). Intersection improvements will be made to the off-airport transportation network to accommodate the shift in traffic patterns from the CTA to the GTC and ITC areas. Some cargo facilities will be modified, with the overall square footage being equivalent to existing conditions.

Enhanced airfield safety will be achieved through airfield facility modifications that will mitigate the primary causes of runway incursions at LAX. The number of runways will stay the same at four. Two existing runways will be moved, two runways will be lengthened, and all runways further separated from one another to improve operational efficiency and safety.¹⁵

The 340-acre, LAX Northside project that is currently entitled (i.e., recognized within the City's current General Plan and Zoning) for 4.5 million square feet of development will be developed concurrently with LAX MP projects; however, the existing trip cap that exists for LAX Northside will be reduced to limit vehicle trips.

The LAX MP Program will require the acquisition of approximately 77 acres of property. This acreage includes light industrial, air freight, office, and retail uses occupied by a total of approximately 34 businesses, all of which can be accommodated either on the airport, in airport-owned developments (including LAX Northside), or in the local marketplace.

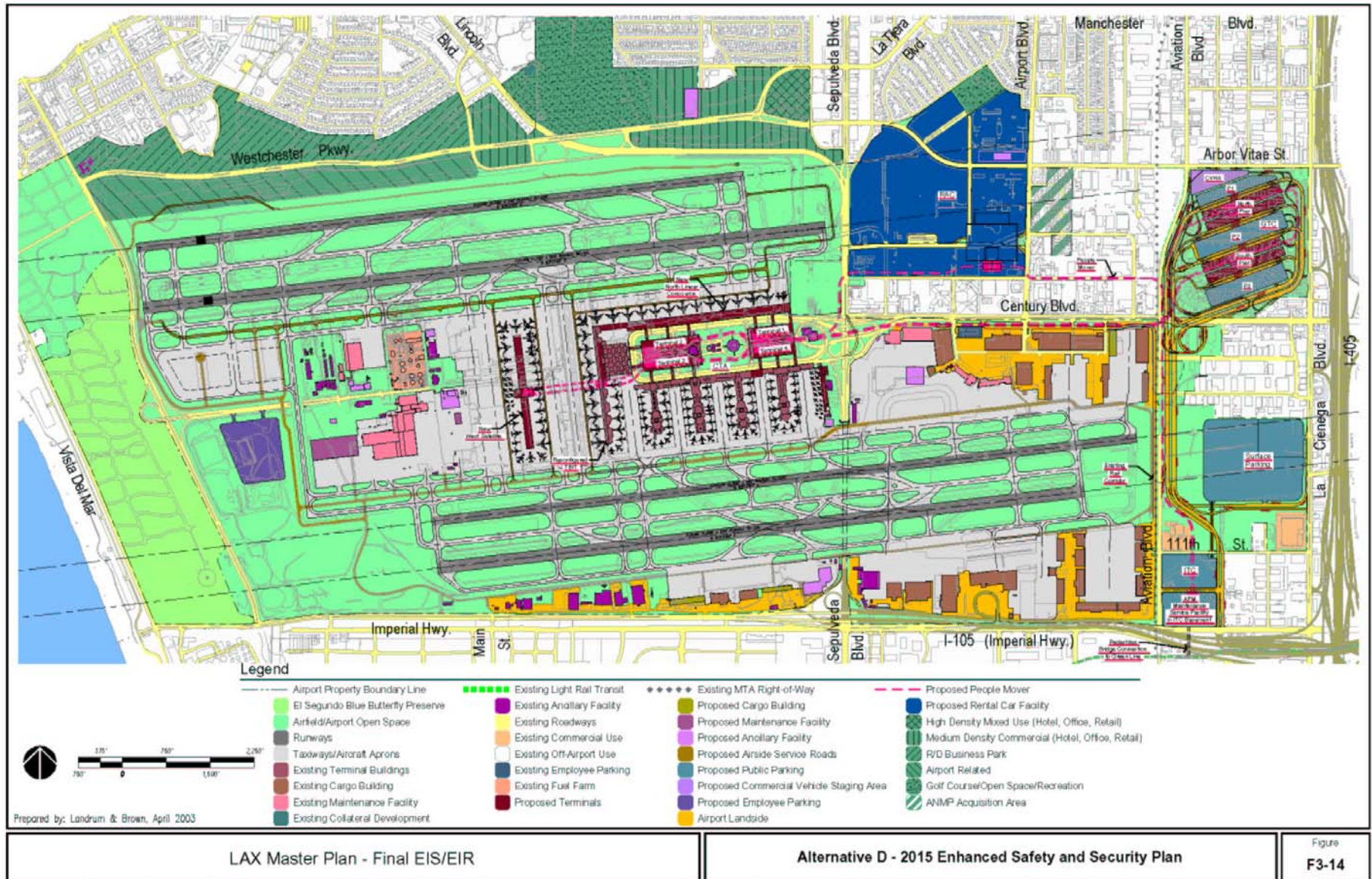
Residential acquisition is not proposed under the LAX MP Program. However, approval and implementation of surface transportation Mitigation Measure MM-ST-13, create a new interchange at I-405 and Lennox Boulevard (Alternative D), could, if adopted, necessitate the acquisition of 9 to 12

¹⁵ A more detailed description of the adopted MP Alternative (Alternative D) and its design process is provided in Section 3.3.2, *Alternative D - Enhanced Safety and Security Plan* of the LAX Master Plan Program Final EIS/EIR.

properties in the vicinity of that location. If so, LAWA will meet the Uniform Act acquisition and relocation requirements for these properties.

Included for reference on the following page, from the LAX Master Plan Final EIS/EIR, is **Figure F3-14**, Alternative D - 2015 Enhanced Safety and Security Plan. This figure depicts the LAX MP Program improvements as recommended for approval by the Los Angeles City Council and the FAA.

Figure F3-14, Alternative D - 2015 Enhanced Safety and Security Plan



8. ACQUISITION AND RELOCATION TIMELINE

The LAX MP Program projects will be constructed in a series of three phases over a period of approximately 15 years. Real property acquisitions required in order to construct the facilities will occur after the Master Plan has been approved by the Los Angeles City Council and the Record of Decision (ROD) has been issued by the Federal Aviation Administration (FAA). At this time, it is anticipated that all property acquisitions and relocations will occur during the first phase of the project in order to ensure that construction can proceed in the most cost effective and efficient manner possible.

9. INVENTORY OF ACQUISITION AND RELOCATION PROPERTIES

Under the LAX MP Program, approximately 77 acres of land to the north and east of the airport will be acquired to accommodate new airfield, ground transportation, passenger processing, rental car, people mover, parking, and ancillary facilities, and to meet minimum safety requirements. Based upon tenant and ownership changes since the publication of the SEIS/SEIR in July 2003, the acquisition area includes approximately 34 businesses and no residential units. All properties are located in the City of Los Angeles. Summary statistics are provided below in **Table 9-1**, LAX MP Program Land Acquisition Summary Statistics.

Table 9-1
LAX MP Program Land Acquisition Summary Statistics

Land Use¹	Total Businesses	Acres	Square Feet (Developed)	Billboards	Dwelling Units
Light Industrial	6	15.49	96,901	15	
Air Freight	5	10.84	166,893	1	
Office	9	41.64	245,481	17	
Retail	13	4.89	57,943	7	
Hotel	1	2.84	63,595		
Residential					
Single-Family		0	0	0	0
Multi-Family		0	0	0	0
Right-of-Way/Other ²		2.12			
Total	34	77.82	630,813	40	0

¹ Reflects parcel data updated as of February 2004.

Includes properties indicated as public service, building frontage, and utilities.

A detailed list of properties to be acquired in whole or in part is included in **Table 9-2**, LAX MP Program Existing Properties Uses, on the following page.

Associated with each parcel to be acquired, there is a map reference number that corresponds to the Acquisition Areas shown in the LAX Master Plan Addendum on **Figure 2.7-1**, Alternative D - Proposed Property Acquisition Area, on page 19.

Table 9-2, LAX MP Program Existing Properties Uses

Map Ref. Number	Address	Primary Business	Total # of Businesses	Property Owner (Per City GIS)	Total # of Property Owners	Bldg Sq.ft.				Parking Stalls	Employees	Number of Billboards			Target Relocation Area	APN	Comparison	
						Light Ind	Office	Hotel	Retail			Single Format	Double Format	Total			Information in Alternatives A, B & C	New Information Available for Alternative D
Acquisition Area B - 98th Street																		
1	6351 W. Century	Park One airport pkg	1	n/a	1					2,750	10	1	7	8	on-airport	4121-022-002		
3	9800 So. Sepulveda	Vacant Office Building (BofC)		LAX Ent.	1		112,285				0				Northside	4124-026-002	122,285 Sq.ft. office	112,285 Sq.ft. office
4	9700 So. Sepulveda	Hollywood CPR /Valet AirPark	2	LA City Community College District	1		30,000				10				local market	4124-026-900	vac. av. sch. (0 business)	Hollywood CPR training school (1 business)
5	9600 So. Sepulveda	Valet AirPark		M & A Webber	1		1,296			475	3		3	3	on-airport	4124-025-049	0 Sq.ft.	1296 Sq.ft. office
11	no site address/ W. 96th St	power station		LADWP	1						0				n/a	4124-027-901	Vacant lot (0 business)	Power station (1 business)
12	No site address/ W. 96th St	Valet AirPark		LADWP					110		2				On-airport	4124-027-900		
13	6200 W. 96th St	Sunrise Valet & Self-Parking	1	United Sav & Loan Assoc	1					200	2				n/a	4124-027-008		
14	6150 W. 98th St	CLS Limo Service	1	Arden Realty	1						20		1	1	n/a	4124-027-030	Payless RAC (1 business)	Resort RAC - out of business (0 business)
15	6101 W. 98th St	Ampco Exp Parking	1	Arden Realty					1,700		10	1	2	3	On-airport	4124-028-041		
16	5965 W. 98th St	Budget RAC	1	Bird Management Co.	1						0				On-airport	4124-029-028	Liq. Str. (1 business)	No Liq. Str. (0 business)
17	5945 W. 96th St	Budget RAC/Purdy's Liq.Str.	1	Bird Management Co.							2					4124-029-030	No Liq. Str. (0 business)/0 Sq.ft.	Liq.Str. (1 business)/16,650 Sq.ft. retail
18	9775 Airport Blvd.	Budget RAC		Bird Management Co.			2,000				30		1	1		4124-029-031		
19	5928 W. 96th	Budget RAC		Bird Management Co.								1	1	2		4124-029-009		
	TOTALS		8		8		145,581		16,650	5,235	89	3	15	18				
Acquisition Area C - Airport Blvd. East																		
	9225 Aviation Blvd.	Hertz RAC storage	1	Hertz Realty	1						5		2	2	n/a	4128-001-008	9.5 acres/1 business	0.6 acres/0 business (easement only)
	TOTALS		1		1						5		2	2				

LAX Master Plan Program

Map Ref. Number	Address	Primary Business	Total # of Businesses	Property Owner (Per City GIS)	Total # of Property Owners	Bldg Sq.ft.				Parking Stalls	Employees	Number of Billboards			Target Relocation Area	APN	Comparison			
						Light Ind	Office	Hotel	Retail			Single Format	Double Format	Total			Information in Alternatives A, B & C	New Information Available for Alternative D		
Acquisition Area D - Aviation Blvd. East																				
2	9200 Aviation Blvd.	Arco gas / AM/PM	2	Haha Inc.	1				3,309		5	1		1	Local market	4128-002	-015			
3	5520 Arbor Vitae	Westchester Neighborhood School	1	LAWA					23,288		10				Northside	4128-002	-900			
5	5216 Arbor Vitae	Sunglass & Luggage Store	3	Colina Nevada Inc.	1								1	1	Local market	4128-004	-002			
	"	Dry Cleaning/Flowers								3			1	1						
	5200 Arbor Vitae	Liquor Store	1	Colina Nevada Inc.					4,820		4				Local market		-035			
6	5447 W. Century	Travel Lodge	1	LAWA					63,595		25				Local market	4128-024	-013	2 businesses	1 business	
7	5551 W. Century	Texaco gas station	1	D. and J. Loh	1	1,722					2	1	1	2	Local market	4128-024	-002			
8	5535 W. Century	Denny's	1	LAWA					7,347		12				Northside	4128-024	-012			
9	5307 W. Century	Taco Bell	1	Century Investments Inc.	1				2,529		9	2		2	Northside	4128-024	-011			
10	No site address/W. Century	Commercial		LAWA									1	1	n/a	4128-024	-004			
12	No site address/W. Century	Commercial		LAWA								2		2	n/a	4128-024	-005			
13	No site address/W. Century	Commercial		Liberty Building Co.	1									1	1	n/a	4128-024	-006		
14	No site address/W. Century	Public service		LAWA								2		2	n/a	4128-024	-900			
TOTALS			11		5	1,722			63,595	41,293	70	8	5	13						

