Right of Way Manual

Chapter 5: Relocation

Policies, Procedures and Information

Colorado Department of Transportation

November 2020

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Section 5.1 – General Information

5.1.1 – Acronyms Common to the Right of Way (ROW) Manual and CDOT

BLM	Bureau of Land Management (Department of Interior)
BPR	Bureau of Public Roads (Predecessor to Federal Highway Administration)
BuRec	United States Bureau of Reclamation (Department of Interior)
CAD	Computer Aided Drafting
CE	Categorical Exclusion
CDPHE	Colorado Department of Public Health and Environment
CDOT	Colorado Department of Transportation
CFR	Code of Federal Regulations
CHARN	Colorado High Accuracy Reference Network
CJI-Civ. 4th	Colorado Jury Instructions, Civil 4th
CPA	Certified Public Accountant
CPW	Colorado Division of Parks and Wildlife (Colorado Department of Natural Resources)
CRS	Colorado Revised Statutes
DORA	Colorado Department of Regulatory Agencies
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EPS	Extended Purchasing System
ESA	Environmental Site Assessment
FEIN	Federal Employer Identification Number
FEMA	Federal Emergency Management Agency (U.S. Department of Homeland Security)
FHA	Federal Housing Administration (United States Department of Housing and Urban Development)
FHWA	Federal Highway Administration
FIR	Field Inspection Review
FIRREA	Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (a federal law enacted in the wake of the savings and loan crisis of the 1980's)
FLPMA	Federal Land Policy and Management Act of 1976 (Public Law 94-579 94th Congress)
FLTC	Federal Land Transfer Coordinator
FMV	Fair Market Value
FONSI	Finding of No Significant Impact
FOR	Final Office Review
FS	Feasibility Study
GLO	General Land Office (US Dept of Interior, Bureau of Land Mgmt.)
GPS	Global Positioning System
HB	House Bill
HBU	Highest and Best Use
HED	Highway Easement Deed
HLR	Housing of Last Resort
HUD	United States Office of Housing and Urban Development
IGA	Intergovernmental Agreement
ISA	Initial Site Assessment

LOC	Letter of Consent
LPA	Local Public Agency
LSCD	Land Survey Control Diagram
MAP-21	Moving Ahead for Progress in the 21st Century, P.L. 112-141
MESA	Modified Environmental Site Assessment
MIDP	Mortgage Interest Differential Payment
MOA	Memorandum of Agreement
MOO	Memorandum of Ownership
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NGS	National Geodetic Survey (National Oceanic and Atmospheric Administration - NOAA)
NHS	National Highway System
NRHP	National Register of Historic Places (National Parks Service, US Dept of the Interior)
NSRS	National Spatial Reference System (National Oceanic and Atmospheric Administration - NOAA)
PBS	Primary Base Series (USGS Mapping Program)
PCD	Project Control Diagram
PL	Public Law
PLS	Professional Land Surveyor (Licensed in the State of Colorado by Colorado Department of Regulatory Agencies)
PLSCD	Preliminary Land Survey Control Diagram
PS&E	Project Specifications and Estimates
PSI	Preliminary Site Investigation
QA	Quality Assurance
QAL	Qualified Appraisers List
QC	Quality Control
QRAL	Qualified Review Appraisers List
RAMP	Real Estate Acquisition Management Plan
REPM	Regional Environmental Project Manager
RFP	Request for Proposal
RHP	Replacement Housing Payment
RI	Remedial Investigation
ROD	Record of Decision (US Environmental Protection Agency)
ROW	Right of Way
ROWPR	Right of Way Plan Review
RS	Revised Statute (Federal - first official codification of the Acts of Congress)
RTD	Regional Transportation District
SDOT	State Department of Transportation
SPCC	Spill Prevention and Countermeasure Plans
SSN	Social Security Number
State Land Board	State Board of Land Commissioners (Department of Natural Resources)
STIP	Statewide Transportation Improvement Program (4-year transportation planning document required by FHWA)
STURRA	Surface Transportation and Uniform Relocation Assistance Act of 1987
SUP	Special Use Permit
TC	Transportation Commission
TE	Transportation Enhancement (Moving Ahead for Progress in the 21st Century Act (MAP-21) replaced the TE Activities with the Transportation

	Alternatives Program (TAP)
TEA 21	Transportation Equity Act for the 21st Century (enacted June 9, 1998 as Public Law 105-178)
TMOSS	Terrain Modeling Survey System (InRoads)
Uniform Act	Uniform Relocation Assistance and Real Property Acquisition Policies of 1970, as amended (42 USC 4601 et seq.)
USC	United States Code
USCIS	United States Citizenship and Immigration Services (Homeland Security)
USDOT	United States Department of Transportation
USFS	United States Forest Service
USGS	United States Geological Survey
USPAP	Uniform Standards of Professional Appraisal Practice

5.1.2 – Definitions

Terms defined were copied from 49 CFR Subpart A §24.2 and 23 CFR Subpart A §710.105.

Acquiring Agency §710.105(b): A State Agency, other entity, or person acquiring real property for title 23, United States Code purposes. When an acquiring agency acquires real property interest that will be incorporated into a project eligible for title 23 grant funds, the acquiring agency must comply with Federal real estate and ROW requirements applicable to the grant.

Agency §24.2(a)(1): The term **Agency** means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

> **Acquiring Agency**: A State Agency, 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. For purposes of this Manual, this includes CDOT or a local agency conducting business in a Right of Way (ROW) project.
>
> **Displacing Agency**: 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.
>
> **Federal Agency**: 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.
>
> **State Agency**: 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; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.

Acquisition §710.105(b): Activities to obtain an interest in, and possession of, real property.

Alien not lawfully present in the United States §24.2(a)(2): 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:

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 (8 U.S.C. 1101 et seq.) and whose stay in the United States has not been authorized by the United States Attorney General; and,

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 §24.2(a)(3): 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 §24.2(a)(4): The term business means any lawful activity, except a farm operation, that is conducted:

i. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or any other personal property;

ii. Primarily for the sale of services to the public;

iii. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

iv. By a nonprofit organization that has established its non-profit status under applicable Federal or State law.

For CDOT, the term business also means any lawful activity, except a farm operation, that is conducted:

i. As an entity licensed to conduct business by the Secretary of the State of Colorado, and which is currently held in good standing by the same;

ii. As an entity who has filed State and Federal taxes as a business in the State of Colorado within the last calendar year;

Citizen §24.2(a)(5): Includes both citizens of the United States and non-citizen nationals.

Comparable replacement dwelling §24.2(a)(6): A dwelling which is:

i) Decent, safe and sanitary, as described in 49 CFR 24.2(a)(8);

ii) Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, and provides the same utility. 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 purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functional 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; (also see appendix A, §24.2(a)(6);

iii) Adequate in size to accommodate the occupants;

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

v) 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;

vi) 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; (also see §24.403(a)(2));

vii) 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, sec. 24.2(a)(6)(vii); and

viii) Within the financial means of the displaced person.

a) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days prior to initiation of negotiations (90-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.

b) 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).

c) 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 the persons' base monthly rent for the displacement dwelling as described in §24.402(b)(2). Such rental assistance must be paid under §24.404, Replacement housing of last resort.

ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (See appendix A, §24.2(a)(6)(ix).)

Contribute materially §24.2(a)(7): 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:

i. Had average annual gross receipts of at least $5,000; or

ii. Had average annual net earnings of at least $1,000; or

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

iv. 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 §24.2(a)(8): A dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

i. Be structurally sound, weather tight, and in good repair;

ii. Contain a safe electrical wiring system adequate for lighting and other devices;

iii. 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;

iv. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies:

v. 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;

vi. Contains unobstructed egress to safe, open space at ground level;

vii. For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, §24.2(a)(8)(vii).)

Displaced person §24.2(a)(9)(i):

i. General. 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)):

a. As a direct result of a written notice of intent to acquire (see §24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

b. As a direct result of rehabilitation or demolition for a project; or

c. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or 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 49 CFR Part 24 § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

ii. Persons not displaced §24.2(a)(8)(ii): The following is a nonexclusive listing of persons who do not qualify as displaced persons:

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

b. A person who initially enters into occupancy of the property after the date of its acquisition for the project;

c. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

d. 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 appendix A §24.2(a)(9)(ii)(D));

e. An owner-occupant who moves as a result of an acquisition of real property as described in §24.101(a)(2) or 24.101(b)(1) or (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.);

f. A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

g. 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 written notification 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;

h. An owner-occupant who conveys his or her property, as described in § 24.101(a)(2) or § 24.101(b)(1) or (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;

i. A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

j. 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, Appropriations for National Park System, or Public Law 93-303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

k. A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in § 24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

l. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with § 24.208; or

m. Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by Section 102 of the American Dream Downpayment Act (Pub. L. 108-186; Codified at 42 USC 12821).

Dwelling §24.2(a)(10): 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.

Dwelling Site §24.2(a)(11): A land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, § 24.2(a)(11)).

Farm operation §24.2(a)(12): 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-Aid Project §710.105(b): Federal-aid project means a project funded in whole or in part under or requiring an FHWA approval pursuant to provisions in chapter 1 of Title 23, United States Code.

Federally Assisted §710.105(b): Federally assisted means a project or program that receives grant funds under title 23, United States Code.

Grantee §710.105(b): Grantee means the party that is the direct recipient of title 23 funds and is accountable to FHWA approval pursuant to provisions in chapter 1 of title 23, United States Code.

Federal financial assistance §24.2(a)(13): 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.

Household Income §24.2(a)(14): Total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full-time students under 18 years of age. (See appendix A, § 24.2(a)(14) for examples of exclusions to income).

Initiation of negotiations §24.2(a)(15): Unless a different action is specified in applicable Federal program regulations, the term means the following:

i. 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 of the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

ii. 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.

iii. 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) (CERCLA) 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.

iv. In the case of permanent relocation of a tenant as a result of an acquisition of real property described in § 24.101(b)(1) through (5), the initiation of negotiations means the actions described in § 24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, § 24.2(a)(15)(iv)).

Lead Agency §24.2(a)(16): The Department of Transportation acting through the Federal Highway Administration.

Mobile Home §24.2(a)(17): Includes manufactured homes and recreational vehicles used as residences. (See appendix A, § 24.2(a)(17)).

Mortgage §24.2(a)(18): 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 §24.2(a)(19): 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).

Owner of a dwelling §24.2(a)(20): A person who 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:

i. 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

ii. An interest in a cooperative housing project which includes the right to occupy a dwelling; or

iii. A contract to purchase any of the interests or estates described in § 24.2(a)(1)(i) or (ii); or

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

Person §710.105(b): Any individual, family, partnership, corporation, or association.

Program or project §24.2(a)(22): 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.

Real Estate Acquisition Management Plan (RAMP) §710.105(b): The written document that details how a non-State department of transportation grantee, subgrantee, or design-build contractor will administer the title 23 ROW and real estate requirements for its project or program of projects. The document must be approved by the SDOT, or by the funding agency in the case of a non-SDOT grantee, before any acquisition work may begin. It must lay out in detail how the acquisition and relocation assistance programs will be accomplished and any anticipated issues that may arise during the process. If relocations are reasonably expected as part of the title 23 projects or program, the Real Estate Acquisition Management Plan (RAMP) must address relocation assistance and related procedures. **Note: CDOT uses the title "Acquisition Stage Relocation Plan" instead of "Real Estate Acquisition Management Plan".**

Right of Way (ROW) §710.105(b): Right of Way means real property and rights therein used for the construction, operation, maintenance, or mitigation of a transportation or related facility funded under title 23 of the United States Code.

ROW Manual §710.105(b): The operations manual that establishes a grantee's acquisition, valuation, relocation, and property management and disposal requirements and procedures, and has been approved in accordance with §710,201(c).

Salvage Value §24.2(a)(23): The probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e. not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

Small business §24.2(a)(24): 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 §24.2(a)(25): 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.

State Agency §710.105(b): A department, agency, or instrumentality of a State or 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; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.

Tenant §24.2(a)(26): A person who has the temporary use and occupancy of real property owned by another.

Uneconomic remnant §710.105(b): A remainder property which the acquiring agency has determined has little or no utility or value to the owner.

NOTE: CDOT's Policy is to offer to purchase the remnant, but the owner may refuse the offer and keep the remnant portion.

Uniform Act §710.105(b): The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; primarily codified in 42 U.S.C. 4601 et seq.), and the implementing regulations at 49 CFR part 24 and 23 CFR 710.

Unlawful occupant §24.2(a)(29): A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

Utility costs §24.2(a)(30): Expenses for electricity, gas, other heating and cooking fuels, water and sewer.

Utility facility §24.2(a)(31): 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 §24.2(a)(32): 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.

Waiver valuation §24.2(a)(33): The valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to 49 CFR Part 24 § 24.102(c)(2) appraisal waiver provisions.

Additional definitions for CDOT purposes include the following:

Carve Out: The method used in making a typical homesite determination, whereby that portion of the parent tract which is typical for residential use in the area is carved out of, or separated from, the entire tract for the purpose of the replacement housing payment computation.

Downpayment Supplement: The amount typically required as a downpayment on dwellings using conventional financing.

Economic Rent/Market Rent: The Department's determination of the reasonable income expectancy of a dwelling or other property if it were available for rent; and the rent justifiably payable for the right of occupancy of land and/or improvements.

Family: Two or more individuals who are living together and intend to live together at the replacement dwelling.

Fixed Payment: A payment to a displaced person in lieu of actual moving expenses. The fixed payment is based on a schedule for residential moves and the previous 2-years of income for nonresidential moves. There is no fixed payment for personal property moves.

In Lieu of Payment: See Fixed Payment.

Inventory: A list of items of personal property to be moved by the displaced person. When required, a pre-move inventory must be taken at the displacement site and compared to a post-move inventory taken at the replacement site after the move.

Housing of Last Resort: The provision of replacement housing by techniques developed for such purpose, when a highway project cannot proceed to construction because suitable, comparable and/or adequate replacement sale or rental housing is not available and cannot otherwise be made available to displaced persons within the payment limits established by law.

Less Than 90-Day Occupant: A displaced person who occupies the property to be acquired for less than 90 days prior to the initiation of negotiations; a displaced person who occupies the property to be acquired subsequent to the date of initiation of negotiations.

Local Agency: For purposes of this manual, a local agency is a political jurisdiction or quasi-governmental entity utilizing any Federal Aid Highway Program or CDOT funds for any part of the acquisition project.

Major Exterior Attribute: Any major appurtenant structure exterior to the residential dwelling, or an aesthetically valuable view which substantially contributes to the quality or standard of living of the displaced person(s).

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.

Personal Property: any property not classified as Real Property or a Real Property Interest. Generally, personal property is movable and isn't fixed permanent to one particular location.

Replacement Housing Payment (RHP): Any of several types of payments to qualifying displaced persons, including the price differential (owner supplement), increased mortgage interest costs, incidental expenses, rental assistance (rent supplement), and downpayment assistance.

Relocation Assistance: Advisory services and/or financial aid to persons and businesses displaced by a public program to assist them in becoming reestablished in areas not less desirable, at rents or prices within their financial means, and in dwellings that are decent, safe, and sanitary.

Substitute Personal Property: A personal property item, used as a part of a business or farm operation, purchased to replace an item with a comparable function, which was not moved from the acquired site to the replacement site.

5.1.3 – Authority

Sometimes land needed for a highway is occupied. In such instances it may be necessary to relocate the occupants. These occupants may be families, individuals, businesses, farms, or even non-profit organizations. The Uniform Relocation Act (Uniform Act) and Department of Transportation/Federal Highway Administration (DOT/FHWA) regulations address the benefits and protections for persons displaced by highway projects which are funded, at least in part, with Federal money.

The United States Constitution and the constitutions and laws of the States have long prescribed certain requirements when governmental bodies acquire private property. However, until the 1930s little attention was given to the effects of acquisition on the people who owned or occupied the property being acquired.

Benefits such as moving expense payments and housing payments were gradually added to various Federal programs, but these remained at minimal levels and differed widely from one Federal program to another. During the 1960s, Congress addressed these problems and, on January 2, 1971, enacted Public Law 91-647, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The Uniform Act was a response to the need to unify, increase protections provided to private persons affected by government projects and address the needs of the people, especially people displaced by a public project.

Among other benefits the Uniform Act provides relocation payments for residential occupants and for businesses, farms, and non-profit organizations. These payments include moving expense payments and certain supplementary payments for replacement housing for residential occupants. In addition, the Act provides certain protections such as requiring the availability of replacement housing for displaced persons, minimum standards for such housing, and required notices and information to be provided to all property occupants. Also, the law requires the provision of advisory services to project occupants to help them move successfully.