Acquisition Area E - South of Century

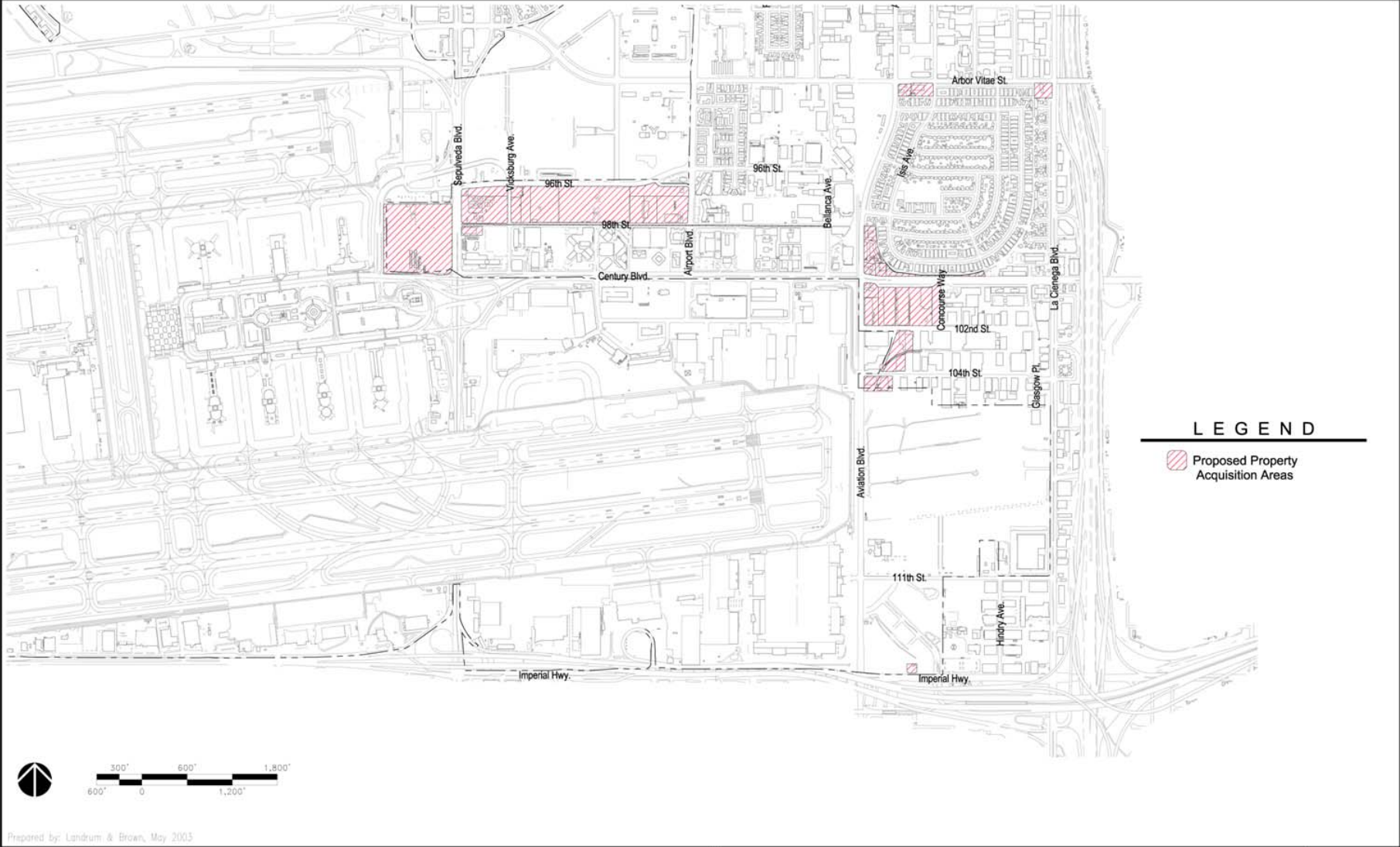
1	5552 W. Century	76 gas station / Circle K Minimart	2	Kayo Oil Co.	1	3,143					3	1		1	Local market	4129-029	-022	1,568 Sq.ft. light ind	3,143 Sq.ft. light ind
2	10100 Aviation Blvd.	3	1	Kayo Oil Co.							50	1		1	Local market	4129-029	-023	Ford Discount Furniture	Pilot Airfreight
3	No site address	Empty industrial bldg.		IAC Aviation LLC	1						0	1		1	n/a	4129-029	-024	Panalpena Air Freight (1 business)	Empty industrial building (0 business)

LAX Master Plan Program

Map Ref. Number	Address	Primary Business	Total # of Businesses	Property Owner (Per City GIS)	Total # of Property Owners	Bldg Sq.ft.				Parking Stalls	Employees	Number of Billboards			Target Relocation Area	APN	Comparison	
						Light Ind	Office	Hotel	Retail			Single Format	Double Format	Total			Information in Alternatives A, B & C	New Information Available for Alternative D
	5540 W. Century	"		IAC Aviation LLC		39,000									-015			
	No site address	"		IAC Aviation LLC		36,000									-014			
4	5440 W. Century	Thrifty Car Rental	1	5440 & 5500 Century Blvd. LLC	1	75,000	75,000			30	1	1	2	On-airport/local market	4129-029	-011		
	No site address	Empty industrial bldg.				24,900												
	5500 W. Century	Fox Airport Parking	1						200	2								
5	5425 W. 102nd	Concourse Airport Parking	1	MBGF Properties	1	288				75	2			On-airport	4129-029	-018		
	No site address	"		MBGF Properties						220						-021		
14	5510 102nd	Danzas	1	MTP & Associates	1	13,360				150				Local market	4129-033	-013	Pack Air Freight Danzas	
28	5515 104th	Sea Dwelling Creatures	1	Perry Street Properties	1	23,407				50				Local market	4129-033	-006	FedEx storage (0 business) Sea Dwelling Creatures (1 business)	
29	10400 Aviation Blvd.	Clean Energy	1	D. Berman	1					0		1	1	On-airport	4129-034	-001	14,482 Sq.ft. light ind 0 Sq.ft.	
30	5540 104th	Mayesh Wholesale Florist	1	IAC Aviation LLC						15				Local market	4129-034	-011		
	"	"		IAC Aviation LLC		20,026										-002		
47	10311 La Cienega	World Wide Security	1	IAC Aviation LLC						50		1	1	n/a	4129-031	-004		
48	10300 Glasgow	Exotic City	1	M. Marker	1					20				n/a	4129-031	-011	0.09 acre/1 bus./10,000 Sq.ft.light ind 0.01 acre/0 business/0 Sq.ft. (easement only)	
	10302 Glasgow	World Wide Security		IAC Aviation LLC											4129-031	-003	0.43 acre 0.02 acres (easement only)	
49	10201 La Cienega	Fox Rent-A-Car	1	B. Leis	1					20				n/a	4129-031	-017	0.89 acre/1 bus./23,768 Sq. ft. light ind 0.02 acre/0 business/0 Sq.ft. (easement only)	
	"	Fox Parking		IAC Aviation LLC											4129-031	-013		
	"	Fox AutoBody	1	IAC Aviation LLC											4129-031	-012		
99	No site address	Utilities		AT&SF RY Co.	1									n/a	4129-033	-803		
	TOTALS		14		10	270,224	75,000			495		4	3	7				

Map Ref. Number	Address	Primary Business	Total # of Businesses	Property Owner (Per City GIS)	Total # of Property Owners	Bldg Sq.ft.				Parking Stalls	Employees	Number of Billboards			Target Relocation Area	APN	Comparison	
						Light Ind	Office	Hotel	Retail			Single Format	Double Format	Total			Information in Alternatives A, B & C	New Information Available for Alternative D
Acquisition Area F - North of Imperial																		
9	No site address/Imperial Hwy	Elec. Sub-station		LADWP	1	16,748									On-airport	4129-037-902		
	TOTALS		0		1	16,748					0							
GRAND TOTALS			34		25	288,694	220,581	63,595	57,943	5,730	164	15	25	40				

Figure 2.7-1, Alternative D - Proposed Property Acquisition Area



Los Angeles International Airport Master Plan

2015 Alternative D
Proposed Property Acquisition Areas

Figure
2.7-1

10. ASSESSMENT OF ACQUISITION AND RELOCATION NEEDS

10.1 Methodology

The Uniform Act and California state law requires that programs or projects undertaken by a public entity shall be planned in a manner that:

- 1) Recognizes potential problems associated with the displacement of individuals, families and/or businesses at an early stage in the planning of the project and before the commencement of any actions that will cause displacements.
- 2) Provides for the resolution of these problems in order to minimize adverse impacts on displaced persons and to expedite project advancement and completion.

During the preparation of the draft and final LAX MP and EIS/EIR, estimates of the number of potential business displacees were made and published in those documents. In order to minimize any negative impact on business owners (or residents) that may have occurred prior to the selection of the final LAX MP alternative by the Los Angeles City Council and approval of the ROD by the FAA, no personal interviews were conducted with potential displacees other than those specifically requested by a potential displacee. Instead, secondary sources of data collection such as census data, "windshield" surveys and public documents were used to estimate the total number of displacees associated with each project Alternative. With the selection of Alternative D as the preferred alternative, additional secondary source data collection has focused on the identification of properties likely to be acquired for the LAX MP Program.

The collection of data from secondary sources has resulted in the following summary of potential displacees listed by business address in **Table 10-1**, LAX MP Program Summary of Existing Property Uses

**Table 10-1
LAX MP Program Summary of Existing Property Uses**

Map Ref. Number	Address	Total # of Businesses	Total # of Property Owners	Employees	Number of Billboards			Property Use
					Single Format	Double Format	Total	
Acquisition Area B - 98th Street								
1	6351 W. Century	1	1	10	1	7	8	Parking
3	9800 So. Sepulveda		1					Vacant Building
4	9700 So. Sepulveda	2	1	10				Light Industrial
5/12	9600 So. Sepulveda		1	5		3	3	Parking
11	No site address/ W. 96 th St.		1					Utilities
13	6200 W. 96th St	1	1	2				Parking
14	6150 W. 98th St	1	1	20		1	1	Car Rental
15	6101 W. 98th St	1		10	1	2	3	Parking
16/18/19	9775 Airport Blvd.	1	1	30	1	2	3	Car Rental
17	5945 W. 96th St	1		2				Retail
Acquisition Area C - Airport Blvd. East								
11	9225 Aviation Blvd.	1	1	5		2	2	Car Rental
Acquisition Area D - Aviation Blvd. East								
2	9200 Aviation Blvd.	2	1	5	1		1	Retail
3	5520 Arbor Vitae	1		10				School
5	5216 Arbor Vitae	3	1			2	2	Retail
	5200 Arbor Vitae	1		4				Retail
6	5447 W. Century	1		25				Lodging
7	5551 W. Century	1	1	2	1	1	2	Retail
8	5535 W. Century	1		12				Retail
9	5307 W. Century	1	1	9	2		2	Retail
10/12/13/14	No site address/W. Century		1		4	2	6	Commercial
Acquisition Area E - South of Century								
1	5552 W. Century	2	1	3	1		1	Retail
2	10100 Aviation Blvd.	1		50	1		1	Warehouse
3	5540 W. Century		1		1		1	Vacant Building
4	5440 W. Century	1	1	30	1	1	2	Car Rental
	5500 W. Century	1		2				Parking
5	5425 W. 102nd	1	1	2				Parking
14	5510 102nd	1	1	150				Warehouse
28	5515 104th	1	1	50				Warehouse
29	10400 Aviation Blvd.	1	1			1	1	Industrial
30	5540 104th	1		15				Warehouse
47	10311 La Cienega	1		50		1	1	Retail
48	10300/10302 Glasgow	1	1	20				Retail
49	10201 La Cienega	2	1	20				Car Rental
99	No site address		1					Utilities
Acquisition Area F - North of Imperial								
9	No site address/Imperial Hwy		1					Utilities
GRAND TOTALS		34	25	553	15	25	40	

Prior to the commencement of any property purchase negotiations, personal interviews will be conducted by LAWA with each displacee to determine their eligibility for relocation benefits.

11. LAX MASTER PLAN PROGRAM RELOCATION ASSISTANCE PROGRAM – GENERAL

As indicated in the introduction to this document, Title 49 CFR 24 provides implementation instructions that must be followed in order to comply with the Uniform Act for property acquisition and relocation related to projects funded in whole or in part by federal dollars. This section begins with important definitions, and continues with an outline of the major relocation benefits potentially available to both commercial (nonresidential) and residential displacees affected by the LAX MP Program. More specific

and detailed information will be provided to each potential displacee once LAX MP Program property acquisition commences.

11.1 Displacements Defined

Any person (lawfully present in the United States), household, business or nonprofit organization displaced by a public project is entitled to relocation benefits if they are in occupancy of the property being acquired at the time of the First Written Offer (FWO). Persons and entities displaced by a project and determined to be eligible for benefits are classified as a “displacee.”

11.2 Displaced Person Defined

The term “displaced person” (or displacee) means any person (lawfully present in the United States) who moves from the real property or moves his or her personal property from the real property as the direct result of:

- ◆ A written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for the LAX MP Program.
- ◆ A written notice of intent to acquire, or the acquisition, rehabilitation, or demolition of, in whole or in part, other real property on which the person conducts a business for the LAX MP Program. However, eligibility for such person under the Uniform Act applies only for purposes of obtaining relocation assistance advisory services under Title 49 CFR 24.205(c), and moving expenses under Title 49 CFR 24.301, 24.302 or 24.303.

11.3 Persons Not Displaced Defined

Persons not considered “displaced” for purposes of obtaining relocation benefits are those who:

- (1) Move before the initiation of negotiations [Title 49 CFR 24.403(e)] unless LAWA has issued a Notice of Intent to Acquire their property.
- (2) Initially entered into occupancy of the property after the date of its acquisition for the LAX MP Program.
- (3) Occupied the property for the sole purpose of obtaining assistance under the Uniform Act.
- (4) Are not required to relocate permanently as a direct result of the LAX MP Program as determined by LAWA. This can be because it is a temporary easement or because the partial acquisition does not require they relocate from the remainder. However, if the remainder has been determined to be an Uneconomic Remnant [Title 49 CFR 24.2(w)], then the occupant on the property is considered a displacee.
- (5) After receiving a Notice of Eligibility, are notified in writing that he or she will not be displaced for the LAX MP Program. Such notice shall not be issued unless the person has not moved and LAWA agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.
- (6) Retains the right of use and occupancy of the real property for life, or some other fixed term, following its acquisition by LAWA.
- (7) Are not lawfully present in the United States and who have been determined to be ineligible for relocation benefits in accordance with Title 49 CFR 24.208.

11.4 Persons Not Lawfully Present in the United States

The phrase “person not lawfully present in the United States” means someone who is not lawfully present in the United States as defined in 8 CFR 103.12 and includes:

- (1) A person present in the United States who has not been admitted or paroled in the United States pursuant to the Immigration and Nationality Act, and whose stay in the United States has not been authorized by the U.S. Attorney General, and
- (2) A person who is present in the United States after the expiration of the period of stay authorized by the U.S. Attorney General, or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.

Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

- (1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.
- (2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.
- (3) In the case of an unincorporated business or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.
- (4) In the case of an incorporated business or nonprofit organization, that the corporation is authorized to conduct business within the United States.

The certification provided pursuant to paragraphs (1), (2), and (3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the FAA and, within those parameters, that of LAWA.

In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

LAWA shall consider the certification provided to be valid, unless LAWA determines that it is invalid based on a review of an alien's documentation or other information that LAWA considers reliable and appropriate.

Any review by LAWA of the certifications provided shall be conducted in a nondiscriminatory fashion. LAWA will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

If, based on a review of an alien's documentation or other credible evidence, LAWA has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination.

- (1) If LAWA has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, LAWA shall obtain verification of the alien's status from the local Immigration and Naturalization Service (INS) Office.
- (2) If LAWA has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, LAWA shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to LAWA's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

For purposes of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

- (1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;
- (2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or
- (3) Any other impact that LAWA determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

The certification of legal status referred to in this section shall be included as part of the claim for relocation payments.

Finally, owners who sold their property to LAWA on a voluntary (or donated) basis or when LAWA (or any of its agents) did not have the authority to condemn the property are not entitled to relocation benefits [Title 49 CFR 24.2, Title 49 CFR 101 (1) and (2)]. However, the displacement of a tenant on real property that was acquired by LAWA on a voluntary, donated, or without the authority of eminent domain, is entitled to relocation benefits.

Any person that disagrees with the Department's determination that he or she is not a displaced person may file an appeal in accordance with the procedures established in this document.

11.5 Relocation Notices

Relocation Notices will be provided to all eligible and potentially eligible LAX MP Program area occupants, tenants, owners and businesses in accordance with the provisions of the Uniform Act and FAA Order 5100 4.22, et seq. Notices include a General Information Notice, Notice of Relocation Eligibility, 90-Day Notice to Vacate, Notice of Moving Eligibility – Non Tenured Tenant, and Notice of Non-Displacement.

12. LAX MASTER PLAN PROGRAM COMMERCIAL (NONRESIDENTIAL) ACQUISITION AND RELOCATION

The LAX MP Program requires the acquisition of approximately 77 acres of light industrial, airfreight, office, and retail uses occupied by a total of approximately 34 businesses. Acquisition activities are expected to occur during Phase 1 of LAX MP implementation. LAWA's RAP provides as many businesses as possible the opportunity to relocate onto the airport or into airport-owned developments. All RAC uses and remote parking lots proposed for acquisition will be accommodated on the airport. A

number of the other acquired uses will be able to relocate to the LAX Northside development or within surrounding communities within the City of Los Angeles.

As shown in **Table 12-1**, LAX MP Program On-Airport Relocation Opportunities in 2015, virtually all of the acquired uses can be accommodated either on the airport or in airport-owned developments.¹⁶ However, at the point at which acquisition occurs, sufficient relocation space will not yet be available for all of the displaced uses. As such, while specific types of businesses have been targeted to relocate to LAX Northside, a number of affected businesses are expected to be absorbed by the local market. A total of approximately 223,400 SF of office, retail, hotel and light industrial uses are expected to be relocated within available space in the surrounding areas. Such uses could also potentially relocate to future development at LAX Northside upon buildout of that site.

**Table 12-1
LAX MP Program On-Airport Relocation Opportunities in 2015**

	Acquired Properties ¹	On-Airport Relocation Opportunities ^{1,2}	Unaccommodated ^{1,3} (Local Market)
Office	245,481	1,730,000	30,000
Retail (non-hotel) ⁴	57,943	130,000	8,129
Hotel	63,595 (154 rooms)	870,000 (1,400 rooms)	63,595 (154 rooms)
Light Industrial ⁵	96,901	1,290,000	49,791
Air Freight ⁶	166,893	750,000	71,867

1 Floor Area (SF).
 2 Includes proposed floor area at LAX Northside, the consolidated RAC facility, and other on-airport facilities.
 3 Unaccommodated uses are targeted for relocation within space available in the local market. Although the on-airport relocation opportunities listed for 2015 may appear sufficient for acquired properties, the indicated uses could not be accommodated due to conflicts between the timing of acquisition activities and that associated with completion of new on-airport development.
 4 Land use category referred to as Retail/Restaurant for the LAX Northside Development.
 5 Land use category referred to as R/D Business Park for the LAX Northside Development.
 6 Land use category referred to as Airport-Related for the LAX Northside Development.

An estimated 30,000 SF of office space cannot be accommodated on LAWA property, but can be easily absorbed into the nearly 4 million square feet (MSF) of office space that is available in the surrounding areas. Similarly, the limited 8,129 SF of displaced retail space can be accommodated locally. The loss of 154 hotel rooms during Phase 1 of the LAX MP Program will be compensated for by the low occupancy rate in the area (average 77 percent), which converts to an estimated excess of 2,423 rooms. Ultimately, the loss will be more than compensated for by the development of 1,400 hotel rooms within LAX Northside. It is also expected that with increased demand from additional air passengers, the private sector will construct hotels to take advantage of the market, and that local governments would be supportive since hotels generate large amounts of tax revenue.

As of the first quarter of 2000, vacancy rates indicated only 0.5 MSF of industrial building space available in the LAX/EI Segundo/Hawthorne area, and vacant developable land for industrial space in the immediate area remained limited. Updated vacancy rates in the 4th Quarter of 2003, indicate the availability of over 8 MSF of available industrial space in the South Bay region. There is, however, sufficient vacant industrial space in close proximity to the airport to accommodate the approximately 4,900 SF of displaced light industrial floor area targeted for off-airport areas.

An estimated 146,867 SF of airfreight uses are targeted for relocation within the local market. Taking into account an anticipated 38 percent increase in efficiency associated with updated facilities, this existing

¹⁶ In addition to the 34 businesses located on property to be acquired, a number of businesses currently leasing property from LAWA will be affected by LAX MP Program implementation. Such businesses will be relocated to other airport property, if feasible, or relocated to suitable space within 50 miles of their current location.

floor area would be equivalent to 106,425 SF of new airfreight processing space. As further described in Section 4.4.2, *Relocation of Residences or Businesses* (subsection 4.4.2.3), of the EIS/EIR, opportunities for relocation to off-airport industrial property in proximity to LAX is extremely limited for these uses, in part due to a lack of interest on the part of some jurisdictions to entitle freight/warehousing uses. Affected airfreight businesses may be forced to locate in communities receptive to this use at a greater distance from LAX than their present location.

12.1 Commercial Relocation Benefits

Any business or nonprofit organization (nonresidential) which qualifies as an eligible displacee is entitled to relocation benefits if the acquisition of the property in whole or part causes a need to relocate the operation to another location.

The Uniform Act does not require that business (nonresidential) displacees be made whole and thus receive different benefits under the Uniform Act than residential displacees. Payments are limited to approved moving and related expenses (with no provision to assist in acquiring a replacement property); search expenses; and reimbursement of eligible business reestablishment expenses. Advisory assistance is available to commercial (nonresidential) displacees, with the exception of persons not lawfully present in the United States. These potential benefits are described in the following sections.

12.1.1 Advisory Assistance

Each eligible nonresidential displacee, owner, or lessee shall be interviewed for the need to receive an explanation of the Uniform Act benefits provided in person by a LAWA representative. In addition to an explanation of potential benefits, the LAWA agent will look at all personal property on the displacement parcel and request a certified inventory of these items from the displacee. The Agent shall note the general nature of the operation and the type of property, and determine which items will be considered eligible for a moving expense payment.

12.1.2 Moving Expenses

Eligible displacees are entitled to the cost to transport personal property and other approved items not acquired by LAWA (e.g., trade fixtures, inventory) to the replacement property, not to exceed 50 miles from the displacement property. LAWA may extend the 50-mile limit if no other replacement property was available or suitable for the displaced business or nonprofit organization.

Transportation includes packing, unpacking, crating, and uncrating, including any special packaging or equipment that must be used to protect sensitive or high valued items (e.g., computers, rare or exotic inventory, and photosensitive equipment).

Eligible displacees may also be entitled to the cost of disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery and equipment. If approved, payment includes connection to utilities available nearby.