The Uniform Act proved to be highly successful, but eventually it required updating. In 1987, as part of the Surface Transportation and Uniform Relocation Assistance Act (STURAA), Congress amended the Uniform Act to increase payment levels, to add benefits for small businesses, and to designate the Department of Transportation as the Lead Agency for the Uniform Act for all Federal and Federally-funded programs and projects. The Federal Highway Administration has the responsibility to act for the Department of Transportation. The Uniform Act was once again

amended on November 21, 1997, to add Public Law 105-117, “alien not lawfully present in the United States.”

In December 2003, the FHWA published a notice of proposed rulemaking (NPRM) incorporating recommendations from all 18 Federal Agencies including the new Department of Homeland Security. The NPRM proposed revisions to the Uniform Act regulation that would clarify present requirements, meet modern needs, and improve the service to the individuals and businesses affected by Federal or federally-assisted projects while at the same time reducing the burdens of government regulations. Effective date of these new regulations was February 3, 2005.

The provisions of the Uniform Act concerning relocation are found in Title II. As stated in the law, the purpose of Title II is to assure fair and equitable treatment of person displaced as a result of Federal and federally assisted programs so that such persons do not suffer disproportionate injury from projects designed to benefit the public as a whole. It is important to keep this purpose in mind. It will serve as a valuable guide when making decisions on difficult questions.

On July 6, 2012 P.L. 112-141, the Moving Ahead for Progress in the 21st Century Act(MAP-21) was signed into law. The MAP-21 made several amendments to the Uniform Act, effective October 1, 2014, including increasing the maximum statutory benefit for replacement housing payments for displaced homeowners and increasing replacement housing payments for displaced tenants. Length of occupancy requirement for homeowners was reduced before the initiation of negotiations. The MAP-21 also increased the maximum statutory benefit for business reestablishment benefits, and the fixed payment for nonresidential moves.

In anticipation of this law, the State of Colorado increased reestablishment expenses to be paid to reestablish a displaced farm, nonprofit organization, or small business, in May 2012, with House Bill (HB) 1012.

The Colorado Department of Transportation is authorized by 24-56-101 through 121, Colorado Revised Statutes to comply with the Uniform Act on federally assisted projects.

Federal Regulations 49 Code of Federal Regulations (CFR), Part 24, regulates CDOT’s Relocation Assistance Program on Federal and federally assisted projects.

Under 24-56-101 through 121, Colorado Revised Statutes, CDOT is authorized to implement a Relocation Assistance Program on non-federal aid projects.

It also is important to understand that successful relocation is essential not only to the welfare of those to be displaced but to the progress of the entire highway project. Without the relocation of those on site, the project cannot proceed to actual construction and the highway will not be built.

5.1.4 – Purpose

The purpose of this Manual is to outline policies, procedures, and to establish authority for the Right of Way Relocation Assistance Program to be followed when providing relocation assistance to facilitate the construction of public improvements. Policies and procedures have been developed to comply with State of Colorado, Colorado Department of Transportation (CDOT) and Federal Highway Administration (FHWA) requirements. This Manual was prepared in the interest of improving program delivery and efficiency. This Manual is also intended to

expand the knowledge and understanding of the program and procedures when providing relocation assistance.

Section 5.2 – Relocation Policies And Requirements

5.2.1 – No Duplication of Payment

No person shall receive any payment under relocation if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by CDOT to have the same purpose and effect as such payment.

5.2.2 – Assurances, Monitoring and Corrective Action

Assurances - In accordance with the provisions of 49 CFR Part 24, assurances of compliance with Federal regulations have been submitted to FHWA and approved. The assurance of compliance is the ROW Manual. Each update is reviewed and approved by FHWA.

Monitoring and Corrective Action - The FHWA 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.

Prevention of Fraud, Waste, and Mismanagement - CDOT shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

5.2.3 – Manner of Notices

Each notice which CDOT is required to provide to a property owner or occupant under this section, except the notice described at 49 CFR Part 24 § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in CDOT's 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.

5.2.4 – Administration of Jointly Funded Projects

Whenever two or more Federal Agencies provide financial assistance to any 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.

5.2.5 – 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.

5.2.6 – 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:

i. Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.).

ii. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

iii. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended.

iv. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

v. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

vi. The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.).

vii. The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

viii. Executive Order 11063 – Equal Opportunity and Housing, as amended by Executive Order 12892, (42 U.S.C. 3535 et seq.).

ix. Executive Order 11246 – Equal Employment Opportunity, as amended by Executive Order 13672, (July 14, 2014).

x. Executive Order 11625 – Minority Business Enterprise.

xi. Executive Orders 11988 – Floodplain Management, and 11990 – Protection of Wetlands

xii. Executive Order 12250 – Leadership and Coordination of Non-Discrimination Laws.

xiii. Executive Order 12630 – Governmental Actions and Interference with Constitutionally Protected Property Rights.

xiv. Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 et seq.).

xv. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994).

5.2.7 – Title VI of the Civil Rights Act

Pursuant to 49 CFR 24.8(b), CDOT's implementation of the Uniform Act must be in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, ***et seq.***). Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities of any entity that receives federal assistance. Since CDOT receives federal assistance from the Federal Highway Administration (FHWA), CDOT's ROW program must be in compliance with Title VI requirements.

FHWA requires CDOT to implement a Title VI compliance program that meets various requirements. 23 CFR 200.5(p). One of the requirements is to develop procedures for the collection of statistical data of participants in, and beneficiaries of, CDOT's activities. In particular, the regulations specify collection of data on relocatees, impacted citizens, and affected communities. 23 CFR 200.9(b)(4). Gathering data is an important part of a Title VI compliance program because it provides CDOT an overview of who is being impacted by CDOT's activities, and also assists in the determination of whether there may be disparate impact resulting from CDOT's programs. FHWA requires the data to be collected and analyzed to see if one protected class is disproportionately impacted compared to other groups. The ROW program's collection of data through demographic surveys provides helpful information in this determination.

5.2.8 – Recordkeeping and Reports

CDOT shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance. 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, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

Records maintained by CDOT are confidential regarding their use as public information, unless applicable law provides otherwise. See section 5.18 for more information on CDOT Records Management policies.

Annual report submitted to FHWA:

i. The Project Development Branch, Headquarters ROW, will submit a report annually to FHWA.

ii. The report will be compiled from data supplied by SAP and tracked on an ongoing basis while processing warrant requests.

iii. If the data from SAP is inconclusive or incomplete the respective Regions will be requested to submit appropriate data or clarification

iv. The report will be prepared and submitted to FHWA on or before November 15th of each year.

The Regions will be responsible for submitting each of the Local Public Agency's annual report to the Project Development Branch, Headquarters ROW, to be included as one submittal to FHWA.

5.2.9 – The Appeal Process

Any person may file a written appeal with CDOT in any case in which he/she believes that CDOT has failed to properly determine eligibility for or the amount of a relocation payment.

i. General – CDOT shall promptly review appeals in accordance with the requirements of applicable law and this part.

ii. Actions which may be appealed - Any displaced person may file a written appeal with CDOT in any case in which the person believes that CDOT 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 49 CFR Part 24 § 24.106 or § 24.107, or a relocation payment required under this part. CDOT shall consider a written appeal regardless of form.

iii. Time limit for initiating appeal – CDOT may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 30 days after the person receives written notification of CDOT's determination on the person's claim, for the first appeal of the Real Estate Specialist's determination, and 90 days for the second appeal of the Real Estate Specialist's determination.

iv. 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.

v. Review of Files by Person Making Appeal – CDOT shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by CDOT. CDOT may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

vi. Scope of Review of Appeal - In deciding an appeal, CDOT 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.

vii. Determination and Notification after Appeal - Promptly after receipt of all information submitted by a person in support of an appeal, CDOT 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, CDOT shall advise the person of his or her right to seek judicial review of CDOT's decision.

viii. CDOT Official to Review Appeal – CDOT 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.

Following is CDOT's policy regarding the appeals process.

The displaced person may submit a written appeal to the Real Estate Specialist who will conduct an informal review of the case.

The first written appeal must be filed no later than 30 days from the date the displaced person receives written notification of CDOT's initial determination. The Real Estate Specialist must respond in writing no later than 10 business day after receipt of the written appeal.

If this appeal is denied, the Real Estate Specialist will advise the displaced person of his/her right to appeal CDOT's initial determination to the Chief Engineer. An appeal to the Chief Engineer must be made in writing, no later than 90 days from notice of CDOT's initial determination. The displaced person may also request a hearing regarding CDOT's initial determination. A request for a hearing must be made in writing **no later than 60 days from the**

date the displaced person receives notice of CDOT's initial determination. An appeal and a request for hearing shall be directed to:

Chief Engineer
Colorado Department of Transportation
2829 West Howard Place
Denver, CO 80204

The Chief Engineer will forward the appeal to the ROW Program Manager and the appeal process shall move to the Appeal Board.

The Appeal Board will be comprised of four employees of CDOT as follows:

Region ROW Manager/Supervisor from a region other than the region involved. (To act as chairperson).

Real Estate Specialist from a region other than the region involved.

Person from Project Development, Headquarters ROW, not involved in Relocation.

EEO Representative from a region other than the region involved or Headquarters EEO staff.

The ROW Program Manager will appoint the board members and notify the displaced person in writing of the time and place of the hearing and identities of the board members.

Representation on the appeal board will be alternated among Regions as necessary or determined by the ROW Program Manager. **Care should be taken to insure that no one who has worked on the case be on the board.**

If CDOT and the displacee are able to reach an agreement prior to a hearing, the ROW Program Manager will submit the written results to the Chief Engineer for approval, and upon approval, the process shall recommence. Agreement approval by the Chief Engineer shall constitute final agency action.

In the event that the Chief Engineer disapproves of an agreement, the hearing shall proceed.

The hearing will be held to hear testimony of the parties. The hearing should be conducted on or near the project for the convenience of the displaced person and the board for viewing all elements being appealed (i.e., subject, comparables, neighborhood, etc.). The hearing will be held before a certified shorthand reporter. Following the hearing, the board should make a thorough review of the situation which includes the viewing of the subject displacement dwelling and replacement comparables and review of the file. A written report, including an explanation of the findings will be furnished to the ROW Program Manager. If the board cannot reach a unanimous decision, both a majority and a minority report shall be submitted to the ROW Program Manager. The ROW Program Manager, after reviewing the report or reports, shall make a recommendation to the Chief Engineer and furnish him/her with a copy of the board's report. The Chief Engineer shall make the final decision of the appeal. The Project Development Branch, Headquarters ROW, shall notify the displaced person(s) by mail of the decision with an explanation of how it was arrived. The Region will also be sent a copy of the Chief Engineer's final CDOT decision. If CDOT needs to take any action, it will do so following the decision of the Chief Engineer. The Chief Engineer's decision is CDOT's final decision for purposes of the

Administrative Procedures Act. Any other action to appeal CDOT's decision must be taken through the courts by the displaced person.

Payment limitations prescribed in Relocation Assistance Procedures are not appealable, such as search expenses or reestablishment expenses, which have a statutory maximum payment amount.

A person has a right to legal or other representation in connection with his/her appeal, but solely at his/her expense.

The Region will provide the displaced person or displaced person with assistance as needed in filing an appeal, will explain the appeal process to the displaced person or displaced person, and will permit him/her to inspect and photocopy all materials in the record except for confidential materials, such as appraisal, pertinent to the appeal during work hours.

All information and justifications submitted by the displaced person or displaced person shall be considered.

5.2.10 – Inclusion of Relocation Payments as Support for Administrative Settlements

Relocation payments are not an acquisition cost and cannot be used to support an administrative settlement in whole or in part. Administrative settlements must be justified on acquisition issues only. The payments and benefits provided by the relocation laws are entirely separate from amounts paid or awarded as just compensation.

5.2.11 – Separation of Functions

The Real Estate Specialist who performs the acquisition function on a parcel should also provide the initial relocation assistance information, DSS housing inspection, and closings. A different Real Estate Specialist should prepare and sign the relocation determination, and submit claims to Project Development, Headquarters ROW.

It is most important that CDOT ensure that there is not conflict of interest in the right of way process. All elements of the right of way program should be performed with discretion and confidentiality.

5.2.12 – Relocation Log Requirements

The Real Estate Specialist's responsibilities during the relocation process also encompass record keeping activities (relocation log) on a parcel basis. A separate log must be used for each family, individual or business on each parcel. The relocation specialist must complete a written or electronic log as soon as possible after each contact and the record must be an accurate and comprehensive document. The log must include all discussions or correspondence between the relocation specialist and the displaced person(s) or their representative(s) only. The log needs to provide the project and parcel numbers. The log needs to provide the names of the displaced person(s) and their representative(s) and contact numbers for those individuals. The log must include all accounts of contact or correspondence [telephone, text, e-mails, meetings (phone or in-person)], who initiated the contact, and the pertinent information discussed. Each contact should be a separate entry and should be in chronological order. The log must be dated and signed by the relocation specialist.

A typical log would include, but not limited to:

- Name, address and telephone number of the displaced person(s) or their representative(s)
- Date of all contacts or correspondence
- Type of contact (phone, in-person, email, etc.)
- Brochure(s) provided
- Various relocation forms
- Relocation issues discussed
- Payments made
- Document move

In general, these logs and records should be sufficiently clear that at any time in the process an independent layperson, with no knowledge of the ROW procedures, should be able to pick up the documentation trail and be able to understand the history, lines of communication, and the who, what, where, why and how in each transaction. This method of record keeping will also assist in case of a relocation appeal or where another relocation specialist needs to take over the file.

The relocation specialist should maintain adequate records of the relocation process on a parcel basis in sufficient detail to demonstrate compliance with the Federal laws. These logs shall be retained for at least three years from the date of acceptance of the final voucher for the project but may generally follow the requirements of the State, municipal, or private entities if a longer retention period is chosen or required.

Upon completion of the relocation process, the above records shall become a part of the project parcel file.

It is important to note that the relocation log and the acquisition log are two different logs and must be maintained separately.

If additional relocation procedures are carried out after the original log has been submitted, a supplemental log should be made to cover these additional contacts.

Section 5.3 – Relocation Planning, Advisory Services, And Coordination

5.3.1 – Relocation Planning (Acquisition Stage Relocation Plan):

Successful relocation requires planning. Housing resources must meet the needs of displaced residents in terms of size, price, rental, location, and timely availability. Advisory services and various notices, some with specific timing requirements, must be provided. Businesses must be given assistance in relocating with a minimum of disruption to their operations. Payments must be made available to displaced persons at the time they are needed to obtain replacement housing or to move. Often coordination with other displacing programs or agencies is necessary. These things do not happen automatically; they require planning.

FHWA long has stressed the value of relocation planning, but Congress gave new emphasis to planning in the 1987 amendments to the Uniform Act. Section 205 of the Act was amended to add a new Section 205(a) explicitly requiring such planning, i.e.

> "Programs or projects undertaken by a Federal agency or with Federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage of the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion."

In a sense, planning for relocation begins with planning for the project, since the relocation of occupants is one of the major potential impacts of any project and must be considered at an early juncture. The earlier problems are identified, the easier it will be eventually to minimize or mitigate them.

For relocation, the objective is an orderly and humane relocation of persons displaced by a project without creating adverse impacts or costly delays to the project. The best way to ascertain who will be displaced and to learn about potential problems is to conduct personal interviews with those affected by the project. Care should be taken not to disturb tenants without the permission of the property owner. The factual information should indicate if orderly relocation can be achieved. If problems are revealed early in the planning process, various solutions may be considered; such as extension of lead time, alignment and plan changes prior to construction, and/or undertaking clearly defined mitigation measures.

While a formal relocation plan is not required for approval of a project to proceed, relocation planning is required. Therefore, CDOT finds it advantageous to document a planning process by preparing an Acquisition Stage Relocation Plan. It is CDOT's procedure to complete the Acquisition Stage Relocation Plan prior to the release of the FMV on parcels involving relocation.

The Acquisition Stage Relocation Plan includes:

1. The Acquisition Stage Relocation (Form #557) which summarizes a survey of the real estate market to determine if an adequate supply of comparable replacement housing and suitable replacement locations for businesses and farms will be available to meet the needs of the displaced persons in a timely manner; an analysis of the problems anticipated in the relocation of the occupants including any special relocation advisory services that may be

necessary; and proposed solutions for resolving anticipated problems.

2. The Displaced Person(s) Information (Form #558) is a complete inventory of characteristics and needs of individuals, families, businesses and non-profit organizations and farms, to be relocated. This information shall be obtained by interviews.

The following information is addressed in CDOT's Acquisition Stage Relocation Plan:

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 persons with disabilities 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, CDOT should consider housing of last resort actions.