Another possible moving expense is the cost of modifying utilities in the replacement property. Utilities may include the following internal service lines: water, gas, electrical, compressed air, vacuum, vent, sewer, and oil. The cost of installing the typical service connections is not an allowable expense such as: utility distribution centers (water meters, gas meters, and main electrical service panels), perimeter and overhead electrical outlets for lighting and power, normal gas or water lines.

Businesses may be reimbursed for the following telephone service fees/costs if incurred in the relocation process:

- ◆ Reconnection of existing system
- ◆ Purchase of new system (if the old system was pulse type and the relocation site only accepts touch-tone phones)
- ◆ Long distance service transfer fees
- ◆ Computer and data dedicated lines

If a business is able to relocate its existing system to its new location but chooses to purchase/lease a more elaborate system, a credit for phone relocation costs is provided toward the new system.

Displacees may be reimbursed for the cost of adapting personal property to the replacement structure, the replacement site, or the utilities at the replacement site. To be reimbursable, costs for personal property modifications must be necessary, unavoidable, and reasonable.

Displacees may be reimbursed the cost of making physical changes in or to a building to which a business concern relocates as a moving expense under the following provisions and limitations:

- ◆ The physical changes must be necessary to permit the reinstallation of machinery or equipment or substitute machinery or equipment necessary for continued operation of the business.
- ◆ The cost of foundations and concrete pads or other similar construction required for reinstallation of relocated or substitute machinery or equipment may be eligible provided construction is necessary for proper operation of the equipment and compensation for a similar installation was not made as part of the price paid to acquire the former property.
- ◆ Changes in or to a building or structure may not increase the value of the building or structure for general purpose uses, may not increase the structural or mechanical capacity of the building or its components beyond the requirements of specific types of equipment moved from the old location or replaced with a substitute, nor include building or structural alterations required by local building codes and ordinances. No relocation payment for structural change shall be made for any items that were paid for on the acquired property.

Displacees are entitled to insurance for the replacement value of the property in connection with the move and during storage, if the storage is approved by LAWA. The displacee is entitled to the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available. If the insurance coverage includes a deductible payment, LAWA will be responsible for reimbursing the displacee for that amount after the claim for damages has been paid.

The displacee is entitled to the cost or pro-rata transfer cost of any license, permit, or certification required for the particular business or organization to operate at the replacement location. Service charges or nonrefundable fees required by law, licenses, or permits needed to operate at the new location are eligible costs. Examples: day care license, alcohol and beverage control permit, resale license.

Ineligible expenses are those costs related to the replacement site such as general occupancy licenses, occupancy permits, building permits, modifications to comply with ADA, or one-time assessments that any business would have to pay for occupancy of a property.

Business displacees may be eligible for reimbursement to hire professional consultants to:

- ◆ Plan the move of the personal property (e.g., schematics, time frame)
- ◆ Move the personal property (e.g., organize and in phases), and
- ◆ Install the relocated personal property at the replacement location.

Professional services should be arranged for specialty or complex moves that are not normally performed by a typical moving company.

The displacee's existing inventory of stationery may become obsolete as a result of the move (e.g., new address, new phone number). Relettering signs and replacing stationery on hand at the time of displacement are eligible expenses.

A displaced business is entitled to reimbursement for actual expenses, not to exceed \$1,000, as LAWA determines to be reasonable, which are incurred in searching for a replacement location including transportation, meals and lodging, time spent searching, and fees paid to a real estate professional.

Each business displacee must provide the LAWA RAP Agent with a certified inventory of the personal property eligible for relocation. The inventory should be prepared by the displacee and verified by the LAWA agent, who may choose to accompany the displacee during the preparation of the list.

Overall, this Plan complies and incorporates by reference Title 49 CFR 24 to reimburse eligible nonresidential displacees for moving related expenses that are not listed as ineligible under Title 49 CFR 24.305. LAWA must, however, preapprove all moving expenses. The guidelines for submitting and approving moving expenses associated with LAX MP Program property acquisition and relocation program will be fully explained to each displacee by the LAWA RAP agent.

12.1.3 Search Expenses

A displaced business is entitled to reimbursement for actual expenses, not to exceed \$1,000, which the agency determines reasonable and incurred in searching for a replacement location, including the following:

- ◆ Searching Time,
- ◆ Transportation,
- ◆ Lodging,
- ◆ Cost of meals,
- ◆ Fees paid to Realtor (excluding commissions).

12.1.4 Reestablishment Payment

In addition to the payments available for moving expenses, a small business (fewer than 500 employees) or nonprofit organization is entitled to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing the small business or nonprofit organization at a replacement site.

The test for reestablishment expenses is not a comparative standard. Therefore, it does not match the amenities or characteristics of the replacement site against the displacement site. Instead, the test is one of necessity, i.e., is the expense necessary to reestablish the displaced business.

Reestablishment expenses must be actual, reasonable, and necessary. Eligible expenses include, but are not limited to, the following:

- ◆ Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- ◆ Construction and installation costs for exterior signing to advertise the business.
- ◆ Provision of utilities from right-of-way to improvements on the replacement site.
- ◆ Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- ◆ Licenses, fees, and permits that are not eligible for reimbursement as a moving expense.
- ◆ Feasibility surveys, soil testing, and marketing studies.
- ◆ Advertisement of replacement location.
- ◆ Professional services in connection with the purchase or lease of a replacement site.
- ◆ Estimated increased costs of operation during the first two years at the replacement site for such items as:
 - ▶ Lease or rental charges,
 - ▶ Personal or real property taxes,
 - ▶ Insurance premiums, and
 - ▶ Utility charges, excluding impact fees.

In order to meet the 18-month deadline to file a claim, displacees should be advised to submit their claim for these expenses prior to the 24-month period based on projected costs.

- ◆ Impact fees or one-time assessments for anticipated heavy utility usage. Since impact fees have an effect on fair market value considerations for both developed and undeveloped business properties, the cost of the fee should be reflected in the eventual resale of the property.
- ◆ Other items that LAWA may consider as necessary expenses related to the reestablishment of the business (e.g., escrow and title fees to acquire the replacement property, Small Business Administration loan fee, and Americans with Disabilities Act compliance).

Other restrictions may apply to the payment of this Reestablishment Payment that will be fully explored with the displacee by the LAWA RAP agent prior to relocation.

12.1.5 In-Lieu Payment

A commercial (nonresident) displacee may be eligible to choose a fixed payment “in lieu” of the payments for actual search, moving and related expenses, and actual reasonable reestablishment expenses.

The In-Lieu Payment for a business is based on the average annual net earnings, and can range between \$1,000 and \$20,000.

The displaced business is eligible for the payment if:

- (1) The business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move; and the business vacates or relocates from its displacement site.
- (2) The business is not part of a commercial enterprise having more than three other entities, which are not being acquired by LAWA, and which are under the same ownership and engaged in the same or similar business activities.
- (3) The business is not operated at a displacement dwelling solely for the purpose of renting the property (improvements and/or land) to others.
- (4) The business contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

Title 49 CFR 24.306 states the business cannot be relocated without a substantial loss of its existing clientele or net earnings. LAWA will assume that all displacees automatically meet this criterion if the other four criteria are met.

In determining whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

- (1) The same premises and equipment are shared;
- (2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- (3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
- (4) The same person, or closely related persons own, control, or manage the affairs of the entities.

LAWA shall consider how the businesses share or separate their operation by looking areas such as, the name, purpose, customers, tax records, employees, and office space.

12.1.6 Nonprofit Organization – In-Lieu Payment

The In-Lieu Payment for a nonprofit organization is based on the same criteria, calculations, and limitations as a small business, except that any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two (2) years’ annual gross revenues less administrative expenses.

Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales, or other forms of fund collection that enable the nonprofit organization to operate. Administrative expenses

are those for administrative support such as rent, utilities, salaries, advertising, and other like items as well as fund-raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expense. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

The organization must have an exempt status with the state or federal income tax office and must provide proof of its nonprofit status. It can obtain a certificate or other documentation from either the State of California Franchise Tax Board or the Internal Revenue Service.

12.1.7 Commercial Relocation Benefits for Persons Not Lawfully Present in the United States

Moving expenses for an unincorporated business and nonprofit organization will be paid if an owner, manager, or operating officer certifies the other owners, signs the claim forms, and provides the necessary documentation for himself/herself. The sole owner of a business or nonprofit organization who cannot or will not certify as to their U.S. residency status is not entitled to any relocation benefits, including advisory assistance.

Any partnership that includes persons who cannot or will not certify as to their U.S. residency status is not entitled to any relocation benefits, including advisory assistance. The remaining partners are entitled to moving expenses, but the payments must be prorated based on the number of U.S. versus non-U.S. residents. Example: A partnership of five (5) persons, two (2) of which can certify as to their U.S. residency status, will receive 2/5ths of the actual, reasonable, and necessary expenses. This portion must be applied to all moving expenses, including reestablishment, search expenses, and the in-lieu payment.

13. LAX MASTER PLAN PROGRAM RESIDENTIAL ACQUISITION AND RELOCATION

No residential acquisition is proposed for the LAX MP Program. If, however, surface transportation Mitigation Measure MM-ST-13, create a new interchange at I-405 and Lennox Boulevard, recommending a new interchange at I-405 and Lennox Boulevard is carried forward, it is possible that 9 to 12 properties in the City of Inglewood may need to be acquired. In the event such measures are required, LAWA shall ensure compliance with the Uniform Act.

Any person, household, business or nonprofit organization displaced by the LAX MP Program, with certain limited exceptions, is entitled to relocation benefits if they are in occupancy of the property being acquired at the time of the First Written Offer (FWO). Persons and entities displaced and determined to be eligible for benefits are classified as a “displacee.”

13.1 Residential Relocation Benefits

Residential displacees may be entitled to Advisory Assistance, Moving Costs, and Replacement Housing Payments.

- (1) Advisory Assistance is available to everyone, with the exception of persons not lawfully present in the United States, who occupy real property acquired by LAWA.
- (2) Moving Costs are reimbursement for actual, reasonable and necessary expenses. These payments are available to everyone, with the exception of persons not lawfully present in the United States, who must move his or her personal property from the real property acquired by LAWA.
- (3) Replacement Housing Payments are available for residential occupants based on type and length of occupancy at the time LAWA initiates formal negotiations to acquire the real property.

13.1.1 Advisory Assistance

The Uniform Act requires that LAWA establish a relocation advisory assistance program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described below.

The specific goal of the advisory assistance benefit is to minimize the hardships people might experience in adjusting to their relocation. This can be done by providing counseling, advice as to other sources of assistance that may be available, information on Federal, State, City and County housing programs, disaster loans, and other programs (e.g., SBA, FHA, HUD).

Relocation advisory assistance services are provided primarily to assist:

- ◆ Persons in relocating to “decent, safe, and sanitary” (DSS) housing that meets their needs and is within their financial means.
- ◆ Business operators in finding suitable replacement locations to continue operations.

In addition, advisory assistance is intended to emphasize that if the comparable replacement properties are located in areas of minority concentration, minority persons shall also be given opportunities to relocate to replacement properties not located in such areas.

The preferred method is for LAWA’s RAP agent to conduct a personal interview with each occupant to determine the relocation needs and preferences of each person or business being displaced, and explain their possible relocation benefits. If personal contact cannot be made, the RAP agent shall document the file to show that conscientious efforts were made, and explain why such efforts were unsuccessful.

The LAWA RAP agent is responsible for providing current and continuing information throughout the relocation process, including but not limited to:

- ◆ An explanation of eligibility requirements for relocation payments and the appeal process.
- ◆ Translation services to properly explain the RAP to non-English speaking persons.
- ◆ Information on the availability, purchase prices, and rental costs of comparable replacement dwellings and/or businesses.
- ◆ Assurance that no one will be required to move unless at least one comparable replacement residential dwelling is made available.
- ◆ An address, in writing, of the specific comparable replacement residential dwelling used to establish the maximum replacement housing payment.
- ◆ Inspection criteria that will be used to determine if the replacement property meets the DSS standards [Title 49 CFR 24.2(a) and (f)].
- ◆ Transportation for all persons, especially the elderly and handicapped, to inspect housing to which they are referred.
- ◆ Assistance in locating and obtaining a replacement property (residential, business, or nonprofit organization), including assistance in completing required applications and other forms.
- ◆ Assistance in completing LAWA’s claim forms; and if necessary, a request for a relocation assistance appeal.

13.1.2 Eligibility for Advisory Assistance

Advisory services shall be offered to all persons who occupy property:

- ◆ Acquired or to be acquired;
- ◆ Immediately adjacent to the acquired real property if LAWA believes they may have difficulty adjusting to changes resulting from the acquisition;

- ◆ That was acquired, and choose to relocate their adjacent residence, business;
- ◆ After it was acquired by LAWA, when such occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for the LAX MP Program.

In conformance with the Uniform Act, no advisory services shall be offered to persons or businesses not certified as lawfully present in the United States.

13.1.3 Actual Moving and Related Expenses

Any occupant who qualified as a “displacee” is entitled to payment of their actual moving and related expenses for all personal property or any property not acquired as real property.

13.1.4 Replacement Housing Payments (RHP)

A residential displacee is eligible for an RHP that may assist them in relocating to a replacement property. The type and amount of the payment may vary between tenured and non-tenured occupants, and between owners and tenants.

- ◆ 180-Day Owner-Occupants may be entitled to an RHP that is comprised of a Purchase Price Differential (PPD), an eligible Incidental Expenses (IE), and a Mortgage Interest Differential (MID).
- ◆ 90-Day Owner-Occupants (or 180-day Owner-Occupants who desire to rent) and Tenants may be entitled to a Rental Payment Differential or to Down Payment Assistance.
- ◆ Non-Tenured Occupants are only entitled to a RHP if the household income is less than 30% of the probable replacement rent including certain utilities (gas, electricity, water).

The amount of the PPD and the RPD is determined by preparing a Replacement Housing Valuation (RHV) that ensures there is a replacement property available on the market that is comparable to the property being acquired by LAWA, and meets the DSS standards established in the Uniform Act.

Additionally, the residential occupants must meet the following criteria in order to receive the full amount of their calculated RHP:

- ◆ Occupy a DSS residential dwelling within one (1) year of the eligibility date.
- ◆ Spend at least the amount of the comparable replacement property (as determined by an approved RHV) on the actual replacement property.
- ◆ Submit a claim for their eligible RHPs within 18 months of the eligibility date.

13.1.5 Relocation Payments

Neither moving or RHPs are payable after death of the displacee, unless there has been some reliance, pre-approved by LAWA, on the part of the displacee’s family or business operation.

Relocation Housing Payments are limited to \$22,500 for 180-day owner-occupants and \$5,250 for 90-day occupants (tenant or owner) before consideration must be given to Last Resort Housing (LRH).

Moving and RHP payments are not subject to income tax, nor should they impact a displacee’s eligibility for social security.

Table 13-1 on the following page summaries the potential benefits for residential displacees.

**Table 13-1
LAX MP Program Potential Residential Relocation Benefits**

Occupancy Type and Time	180-Day Owner-Occupant	90-Day Occupant	Non-Tenured	
			Less than 90-Day Occupant	Post-Offer Occupant
			Tenant or Owner	
Conditions	Eligible to receive payments upon Vacating displacement property at any time after First Written Offer (FWO)		Must be in occupancy at close of escrow or date of possession	
Advisory Assistance	Yes	Yes	Yes	
Moving Expenses	Yes	Yes	Yes	
Replacement Housing Payments	Yes	No	No	
A. Purchase Price Differential (PPD), Mortgage Interest Differential (MID), and Incidental Expenses (IE). <i>Limited to \$22,500 before Last Resort Housing rules apply.</i>	<i>LRH – deposit funds into escrow</i> Yes (in lieu of PPD, MID, IE) No <i>RPD based on economic rent, but cannot exceed the calculated PPD</i> If PPD is zero, RPD is limited to \$5,250.	<i>Optional – at time of determination</i> Yes <i>20% Down Payment plus all non-recurring costs, up to the amount of the RPD</i>	Yes (if 30% of income is less than comparable replacement rent including utilities) <i>Mandatory – at time of determination</i>	
B. Rent Payment Differential (RPD). <i>Requirement for an Income Certification.</i> <i>Limited to \$5,250 before LRH rules apply</i> OR			Yes If RPD is zero, DP is zero. <i>20% Down Payment plus all non-recurring costs, up to the amount of</i>	
C. Down Payment (DP) Including Eligible Incidental Expenses <i>Limitations</i>	N/A		<i>RPD</i>	

14. HARDSHIP SITUATIONS

Hardship situations may arise with either residential or commercial property owners or their tenants. Commercial property hardship situations generally involve the timing of the acquisition or relocation. In this case, LAWA will determine, in its sole discretion, if arrangements can be made to accommodate the property acquisition or relocation to support a hardship request by the displacee. In any case, LAX MP Program implementation calls for the acquisition and relocation of all affected businesses and tenants prior to the completion of phase 1 of the project. The specific intent of this Plan is to have all properties needed for individual LAX MP Program projects under LAWA jurisdiction in sufficient time to allow for construction of the project in accordance with the approved construction schedule.

Residential hardship cases more often involve issues related to legal residency or medical emergencies. In extremely rare circumstances, the denial of benefits to an uncertified occupant may create a severe hardship on the remaining certified occupants. The eligible occupants may submit a claim for benefits for the uncertified occupant and request that the denial of the benefits be reconsidered because of their particular situation.

In the case of a residential acquisition, in order to claim benefits, the certified occupant must demonstrate to LAWA's satisfaction that denial of the additional benefits to the uncertified occupant will result in an extreme hardship to the remaining occupants, particularly the spouse, parent, or child who is a legal resident. Income alone will never be considered as the sole criteria in determining hardship. LAWA shall determine if the displacee's situation is a hardship defined as:

- ◆ Significant and demonstrable adverse impact on the health or safety of the spouse, parent, or child; or

- ◆ Significant and demonstrable adverse impact on the continued existence of the family unit of which the spouse, parent, or child is a member.

Priority consideration will be given to displacees with an economic or health hardship that requires acquisition of the displacee's property and subsequent relocation prior to LAWA's established order of acquisition. Approval of the timing of any hardship acquisition or relocation remains at the discretion of LAWA.

15. LAX MASTER PLAN PROGRAM RELOCATION ASSISTANCE PROGRAM OFFICE

LAWA shall establish an LAX MP Program RAP office within close proximity to the airport to ensure compliance with the Uniform Act, and to provide acquisition and relocation services to displacees. The location of the office, operating hours, phone number, fax number and web site address will be published once the office is established.

16. PROPERTY MANAGEMENT SERVICES

Residential and/or commercial property acquisition and relocation associated with the LAX MP Program is intended to provide land required for the construction of airfield and related facilities. Every effort will be made by LAWA to time the acquisition and/or relocation so that the property will be available in accordance with its approved construction schedule.

When escrow closes on each property purchase, LAWA will have any remaining leases in the previous owners name assigned to LAWA. Tenant services and/or amenities will continue in accordance with the lease either by existing service providers or LAWA obtained services. Tenants must continue to pay rent to LAWA according to the terms and conditions of the lease until they have been relocated.

The property will be maintained in accordance with policies and procedures established by LAWA to ensure that all permits necessary for the start of any planned construction are secured when needed. This process will normally require that all displacees are absent from the property when required, and that extended occupancy involving short or long-term leases after the close of escrow will not be permitted.

When required, leases for existing tenants on LAWA-owned property needed for LAX MP Program implementation will be terminated, and LAWA approved relocation benefits paid to eligible displacees in accordance with the Uniform Act together with any requirements in their lease.

17. OTHER PROJECTS AFFECTING LAX MASTER PLAN PROGRAM RELOCATION

During the LAX MP Program horizon (through 2015), there are no projects identified that will significantly affect the ability of LAWA to complete the acquisition and relocation of displacees associated with the implementation of the LAX MP Program. In order to make this determination, the following organizations or agencies were contacted for input:

City of Los Angeles
City Planning Department
200 North Spring Street, Los Angeles, CA 90012-2601
213-978-1389

County of Los Angeles
Department of Regional Planning
Hall of Records (13th Floor)
320 West Temple Street
Los Angeles, CA 90012
213-974-6443

California Department of Transportation
Division of Design
120 S. Spring Street, Los Angeles, CA 9001
213-897-4637

City of Inglewood
Planning Division
One Manchester Blvd., 4th Floor
Inglewood, California 90301
310-412-5230

City of El Segundo
Planning Division
350 Main Street, El Segundo, CA 90245
310-524-2342

City of Hawthorne
Planning Department
4455 W 126th St
Hawthorne, Ca 90250
310-970-793

Los Angeles Unified School District
Facilities Service Division
Local District D
3000 S. Robertson, Ste., 100
Los Angeles, CA 90034
310-253-7100

18. RELOCATION TAX CONSEQUENCES

In accordance with California Government Code, Section 7260 et seq. and Title 49 CFR, Section 24.209, relocation payments are not considered as income. No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing assistance.

Payments made for the purchase of real property are not covered under this section. LAWA encourages displacees to consult with their tax professional to determine the state or federal tax consequences associated with the receipt of funds for any property (real or personal) purchased in whole or in part by LAWA under the LAX MP Program.

19. LAX MASTER PLAN PROGRAM EVICTION NOTICES

LAWA's acquisition of the properties in the LAX MP Program area will create a landlord-tenant relationship with any remaining lessees. Owners of owner-occupied properties who remain on the property at the time of escrow closing shall become the tenant of LAWA and existing tenant leases will be assumed by LAWA. If approved by LAWA through the execution of a lease to remain on the property, all tenants will pay rent to LAWA once title to the acquired property has passed to the City of Los Angeles and the displacee is still in possession of the property.

Evictions will occur under the following circumstances:

- ◆ A 90-day notice to vacate the premises has expired (inclusive of a 30-day notice if provided after 60-days have passed on the 90-day notice)
- ◆ Nonpayment of rent
- ◆ Material breach of lease

Except as controlled by Title 49 CFR, Section 24.206, eviction does not make a displacee ineligible for relocation assistance. LAWA may, however, deduct portions of unpaid rent from a relocation payment.

Absent any special circumstances agreed to by LAWA in advance, LAWA shall provide each displacee with a 90-day notice to vacate prior to the close of escrow. A 30-day notice will be provided no sooner than 60-days after the 90-day notice with a date certain for the displacee to move and remove all of their personal property from the displacement property.

20. APPEALS POLICY

All persons will be informed of their right to appeal LAWA's determination as to eligibility for payment or the amount of any authorized relocation payment. In part, LAWA's procedure shall include that any aggrieved person may file a written appeal in any case in which the person believes that eligibility was improperly denied or that the amount of a relocation benefit has been incorrectly calculated, or is insufficient.

The process will be in compliance with Title 49 CFR, Section 24.10 to ensure the rights of each person. Such person rights will include:

- a. General. LAWA shall promptly review appeals in accordance with the requirements of applicable law.
- b. Actions which may be appealed. Any aggrieved person may file a written appeal with LAWA in any case in which the person believes that LAWA has failed to properly consider the person's application for assistance under Title 49 CFR, Section 24.10. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under Title 49 CFR, Sections 24.106 or 24.107. LAWA shall consider all written appeals regardless of form.
- c. Time limit for initiating appeal. LAWA may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of LAWA's determination on the person's claim.
- d. Right to representation. A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.
- e. Review of files by person making appeal. LAWA shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials that are classified as confidential by LAWA. LAWA may, however, impose reasonable conditions, including the cost to reproduce such materials, on the person's right to inspect, consistent with applicable laws and security requirements.

- f. Scope of review of appeal. In deciding an appeal, LAWA shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.
- g. Determination and notification after appeal. Promptly after receipt of all information submitted by a person in support of an appeal, LAWA shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, LAWA shall advise the person of his or her right to seek judicial review.
- h. Agency official to review appeal. The LAWA official conducting the review of the appeal shall be either the Executive Director or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Only relocation issues may be appealed through the appeal procedure; however, the person has the right to challenge LAWA's final decision through legal channels if the final decision is not satisfactory to the person. Appraisal or valuation issues are also adjudicated through judicial appeal.