3. An estimate of the number, type and size of the businesses, farms, and non-profit organizations to be displaced and the approximate number of employees that may be affected.

4. An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

5. An estimate of personal property moves only.

6. Consideration of any special relocation advisory services that may be necessary from CDOT.

During the personal interview with each business, the Real Estate Specialist shall determine the relocation needs and preference of each business to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. The Displaced Person(s) Information (Form #558) is designed for obtaining at a minimum the following items:

- The business replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.
- Determination of the need for outside specialist in accordance with §24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
- An identification and resolution of personalty/realty issues.
- An estimate of the time required for the business to vacate the site.
- An estimate of the anticipated difficulty in locating a replacement property.
- An identification of any advance relocation payments required for the move.

During the personal interview with each residential displaced person, the Real Estate Specialist shall determine the relocation needs and preference of each displaced person 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. The Displaced Person(s) Information (Form #558) is designed for obtaining the inventory data, as a minimum:

- Family size (number of adults and children),
- Owner or tenant status,
- Income range,
- Special needs (handicapped, elderly, etc.),
- Features of the dwelling (number of bedrooms, etc.).

Relocation Plans may be amended at any point, including as right of way plans are revised, additional displacees are identified and new information is obtained which impacts relocation benefit eligibility.

5.3.2 – Contacting Tenants

An owner may not prevent authorized CDOT employees from notifying tenants of the benefits they may be eligible to receive under the Uniform Act. CDOT should advise the owner that it is better to explain to the tenants the requirements and obligations for the eligibility for benefits and to advise them there is no rush to relocate. In rare circumstances when the owner is concerned the tenants will move and there will be loss of rental income, CDOT may offer to make a payment to replace lost rent for vacancies occurring due to relocation for a reasonable period of time. See section 5.14 for information on these payments.

If it is not feasible to contact tenants at the time of the interview with the owner, the Relocation Plan may still be prepared and later amended to include tenant information. In these instances, it is CDOT's procedure to complete the Relocation Plan Amendment prior to releasing the FMV for the parcel in question.

5.3.3 – Analysis of Current Government Displacements

Coordination with Federal, State, and local governmental agencies is necessary to determine if any of their current or planned programs might also cause displacements, or conversely, if there are programs planned to increase housing availability. Any planned or concurrent project in the community could have an effect on the supply and demand for replacement properties and could be competing. For this reason, coordination with other agencies becomes extremely important.

After the displacement requirements have been compared with available replacement properties, the study will probably indicate that the displaced persons on the project can be relocated in a timely and humane manner. If problems are discovered or anticipated at this stage of the study, ways to resolve the problems, including the use of replacement Housing of Last Resort, should be planned.

5.3.4 – Analysis of Relocation Problems

At this point, a comprehensive analysis of the anticipated relocation impacts should be relatively simple to make. The facts have been gathered, the displaced persons have been identified, the

available or anticipated resources are known, and the factors affecting supply and demand have been analyzed.

The relocation study is finalized with recommendations to resolve anticipated problems and a timetable for orderly and humane relocation of the persons to be displaced.

The study will be completed by the Region with review and approval by the Statewide ROW Program Manager. A copy of the approved plan will be sent to the Region.

5.3.5 – Advisory Services

The State must plan for providing the advisory services displaced persons will need. Providing these services may make the difference between a successful relocation and one which delays the progress of project activities.

A Real Estate Specialist must be able to work with many different people and situations. Consider the following examples:

i. A displaced person whom you have been helping to search for a replacement dwelling hurries into your office. She has found an apartment that matches her family's needs. It is available at a rent she can afford. But there is one problem; the rental agent is requiring a deposit of first and last month's rent and she doesn't have that kind of cash to spare from her family's budget. She is afraid she will lose the apartment! You can explain to her that if the apartment meets the requirements for replacement housing (decent, safe, and sanitary), you can arrange for an advance on her replacement housing payment to make the required deposits and provide a letter to the rental agent explaining her status and benefits. In the end, the displaced person has a place to move, you have a basis to proceed with finalizing relocation benefits, and the rental agent has rented to a good tenant.

ii. An elderly man cannot look for replacement housing because of a disability which prevents him from driving or even using public transportation. You offer to drive him around to view a number of homes and to give him the names of several local contractors who have done remodeling work to make houses accessible and useful to people with disabilities. When he requests it, you agree to be present when he meets with a contractor.

iii. A man comes into your office several months after a public meeting announcing a highway project and informs you that, since the meeting, the same person has visited him twice and each time tried to convince him to sell his home "before the floor falls out from under the value of his home." You counsel him not to panic and to wait for the State to contact him about the impact of the project on his dwelling. You emphasize that if his home eventually is acquired for the project, he could jeopardize substantial benefits by moving before official notice.

iv. You help a family complete an application for public housing.

v. You provide a list to the displaced person containing realtors and/or financial institutions that provide services in the area that he/she wishes to relocate.

vi. You patiently explain to a skeptical young legal immigrant couple that they can use their relocation payment as a downpayment on their first home.

In all of these cases you are providing relocation assistance advisory services. These services are provided in every phase and in connection with every aspect of a highway project. They involve providing information, counseling, advice, and encouragement and often require repeated and intense personal contact. Perhaps no other assistance is more important to persons being displaced.

Some displaced persons will require minimal advisory services; others will need extensive services. A project in an area with a large concentration of the latter will require more relocation "advisors" to address the needs of the public being affected by the project. There simply is no substitute for knowing the area the project is impacting and for knowing the people who are to be displaced. Sometimes this knowledge must go beneath the surface to special problems or needs of the displaced person and sometimes acquiring such knowledge may require skilled interviewing and repeated contacts.

The goal is to assure that all displaced persons are relocated successfully. Personal interviews shall be conducted with each displaced person/business, identifying any potential problems that may challenge the relocation process. Your advisory assistance goal is to address all problems that prevent the displaced persons from relocating successfully.

5.3.6 – Eligibility for Advisory Services

There are four categories of persons eligible to receive advisory services:

1. Persons occupying real property to be acquired for the project.

   Most of the people to whom you will provide advisory services will fall in this category. These are people who are occupants of the project site. This group may include owners and tenants of residences, owners and tenants of businesses and farms, and non-profit organizations.

2. Persons occupying real property adjacent to that being acquired who are caused substantial economic injury by the acquisition.

   The acquisition of property adjacent to a business may reduce its clientele significantly, limit accessibility, or affect it in other ways which cause it substantial harm. While such businesses are not displaced persons and, therefore, not entitled to business relocation payments, CDOT must make available relocation assistance advisory services to them. Examples of such services might include consultation with the business on space needs, current market conditions, or traffic patterns or transportation as they relate to relocating the business; information regarding the availability of relocation sites; or, information about and referral to the Small Business Administration.

3. Persons who, as a result of the project, move or move personal property from real property not being acquired for the project. For example, the owner of a business lives across the street from his or her business location. When it is relocated across town, the owner chooses to move his or her residence also, in order to remain close to the business location.

4. Persons who move into property after acquisition and are aware that they will have to move due to the project.

   In such cases, the tenant moves in with the knowledge that they will have to move out when the project requires and that they will not receive relocation payments to assist with the move. Such "short-term occupants" are entitled to advisory services.

5.3.7 – Aliens not Lawfully Present in the United States

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

   A. 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.

   B. 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.

   C. 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.

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

2. The certification provided 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.

3. 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.

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

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

6. Any review by CDOT of the certifications provided pursuant to paragraph 1 of this section shall be conducted in a nondiscriminatory fashion. CDOT will apply the same

standard of review to all such certifications it received, except that such standard may be revised periodically.

7. If, based on a review of an alien's documentation or other credible evidence, CDOT 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.

   A. If CDOT 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, CDOT shall obtain verification of the alien's status from the local United States Citizenship and Immigration Services (USCIS) Office. A list of local USCIS offices is available at http://www.uscis.gov. Any request for USCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If CDOT is unable to contact the USCIS, it may contact the FHWA in Washington, DC, Office of Planning, Environment and Realty or Office of Chief Counsel for a referral to the USCIS.)

   B. If CDOT has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, CDOT 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.

8. 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 CDOT'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.

9. "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:

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

   B. 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

   C. Any other impact that CDOT determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

   D. The certification may be included as part of the claim for relocation payments.

5.3.8 – 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 payment and other assistance set forth in this part unless CDOT determines that:

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

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

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

For purposes of determining eligible 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.

5.3.9 – Services to be Provided

While a relocation agent may sometimes have to provide unusual types of assistance, there is a group of services which forms the core of a typical advisory services program. These are the basic, minimal services which the agency must make available to all displaced persons and include the following items:

1. Explain the relocation services and appropriate relocation assistance payments.

2. Explain and discuss the eligibility requirements for each relevant type of relocation payment, and at an appropriate time, determine the eligibility for payments of each displaced person.

3. As a part of this explanation, verbal and written advice should be provided that persons without a legal right to be in this country are not eligible to receive relocation payments. There should be a statement provided on all claim forms that allows each person to attest to the eligibility for relocation payments based on citizenship or a legal right to reside in this country.

4. Determine the needs of persons to be displaced for advisory assistance. The relocation agent must become familiar with the many different, and sometimes special, needs of the displaced households or businesses.

5. Make every effort to help meet the needs identified, while recognizing the importance of the displaced person's priorities and their desire, or lack of same, for assistance.

6. Provide the following specific types of services, as appropriate:

    - Current listings, including prices or rents, of replacement properties either comparable to acquired dwellings or appropriate for displaced businesses and farms;
    - Information concerning Federal and State housing and other programs offering relocation or related types of assistance;
    - Assistance in obtaining and completing application or claim forms for relocation payment or other related assistance, as needed;

- Transportation for all displaced persons to inspect potential relocation housing, when needed.

The Real Estate Specialist must explain relocation payments and other assistance offered by the Department to each potential displaced person, including eligibility requirements and procedures for obtaining such assistance. Along with the explanation, the appropriate Relocation brochure will be given to each person; residential, sign, or business/farm/non-profit. Delivery of the brochure alone does not constitute explanation of services. The following activities must be performed:

1. 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.

2. The Real Estate Specialist shall inform the displaced person in writing of the specific comparable replacement dwelling used as a basis to determine the maximum replacement housing payment and the dollar amount of the payment. This will be furnished at the initiation of negotiations or within thirty (30) days from that date, when practicable.

3. The displaced person must be informed that a replacement housing payment will not be made unless the replacement dwelling is inspected and certified to be decent, safe, and sanitary.

4. Whenever possible, minority persons shall be given reasonable opportunities to locate to decent, safe, and sanitary replacement dwellings, outside of a minority neighborhood, that are within their financial means. This does not require the Department to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

5. All displaced persons shall be offered transportation to inspect housing to which they are referred.

6. Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling, as well as the long-term nature of such rent subsidy, and the limited (42 months) duration of the relocation rental assistance payment.

    A. Apply the determination of current needs (as determined by the housing program) even though the replacement dwelling may have been larger.

    B. If the displaced person relocates to the private market, payment is limited to one using a comparable subsidized unit. For example:

    Two occupants are being displaced from a three-bedroom unit of government assisted housing.

    - If the calculation had been for a tenant going from private market housing to private market housing, the comparable would be a three-bedroom unit.

- Because the displace person is being relocated from government assisted housing, if the current determination of housing needs indicates that one bedroom is adequate, the comparable used to compute the payment would be based on a one-bedroom unit.
- If the displaced person chooses to leave the government assisted housing program and relocate to a private market unit, the payment is still limited to a one bedroom comparable.

Counseling and advice as to other potential sources of assistance will be provided by each Region, for example Federal and State housing programs, Small Business Administration programs, etc.

Advisory services shall be made available for the entire period that the displacee receives relocation benefits, generally 42 months from the time of displacement for residential tenants and 18 months from the time of displacement for businesses, farms and non-profit organizations.

5.3.10 – What Social Services Are Available

There are a variety of social services available from a number of public and private agencies. It is important for CDOT to determine the services available to the residents of the project area and the methods to obtain the services for the displaced persons. See FHWA Project Development Guide (Chapter 10) for information on available services.

5.3.11 – 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. (See § 24.6).

5.3.12 – Incentive Payment

CDOT Region ROW Managers decide whether a Relocation Incentive Payment Plan for a particular project is warranted. The use of relocation incentive payments is not meant to be used for every project. It is project specific and must be justified for each project. The use of incentive payments must not be allowed as a substitute for appropriate project planning and development (including the scheduling of adequate right-of-way lead time).

ROW Managers must approve a written Relocation Incentive Payment Plan for each project that will use relocation incentive payments. The Relocation Incentive Payment Plan must include each of the following items:

1. An identification and discussion of factors to be considered in justification of the use of incentive payments on a particular project.

2. Description of how payment amounts will be determined, including formula(s) for their computation, payment maximums (caps) and incentive offer expiration limits (for example: Accept the offer within 30 days and the incentive is X, accept the offer within 60 days and the incentive is X times ½).

3. Description of safeguards in place to eliminate attempts to coerce property owners/occupants.

4. Description of actions to monitor implementation.

5. Identification of those specific performance measures to be used upon project completion to evaluate the effectiveness of incentive payments.

6. An estimate of the number of parcels impacted by the incentive payment program;

7. An estimate of the total incentive payment costs if the program is authorized.

8. Identification of steps to be taken to ensure that the CDOT will not take any action, coercive in nature, in order to compel an agreement on the price to be paid for the property.

A copy of the written relocation incentive payment plan must be included in each displacee's relocation file.

A relocation incentive payment may be provided in addition to all traditional relocation payments to which the displacee is entitled. Any acquisition incentive payment made to the displacee shall not be considered when calculating the traditional relocation payment.

The use of a relocation incentive program is voluntary. If the Region ROW Manager chooses to use residential relocation incentive offers in order to accelerate relocations and promote early project clearance, the program must be made available to all residential displacees on the project.

Each displacee must be given similar amounts of time to act on relocation incentive offers. A displacee may elect to accept CDOT's relocation incentive offer and voluntarily vacate his/her dwelling. Alternatively, he/she retains the right to decline the incentive payment and continue in occupancy in accordance with the 90-day notice and provisions of 49 CFR Part 24.203 and 204.

Because successful business relocations take substantial planning it may be difficult to assure consistent treatment, however, if a project has many similar business properties, a relocation incentive program may be used.

Section 5.4 – Information And Relocation Notices

While CDOT needs information about potential displaced persons and their needs to conduct relocation in a successful manner, the displaced person has an equal or greater need for information about the displacement process. After all, it is the displaced person who will have to make a major readjustment in his or her daily life, i.e., to move to a new home or business location. In such a situation, people need to know what is going to happen to them and they need to know it in time to plan and in time to act. Any person who qualifies as a displaced person must be fully informed of his/her rights and entitlements to relocation assistance and payments provided by the Uniform Act and 49 CFR Part 24.

The Uniform Act and the DOT/FHWA regulations require that persons to be displaced be provided the information they will need to minimize the disruption of moving and maximize the likelihood of a successful relocation. Much of this information is contained in a series of Notices from CDOT to the displaced person. These Notices must be delivered either in person or by certified mail. There are three basic notices. We will discuss each one in turn.

Each notice which CDOT is required to provide to a property owner or occupant shall be personally served or sent by certified or registered first class mail, return receipt requested and documented in the CDOT 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.

5.4.1 – General Information – Notice of Intent Letter and Relocation Brochure

At an early stage of the project, CDOT must provide general information about the project and the relocation program to persons who may be displaced. This information must be in writing using easily understood language. Sometimes, the information may need to be provided in a foreign language.

One of the most effective ways to convey this information is in a relocation brochure. Providing the brochure gives the relocation field worker the opportunity to meet potential displaced persons and to begin to establish a personal relationship which may prove crucial later. A well-written brochure contains the basic relocation information a displaced person needs to know, is small enough not to be intimidating, and is easy to refer back to later. You should hand out relocation brochures at all related public meetings to all persons you think may have to move.

5.4.2 – Content of the General Information Notice

The General Information Notice provides a general description of CDOT's relocation program. It shall include all of the following and any appropriate additional elements:

- Informs the displaced person that he or she may be displaced by 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);

- Informs the displaced 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 displaced person successfully relocate;

- Informs the displaced person that he or she will not be required to move without at least 90 days written notice, 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;

- Informs the displaced 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(h);

- Describes the displaced person's right to appeal CDOT's determination as to a person's application for assistance for which a person may be eligible.

5.4.3 – Notice of Intent Letter - Notice of Relocation Eligibility (First Negotiation Contact)

It is important to note that during this process, each of the following notices, is required, (49 CFR sec. 24.107):

- General Information Notice;
- Notice of Relocation Eligibility;
- 90 Day Notice; and
- Notice of Intent to Acquire

The Notice of Relocation Eligibility is a major step in the relocation process. Prior to this notice CDOT shall have provided general relocation information to all those persons who might be displaced by the project. The Notice of Relocation Eligibility informs particular persons that they will be displaced by the project and thus will be eligible for relocation benefits appropriate to their situation (homeowner, tenant, business etc.).

Eligibility for relocation assistance shall begin on the date of a notice of intent to acquired, the initiation of negotiations, or actual acquisition whichever occurs first. The trigger for this notice is the initiation of negotiations to acquire the real property where the person lives or conducts a business. The date on which this occurs generally is the date on which the property owner receives CDOT's initial offer to buy the property for the amount it has determined to be "just compensation".

The regulations require that the notice be provided "promptly" in writing to persons to be displaced. Therefore, it should be issued on the same day as the offer to acquire the property or as soon thereafter as possible. The Notice of Relocation Eligibility should be delivered within seven and, in no case, later than fourteen days. Otherwise, the requirement of promptness will not be satisfied.

Each of the first negotiation contact letters 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 an extremely unusual hardship to a qualifying spouse, parent or child. The following are the first negotiation contact forms:

- Residential – First Negotiation Contact
- Business – First Negotiation Contact/90 Day Notice

- Residential/Business - Personal Property Move Only - First Negotiation Contact/90 Day Notice

In unusual circumstances, where there is a need to vacate property or relocate persons before the initiation of negotiations, CDOT may issue a Notice of Intent to Acquire prior to the initiation of negotiations to the current occupant.

5.4.4 – Ninety-Day Notice

The General Information Notice contains assurances for persons to be displaced. No one will have to move from a dwelling without at least 90 days advanced written notice. This is one of the most important protections that the Uniform Act and the regulations provide. A 90-day notice is not effective for a residential occupant unless a comparable replacement dwelling has been made. Realistically, a residential occupant does not have to move until at least 90 days after receipt of notice of replacement housing availability.

The DOT/FHWA regulations at 49 CFR 24 require that:

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.

The 90-day Notice does not state a specific date, but informs the displaced person that in not less than 60 days CDOT will provide a second notice which will state a specific date by which a move will be required, and that this latter notice will provide no less than 30 days advance notice. The earliest date by which CDOT may require a move, must be at least 90 days after the 90-day Notice is given. CDOT must acquire the property in question before issuing this 30-day notice.

In practice this process may work out in a variety of ways. For example, it may turn out that CDOT does not need Mr. Jones out until August. On the other hand, CDOT may elect to provide more than 90 days advance notice intentionally, that is, notifying Mr. Jones, in writing, on March 1. In either case, Mr. Jones does not have to move before July 15 and the 90-day notice requirement has been met.

The requirement for the 90 days' notice applies to situations in which CDOT requires an occupant to move. Where occupants move on their own before receiving a notice, it is not necessary for CDOT to provide one.

The following are the forms for 90-day notices:

- Owner Entitlement – 90 Day Notice
- Owner Entitlement – 90 Day Notice – Housing of Last Resort
- Tenant Entitlement – 90 Day Notice
- Tenant Entitlement – 90 Day Notice – Housing of Last Resort
- Tenant Entitlement – 90 Day Notice – Housing of Last Resort – Financial Means

Finally, some situations, expected to be rare, may require CDOT to move persons with less than 90 days' notice. Examples include health, safety or other reasons which make 90 days' notice impracticable. However, the need of CDOT for the land, the project schedule, or similar causes do not constitute sufficient reason for failing to provide 90 days' notice. In exceptional

instances, where less than 90 days' notice is appropriate, CDOT should document its reason(s) in the case file.

5.4.5 – Notice of Intent to Acquire

A notice of intent to acquire is CDOT's written communication that is provided 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, which clearly sets forth that CDOT intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance. (See 49 CFR Part 24 § 24.2(a)(9)(i)(A)).

5.4.6 – Additional Information to Displaced Persons

While much of the information CDOT will provide to displaced persons is contained in the three notices described above, some information of great importance to them will be provided through other channels. For example, the regulations require CDOT to give the person to be displaced information about the specific dwelling unit used as the comparable dwelling, its location, the price or rent used to set the upper limit of the replacement housing payment, and the basis for the determination. This information must be provided in writing.

5.4.7 – Site Offices

Perhaps one of the most effective means of communicating with potential displaced persons is to open a local relocation office on or near the project site. Of course, not every project has a workload large or difficult enough to merit a site office, but for those which do, it can be of great assistance. Opening an office early in the project's life will show occupants that CDOT is interested in communicating with them. Keeping the office open at hours that are convenient for occupants demonstrates that they will not be treated in a "business as usual" fashion.

The office should be readily accessible to occupants and it should be a resource for the kinds of information and assistance occupants need, especially those to be displaced. At a site office occupants should be able to find information about what the project proposes to do, basic relocation requirements, and benefits, available replacement housing and business locations, community resources such as parks, schools, churches, shopping, and transportation, financial requirements relating to the cost of obtaining replacement housing or business sites, local codes, and other useful information as well. If a local office is not merited the Real Estate Specialist will have to provide this type of information to occupants.

Section 5.5 – Payments For Moving And Related Expenses

One of the main purposes of the Uniform Act is to prevent affected persons from bearing an unfair share of the burden of public projects. In addition to the relocation assistance advisory services discussed above, the Uniform Act and its regulations provide relocation assistance payments to help accomplish this. Relocation assistance payments are designed to compensate displaced persons for costs which are the result of acquisition of the property on which they reside.

These payments fall into two broad categories, residential and nonresidential (businesses, farms, and non-profit organizations). The payments should not be made until the Real Estate Specialist verifies the move of the personal property.

5.5.1 – Payments for Actual Reasonable Moving and Related Expenses

Any owner-occupant or tenant who qualifies as a displaced person (defined at 49 CFR Part 24

§24.2(a)(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as CDOT determines to be reasonable and necessary.

A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under 49 CFR Part 24 §24.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner occupant obtains a replacement housing payment under one of the circumstances described at 49 CFR Part 24 §24.502(a)(3), the homeowner occupant 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.

It is CDOT's policy that a mobile home connected to electric, plumbing, and sanitary facilities is appraised and acquired as realty.

5.5.2 – Moves from a Dwelling

A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in 49 CFR Part 24, § 24.301 paragraphs (g)(1) through (g)(7). Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section).

1. Commercial move. Moves performed by a professional mover.

2. Self-move. Moves that may be performed by the displaced person in one or a combination of the following methods:

    A. Fixed Residential Moving Cost Schedule

    B. Actual Cost Move – The payment may not exceed the actual cost of the moving and related expenses. This amount will be supported by receipts for the cost claimed. The charges must be reasonable, i.e., typical of the amounts charged for a similar moved. The items of cost must be necessary to accomplish the move. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees

should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover. When making determinations concerning reasonableness and necessity, CDOT's real estate specialists should use common sense and good judgment.

5.5.3 – Moves from a Mobile Home

A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a mobile home include the expenses described in 49 CFR Part 24, § 24.301 paragraphs (g)(1) through (g)(7). The owner/occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling is also eligible for the moving expenses described in 49 CFR Part 24 §24.301(g)(8) through (10). Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section).

1. Commercial move. Moves performed by a professional mover.

2. Self-move. Moves that may be performed by the displaced person in one or a combination of the following methods:

   A. Fixed Residential Moving Cost Schedule

   B. Actual Cost Move – The payment may not exceed the actual cost of the moving and related expenses. This amount will be supported by receipts for the cost claimed. The charges must be reasonable, i.e., typical of the amounts charged for a similar moved. The items of cost must be necessary to accomplish the move. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover. When making determinations concerning reasonableness and necessity, CDOT's real estate specialists should use common sense and good judgment.

It is CDOT's policy that a mobile home connected to electric, plumbing, and sanitary facilities is appraised and acquired as realty.

5.5.4 – Moves from a Business, Farm or Nonprofit Organization

Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods:

1. Commercial move. Based on the lower of two bids or estimates prepared by a commercial mover. At CDOT's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate. See Section 5.5.10 for procedures regarding move cost estimates.

   It is CDOT's responsibility to obtain the bids. CDOT may pay a reasonable amount for bid preparation if it is necessary to do so to obtain adequate and reasonable bids. If necessary, CDOT may pay the mover directly for the services. In any case, the costs claimed for reimbursement of an actual cost move must be supported by appropriate receipts or other records.

2. Self-move. A self-move payment may be based on one or a combination of the following:

    A. The lower of two bids or estimates prepared by a commercial mover or qualified CDOT staff person. At CDOT's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate. See Section 5.5.10 for procedures regarding move cost estimates; or

    B. Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rent fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

In addition to a commercial move or self-move of personal property, eligible expenses for moves from a business, farm or nonprofit organization include actual, reasonable and necessary expenses described in 49 CFR Part 24, § 24.301 paragraphs (g)(1) through (g)(7) and paragraphs (g)(11) through (g)(18) and § 24.303. See Section 5.5.7 and 5.5.16 for more detail.

Often a self-move is advantageous to both CDOT and the displaced person because of specialized knowledge or skills possessed by the latter. This knowledge or skill may be difficult to find in the local moving industry or available only at great expense, whereas the displaced person's employees may be able to carry out the move more efficiently and at their regular rates of pay, which may well result in lower costs.

Reimbursement for a self-move is based on the actual cost incurred by the business for equipment and labor. Labor is to be charged at the actual rates paid by the business but not to exceed the rate charged by local moving firms for the same services. Charges for equipment owned by the business and used in the move should be prorated against its usual operating cost. It also is acceptable to pay for management time for overseeing the move.

5.5.5 – Personal Property Move Only (Residential, Business, Farm or Nonprofit Organization)

Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include a commercial move or self-move as described in the above section as well as those expenses described in 49 CFR Part 24, § 24.301 paragraphs (g)(1) through (g)(7) and (g)(18). See Section 5.5.7 for more detail.

Use this designation when only personal property is required to be moved and there is no requirement to move from the dwelling, mobile home, business, farm, or nonprofit organization. A Personal Property Move Only is not eligible for the reimbursement of expenses described in 49 CFR Part 24 §24.303 and Section 5.5.16.

5.5.6 – Personal Property Move Only Under $3,000

In cases where the cost of the move will be less than $3,000, the determination will be made and approved in the Region. See Section 5.12.10 for the determination of benefits process for all other relocations. The cost estimate should be supported by the number of hours, rate per hour or by comparison to similar moving estimates prepared by moving companies. The move

estimate will be based on an inventory.

A Relocation Plan and Determination of Moving Personal Property under $3,000.00 form will be prepared and signed by the Real Estate Specialist and approved by the Region ROW Manager/Supervisor prior to being explained to the displaced person.

The claim form will also be prepared by the Region for the displaced persons signature and the Region ROW Manager/Supervisor to approve.

When the personal property has been moved, the original determination and signed claim will be submitted to Acquisition/Relocation Unit in the Project Development Branch, Headquarters ROW, with a request to order the warrant. The vacated date will be shown on the claim form.

When the personal property move involves a move from one storage facility to another storage facility, it is exempt from a reimbursement for storage expenses.

5.5.7 – Eligible Actual Moving Expenses

The actual move expenses for residential and nonresidential are based on the actual, reasonable cost of move and related expenses (i.e., typical of the amounts charged in the area for similar moves). In addition, the items of cost which are included in the claim for reimbursement must be necessary to accomplish the move. When making determinations concerning reasonableness and necessity, CDOT should use common sense and good judgment.

There is no fixed dollar ceiling on payments for actual moving expenses, but the payment may not exceed the actual cost of the moving and related expenses. An actual cost move may be carried out by a commercial mover or by the displaced person, that is, a self-move. In either case, to be certain that the move takes place at a reasonable cost, an inventory (a detailed itemization of personal property to be moved) should be prepared. The Real Estate Specialist should verify the accuracy of the inventory and use it as a basis of comparison with bids or estimates and eventual requests for payment.

Many business moves are quite simple and straight-forward, but some may be very complicated. If appropriate, in CDOT's estimation, the move should be based on written specifications. Specifications are detailed instructions concerning how and when the move is to be carried out and ensure that the displaced person, CDOT, and the mover agree on what is to take place. The Real Estate Specialist should observe the move as it takes place (full-time if large or complex enough to warrant it) to insure conformance with the specifications and reasonableness of cost.

A displaced person will receive moving expense payment(s) for:

1. Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Region ROW Manager determines that relocation beyond 50 miles is justified.

   "Plant layout" is an eligible expense with regard to both a move into a newly constructed building or into a preexisting building. These expenses are limited to rudimentary items, such as indicating the locations in the replacement building to which personal property is to be moved, and is related to "planning the move of personal property" from the

displacement site to the replacement site. The final decision of whether to hire a move cost planner rests with the funding agency. Eligible expenses do not include architectural- or engineering-type drawings, concepts, or considerations at the replacement site, nor do they include plans, drawings, layouts, or other material related to the site acquired by the acquiring agency.

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

3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, 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.

4. Storage of the personal property for a period not to exceed 12 months, unless the Region ROW Manager determines that a longer period is necessary. This does not apply where the relocation involves a move from one storage facility to another.

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

6. 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.

7. Other moving-related expenses that are not listed as ineligible under 49 CFR Part 24, § 24.301(h), as CDOT determines to be reasonable and necessary.

8. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility “hookup” charges.

9. The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

10. The cost of a nonrefundable mobile home park entrance fee, 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 CDOT determines that payment of the fee is necessary to effect relocation.

11. Any license, permit, fees 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, fees or certification. If a license, permit, fee or certification is required at the replacement site but not at the subject site, payment will be for the minimum obtainable time.

12. Professional services as CDOT determines to be actual, reasonable and necessary for:

A. Planning the move of the personal property;

B. Moving the personal property; and

C. Installing the relocated personal property at the replacement location.

If a professional move planner is used, be sure the method of payment and the estimated amount is clear before authorization for such services is approved. The planner should be limited to planning the plant layout of the personal property only; for example, not for design or landscape, although those expenses may be eligible under 49 CFR §24.303(b). The move planner should provide a scope of work, estimated hours, and an hourly rate. The estimate for the move should include: planning the move, moving the personal property and installing relocated personal property at the replacement site. The move planner's contract is strictly between the displacee and the move planner. However, approval from CDOT on the qualification and scope/estimate of the move planner must be made prior to the contract being signed.

13. Re-lettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

14. 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:

    A. The fair market value in place of the item, as is for continued use, 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 CDOT determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling prices); or

    B. The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

       If a piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists and shall not include the cost of code required betterments or upgrades that may apply at the replacement site. The allowable in place value estimate and moving cost estimate must reflect only the "as is" condition and installation of the item at the displacement site.

Here is an example showing how to calculate the payment. The payment shall consist of the lesser of A. or B.

A. Calculate the amount for the continued use of an item, in place, as is, at the displacement site, and subtract the (net) proceeds from the sale:

Current fair market value of the equipment in place, as is, installed and fully operational.	$10,000
Subtract the proceeds from the sale	-$7,000
Add the cost of the sale	+$500
	$3,500

B. The current estimated cost to move and reconnecting an item “as is” at the replacement site will not include upgrades for code requirements. If the equipment is in storage and is not being used at the acquired site, the estimated cost to move cannot include storage. Calculate the estimated cost to move and reconnect the item, as is, with no upgrades.

Current estimated cost to move and reconnect, as is, with no upgrades for code requirements.	$2,500

Payment is the lesser of A or B above: $2,500

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

16. 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:

    A. The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item;

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

    Alternatively, if an owner wishes not to move a piece of equipment but, rather, to replace it at the relocation site, he may do so. Under this method, called Substitute Equipment, the owner is paid the cost of the new equipment less the proceeds of the sale of the old equipment as above. Again, the payment is limited to what it would cost to move the equipment.

    While the business is required to make a good faith effort to sell the personal property on which it wishes to take a direct loss, CDOT may determine in advance that there is no market for the property. In such cases, the property would be abandoned, and the payment would be the lesser of the property's value for continued use or the cost to move it to the relocation site.

Here is an example showing how to calculate the payment. The payment shall consist of the lesser of A. or B.

A. Cost of a substitute item	$10,000
Add the cost of installation	+$1,000
Subtract the proceeds of sale or trade-in	-$2,500
Add in the cost of the sale	+$500
	$9,000
B. Cost to move and reinstall the replaced item with no allowance for storage.	$12,500
Payment is the lesser of A or B above:	$9,000

17. Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed $2,500, as CDOT determines to be reasonable, which are incurred in searching for a replacement location, including;

    A. Transportation;

    B. Meals and lodging away from home;

    C. Time spent searching, based on reasonable salary or earnings;

    D. 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 sites;

    E. Time spent in obtaining permits and attending zoning hearings; and

    F. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

18. Low value/high bulk. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of CDOT, the allowable moving cost payment shall not exceed the lesser of the amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by CDOT.