**FEDERAL REGULATIONS IMPLEMENTING THE UNIFORM RELOCATION ASSISTANCE AND REAL
PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED**

EXHIBIT 1

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED JANUARY 27, 2004

**49 CFR
Transportation
Subtitle A
Office of the Secretary of Transportation**

**PART 24 -- UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR
FEDERAL AND FEDERALLY ASSISTED PROGRAMS**

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Appendix A to Part 24 -- Additional Information

Appendix B to Part 24 -- Statistical Report Form

Authority: 42 U.S.C. 4601 et seq.; 49 CFR 1.48(cc).

Source: 54 FR 8928, Mar. 2, 1989, unless otherwise noted.

Subpart A -- General

§24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 et seq.), in accordance with the following objectives:

- (a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;
- (b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and
- (c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989]

§24.2 Definitions.

Agency. The term Agency means the Federal agency, State, State agency, or person that acquires real property or displaces a person.

(1) Acquiring agency. The term acquiring agency means a State agency, as defined in paragraph (a)(4) of this section, which has the authority to acquire property by eminent domain under State law, and a State agency or person which does not have such authority. Any Agency or person solely acquiring property pursuant to the provisions of §24.101(a) (1), (2), (3), or (4) need not provide the assurances required by §24.4(a)(1) or (2).

(2) Displacing agency. The term displacing agency means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(3) Federal agency. The term Federal agency means any department, Agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(4) State agency. The term State agency means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law. Alien not lawfully present in the United States. The phrase "alien not lawfully present in the United States" means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

(1) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General, and

(2) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

Appraisal. The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information. Business. The term business means any lawful activity, except a farm operation, that is conducted:

(1) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Primarily for the sale of services to the public; or

(3) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(4) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

Citizen. The term "citizen," for purposes of this part, includes both citizens of the United States and noncitizen nationals.

Comparable replacement dwelling. The term comparable replacement dwelling means a dwelling which is:

(1) Decent, safe and sanitary as described in paragraph (f) of this section;

(2) Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling. (See appendix A of this part);

(3) Adequate in size to accommodate the occupants;

(4) In an area not subject to unreasonable adverse environmental conditions;

(5) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(6) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also §24.403(a)(2).);

(7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance. (See appendix A of this part.); and

(8) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in §24.401(c), all increased mortgage interest costs as described at §24.401(d) and all incidental expenses as described at §24.401(e), plus any additional amount required to be paid under §24.404, Replacement housing of last resort.

(ii) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at §24.402(b)(2).

(iii) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Such rental assistance must be paid under §24.404, Replacement housing of last resort. Contribute materially. The term contribute materially means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least \$5000; or

(2) Had average annual net earnings of at least \$1000; or

(3) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

(4) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

Decent, safe, and sanitary dwelling. The term decent, safe, and sanitary dwelling means a dwelling which meets applicable housing and occupancy codes.

However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the Federal agency funding the project. The dwelling shall:

(1) Be structurally sound, weathertight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other devices.

(3) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(5) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(6) For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

Displaced person -- (1) General. The term "displaced person" means, except as provided in paragraph (2) of this definition, any person who moves from the real property or moves his or her personal property from the real property: (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at §§24.401(a) and 24.402(a)):

(i) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project.

(ii) As a direct result of rehabilitation or demolition for a project; or

(iii) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under §24.205(c), and moving expenses under §24.301, §24.302 or §24.303.

(2) Persons not displaced. The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(i) A person who moves before the initiation of negotiations (see also §24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project; or

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or

(iii) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(iv) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal agency funding the project (see also appendix A of this part); or

(v) An owner-occupant who moves as a result of an acquisition as described at §§24.101(a) (1) and (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as

a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.); or

(vi) A person whom the Agency determines is not displaced as a direct result of a partial acquisition; or

(vii) A person who, after receiving a notice of relocation eligibility (described at §24.203(b)), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

(viii) An owner-occupant who voluntarily conveys his or her property, as described at §24.101(a) (1) and (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or

(ix) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency; or

(x) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Public Law 93-477 or Public Law 93-303, except that such owner remains a displaced person for purposes of subpart D of this part; or

(xi) A person who is determined to be in unlawful occupancy prior to the initiation of negotiations (see paragraph (y) of this section), or a person who has been evicted for cause, under applicable law, as provided for in §24.206.

(xii) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits in accordance with §24.208.

Dwelling. The term dwelling means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

Farm operation. The term farm operation means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Federal financial assistance. The term Federal financial assistance means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

Initiation of negotiations. Unless a different action is specified in applicable Federal program regulations, the term initiation of negotiations means the following:

(1) Whenever the displacement results from the acquisition of the real property by a Federal agency or State agency, the initiation of negotiations means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal agency or State agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery to the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

(2) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal agency or a State agency), the initiation of negotiations means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(3) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or Superfund) the initiation of negotiations means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

Lead agency. The term lead agency means the Department of Transportation acting through the Federal Highway Administration.

Mortgage. The term mortgage means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

Nonprofit organization. The term nonprofit organization means an organization that is incorporated under the applicable laws of a State as a non-profit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

Notice of intent to acquire or notice of eligibility for relocation assistance. Written notice furnished to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, that establishes eligibility for relocation benefits prior to the initiation of negotiation and/or prior to the commitment of Federal financial assistance. **Owner of a dwelling.** A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property;

(1) Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

(2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in paragraphs (p) (1) or (2) of this section, or

(4) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

Person. The term person means any individual, family, partnership, corporation, or association.

Program or project. The phrase program or project means any activity or series of activities undertaken by a Federal agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding agency guidelines.

Salvage value. The term salvage value means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

Small business. A business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of §24.304.

State. Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

Tenant. The term tenant means a person who has the temporary use and occupancy of real property owned by another.

Uneconomic remnant. The term uneconomic remnant means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner.

Uniform Act. The term Uniform Act means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91-646), and amendments thereto.

Unlawful occupancy. A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the Agency to be a squatter who is occupying the real property without the permission of the owner and otherwise has no legal right to occupy the property under State law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.

Utility costs. The term utility costs means expenses for heat, lights, water and sewer.

Utility facility. The term utility facility means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television;

and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

Utility relocation. The term utility relocation means the adjustment of a utility facility required by the program or project undertaken by the displacing agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989; 58 FR 26072, Apr. 30, 1993; 64 FR 7131, Feb. 12, 1999]

§24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, or local law which is determined by the Agency to have the same purpose and effect as such payment under this part. (See appendix A of this part, §24.3.)

§24.4 Assurances, monitoring and corrective action.

(a) Assurances -- (1) Before a Federal agency may approve any grant to, or contract, or agreement with, a State agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing agency's assurances shall be in accordance with section 210 of the Uniform Act. An acquiring agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to section 301 or 302 of the Uniform Act. If, in the judgment of the Federal agency, Uniform Act compliance will be served, a State agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency which both acquires real property and displaces persons may combine its section 210 and section 305 assurances in one document.

(2) If a Federal agency or State agency provides Federal financial assistance to a "person" causing displacement, such Federal or State agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal agency may provide Federal financial assistance to a State agency after it has accepted a certification by such State agency in accordance with the requirements in subpart G of this part.

(b) Monitoring and corrective action. The Federal agency will monitor compliance with this part, and the State agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal agency may also apply sanctions in accordance with applicable program regulations. (Also see §24.603, subpart G.)

(c) Prevention of fraud, waste, and mismanagement. The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

§24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at §24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§24.6 Administration of jointly-funded projects.

Whenever two or more Federal agencies provide financial assistance to an Agency or Agencies, other than a Federal agency, to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the Federal agencies may by agreement designate

one such agency as the cognizant Federal agency. In the unlikely event that agreement among the Agencies cannot be reached as to which agency shall be the cognizant Federal agency, then the lead agency shall designate one of such agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federally assisted activities under the agreement shall be deemed a project for the purposes of this part.

§24.7 Federal agency waiver of regulations.

The Federal agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§24.8 Compliance with other laws and regulations.

The implementation of this part must be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to, the following:

- (a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).
- (b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
- (c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.
- (d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.).
- (f) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234).
- (g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).
- (h) Executive Order 11063 -- Equal Opportunity and Housing, as amended by Executive Order 12259.
- (i) Executive Order 11246 -- Equal Employment Opportunity.
- (j) Executive Order 11625 -- Minority Business Enterprise.
- (k) Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.
- (l) Executive Order 12250 -- Leadership and Coordination of Non-Discrimination Laws.
- (m) Executive Order 12259 -- Leadership and Coordination of Fair Housing in Federal Programs.
- (n) Executive Order 12630 -- Governmental Actions and Interference with Constitutionally Protected Property Rights.

§24.9 Recordkeeping and reports.

(a) Records. The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding agency, whichever is later.

(b) Confidentiality of records. Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) Reports. The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding agency shows good cause. The report shall be prepared and submitted in the format contained in appendix B of this part.

§24.10 Appeals.

(a) General. The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) Actions which may be appealed. Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under §24.106 or §24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) Time limit for initiating appeal. The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) Right to representation. A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) Review of files by person making appeal. The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) Scope of review of appeal. In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) Determination and notification after appeal. Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review.

(h) Agency official to review appeal. The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B -- Real Property Acquisition

§24.101 Applicability of acquisition requirements.

(a) General. The requirements of this subpart apply to any acquisition of real property for a Federal program or project, and to programs and projects where there is Federal financial assistance in any part of project costs except for:

(1) Voluntary transactions that meet all of the following conditions:

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly.

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner of what it believes to be the fair market value of the property.

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

(ii) Inform the owner of what it believes to be fair market value of the property.

(3) The acquisition of real property from a Federal agency, State, or State agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project which is undertaken by, or receives Federal financial assistance from, the Tennessee Valley Authority or the Rural Electrification Administration.

(b) Less-than-full-fee interest in real property. In addition to fee simple title, the provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent easements. (See appendix A of this part, §24.101(b).)

(c) Federally-assisted projects. For projects receiving Federal financial assistance, the provisions of §§24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (See §24.4(a).)

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989; 58 FR 26072, Apr. 30, 1993]

§24.102 Basic acquisition policies.

(a) Expeditious acquisition. The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) Notice to owner. As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections, including the agency's obligation to secure an appraisal, provided to the owner by law and this part. (See also §24.203.)

(c) Appraisal, waiver thereof, and invitation to owner. (1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in §24.102(c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if the owner is donating the property and releases the Agency from this obligation, or the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at \$2,500 or less, based on a review of available data.

(d) Establishment and offer of just compensation. Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. (See also §24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) Summary statement. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

(f) Basic negotiation procedures. The Agency shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation; and, explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the

property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) Updating offer of just compensation. If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) Coercive action. The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) Administrative settlement. The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) supports such a settlement.

(j) Payment before taking possession. Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.

(k) Uneconomic remnant. If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See §24.2.)

(l) Inverse condemnation. If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) Fair rental. If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.103 Criteria for appraisals.

(a) Standards of appraisal. The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, a detailed appraisal shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

(4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(5) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) Influence of the project on just compensation. To the extent permitted by applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(c) Owner retention of improvements. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §24.2) of the retained improvement.

(d) Qualifications of appraisers. (1) The Agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to §24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq).

(e) Conflict of interest. No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is \$2,500, or less.

[54 FR 8928, Mar. 2, 1989, as amended at 57 FR 33266, July 27, 1992; 57 FR 53295, Nov. 9, 1992; 64 FR 7132, Feb. 12, 1999]

§24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with §24.103 to support an approved or recommended value.

(c) The review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement.

§24.105 Acquisition of tenant-owned improvements.

(a) Acquisition of improvements. When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) Improvements considered to be real property. Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.

(c) Appraisal and establishment of just compensation for tenant-owned improvements. Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at §24.2.)

(d) Special conditions. No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement; and

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) Alternative compensation. Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefor, to the Agency as such owner shall determine. The Agency is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in §24.102(c)(2).

Subpart C -- General Relocation Requirements

§24.201 Purpose.

This subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

§24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at §24.2.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.203 Relocation notices.

(a) General information notice. As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(3) Informs the person that he or she will not be required to move without at least 90 days' advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(4) Informs the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in §24.208(i).