    CDOT should only use this provision if it is willing to accept ownership and the ultimate cleanup of the material.

5.5.8 – Ineligible Moving and Related Expenses

A displaced person is not entitled to payment for:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership.

2. Interest on a loan to cover moving expenses;

3. Loss of goodwill;

4. Loss of profits;

5. Loss of trained employees;

6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in 49 CFR Part 24, § 24.304(a)(6);

7. Personal injury;

8. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before CDOT;

9. Expenses for searching for a replacement dwelling;

10. Physical changes to the real property at the replacement location of a business or farm operation except as provided in 49 CFR Part 24, § 24.301(g)(3) and § 24.304(a);

11. Costs for storage of personal property on real property already owned or leased by the displaced person; and

12. Refundable security and utility deposits.

5.5.9 – Notification and Inspection (Nonresidential)

CDOT shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person as set forth in 49 CFR Part 24, § 24.203. To be eligible for payments under this section the displaced person must;

1. Provide CDOT reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, CDOT may waive this notice requirement after documenting its file accordingly.

2. Permit CDOT to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

5.5.10 – Move Cost Estimates for Non-Residential Moves

If a displaced person elects to use a commercial mover, it is necessary to obtain bids or estimates. (Good business practice would consist of obtaining two if possible.) Payment will be limited to the amount of the lowest acceptable bid. If necessary, CDOT may pay the mover directly for the services. In any case, the cost claimed for reimbursement of an actual cost move must be supported by appropriate receipts or records.

A move cost estimate is a price guarantee given by a mover to accomplish a specific move within a specific time frame as follows:

1. The mover must be ready, willing and able to begin the particular move within a reasonable time from notification, as determined by the Region ROW Manager and must

sign a statement to that effect.

2. At the Region ROW Manager's discretion during industrial and commercial moves, Move Cost Estimate, will be completed in detail to be valid.

3. A certified inventory, scope of services and, when determined necessary by the agent, a complete set of move specifications must be provided to a mover submitting a move cost estimate. Each mover must then inspect the acquired and replacement sites with a Department representative prior to submitting Move Cost Estimate.

4. For moves requiring special handling of items to be moved, or subcontracted labor, or specialty work such as electrical or plumbing disconnecting and reconnecting, complete move specifications must be written either by the displaced person or his/her designee, or Department representative, and approved by the Region ROW Manager. These specifications will then be submitted to an appropriate specialist qualified to prepare an estimate.

When the estimates are owner/tenant obtained the following will apply:

1. A minimum of two move cost estimates must be obtained if estimate exceeds $10,000. If less than $10,000, the Region ROW Manager has the discretion to allow a single estimate or require two estimates.

2. All move cost estimates must be submitted to the Department within 45 days from the date of request of the Move Cost Estimate.

3. The Department will reimburse the reasonable cost of obtaining two move cost estimates.

   A. At the discretion of the Region ROW Manager, additional estimates may be obtained.

   B. The invoice for preparation of each move cost estimate must include date(s) of services, time of day, hours per day, and hourly rates for such preparation.

4. The Department will reimburse the reasonable cost of advertising for packing, crating, unpacking, uncrating, and transportation, when such advertisement is determined to be necessary by the Department Real Estate Specialist, usually limited to complex or unusual moves where advertising is the only reasonable means of obtaining estimates. Exceptions to this are permissible at the discretion of the Region ROW Manager.

When the estimates are Department obtained the following will apply:

1. A minimum of two move cost estimates must be obtained if estimated move costs exceed $10,000. If under $10,000 the Region ROW Manager has the discretion to obtain one or more estimates as deemed necessary.

2. All move cost estimates should be obtained by the Region within 45 days from the date of request for the Move Cost Estimate;

3. The Department files must be documented regarding all estimates obtained.

5.5.11 – Commercial Move, Non-Residential

The owner of a displaced business, farm, non-profit organization, or other personal property is eligible for reimbursement of actual, reasonable costs of moving by a licensed, commercial mover, based upon the lower of two move cost estimates from qualified movers if the estimated cost to move exceeds $10,000. If less than $10,000 the Region ROW Manager has the discretion to obtain a single estimate or require two estimates from qualified movers.

The move will be performed as follows:

1. A certified pre-move inventory must be obtained by the Department Real Estate Specialist;

2. Adequate documentation of the chosen mover's charges in the form of receipted bills or similar documentation, is required;

3. Moves which require no special handling of items to be moved or subcontracted labor need no on-site monitoring other than verification of inventories;

4. Moves which require special handling of items to be moved or subcontracted labor require continuous monitoring following these guidelines:

    A. In moves of specialty operations, such as plant nurseries or industrial plants, a specialist may be hired to provide the required monitoring.

    B. A detailed monitoring report will include:

        1) Date and time of report;

        2) Location, such as acquired or replacement site;

        3) Number and types, such as general laborer, foreman, of personnel actually involved in the move, including time period each worked;

        4) Equipment being used in the move;

        5) Quantity of inventory moved during the monitoring period;

        6) Special services performed, such as electrical, plumbing, etc., with breakdown as to work done per item, per length of time;

        7) Unusual circumstances or special conditions affecting the move during the reporting period; and

        8) Advisory services provided during the monitoring period.

5. It is CDOT's procedure that videos and/or photographs should be used for non-commercial moves. Videos and/or photographs should be taken both before and after the move has been completed. Reference to photographs on the pre-move inventory is encouraged.

6. When monitoring is performed, the Department Real Estate Specialist and displaced

person shall agree in writing as to:

A. The date and time move will begin;

B. Items which were considered part of the realty in the appraisal and which are not eligible for moving expense reimbursement, if retained by the owner; and

C. The displaced person's plans as to which items are to be moved, especially when such plans differ significantly from the move cost estimates and

D. A certified post-move inventory is mandatory. If a discrepancy exists between the pre-move and post-move inventories, the displaced person must be informed that the Department will reimburse only those costs associated with the items actually moved. The displaced person may still be eligible for reimbursement of substitute personal property, as described in section 5.5.7. Any items for which a reimbursement for substitute personal property will be sought should be identified on the post-move inventory.

5.5.12 – Transfer of Ownership (Nonresidential)

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

5.5.13 – Fixed Payment for Moving Expenses (Residential Moves)

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under 49 CFR Part 24, § 24.301. This payment shall be determined according to the Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis.

The following resource shall be accessed to ensure that the current schedule is used in determining the Fixed Residential Moving Cost, resulting in appropriate payment: http://www.fhwa.dot.gov//////realestate/fixsch96.htm

The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by CDOT at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

FIXED RESIDENTIAL MOVING COST SCHEDULE

Residential Expense & Dislocation Allowance Payment Schedule*

OCCUPANT OWNS FURNITURE Number of Rooms of Furniture									OCCUPANT DOES NOT OWN FURNITURE	
1 Room	2 Room	3 Room	4 Room	5 Room	6 Room	7 Room	8 Room	Each Add'l Room	1 room Not Furnished	Add'l Room/Not Furnished
$675	$895	$1115	$1270	$1,425	$1,580	$1,735	$1,890	$155	$385	$55

* As of April 7, 2020.

Payment is limited to $100 if either of the following conditions apply:

1. A person has minimal possessions and occupies a dormitory style room, or

2. A person' residential move is performed by an Agency at no cost to the person.

When using the fixed residential move schedule, a "counted room" means that space in a dwelling unit containing the usual quantity of household furniture, equipment, and personal property. It shall include such space as a living room, dining room, bedrooms, kitchen, family room, study, etc. Bathrooms will generally be excluded from the room count. An oversized room may contain sufficient furniture for two rooms and can be considered as two rooms.

Rooms in storage include the garage, patio, and "out buildings" if such places do, in fact, contain sufficient personal property as to constitute a room.

5.5.14 – Advertising Signs

The amount of a payment for direct loss of an advertising sign, if classified as personal property, shall be the lesser of:

1. The depreciated reproduction cost of the sign, as determined by CDOT, less the proceeds from its sale; or

2. The estimated cost of moving the sign, but with no allowance for storage.

Advertising signs are not considered displaced businesses, and therefore ineligible for reimbursement of expenses described in 49 CFR Part 24, § 24.303.

5.5.15 – Discretionary Utility Relocation Payments

49 CFR §24.306 allows for a state agency to make a relocation payment to an owner of a utility facility for extraordinary expenses provided that there is no Federal law, other than the Uniform Act that establishes a policy for the payment of utility moving costs, in addition to other criteria.

23 U.S.C. 123 and 23 CFR §645 set out the policies, procedures and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid projects. As these are Federal laws, discretionary utility relocation payments should not be made under CDOT's Relocation program for the adjustment and relocation of utility facilities on Federal-aid projects.

See section 4.17.8, 23 CFR §645, the Colorado State Highway Utility Accommodation Code (2 CCR 601-18) for additional information on reimbursement for utility relocations and obtaining replacement utility easements.

5.5.16 – Related Nonresidential Eligible Expenses

The following expenses, in addition to those provided by 49 CFR Part 24, § 24.301 for moving personal property, shall be provided if CDOT determines that they are actual, reasonable and necessary:

1. Connection to available nearby utilities from the right of way to improvements at the replacement site.

2. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of CDOT a reasonable pre-approved hourly rate may be established.

3. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by CDOT.

Section 5.6 – Reestablishment Expenses (Nonresidential Moves)

In addition to the payments available under 49 CFR Part 24, § 24.301 and § 24.303, a small business, as defined in § 24.2(a)(24), a farm or nonprofit organization is entitled to receive a payment, not to exceed $50,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site. This payment may not be made to a displaced business, farm, or nonprofit organization which accepts a fixed payment in lieu of the payment for actual moving and related expenses.

A small business is one having not more than 500 employees working at the site being acquired or displaced by the project, which site is the location of economic activity. Sites operated solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of the reestablishment expense payment.

Reestablishment expenses must be reasonable and necessary, as determined by CDOT. The test for reestablishment is not a comparative standard. The test is one of necessity, i.e., is the expense necessary to reestablish the displaced business. The expenses may include work performed by the displacee, as long as it is documented and calculated with a reasonable hourly rate.

5.6.1 – Eligible Reestablishment Expenses

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. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

5. Advertisement of replacement location.

6. Estimated increased costs of operation during the first 2 years at the replacement site for such items as

    A. Lease or rental charges;

    B. Personal or real property taxes;

    C. Insurance premiums; and

    D. Utility charges, excluding impact fees.

7. Other items that the Department considers essential to the reestablishment of the business.

Estimated increased costs of operation during the first 2 years at the replacement site may be determined after the business, farm or nonprofit organization has been reestablished at the replacement site. The costs do not yet have to be incurred or paid to be eligible for payment.

5.6.2 – Ineligible Reestablishment Expenses

The following is a non-exclusive 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 (defined at 49 CFR Part 24, § 24.2(a)(7)) to the household income.

5.6.3 – Reestablishment Expenses Payment Eligibility - Leasing of Space

A business whose sole activity at the site is providing space at the site to others is eligible for a Reestablishment Expenses payment. However, when a lessee subleases space, the lessee generally will not be eligible for a Reestablishment Expenses payment for the purpose of leasing space. There are two reasons for this. First, the subleasing of space typically is not a business but merely an expedient to defray the costs of space in excess of the business' needs.

Secondly, the space involved in the sublease could be all or a part of the larger space leased out by the prime lessor. In most cases, the prime lessor may be eligible for a Reestablishment Expenses payment for leasing the same space. Paying the lessee for subleasing then could constitute a second or duplicate payment for leasing the same space. However, each situation must be evaluated individually by the displacing agency.

Section 5.7 – Fixed Payment For Moving Expenses (Nonresidential Moves)

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 49 CFR Part 24, § 24.301, §24.303, and § 24.304. The fixed payment for a business or farm shall equal the average annual net earnings. The fixed payment for a nonprofit organization shall be the average gross revenue less administrative expenses. A fixed payment is not less than $1,000 nor more than $40,000. The displaced business is eligible for the payment if the Department 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 CDOT determines that it will not suffer a substantial loss of its existing patronage;

   This determination will be based on the following guidelines as applicable. The file should document the reason for this determination.

   A. Nature of the business, business type.

   B. Nature of clientele, such as walk-ins, referral, and telephone contacts etc.

   C. If transaction of business occurs on the displacement site or elsewhere.

   D. Any other point considered relevant as determined by CDOT.

3. The business is not part of a commercial enterprise having more than three other entities which are not being acquired by CDOT, 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; and

6. The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See 49 CFR Part 24, § 24.2(a)(7).)

   A. Had average annual gross receipts of at least $5,000; or

   B. Had average annual net earnings of at least $1,000; or

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

5.7.1 – 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.

5.7.2 – Farm Operation

A displaced farm operation (defined at 49 CFR Part 24, § 24.2(a)(12) 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, but not less than $1,000 nor more than $40,000. 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 CDOT 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.

5.7.3 – Nonprofit Organization

A displaced nonprofit organization may choose a fixed payment of $1,000 to $40,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if CDOT 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 CDOT 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.

Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales, or other forms of fund collection that enables 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 fundraising 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.

5.7.4 – 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 CDOT 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 CDOT proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which CDOT determines is satisfactory.

Section 5.8 – Comparables

5.8.1 – Selection of Comparables

The Real Estate Specialist should personally inspect the comparables, both inside and outside, to assure the proposed replacement properties are comparable and meet the standard of equal to or better. The Specialist should note any unusual or special features found in the comparable dwelling.

An analysis of the displacement neighborhood is needed if the proposed comparable properties are not within the same neighborhood. Public and private facilities that are significant amenities to the displacement neighborhood should be identified and considered in selecting the comparable replacement neighborhood. Particular attention should also be paid to the displaced person's place of employment or other location upon which the displaced person may depend.

The analysis information should provide sufficient detail to allow any reviewer to readily compare all descriptions of the comparable replacement dwelling to those of the displacement dwelling. All features lacking in the comparable dwelling as compared to the displacement dwelling and all features found to be in addition those in the displacement dwelling shall be described. The comparable replacement dwelling should usually be chosen from an area of equal or higher value.

5.8.2 – Comparability

The following is general information on what is comparable (defined at 49 CFR Part 24, § 24.2(a)(6)).

When inspecting potential replacement housing you should consider the following:

1. Decent, safe and sanitary (defined at 49 CFR Part 24 sec. 24.2(a)(8)).

   The term refers to the physical condition of the replacement dwelling and its effect on the health and safety of the occupants. Basically, a dwelling which meets the requirements of a local housing and/or occupancy code will be DSS.

NOTE: Many local housing and occupancies codes require the abatement of deteriorating paint, including lead-based paint and lead-paint dust, in protecting the public health and safety.

It is important to understand the distinction between housing/occupancy codes and building codes. Building codes set standards for construction and apply only to new construction and certain additions and alterations. Housing/occupancy codes set standards for habitability and apply to all dwellings in a community. If an occupancy code changes to require smoke detectors, for example, all dwellings should be required to comply.

Housing/occupancy codes are narrower in scope than building codes. They are concerned with those elements which influence health and safety. Building codes are concerned with conformance to current building standards. Most local housing and

occupancy codes are adaptations of one of the national model codes promulgated by code setting organizations.

2. Functionally equivalent (defined in definitions under comparable replacement dwelling)

   The emphasis is on function. The replacement dwelling, when compared with the acquired dwelling, should perform the same function, provide the same utility, and possess like amenities. This requires that the principal features of the acquired dwelling be present in the comparable. 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 heater space in a garage might provide an adequate substitute for a basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for space for storage purposes, and vice versa.

3. Adequate in size to accommodate the occupants.

   In general, this requirement relates to the occupancy standards in the local housing/occupancy code. However, the particular composition of the displaced household must be taken into consideration.

4. In an area not subject to unreasonable adverse environmental conditions

   Unreasonable adverse environmental conditions may have a serious negative effect on the habitability of a replacement dwelling. Proximity to environmental influences such as sewage treatment plants, factories dispensing smoke or other pollutions, salvage yards, dumps site, and similar unhealthful of unsafe conditions may make a dwelling unsuitable to be used as a comparable.

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 reasonable accessible to the person's place of employment.

   The adequacy of access to commercial and public facilities is a case-by-case judgment. It is important to determine the access needs of each displaced person to various institutions and facilities. CDOT must make housing available that is generally not less desirable than the displacement dwelling with regard to those institutions and facilities. A family with children would be concerned with schools. An elderly retired couple without a car would consider it important to be near a grocery store. This does not mean that the displaced person's personal desires as to particular schools or shopping areas have to be met, but a sincere attempt should be made to accommodate the displaced person's preference. CDOT must consider both needs and availability.

   Continued access to the displaced person's place of employment is an important consideration for replacement housing. The objective is that such housing be reasonably accessible to the person's place of employment. Referrals need not be limited to housing equally distant from employment as the displacement dwelling, but travel time or distance from the referral should not endanger continued employment. Ultimately, this is a consideration of reasonableness and practicality.

6. On a site that is typical for residential development with normal site improvements, including customary landscaping. The site need not include special improvements.

   The replacement site need not include special improvements such as outbuildings, swimming pools and greenhouses.

7. Currently available to the displaced person on the private market.

   CDOT may refer displaced persons only to housing that has recently been confirmed as being available. Thus, a sales or rental dwelling no longer on the market may not be used to determine the sales or rental priced of a comparable replacement dwelling.

8. Within the financial means of the displaced person.

   It is assumed that owners can afford replacement housing if they are not required to pay more for the mortgage payment on their replacement dwelling than they paid for the displacement dwelling. For tenants the assumption is that they should not pay more than 30% of their average monthly gross household income if the amount is classified as “low income.”

9. For a person receiving governmental housing assistance before displacement, a dwelling that may reflect similar governmental housing assistance.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit.

When considering DSS requirements pay particular attention to porches, stoops, and exterior stairs; roofs, electrical systems; foundations and plumbing.

It is strongly recommended to use a comparison grid like the one below in making the analysis.

	Displacement Dwelling	Comparable Number 1	Comparable Number 2	Comparable Number 3	Comparable Number 4	Comparable Number 5
Number of Bedrooms						
Number of Rooms						
Price/Rent						
Condition						
Age						
Basement						
Garage						
Etc.						

5.8.3 – 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.

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.

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 remnant is a buildable residential lot, CDOT may offer to purchase the entire property. If the owner refuses to sell the remnant to CDOT, the market value of the remnant 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.

5.8.4 – Availability of Comparable Replacement Housing before Displacement

A comparable replacement dwelling is 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. The person is assured of receiving the relocation assistance and acquisition payment to which he/she is entitled in sufficient time to complete the purchase or lease of the property.

The above policy may be waived by the Federal Highway Administration (FHWA) or by the Statewide ROW Program Manager on non-federal aid projects, if the Region demonstrates that a person must move because of:

1. A major disaster as defined in Section 102(c), Disaster Relief Act of 1974;

2. A presidentially declared national emergency;

3. Another emergency which requires immediate vacation of the real property, if continued occupancy would constitute a substantial danger to the health or safety of the occupants or the general public.

When a person is required to relocate for a temporary period, the Department 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 monthly housing costs incurred because of the temporary move; and

3. Make available to the displaced person at least one comparable replacement dwelling.

    A. This will be done within fifteen (15) days from the date of temporary displacement, unless none are actually available.

    B. The date the displaced person moves from the temporary dwelling is the date of displacement.

Section 5.9 – Replacement Housing Payment

In addition to the Moving Expense payments discussed above, the Uniform Act and the DOT/FHWA regulations provide another set of payments for persons displaced from their homes by FHWA or FHWA-assisted projects. These Replacement Housing payments are designed to help eligible displaced persons occupy housing which is **decent, safe, and sanitary, adequate for their needs, and comparable** to what they had before the project required their move. These payments are available to **persons who occupied dwellings as their primary place of residence only**.

5.9.1 – Replacement Housing Payment for 90-Day Homeowner-Occupant

A displaced person is eligible for the replacement housing payment for a 90-day homeowner-occupant if the person:

1. Has actually owned and occupied the displacement dwelling for not less than 90 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 CDOT may extend such one-year period for good cause):

    A. The date the displaced 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

    B. The date CDOT's obligation under 49 CFR Part 24, § 24.204 (Availability of comparable replacement dwelling before displacement) is met.

5.9.2 – Amount of Replacement Housing Payment for 90- Day Homeowner-Occupant

The replacement housing payment for an eligible 90-day homeowner-occupant may not exceed

$31,000 (see 49 CFR Part 24 §24.404 – Replacement Housing of Last Resort). The payment under this section 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;

2. The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling; and

3. The reasonable expenses incidental to the purchase of the replacement dwelling.

5.9.3 – Price Differential (Owner Supplement)

The difference between the price actually paid by the displaced person for a replacement dwelling and the price paid by the acquiring agency for the displacement dwelling. The price of the comparable dwelling sets the upper limit of payment computation for the Price Differential.

The cost of a comparable replacement dwelling must be determined to compute a Price Differential. The Agency must analyze the characteristics of the displacement dwelling (number of rooms, bedrooms, utility, square footage, etc.) and the displaced person (number of persons, age, gender, etc. of household members) to determine replacement needs.

The real estate market is searched and analyzed thoroughly, and the three properties best meeting the requirements of comparability, as discussed in replacement housing standards, are selected. To aid in this real estate market analysis, many agencies subscribe to local multiple-listing services and/or maintain close relationships with local real estate brokers. The real estate want ad section of local newspapers also may prove useful.

After the three most comparable properties have been selected, an in-depth comparison should be made to select the one property which, in the opinion of the acquiring agency, is most comparable to the displacement dwelling.

The price differential to be paid is the amount which must be added to the acquisition cost of the displacement dwelling and site (see 49 CFR Part 24, § 24.2(a)(11)) to provide a total amount equal to the lesser of:

1. The reasonable cost of a comparable replacement dwelling as determined in accordance with 49 CFR Part 24, § 24.403(a); or

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

5.9.4 – 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:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

2. The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at 49 CFR Part 24, § 24.2(a)(8); and

3. The current market value for residential use of the replacement dwelling site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

4. The retention value of the dwelling, if such retention value is reflected in the “acquisition cost” used when computing the replacement housing payment.

5.9.5 – Increased Mortgage Interest Costs

This payment is intended to compensate the displaced owner-occupant for increased interest costs which he/she is required to pay for financing the replacement property. CDOT shall determine the factors to be used in computing the amount to be paid to a displaced person. 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. Use the following guidelines in the computation of the increased mortgage interest 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 displaced person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan the unpaid balance shall be that balance which existed 90 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:

    A. They are not paid as incidental expenses;

    B. They do not exceed rates normal to similar real estate transactions in the area;

    C. CDOT determines them to be necessary; and

    D. 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 the mortgage balance.

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.

5.9.6 – Incidental Expenses

The incidental expenses 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. Professional home inspection, certification of structural soundness, and termite inspection.

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 CDOT determine to be incidental to the purchase.

5.9.7 – Rental Assistance Payment for 90-Day Homeowner

A 90-day homeowner-occupant, who could be eligible for a replacement housing payment but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with 49 CFR Part 24, § 24.402(b)(1), except that the limit of

$7,200 does not apply, and disbursed in accordance with 49 CFR Part 24, § 24.402(b)(3). Under no circumstances would the rental assistance payment exceed the amount that could have been received under 49 CFR Part 24, § 24.401(b)(1) had the 90-day homeowner elected to purchase and occupy a comparable replacement dwelling.

5.9.8 – Replacement Housing Payment for 90-Day Occupant

A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed

$7,200 for rental assistance or downpayment assistance, 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 CDOT extends this period for good cause) after:

A. For a tenant, the date he or she moves from the displacement dwelling; or

B. For an owner-occupant, the later of:

1) 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

2) The date he or she moves from the displacement dwelling.

5.9.9 – Amount of Replacement Housing Payment for 90-Day Occupant (Rent Supplement)

An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $7,200 for rental assistance (see 49 CFR Part 24, § 24.402). Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

2. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

The base monthly rental for the displacement dwelling is the lesser of:

1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by CDOT (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);

2. Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. The base monthly rental shall be established solely on the criteria in paragraph (1) above for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or

   NOTE: The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on FHWA's web site at http://www.fhwa.dot.gov/real_estate/ua/ualic.htm.

3. The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

EXAMPLE RENT TO RENT

1. Rent and Utilities at Displacement Dwelling $1,200.00

2. Annual Household Income $50,000.00

3. Number of Occupants of Household 5

   - Location of displacement dwelling .....Clintonville
   - Low income threshold.....$47,250.00

4. 30% of monthly household income.....N/A

5. Base monthly rental (lesser of 1 or 4).....$1,200.00

6. Comparable rent and utilities.....$1,250.00

7. Computation of payment

   - $1,250.00 minus $1,200.00 = $50.00
   - $50 X 42 months = $2,100.00.....$2,100.00

TOTAL $2,100.00

EXAMPLE LOW INCOME

1. Rent and Utilities at Displacement Dwelling $1,200.00

2. Annual Household Income $46,000.00

3. Number of Occupants of Household 5

   - Location of displacement dwelling .....Clintonville
   - Low income threshold.....$47,250.00

4. 30% of monthly household income.....1,150.00

   - ($46,000.00) divided by 12 X 30%)

5. Base monthly rental (lesser of 1 or 4).....$1,150.00

6. Comparable rent and utilities.....$1,250.00

7. Computation of payment

   - $1,250.00 minus $1,150.00 = $100.00
   - $100 X 42 months $4,200.00

TOTAL $4,200.00

Any eligible displaced person whose rental assistance payment is determined to be zero qualifies for a downpayment assistance of $7,200 per CDOT's policy.

5.9.10 – Utility Adjustment

Utilities are a necessary cost of housing and a part of the computation of the RAP. As noted above, the utility services to be considered are heat, light, water, and sewer. Some or all utility services may be included as a part of the monthly rent for the acquired dwelling, the comparable, or the actual replacement dwelling occupied. If any of these rents do not include all utilities, those not included must be added in order to make the elements of the computation comparable.

If such an adjustment is necessary, you must determine the cost of utility services not included in the rent. You may obtain this information from the tenant (who should have utility receipts) or from local utility companies to establish either the actual utility costs for the dwelling or the average utility costs for similar dwellings. Most utility companies will cooperate in providing this information if given sufficient time to research their records.

To use this information in a RAP computation it is necessary to set up a comparison between the displacement and replacement dwellings:

	Displacement	Replacement
Rent	$250	$400
Utility Adjustments:		
Sewer	$40	$50
Water	included in rent	included in rent
Lights	$65	$30
Heat	$75	included in rent
Rent plus utilities	$430	$480

5.9.11 – Manner of Disbursement

A rental assistance payment may, at CDOT's discretion, be disbursed in either a lump sum or in installments. It is CDOT's policy to make three installment payments in fourteen-month intervals if the assistance payment is above $7,200. The 2nd and 3rd installments may be released earlier to alleviate hardship. The reasons for such a release must be documented in the relocation log and the displacee must sign an additional Form 1184 Application for Housing of Last Resort with each installment that is released at earlier intervals. If the displaced person moves, it is their responsibility to notify CDOT of any change of address. However, except as limited by 49 CFR Part 24, § 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.

5.9.12 – Market Rent

Actual monthly rent means the typical rent paid. However, there are some situations when the "market rent, " i.e., the probable rent that the property normally would command in the local rental market, should be substituted for actual rent.

For example, market rent should be used for a homeowner who elects to rent rather than purchase a replacement property, since he/she had no rent per se as a homeowner. Also, you occasionally will encounter a tenant whose contract rent is less than market rent. It is CDOT's

responsibility to determine why the property is renting for less than market rent. If it is solely because the tenant performs a service for the landlord, such as making minor repairs and collecting rents from the other tenants, or because the tenant is a relative of the owner, the market rent may be used in the computation, unless its use would result in a hardship for the displaced person because of income of other circumstances.

5.9.13 – Downpayment Assistance

An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive if the person rented a comparable replacement dwelling. At CDOT's discretion, a downpayment assistance payment that is less than $7,200 may be increased to any amount not to exceed $7,200.

However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under 49 CFR Part 24, § 24.401(b) if he or she met the 90-day occupancy requirement. If CDOT elects to provide the maximum payment of $7,200 as a downpayment, CDOT shall apply this discretion 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 90-day owner-occupant under 49 CFR Part 24, § 24.401(a) is not eligible for this 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.

It is CDOT's policy to provide the maximum payment of $7,200 as a downpayment. However, in circumstances of housing of last resort, CDOT, at its discretion, may elect to pay a greater amount in the form of a rent supplement.

Displacees who elect to purchase a mobile home using downpayment assistance may be able to apply remaining replacement housing payment eligibility to no greater than 42 months of lot rent, but only in the event that said lot rent is greater than the base monthly rent, as previously determined. The payment amount shall be calculated based on the differential of base monthly rent and the lot rent. The sum of downpayment assistance and rental assistance shall not be greater than the total replacement housing eligibility calculated based on comparable rentals.

5.9.14 – Additional Rules Governing Replacement Housing Payments

No person to be displaced shall be required to move from his/her dwelling until at least one comparable replacement dwelling has been made available. This is a crucial part of the displacement process since the comparable replacement dwelling will form the basis for the computation of the Replacement Housing Payment.

The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling.

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.

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 for computing the payment.

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

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.

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

5.9.16 – Deductions from relocation payments

CDOT shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. If a deposit, first month and/or last month of rent is advanced to the displacee, the remaining installments shall be evenly divided by the remaining payment amount. CDOT shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

5.9.17 – Mixed-use and multifamily properties

If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential 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 the acquisition cost when computing the replacement housing payment.

Section 5.10 – Replacement Dwelling

5.10.1 – Inspection of Replacement Dwelling

Before making a replacement housing payment or releasing the initial payment from escrow, CDOT or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at 49 CFR Part 24, § 24.2(a)(8).

In order to avoid problems, CDOT should caution displaced persons not to become financially obligated to purchase (or rent) a replacement dwelling unit until the inspection has been performed. Often sales or rental agreements may be written subject to a DSS inspection by CDOT. If the dwelling is found not to be DSS, the displaced person should be informed of the specific deficiencies noted.

Sometimes a dwelling with DSS deficiencies is still desirable to the displaced person and CDOT. Such dwellings may be used as replacement housing if the deficiencies are corrected. The cost to correct DSS deficiencies may be included as a part of the price differential payment to the extent that they do not bring the cost of the dwelling above the price of the comparable. Care should be taken that the cost of repairs or improvements undertaken for the desires of the displaced person but are not necessary to correct DSS deficiencies are not included in the RHP computation.

5.10.2 – 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;

2. Purchases and rehabilitates a substandard dwelling;

3. Relocates a dwelling which he or she owns or purchases;

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

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; or

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

5.10.3 – 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 CDOT; or

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

5.10.4 – Replacement Housing Payment Computations of Partial Acquisition: Uneconomic Remnant vs. Remaining Buildable Lot

Replacement housing payment (RHP) computations of partial acquisitions: Uneconomic remnant vs. a remaining buildable lot. The requirements for computing a replacement housing payment of a partial acquisition with a remaining uneconomic remnant differs from a partial acquisition with a remaining buildable lot.

1. Uneconomic remnant – The Uniform Act requires CDOT to offer to acquire the uneconomic remnant. The value of the remnant cannot be used in the RHP computation if the owner does not elect to sell it to CDOT. However, if the owner does elect to sell the uneconomic remnant to CDOT, its value may be included.

2. Remaining buildable lot – is permissive on a uniform statewide basis regarding the offer to purchase this type of remnant. If CDOT offers to purchase the remaining buildable lot, its value may be included in the computation, regardless of the owner's acceptance or rejection. However, if CDOT does not offer to purchase, the value of the remnant may not be used in the computation.

5.10.5 – Replacement Housing Payment Computation for Owner - Occupants with Partial Interests

The replacement housing payment for an owner-occupant with partial interest in the property being acquired is computed using the full acquisition cost of the displacement dwelling. To receive the maximum payment, an owner-occupant with a partial interest must spend his or her share of the acquisition payment, plus the amount of the computed replacement housing payment, in order to receive the maximum computed replacement housing payment. Owner occupants with partial interests who cannot secure financing or who cannot afford to purchase comparable replacement housing may be treated as tenants and receive a rental assistance payment in accordance with 49 CFR Part 24 §24.401(f). A direct loan under 49 CFR Part 24 § 24.404(c)(iv) may be provided if the displaced person requires last resort housing in order to relocate. CDOT may provide additional assistance, but is not required to provide owner occupants with partial interests a greater level of assistance to purchase a replacement dwelling than CDOT would be required to provide such persons if they owned fee-simple title to the displacement dwelling.