(5) Describes the person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) Notice of relocation eligibility. Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in §24.2) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) Ninety-day notice -- (1) General. No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) Timing of notice. The displacing agency may issue the notice 90 days before it expects the person to be displaced or earlier.

(3) Content of notice. The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (See §24.204(a).)

(4) Urgent need. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the displacing agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.204 Availability of comparable replacement dwelling before displacement.

(a) General. No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at §24.2) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location; and

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) Circumstances permitting waiver. The Federal agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) Basic conditions of emergency move. Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.205 Relocation planning, advisory services, and coordination.

(a) Relocation planning. During the early stages of development, Federal and Federal-aid programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special

consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

(b) Loans for planning and preliminary expenses. In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the lead agency will establish criteria and procedures for such use upon the request of the Federal agency funding the program or project.

(c) Relocation assistance advisory services -- (1) General. The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) Services to be provided. The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

(ii) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in §24.204(a).

(A) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see §24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(B) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See §24.2.) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(C) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(D) All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(iii) Provide current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(vi) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

(d) Coordination of relocation activities. Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (Also see §24.6, subpart A.)

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.206 Eviction for cause.

Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the Agency determines that:

(a) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

(b) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(c) In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project.

§24.207 General requirements -- claims for relocation payments.

(a) Documentation. Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) Expeditious payments. The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) Advance payments. If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) Time for filing -- (1) All claims for a relocation payment shall be filed with the Agency within 18 months after:

(i) For tenants, the date of displacement;

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) This time period shall be waived by the Agency for good cause.

(e) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as

determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) Deductions from relocation payments. An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, a Federal agency shall, and a State agency may, deduct from relocation payments any rent that the displaced person owes the Agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by §24.204. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) Notice of denial of claim. If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

§24.208 Aliens not lawfully present in the United States.

(a) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding agency and, within those parameters, that of the displacing agency.

(c) In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(d) The displacing agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the agency considers reliable and appropriate.

(e) Any review by the displacing agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its

face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination.

(1) If the agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing agency shall obtain verification of the alien's status from the local Immigration and Naturalization Service (INS) Office. A list of local INS offices was published in the FEDERAL REGISTER in November 17, 1997 at 62 FR 61350. Any request for INS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. [If an agency is unable to contact the INS, it may contact the FHWA in Washington, DC at 202-366-2035 (Marshall Schy, Office of Real Estate Services) or 202-366-1371 (Reid Alsop, Office of Chief Counsel), for a referral to the INS.]

(2) If the agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing agency's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in §24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105-0508) [64 FR 7132, Feb. 12, 1999]

§24.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law, except for any Federal law providing low-income housing assistance. [54 FR 8928, Mar. 2, 1989. Redesignated at 64 FR 7132, Feb. 12, 1999]

Subpart D -- Payments for Moving and Related Expenses

§24.301 Payment for actual reasonable moving and related expenses -- residential moves.

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined at §24.2) is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.

(d) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(e) Insurance for the replacement value of the property in connection with the move and necessary storage.

(f) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(g) Other moving-related expenses that are not listed as ineligible under §24.305, as the Agency determines to be reasonable and necessary.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.302 Fixed payment for moving expenses -- residential moves.

Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under §24.301. This allowance shall be determined according to the applicable schedule approved by the Federal Highway Administration. This includes a provision that the expense and dislocation allowance to a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons or a person whose residential move is performed by an agency at no cost to the person shall be limited to \$50.

§24.303 Payment for actual reasonable moving and related expenses -- nonresidential moves.

(a) Eligible costs. Any business or farm operation which qualifies as a displaced person (defined at §24.2) is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(1) Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described at §24.303(a)(12). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(8) Professional services necessary for:

(i) Planning the move of the personal property,

(ii) Moving the personal property, and

(iii) Installing the relocated personal property at the replacement location.

(9) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

(11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(12) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(13) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation.

(ii) Meals and lodging away from home.

(iii) Time spent searching, based on reasonable salary or earnings.

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(14) Other moving-related expenses that are not listed as ineligible under §24.305, as the Agency determines to be reasonable and necessary.

(b) Notification and inspection. The following requirements apply to payments under this section:

(1) The Agency shall inform the displaced person, in writing, of the requirements of paragraphs (b) (2) and (3) of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in §24.203.

(2) The displaced person must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) Self moves. If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency or prepared by qualified staff. At the Agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(d) Transfer of ownership. Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

(e) Advertising signs. The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

- (1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or
- (2) The estimated cost of moving the sign, but with no allowance for storage.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.304 Reestablishment expenses -- nonresidential moves.

In addition to the payments available under §24.303 of this subpart, a small business, as defined in §24.2, farm or nonprofit organization is entitled to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

- (1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
- (2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- (3) Construction and installation costs for exterior signing to advertise the business.
- (4) Provision of utilities from right-of-way to improvements on the replacement site.
- (5) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.
- (6) Licenses, fees and permits when not paid as part of moving expenses.
- (7) Feasibility surveys, soil testing and marketing studies.
- (8) Advertisement of replacement location.
- (9) Professional services in connection with the purchase or lease of a replacement site.
- (10) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:
 - (i) Lease or rental charges,
 - (ii) Personal or real property taxes,
 - (iii) Insurance premiums, and
 - (iv) Utility charges, excluding impact fees.
- (11) Impact fees or one-time assessments for anticipated heavy utility usage.
- (12) Other items that the Agency considers essential to the reestablishment of the business.

(b) Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

- (1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.
- (2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- (3) Interest on money borrowed to make the move or purchase the replacement property.
- (4) Payment to a part-time business in the home which does not contribute materially to the household income.

[54 FR 8928, Mar. 2, 1989, as amended at 58 FR 26072, Apr. 30, 1993; 64 FR 7132, Feb. 12, 1999]

§24.305 Ineligible moving and related expenses.

A displaced person is not entitled to payment for:

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this part does not preclude the computation under §24.401(c)(4)(iii); or

(b) Interest on a loan to cover moving expenses; or

(c) Loss of goodwill; or

(d) Loss of profits; or

(e) Loss of trained employees; or

(f) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in §24.304(a)(10); or

(g) Personal injury; or

(h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or

(i) Expenses for searching for a replacement dwelling; or

(j) Physical changes to the real property at the replacement location of a business or farm operation except as provided in §§24.303(a)(3) and §24.304(a); or

(k) Costs for storage of personal property on real property already owned or leased by the displaced person.

§24.306 Fixed payment for moving expenses -- nonresidential moves.

(a) Business. A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§24.303 and 24.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than \$1,000 nor more than \$20,000. The displaced business is eligible for the payment if the Agency determines that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site.

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage; and

(3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others.

(6) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement (see §24.2).

(b) Determining the number of businesses. In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

- (3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
- (4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) Farm operation. A displaced farm operation (defined at §24.2) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than \$1,000 nor more than \$20,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

- (1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
- (2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) Nonprofit organization. A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. (See appendix A of this part).

(e) Average annual net earnings of a business or farm operation. The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Agency determines is satisfactory.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.307 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing agency causes the relocation of a utility facility (see §§24.2) and the relocation of the facility creates extraordinary expenses for its owner, the displacing agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

- (1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way; and
- (2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement; and
- (3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing agency; and
- (4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing agency's program or project; and
- (5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing agency is in accordance with State law.

(b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (See appendix A, of this part, §24.307.)

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

Subpart E -- Replacement Housing Payments

§24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) Eligibility. A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court, or

(ii) The date the displacing agency's obligation under §24.204 is met.

(b) Amount of payment. The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$22,500. (See also §24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section; and

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) Price differential -- (1) Basic computation. The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with §24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) Mixed-use and multifamily properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(3) Insurance proceeds. To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see §24.3.)

(4) Owner retention of displacement dwelling. If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at §24.2); and

(iii) The current fair market value for residential use of the replacement site (see appendix A of this part, §24.401(c)(4)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) Increased mortgage interest costs. The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d) (1) through (5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination the payment will be prorated and reduced accordingly. (See appendix A of this part.) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

(5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(e) Incidental expenses. The incidental expenses to be paid under paragraph (b)(3) of this section or §24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

- (4) Certification of structural soundness and termite inspection when required.
- (5) Credit report.
- (6) Owner's and mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.
- (7) Escrow agent's fee.
- (8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).
- (9) Such other costs as the Agency determines to be incidental to the purchase.
- (f) Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed \$5,250, computed and disbursed in accordance with §24.402(b).

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.402 Replacement housing payment for 90-day occupants.

(a) Eligibility. A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

- (1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and
- (2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:
 - (i) For a tenant, the date he or she moves from the displacement dwelling, or
 - (ii) For an owner-occupant, the later of:
 - (A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or
 - (B) The date he or she moves from the displacement dwelling.

(b) Rental assistance payment -- (1) Amount of payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$5,250 for rental assistance. (See also §24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

- (i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- (ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) Base monthly rental for displacement dwelling. The base monthly rental for the displacement dwelling is the lesser of:

- (i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or
- (ii) Thirty (30) percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in paragraph

(b)(2)(i) of this section. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.); or

(iii) The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(3) Manner of disbursement. A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by §24.403(f), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) Downpayment assistance payment -- (1) Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the discretion of the Agency, a downpayment assistance payment may be increased to any amount not to exceed \$5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under §24.401(b) if he or she met the 180-day occupancy requirement. An Agency's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under §24.401(a) is not eligible for this payment. (See also appendix A of this part, §24.402(c).)

(2) Application of payment. The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§24.403 Additional rules governing replacement housing payments.

(a) Determining cost of comparable replacement dwelling. The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at §24.2).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also §24.205(a)(2) and appendix A of this part). An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(4) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(b) Inspection of replacement dwelling. Before making a replacement housing payment or releasing a payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at §24.2.

(c) Purchase of replacement dwelling. A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling; or

(2) Purchases and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he or she owns or purchases; or

(4) Constructs a dwelling on a site he or she owns or purchases; or

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(d) Occupancy requirements for displacement or replacement dwelling. No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

(1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the displacing agency; or

(2) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Agency.

(e) Conversion of payment. A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under §24.402(b) is eligible to receive a payment under §24.401 or §24.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under §24.401 or §24.402(c).

(f) Payment after death. A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a decent, safe, and sanitary replacement dwelling.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

§24.404 Replacement housing of last resort.

(a) Determination to provide replacement housing of last resort. Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in §24.401 or §24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area; and

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person; or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs. (Will project delay justify waiting for less expensive comparable replacement housing to become available?)

(b) Basic rights of persons to be displaced. Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) Methods of providing comparable replacement housing. Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in §24.401 or §24.402. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation and, if necessary, rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers to the handicapped.

(viii) The change in status of the displaced person with his or her concurrence from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (see appendix A, of this part, §24.404), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with §24.2).

(3) The agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the person's financial means, which is 30 percent of the person's gross monthly household income. Such assistance shall cover a period of 42 months.

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

Subpart F -- Mobile Homes

§24.501 Applicability.

This subpart describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with subpart D and a replacement housing payment in accordance with subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

§24.502 Moving and related expenses -- mobile homes.

(a) A homeowner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with §24.301. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under §24.303. However, if the mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at §24.503(a)(3), the owner is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) The following rules apply to payments for actual moving expenses under §24.301:

(1) A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hook-up" charges.

(2) If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe, and sanitary, and the Agency determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.

(3) A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

§24.503 Replacement housing payment for 180-day mobile homeowner-occupants.

(a) A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed \$22,500, under §24.401 if:

(1) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

(2) The person meets the other basic eligibility requirements at §24.401(a); and

(3) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not and cannot economically be made decent, safe, and sanitary; or

(ii) Cannot be relocated without substantial damage or unreasonable cost; or

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) If the mobile home is not acquired, and the Agency determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described at §24.401(c), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

§24.504 Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed \$5,250, under §24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at §24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at §24.503(a)(3).

§24.505 Additional rules governing relocation payments to mobile home occupants.

(a) Replacement housing payment based on dwelling and site. Both the mobile home and mobile home site must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in subpart E. However, the total replacement housing payment under subpart E shall not exceed the maximum payment (either \$22,500 or \$5,250) permitted under the section that governs the computation for the dwelling. (See also §24.403(b).)