5.10.6 – Computing a Replacement Housing Payment when a Higher and Better Use is Indicated

In computing a replacement housing payment for an owner-occupant whose residential property to be acquired is appraised for a higher and better use (usually as if vacant), the acquisition cost of the displacement dwelling used in the computation is the value of the dwelling occupied by the owner plus the value of that portion of the acquired land representing a typical residential lot for the area. The dwelling and land values are based on CDOT's approved appraisal.

5.10.7 – Computing a Replacement Housing Payment for a Displaced Person who Relocates to a Previously Owned Property

When a displaced person relocates to a previously owned dwelling, or retains the displacement dwelling and moves it to the remnant or to a previously owned site, “current fair market value for residential use” will be used as the basis for determining the cost of the replacement property, rather than “historical cost.” It is not expected that an expensive or sophisticated appraisal report be secured to determine the current fair market value of the pre-owned property. A minimum valuation method may be used by CDOT for determining the value of the property.

CDOT should ensure that its valuation is reasonable and supportable, as its determination could be appealed under 49 CFR 24.10.

Section 5.11 – Additional Rules Governing Replacement Housing Payment

5.11.1 – Conversion of Payment

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under 49 CFR Part 24, § 24.402(b) is eligible to receive a payment under 49 CFR Part 24, § 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 49 CFR Part 24, § 24.401 or § 24.402(c).

5.11.2 – 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. Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.

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.

5.11.3 – 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.

5.11.4 – Carve Outs of Homesites

To determine the typical homesite portion of the acquisition price, use the actual price paid for the portion of the homesite in the taking area plus the value of the residential improvements in the taking area plus any severance damages to either the remnant of the dwelling or homesite area.

If damages are assigned to the entire remnant without an allocation between the remnant of the homesite and the excess land remaining, the damages will be prorated between these remnants to establish the acquisition price of the dwelling, including the structure and land.

In areas where a typical homesite cannot be determined due to variances of tract sizes within a residential area, the area actually utilized for residential purposes by the displaced person will - be used to compute the replacement housing payment.

Consideration must be given to locations of driveways and fences, outbuildings, gardens, pools, and to the area maintained, cleared and mowed, for residential usage.

If all or part of areas occupied by nonresidential structures must be included in order to create a homesite tract typical of the area, the typical homesite will be figured using whatever portion of those areas are necessary.

For replacement dwellings which are on tracts larger than typical for residential use in the area where the excess land is used for nonresidential purposes, the replacement housing payment will be calculated using the actual cost of the replacement dwelling plus the prorated portion of the site which is typical for residential use.

Examples of Items to be Carved Out:

- Swimming Pools
- Garages/Carports
- Outbuildings
- Larger than typical lots
- Extra buildable lots

Determine Contributory Value from:

- Appraisal
- Appraiser, Review Appraiser

Subtract Contributory Value from Subject

5.11.5 – Typical Homesite Determination

If the acquired dwelling is located on a land area that is typical in size for similar dwellings located in the same neighborhood or rural area, the maximum purchase additive payment is the probable selling price of a comparable replacement dwelling on another typical tract, less the acquisition price of the acquired dwelling and the tract on which it is situated.

If an uneconomic remnant remains after a partial taking and the owner declines to sell that remnant to CDOT, the fair market value of the remnant will not be added to the acquisition cost of the acquired dwelling for purposes of computing the replacement housing payment.

5.11.6 – Condemnation and Rental Assistance Payments

Application of overpayment in condemnation cases to relocation assistance payments (49 CFR 24.3). Amounts in excess of the final settlement or award paid to the property owner have the same purpose and effect as relocation payments due the property owner. Such excess amounts may be used to offset, in whole or in part, relocation payments that the property owner would otherwise be entitled. The State must be able to demonstrate that the property owner, if otherwise eligible for relocation payments, was clearly advised at or prior to the time that any deposit is made that any excess amount not repaid to the State may be credited against the amount of the property owner’s relocation payments. Further, amounts in excess of the final settlement or award should not be deducted from the property owner’s relocation payment if it

would prevent the displaced person from obtaining a comparable replacement dwelling as required by section 205(c)(3) of the Uniform Relocation Act and 49 CFR 24.204. CDOT must be able to demonstrate that the property owner was clearly advised at or prior to the time that any deposit is made that any excess amount not repaid to CDOT may be credited against the amount of the owner's relocation payments. (

5.11.7 – Nursing Homes and Similar Situations

Residents of nursing homes may be relocated as a unit or individually. In any event CDOT must personally contact each and every resident, or their legal representative, to explain the relocation program, the benefits and payments for which they are eligible, and the options for actual relocation available to them.

Ideally, the nursing home would be treated as an institution and the cost of moving its personal property plus the cost of moving the individual residents and their personal property would be treated as one-unit business move and would be reimbursed on an actual cost basis.

On the other hand, the moving costs of residents we elect not to move with the nursing home to its new facility would be reimbursed for their moving costs on the same basis as an occupant of a sleeping room or a furnished apartment, as the case may be.

5.11.8 – Eligibility of Seasonal Residences

Persons owning or renting seasonal residences are generally not eligible for any relocation payments other than for moving expenses. A seasonal residence can be distinguished from a domicile in that a domicile is the place of a person's fixed, permanent home and principal establishment and to which place the person, when absent, has full intention of returning.

5.11.9 – Reimbursement of "Sweat Equity" in New Construction

The value of the displaced person's labor can be considered part of the actual cost of construction when he/she builds his/her own replacement dwelling. This could also include time and expenses involved in supervising the construction in cases where the displaced person acts as his/her own general contractor. The expenses must be actual and reasonable, and the profit factor should be deducted, for this is not an incurred expense.

5.11.10 – Food Stamps Not Considered as Household Income when Computing Replacement Housing Payments

7 U.S.C. 2017(b) prevents food stamps from being considered as income and states that: "The value of the allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws, including but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of an allotment under this chapter."

5.11.11 – Use of Properties that are not Decent, Safe, and Sanitary as a Basis for Replacement Housing Payments

In situations where there are limited comparable replacement properties, displacing agencies may base a replacement housing payment on an available property having minor DSS

deficiencies, provided that the deficiencies can be easily corrected for a nominal amount. Use of non-DSS properties with minor deficiencies should be primarily limited to situations where a windfall or excessive expenditure can be avoided and/or in situations where housing of last resort would otherwise be needed to relocate the displaced person into comparable housing. The payment computation should reflect the cost to correct the deficiency. Such housing should not be used to meet the "make available" requirement of Section 24.204(a) in the case of a forced displacement.

5.11.12 – Major Exterior Attributes

Alternate methods of determining the replacement housing payment cannot be used in cases where the comparable replacement dwelling lacks the major exterior attribute of the displacement dwelling. Section 24.403(a)(2) requires that the value of the attribute be subtracted from the acquisition price of the displacement dwelling for purposes of computing the payment if the comparable replacement dwelling lacks the major exterior attribute.

5.11.13 – Relocation Benefits for Airspace Tenants

Airspace tenants permanently displaced by a Federally-assisted project are covered by the Uniform Act. Airspace tenants who are not required to relocate permanently are not considered displaced persons for purposes of the Uniform Act, but airspace tenants would be entitled to temporary relocation expenses in accordance with 49 CFR 24.402.

5.11.14 – Relocation Payment for Divorced Spouse

Acquisition for a project of a dwelling occupied by a divorced spouse may result in that person receiving only a part of the acquisition payment. To qualify for the maximum payment computed on the basis of a comparable dwelling, the divorced spouse need only invest his or her share of the acquisition cost of the dwelling, plus the amount of the computed replacement housing payment in a replacement dwelling. CDOT is not required to make up the other spouse's share of the acquisition payment.

The divorced spouse's replacement dwelling must be DSS. If the divorced spouse is unable to afford to purchase a dwelling, he or she may be treated as a tenant who would be eligible for a payment for a comparable rental unit.

This same procedure is applicable in situations where a displaced person is the sole occupant of a dwelling that has multiple owners.

5.11.15 – Revising the Replacement Housing Payment Eligibility

The replacement housing payment offer can be recomputed whenever the comparable dwelling used to compute that replacement housing payment offer is no longer available. CDOT should not re-compute a replacement housing payment offer solely because the 90-day notice has expired if the displaced person has, in good faith, made a commitment or has expended significant time and effort to find replacement housing based on the original offer (49 CFR Part 24 sec. 24.207).

A replacement housing payment offer will be revised and may be less than the original offer if:

1. The appraisal is updated, and the acquisition offer is increased;

2. In condemnation cases, CDOT settles for an amount greater than the initial acquisition offer; and

3. In the case of an administrative settlement, the initial acquisition offer is increased.

Section 5.12 – Claims For Relocation Payments

5.12.1 – Claims for Relocation Payments

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.

5.12.2 – Expeditious Payments

CDOT 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.

5.12.3 – Advanced Payments

Advance Payments can be made under the following conditions:

1. An advance payment is one that is delivered to a displaced person prior to the displaced person completing all conditions normally required for payment disbursement. Requesting a warrant in advance of a displaced person fulfilling all requirements does not constitute an advance payment.

2. A displaced person must demonstrate the need for an advance payment in order to avoid or reduce a hardship. An example of this may be when:

    A. Displaced persons do not currently have the funds to cover the cost(s) involved in their relocation; and

    B. They do not have access to the funds, for example, as in securing a loan.

3. The Region must provide supportive documentation for this decision.

4. Payment must be made no sooner than needed in order to safeguard against expenditures other than those involved in the relocation. The displaced person will comply with the move of the personal property from the acquired property.

It is CDOT's procedure that Advanced Payments be limited to one-half the determined eligible benefit amount. Exceptions may be made in cases of extreme hardship, if documented.

If the displacee must make a payment to a third party contractor or moving company, a two-party payment may be made to ensure that it is applied to its intended purpose. Two-party advanced payments may be made in the full eligible amount.

5.12.4 – Time for Filing

All claims for a relocation payment shall be filed with CDOT within 18 months after:

1. For tenants, the date of displacement.

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

The 18-month time frame shall be extended for good cause. Such extension shall be in writing and approved by the Acquisition/Relocation Unit Leader in the Project Development Branch, Headquarters ROW.

5.12.5 – Notice of Denial of Claim

If CDOT 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.

This notice must be delivered in person or sent by certified mail, return receipt requested.

5.12.6 – No Waiver of Relocation Assistance

CDOT shall not propose or request that a displaced person waive his or her rights or entitlement to relocation assistance and benefits provided by the Uniform Act and 49 CFR Part 24 § 24.207(f).

CDOT may accept a written statement from the displaced person that states that they have chosen not to accept some or all they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by CDOT.

5.12.7 – Expenditure of Payments

Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.

5.12.8 – Payment Claims for Multiple Occupancy

1. If two or more occupants of the displacement dwelling maintained a single household and they move to separate replacement dwellings, each will receive a prorated share of the total relocation payment(s) allowable.

2. If two or more occupants of the displacement dwelling maintained separate households within the same dwelling, each is entitled to individual relocation payments.

    A. The replacement housing payment will be based upon housing comparable to the quarters privately occupied by each displaced person plus shared community rooms.

    B. The Region may determine that separate households may be maintained when:

        1) Two or more distinct family units share a dwelling;

2) Two or more unrelated persons divide rent and expenses on a prorated basis while maintaining lifestyles independent and exclusive of one another.

3) A person rents a sleeping room within a dwelling.

5.12.9 – Relocation Payments Not Considered as Income

Relocation payments for displaced persons are not considered as income for the purpose of:

1. The Internal Revenue Code of 1954, which has been re-designated as the Internal Revenue Code of 1986 (Title 26, US Code).

2. Determining the eligibility or extent of eligibility of any person for assistance under the Social Security Act (42 US Code 301 et seq.) or any other Federal law, except for any Federal law providing low income housing assistance.

5.12.10 – Determination of Benefits Process

A displacee must be determined to be eligible for benefits before a claim can be signed by the displacee and submitted to the Project Development Branch, Headquarters ROW.

The relocation agent shall prepare and sign relocation determinations (CDOT Form #453) and provide sufficient information for a determination to be made as to the necessity and reasonableness of the proposed benefits. Costs do not have to yet be incurred by the displacee at the time of the determination, and documentation such as contractor scopes of work, move estimates and other calculations may be provided. Replacement housing payment determination packages shall include all information described in sections 5.8 and 5.9.

Multiple relocation determinations may be submitted for each displacee, and determinations may be amended, if necessary.

The relocation determination package will be reviewed by the Region Acquisition/Relocation Supervisor and submitted to the Acquisition/Relocation Unit Leader in the Project Development Branch, Headquarters ROW. If approved, a copy will be provided to the relocation agent who may proceed with preparing a claim form.

5.12.11 – Relocation Claims for Payment

The following documentation should be submitted to the Project Development Branch, Headquarters ROW, prior to requesting a relocation payment:

If for a Residence:

- First Negotiation Contact Letter
- 90 Day Notice
- Certification of Residency Status

If for a Business:

- First Negotiation Contact Letter/90 Day Notice
- Certification of Residency Status If for a Personal Property Move
- First Negotiation Contact Letter/90 Day Notice
- Certification of Residency Status

After the determination has been approved, the following documentation is necessary for processing a relocation payment:

1. Transmittal (including Notes, Logs and Diaries)
2. Claim Form
3. Relocation Checklist and Record of Correspondence
4. W-9 Form
5. Proof of payment in the form of receipts, invoices, estimates, and bills should be accompanied by copies of payments such as credit card slips or statements, copies of the front and back of canceled checks, and or bank statements.

The claim form will be approved by the ROW Program Manager in the Project Development Branch, Headquarters ROW and placed in the parcel file at Project Development Branch, Headquarters ROW.

Section 5.13 – In The Absence Of Local Codes

In the absence of local codes, the policies of CDOT are as follows:

A maximum of two persons may occupy a zero-bedroom unit such as a studio apartment. For a sleeping room, the minimum standards are 100 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant.

For units larger than a zero-bedroom unit (studio), two persons per bedroom shall be used as a guideline in determining the number of bedrooms required for replacement housing. More than two persons may occupy a bedroom provided the room is adequate in size to accommodate normal bedroom furnishings for the room occupants (e.g., three toddlers in a larger bedroom or infant in the bedroom with the parents), and not in violation of local codes.

When determining if separate bedrooms are necessitated when finding a comparable replacement, the following guidelines should be followed:

1. Children under the age of 18 months may occupy the same bedroom as their parents.

2. Children of the opposite sex under age 8 may occupy the same bedroom.

3. Generally, not more than 2 persons per bedroom unless rooms are large enough and not in violation of local codes.

4. Persons of opposite sex should not occupy the same bedroom, except husband and wife, cohabitating adults by mutual consent, and as noted above.

5. A person may qualify for a separate bedroom if that person is disabled or incapacitated, and requires additional space for medical equipment or maneuverability.

The number of bedrooms at the replacement dwelling should duplicate that of the acquired dwelling, unless more are needed to meet the above requirements.

If applicable housing or occupancy codes for the area of the comparable replacement requires a greater number of bedrooms for the household than indicated by the above guidelines, the greater number of bedrooms according to code should be used in the replacement housing valuation (e.g. children that are wards of the court, or some other jurisdiction, may be required to have a separate bedroom from adults or other children of a different gender).

Dwellings with less square footage and/or a fewer number of rooms than the displacement dwelling should not be used as comparables. However, if a displaced person is relocating to subsidized housing, occupancy standards of the housing authority issuing the subsidy shall be used to determine the number of rooms required.

Section 5.14 – Protective Rent

During negotiations with the owners of a parcel occupied by tenants, there is the possibility the initial displaced person may choose to vacate the premises prior to CDOT obtaining possession of the property.

In order to preclude the possibility of a subsequent occupant, it may be less costly to acquire a leasehold interest in the vacant unit/space for a short period of time rather than have a second relocation on the same unit/space. To pay for this interest for too long a period can be counter-productive to reaching a settlement.

The assigned right of way negotiator is in the best position to know whether a settlement is near or possession is possible. If the negotiator believes it is in CDOT's best interest to keep a rental unit or units vacant for a short period of time, he/she should obtain the following information:

1. The rental rate of the unit/space.

2. Are utilities a part of the rental rate?

3. Estimated average monthly cost of utilities and if they can be individually shut off.

4. Probable length of time before possession.

The negotiator should then coordinate with his/her supervisor to determine the rental rate, duration, and payment date. The agreed upon rental rate may deviate from the rate paid by prior tenants, but such a rate should be justified based on market conditions. Payments for vacant units/spaces should not include utilities that can be shut off or normal vacancy and collection losses.

The negotiator will contact the owner and have a Memorandum of Agreement (MOA) signed.