(b) Cost of comparable replacement dwelling -- (1) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(2) If the Agency determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Agency may determine that, for purposes of computing the price differential under §24.401(c), the cost of a comparable replacement dwelling is the sum of:

(i) The value of the mobile home,

(ii) The cost of any necessary repairs or modifications, and

(iii) The estimated cost of moving the mobile home to a replacement site.

(c) Initiation of negotiations. If the mobile home is not actually acquired, but the occupant is considered displaced under this part, the "initiation of negotiations" is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person under this part.

(d) Person moves mobile home. If the owner is reimbursed for the cost of moving the mobile home under this part, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(e) Partial acquisition of mobile home park. The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this part.

Subpart G -- Certification

§24.601 Purpose.

This subpart permits a State agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by §24.4 of this part.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989]

§24.602 Certification application.

An agency wishing to proceed on the basis of a certification may request an application for certification from the lead agency [Director, Office of Right-of-Way, HRW-1, Federal Highway Administration, 400 Seventh St. SW., Washington, DC 20590]. The completed application for certification must be approved by the governor of the State, or the governor's designee, and must be coordinated with the Federal funding agency, in accordance with application procedures.

[58 FR 26072, April 30, 1993]

§24.603 Monitoring and corrective action.

(a) The Federal lead agency shall, in coordination with other Federal agencies, monitor from time to time State agency implementation of programs or projects conducted under the certification process and the State agency shall make available any information required for this purpose.

(b) A Federal agency that has accepted a State agency's certification pursuant to this subpart should withhold its approval of any of its Federal financial assistance to any project, program, or activity, in progress or to be undertaken by such State agency, if it is found by the Federal agency that the State agency has failed to comply with the applicable State law and regulations implementing those provisions of the Uniform Act for which the State agency would otherwise have provided the assurances required by sections 210 and 305 of the Uniform Act. The Federal agency may withhold Federal financial assistance if the certifying State agency fails to comply with the applicable State law and regulations implementing other provisions of the Uniform Act. The Federal agency shall notify the lead agency at least 15 days prior to any decision to withhold funds under this subpart. The lead agency may consult with the Federal agency upon receiving such notification. The lead agency will also inform other Federal agencies which have accepted certification under this subpart from the same State agency of the pending action.

(c) A Federal agency may, after consultation with the lead agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State agency fails to comply with its certification or with applicable State law and regulations. The Federal agency shall initiate consultation with the lead agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The lead agency will also inform other Federal agencies which have accepted a certification under this subpart from the same State agency, and will take whatever other action that may be appropriate.

(d) The lead agency may require periodic information or data from affected Federal or State agencies.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989; 58 FR 26072, Apr. 30, 1993]

Appendix A to Part 24 -- Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

Subpart A -- General

Section 24.2 Definitions

Definition of comparable replacement dwelling. The requirement in §24.2 that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, provide the same utility, and be capable of contributing to a comparable style of living as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling.

Paragraph (7) in the definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify

as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing program, the rental assistance payment under §24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.) Persons not displaced. Paragraph (2)(iv) under this definition recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily-occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation.

It is also noted that any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with §24.10.

Initiation of negotiations. This section of the part; provides a special definition for acquisitions and displacements under Public Law 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision is made later to permanently relocate such persons, those who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition which is based on the public health advisory or announcement of permanent relocation.

Section 24.3 No Duplication of Payments

This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment under these regulations is computed.

Section 24.9 Recordkeeping and Reports

Section 24.9(c) Reports. This paragraph allows Federal agencies to require the submission of a report on activities under the Uniform Act no more frequently than once every three years. The report, if required, will cover activities during the Federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on Agencies implementing this part, a basic report form (see appendix B of this part) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

Subpart B -- Real Property Acquisition

Section 24.101 Applicability of Acquisition Requirements

Section 24.101(b) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases. However, the Agency may apply the regulations to any less-than-full-fee acquisition which is short of 50 years but which in its judgment should be covered.

Section 24.102 Basic Acquisition Policies

Section 24.102(d) Establishment of offer of just compensation. The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures. It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this section is not intended to require such contact in all cases.

Section 24.102(i) Administrative settlement. This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including reviewing appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental. Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed "the fair rental value * * * to a short-term occupier." Generally, the Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.103 Criteria for Appraisals

Section 24.103(a) Standards of appraisal. In paragraph (a)(3) of this section, it is intended that all relevant and reliable approaches to value be utilized. However, where an Agency determines that the market approach will be adequate by itself because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the market approach.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term "project" is intended to mean an undertaking which is planned, designed, and intended to operate as a unit.

Because of the public knowledge of the proposed project, property values may be affected. A property owner should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(e) Conflict of interest. The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in Federal and federally-assisted land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, §24.103(e) provides that the same person may both appraise and negotiate an acquisition, if the value is \$2,500 or less. However, it should be noted that all appraisals must be reviewed in accordance with §24.104. This includes appraisals of real property valued at \$2,500, or less.

Section 24.104 Review of appraisals

This section recognizes that Agencies differ in the authority delegated to the review appraiser. In some cases the reviewer establishes the amount of the offer to the owner and in other cases the reviewer makes a recommendation which is acted on at a higher level. It is also within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on a property.

Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and the analyses of that data, demonstrates the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the reviewer's recommended or approved value depend on the complexity of the appraisal problem. For a low

value property requiring an uncomplicated valuation process, the reviewer's approval, endorsing the appraiser's report, may satisfy the requirement for the reviewer's statement.

Section 24.106 Expenses Incidental to Transfer of Title to the Agency Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. In addition, it is emphasized that such expenses must be reasonable and necessary.

Subpart C -- General Relocation Requirements

Section 24.204 Availability of Comparable Replacement Dwelling Before Displacement

Section 24.204 (a) General. This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, §24.204(a) requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation Assistance Advisory Services

Section 24.205(c)(2)(ii)(C) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.207 General Requirements -- Claims for Relocation Payments

Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in §24.303(c).

Subpart D -- Payment for Moving and Related Expenses

Section 24.306 Fixed Payment for Moving Expenses -- Nonresidential Moves

Section 24.306(d) Nonprofit organizations. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the non-profit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the non-profit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

Section 24.307 Discretionary Utility Relocation Payments

Section 24.307(c) describes the issues which must be agreed to between the displacing agency and the utility facility owner in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

Subpart E -- Replacement Housing Payments

Section 24.401 Replacement Housing Payment for 180-Day Homeowner-Occupants

Section 24.401(a)(2). The provision for extending eligibility for a replacement housing payment beyond the one year period for good cause means that an extension may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction of a replacement dwelling or other like circumstances should cause delays in occupying a decent, safe, and sanitary replacement dwelling.

Section 24.401(c) Price differential. The provision in §24.401(c)(4)(iii) to use the current fair market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used.

Section 24.401(d) Increased mortgage interest costs. The provision in §24.401(d) set forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

The remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage must be known to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

Sample Computation

Old Mortgage:

Remaining \$50,000
Principal Balance.....
Monthly Payment 458.22
(principal and interest).....
Interest rate 7 (percent).....
New Mortgage: Interest rate 10 (percent).....
Points..... 3
Term (years). 15

Remaining term of the old mortgage is determined to be 174 months. (Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee). However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of \$458.22 at 10% -- \$42,010.18

	\$50,000.00
	-42,010.18

Increased mortgage	7,989.82
interest costs	
3 points on	1,260.31
\$42,010.18	-----
Total buydown	9,250.13
necessary to maintain	
payments at	
\$458.22/ month.....	

If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were \$35,000, the buydown payment would be \$7,706.57 ($\$35,000 \div \text{by } \$42,010.18 = .8331$; $\$9,250.13 \times .83 = \$7,706.57$).

The Agency is obligated to inform the person of the approximate amount of this payment and that he or she must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of this payment. The displacee is also to be advised of the interest rate and points used to calculate the payment.

Section 24.402 Replacement Housing Payment for 90-Day Occupants

The downpayment assistance provisions in §24.402(c) are intended to limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance which exceeds the computed rental assistance payment, up to the \$5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing agency should develop a policy which affords equal treatment for persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects. It is recommended that displacing agencies coordinate with each other to reach a consensus on a uniform procedure for the State and/or the local jurisdiction.

For purposes of this section, the term downpayment means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the downpayment may be the amount which the Agency determines is necessary.

Section 24.403 Additional Rules Governing Replacement Housing Payments

Section 24.403(a)(1). The procedure for adjusting the asking price of comparable replacement dwellings requires that the agency provide advisory assistance to the displaced person concerning negotiations so that he or she may enter the market as a knowledgeable buyer. If a displaced person elects to buy one of the selected comparables, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment to the actual purchase amount.

Section 24.404 Replacement Housing of Last Resort

Section 24.404(b) Basic rights of persons to be displaced. This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under §24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at §24.2. The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing comparable replacement housing. The use of cost effective means of providing comparable replacement housing is implied throughout the subpart. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, it should be specially noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

Subpart F -- Mobile Homes

Section 24.503 Replacement Housing Payment for 180-Day Mobile Homeowner-Occupants

A 180-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under §24.401 and a replacement housing payment for a site computed under §24.402. A 180-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under §24.401 to assist in the purchase of a replacement site or, under §24.402, to assist in renting a replacement site.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

Appendix B to Part 24 -- Statistical Report Form

This appendix sets forth the statistical information collected from Agencies in accordance with §24.9(c).

General

1. Report coverage. This report covers all relocation and real property acquisition activities under a Federal or a federally assisted project or program subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Public Law 100-17, 101 Stat. 132.
2. Report period. Activities shall be reported on a Federal fiscal year basis, i.e., October 1 through September 30.
3. Where and when to submit report. Submit an original and two copies of this report to (Name and Address of Federal Agency) as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15.
4. How to report relocation payments. The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.
5. How to report dollar amounts. Round off all money entries in Parts B and C to the nearest dollar.
6. Statutory references. The references in Part B indicate the section of the Uniform Act that authorizes the cost.

Part A. Persons displaced

Report in Part A the number of persons ("households," "businesses, including nonprofit organizations," and "farms") who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling or location. This includes businesses, nonprofit organizations and farms which, upon displacement, discontinued operations. The category "households" includes all families and individuals. A family shall be reported as "one" household, not by the number of people in the family unit. Persons shall be reported according to their status as "owners" or "tenants" of the property from which displaced.

Part B. Relocation payments and expenses

Columns (A) and (B). Report in Column (A) the number of displacements during the report year. Report in Column (B) the total amount represented by the displacements reported in Column (A).

Line 7A is a new line item for reporting the business reestablishment expense payment.

Lines 7A and 9, Column (B). Report in Column (B) the amount of costs that were included in the total amount approved on Lines 6 and 8, Column (B).

Lines 12 A and B. Report in Column (A) the number of households displaced by project or program activities which were provided assistance in accordance with section 206(a) of the Uniform Act. Report in

Column (B) the total financial assistance under section 206(a) allocable to the households reported in Column (A). (If a household received financial assistance under section 203 or section 204 as well as under section 206(a) of the Uniform Act, report the household as a displacement in Column (A), but in Column (B) report only the amount of financial assistance allocable to section 206(a). For example, if a tenant-household receives a payment of \$7,000 to rent a replacement dwelling, the sum of \$5,250 shall be included on Line 10, Column (B), and \$1,750 shall be included on Line 12B, Column (B).)

Line 13. Report on Line 13 all administrative costs incurred during the report year in connection with providing relocation advisory assistance and services under section 205 of the Uniform Act.

Line 15. Report on Line 15 the total number of relocation appeals filed during the fiscal year by aggrieved persons.

Part C. Real property acquisition subject to Uniform Act

Line 16, Columns (A) and (B). Report in Column (A) all parcels acquired during the report year where title or possession was vested in the acquiring agency during the reporting period. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.) Report in Column (B) the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the acquiring agency.

Line 17. Report on Line 17 the number of parcels reported on Line 16 that were acquired by condemnation where price disagreement was involved.

[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989]