> Grantee (CDOT) agrees to pay the sum of $_____/month as rental to Grantor (owner) from the date the subject property becomes vacant to the date that Grantee (CDOT) is entitled to possession or takes title to the subject property, whichever first occurs. The monthly rental shall be pro-rated for any periods of less than a full month. Grantor (owner) agrees that the subject property shall not be leased or rented to third parties and shall remain vacant and unoccupied from the date it is vacated until such time that Grantee (CDOT) takes title or possession. Grantor further agrees to maintain insurance on the subject property, to pay utilities and to maintain the premises in a safe and tenantable condition until possession or title is delivered to Grantee (CDOT). {As additional units become vacant, Grantee (CDOT) agrees to pay rentals on said units at the previously existing lease rate to Grantor (owner) from the time of such vacancy to the date possession or title of such units is transferred to Grantee (CDOT).}

The Region ROW office will then request a warrant from the Project Development Branch, Headquarters ROW, for payment (3114-incidental costs).

Section 5.15 – Replacement Housing Last Resort

The Uniform Act requires that comparable, decent, safe, and sanitary replacement housing within a person's financial means be made available before that person may be displaced by a Federal or Federally-assisted program or project. When such housing cannot be provided under the provisions for Replacement Housing payments, the Act provides for Housing of Last Resort (HLR). **HLR involves the use of payments in excess of statutory maximums or the use of other unusual methods of providing comparable housing.**

Some agencies have used HLR since the early 1970s, but many others have not. With the issuance of the government-wide common rule in 1986, HLR provisions became a part of the regulations for all covered agencies.

In the 1987 amendments to the Act, Congress strengthened the HLR provisions but required case-by-case justification for the use of payments in excess of the statutory maximums. This requires that CDOT make a determination that there is a reasonable likelihood that the project cannot proceed to construction in a timely manner because a comparable replacement dwelling(s) will not be available to a person(s) to be displaced.

High replacement housing costs have been encountered more frequently in recent years. The statutory payment limits, unchanged until 1987, were sufficient to re-house almost all displaced persons in the early 1970s, but became increasingly inadequate thereafter. This, however, should improve with the advent of MAP-21.

5.15.1 – Planning for Housing of Last Resort

When a project appears to include persons who cannot readily be moved using the regular relocation program benefits and/or procedures, i.e., when there is a unique housing need or when the cost of available comparable housing would result in payments in excess of the statutory payment limits ($31,000 or $7,200), you should consider using Housing of Last Resort (HLR). Of particular concern are large families, low-income persons (especially families), the elderly or handicapped, other persons with physical, social or emotional problems, tight or volatile housing markets, large older dwellings, a large number of substandard dwellings within the project area, and similar situations. As the preceding list makes apparent, the need for HLR cuts across economic lines and is not limited to displaced persons with low incomes.

Using HLR effectively requires planning. CDOT may wish to develop a plan delineating the needs of displaced persons, the proposed method(s) of providing necessary housing, and consideration of the needed level of funding. The plan is a guide for action. Early advance planning will provide sufficient time for CDOT to consider a broad range of possible HLR alternatives and to avoid costly delays in construction.

Every effort should be made to identify potential HLR cases early. Some Real Estate Specialists have a tendency to postpone contacts with displaced persons with difficult housing needs. Knowing that HLR is a possibility may focus attention on a case early enough to enable CDOT to resolve the problem by the use of intensified but routine (non-HLR) relocation services. HLR should be used only when all regular relocation benefits and services are inadequate. The use of HLR to backstop an inefficient relocation operation is wasteful and, in addition, may be perceived as inequitable by persons who do not receive HLR benefits. HLR should not be a substitute for adequate lead time or appropriate relocation advisory services.

CDOT should obtain information about the needs, preferences, and intentions of the displaced person through in-depth interviews before planning housing solutions. There may be several possible solutions for each displaced person or group of displaced persons. Do not make assumptions about the acceptability of a particular housing proposal until all the options have been explored with the displaced person.

After discussing HLR housing proposals with the displaced person and receiving their concurrence, CDOT should obtain their written consent before implementing the chosen solution. In the absence of a displaced person's written agreement, the potential exists for a substantial expenditure on a proposal (for the construction of a house, for example) which the displaced person later may prove unwilling to accept.

Do not limit consideration of housing solutions to those that minimize CDOT's administrative involvement. People who are displaced often have unique needs and housing solutions may have to be creative and individualized in order to meet those special needs. Merely providing the displaced person with more money to spend on housing may be administratively simple but more expensive than other housing solutions and may not address housing needs other than affordability.

In addition, try to plan a solution that will accommodate a displaced person's long-term housing needs. Persons receiving last resort assistance often are in tenuous positions and may find it difficult to maintain their situation after some period of time passes. One way of providing greater stability for some persons is to assist them to become homeowners. This approach is encouraged when it is appropriate and concurred in by the displaced person.

The displaced person likely will need assistance in obtaining financing. For example, special counseling may be necessary in order to help the displaced person qualify for a mortgage. Perhaps CDOT itself will have to provide financing or structure a solution allowing the displaced person to later qualify to purchase, e.g., to offer the dwelling initially for rent with an option to purchase agreement that would apply a portion of the rent to a number of other arrangements are conceivable.

Coordination with other agencies may be helpful and opportunity for cooperative agreements should be explored. Local agencies with programs involving housing such as Public Housing Authorities may be in a better position to provide and manage housing than CDOT. HLR projects may be contracted out to other agencies for construction as well as management.

However, CDOT always retains responsibility for the outcome of the relocation.

5.15.2 – Methods of Providing Comparable Replacement Housing

CDOT 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. The methods of providing replacement housing of last resort include, but are not limited to:

1. A replacement housing payment in excess of the limits set forth in 49 CFR Part 24, §24.401 or § 24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at CDOT's discretion. For a homeowner under housing of last resort, CDOT's policy is the total amount must be applied to the purchase of a replacement dwelling. For a tenant under housing of last resort continuing to rent,

CDOT's policy is to provide three installment payments at 14-month intervals, for a total of greater than $7,200. For a tenant under housing of last resort who purchases a dwelling, it is CDOT's policy that the total amount must be applied to the purchase of a replacement dwelling.

2. Rehabilitation of and/or additions to an existing replacement dwelling.

3. The construction of a new replacement dwelling.

4. 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.

5. The relocation and, if necessary, rehabilitation of a dwelling.

6. The purchase of land and/or a replacement dwelling by CDOT and subsequent sale or lease to, or exchange with a displace person.

7. The removal of barriers for persons with disabilities.

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, § 24.404(c)), 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 49 CFR Part 24, § 24.2(a)(6)(ii).

CDOT shall provide assistance to a displaced person who is not eligible to receive a replacement housing payment under 49 CFR Part 24, § 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 displaced person's financial means. (See 49 CFR Part 24, § 24.2(a)(6)(viii)(C)). Such assistance shall cover a period of 42 months.

5.15.3 – Use of Sound Business Practices in Housing of Last Resort

Housing of Last Resort is a mechanism utilizing extraordinary funding or other actions to provide comparable, decent, safe, and sanitary housing. It is essential that all such actions be conducted in a cost-effective manner and in conformance with sound business practices. In particular, you should make every effort to assure that funds are utilized for the intended purpose (housing) to the maximum extent feasible.

For example, if CDOT uses HLR to subsidize rent, an escrow account may be established, payable on a periodic basis to the displaced person, jointly to the displaced person and the landlord, or to some other appropriate person, as agreed to by the displaced person. Do not set up accounts to be paid to landlords or other persons without their written agreement to continue to provide the selected housing, maintained in accordance with DSS standards, for the

displaced person for the entire 42 months. Of course, such accounts should be established only with the full knowledge and concurrence of the displaced person.

Also, be aware that the personal circumstances of a displaced person can change after relocation into HLR. A subsequent move may be necessary due to a job opportunity in a distant location, a family illness, loss of employment, or other similar reasons. The HLR method should not freeze a person into a dwelling. On the other hand, CDOT cannot incur additional costs to subsidize a subsequent move which is not project related. To the extent feasible, CDOT should be willing to make benefits transferable if necessary.

Sometimes a displaced renter may move or the dwelling may no longer be available. In the event of such changes, the escrow agent should be instructed to promptly notify CDOT. Since the full amount of the HLR rental subsidy vested with the displaced person when he or she occupied DSS replacement housing, the remnant can be paid to him/her or CDOT can assist in locating other housing.

5.15.4 – 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 49 CFR Part 24, § 24.401 or § 24.402, as appropriate, CDOT 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:

    A. The availability of comparable replacement housing in the program or project area;

    B. The resources available to provide comparable replacement housing; and

    C. The individual circumstances of the displaced person, or;

2. By a determination that:

    A. 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;

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

    C. The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

5.15.5 – 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. CDOT shall not require any displaced person to accept a dwelling provided by CDOT under these procedures (unless CDOT 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.

Section 5.16 – Mobile Homes

The definition of mobile home includes manufactured homes and recreational vehicles used as residences. For purposes of this section, the term mobile home and manufactured home is synonymous.

A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: The recreational vehicle is purchased and occupied as the “primary” place of residence; it is located on a purchased or leased site and connected to or have available all necessary utilities for functioning as a housing unit on the date of CDOT’s inspection; and the dwelling, as sited, meets all local, state, and Federal requirements for a decent, safe and sanitary dwelling.

Mobile homes present one of the most complex and difficult situations with which displacing agencies must cope. Mobile homes differ from conventional housing in that their status as real or personal property varies from State to State. Also, in a mobile home situation, there is a separation between the dwelling and the site it occupies which is not present with a conventional dwelling. For example, one may own a mobile home but rent its site or vice versa.

These differences present CDOT with two general problems. The first involves a decision it does not have to make with conventional housing -- whether to acquire or move the dwelling from which displacement occurs. It is CDOT’s policy that a mobile home connected to electric, plumbing and sanitary facilities is appraised and acquired as realty. The second is a major increase in the complexity of determining the relocation payments for which the displaced person is eligible.

In addition, mobile homes typically will have a disproportionate number of low income, elderly, and other occupants who are difficult to move successfully. For all these reasons, dealing with mobile home moves will require the maximum in planning, preparation, patience, and assistance.

This section describes the requirements governing the provision of replacement housing payments to person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this section. Except as modified by this section, such displaced person is entitled to a moving expense payment in accordance Subpart D of 49 CFR Part 24 and a replacement housing payment in accordance with Subpart E of 49 CFR Part 24 to the extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in 49 CFR Part 24, § 24.301(g)(1) through (g)(10).

5.16.1 – Three Basic Mobile Home Factors

As noted above, moves from mobile homes present two special problems, a decision on whether to acquire or move the mobile home and increased complexities concerning relocation payments. These problems, in turn, are affected by three basic considerations:

1. Realty versus Personalty
2. Mobile Home versus Site; and
3. Owner versus Tenant.

5.16.2 – Realty Versus Personalty

The first consideration when dealing with mobile home moves is to determine the status of the mobile home as realty or personalty.

If the acquiring agency is a State or local agency, or any other entity, the status of the mobile home is determined in accordance with the laws of the State in which it is located. Some State laws allow mobile homes to be considered as either realty or personalty; others do not address the issue. Some State laws provide that mobile homes are considered realty if the wheels have been removed and the mobile homes have been attached in a permanent fashion to the site.

Other State laws consider mobile homes as personalty regardless of how they are attached to the land.

The status of mobile homes as realty or personalty is important because, depending on State law, it may affect the agency's decision whether to acquire the mobile home or move it.

In general, there are fewer problems associated with acquiring a mobile home as realty, especially if the site is owned by the owner-occupant of the mobile home. If acquisition is permitted under State law, it is recommended to acquire the mobile home. Although mobile homes are capable of being moved, they are considered realty in Colorado when they contain and are affixed to electrical, plumbing and sanitary facilities.

Determining whether a particular manufactured home should be considered realty or personalty is not easy because any number of factors can impact this assessment. The ultimate question is “how movable is the home?” If the home can be moved easily, with little cost, and with low prospects that movements will cause damage, then it is personalty. If a home is permanently affixed to the ground, and movement would require substantial costs or could result in severe

damage, then it is realty. A number of factors can, and should, be considered in making this determination.

Colorado law provides additional guidance with its definition of “Manufactured home.” A “Manufactured home” is any building or combination of buildings that: “(a) Include electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home; (b) Is designed for residential occupancy in either temporary or permanent locations; (c) Is constructed in compliance with the federal act, factory-built residential requirements, or mobile home standards; (d) Does not have motor power; and (e) Is not licensed as a recreational vehicle.” § 24-32-3302(20), C.R.S.

Thus, if the manufactured home had its electrical, mechanical, and plumbing services installed at another location before it was transported to the site, it is probably personalty. Similarly, if it has motor power or is licensed as a vehicle, it is probably personalty.

Check the title work on the property to see if the manufactured home has either a certificate of permanent location or an affidavit of real property filed in the property’s clerk and recorder records. If either of these documents have been filed, then the manufactured home is part of the realty by law. See § 38-29-202(2)(I.5) and 208(1).

Whatever its requirements, State law concerning the status of mobile homes should be considered at the time the appraisal is made.

5.16.3 – Mobile Home Versus Site

As discussed above, mobile homes, unlike their conventional counterparts, may be separated from their sites, i.e., one may own a mobile home but rent its site, or vice versa. Thus, it is useful to think of a mobile home move as consisting of two parts, one dealing with the mobile home itself and one dealing with the site. Fortunately, in terms of the decision whether to acquire or move, one part is simple to think about. The site is always acquired.

For the mobile home (dwelling) part of the move, the matter becomes somewhat more complicated because a mobile home may be either acquired or moved.

Since a mobile home move often has two distinct parts, the mobile home itself and the site, it often is necessary to compute two separate replacement housing payments. For example, these payments might each reflect a different status (owner or tenant), since a person might own the mobile home but rent the site or vice versa.

5.16.4 – Owner Versus Tenant

As with conventional homes, replacement housing payments for persons displaced from mobile homes differ based on status as homeowner or tenant. For RHP purposes, the occupant's status as an owner or a tenant is determined by his/her ownership or tenancy of the mobile home itself (not of the site on which it is located). Thus, an occupant of a mobile home who owns the mobile home and its site and an occupant who owns the mobile home but not the site, are both homeowners for RHP purposes and are potentially eligible for an RHP of $31,000.

Conversely, an occupant who owns the site but rents the mobile home is a tenant for RHP purposes and is eligible for an RHP not to exceed $7,200. The computation of actual payments is discussed below.

Eligibility for RHPs also is affected by the length of time the displaced person has occupied the mobile home and the displacement site prior to the initiation of negotiations. This parallels the requirements for occupants of conventional dwellings.

5.16.5 – 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 CDOT determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person who is entitled to relocation payments and other assistance under this part.

5.16.6 – Replacement Housing Payment for 90-Day Mobile Homeowner Displaced from a Mobile Home, and/or from the Acquired Mobile Home Site

An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed $31,000 under 49 CFR Part 24, § 24.401 if:

1. The person occupied the mobile home on the displacement site for at least 90 days immediately before:

    A. The initiation of negotiations to acquire the mobile home, if the person owned the

mobile home and the mobile home is real property;

B. The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

C. The date of CDOT's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home.

2. The person meets the other basic eligibility requirements at 49 CFR Part 24, § 24.401(a)(2); and

3. CDOT acquired the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because CDOT determines that the mobile home;

A. Is not, and cannot economically be made decent, safe, and sanitary;

B. Cannot be relocated without substantial damage or unreasonable cost;

C. Cannot be relocated because there is no available comparable replacement site; or

D. Cannot be relocated because it does not meet mobile home park entrance requirements.

5.16.7 – Replacement Housing Payment Computation for a 90 Day Owner that is Displaced from a Mobile Home

The replacement housing payment for an eligible displaced 90-day owner is computed as described at 49 CFR Part 24, § 24.401(b) incorporating the following, as applicable:

1. If CDOT acquires the mobile homes as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.

2. If CDOT does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (i.e., purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of CDOT's selected comparable mobile home less CDOT's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

3. If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

5.16.8 – Rental Assistance Payment for a 90 Day Owner Occupant that is Displaced from a Leased or Rented Mobile Home Site

If the displacement mobile home site is leased or rented, a displaced 90-day owner-occupant is entitled to a rental assistance payment computed as described in 49 CFR Part 24, § 24.402(b). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe, and sanitary dwelling.

5.16.9 – Owner-Occupant Not Displaced from the Mobile Home

If CDOT determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs described at 49 CFR Part 24, § 24.301 and any replacement housing payment for the purchase of rental of a comparable site as described in this section or 49 CFR Part 24, § 24.503 as applicable.

5.16.10 – Replacement Housing Payment for 90-Day Mobile Home Occupants

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed $7,200, under 49 CFR Part 24, § 24.402 if;

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

2. The person meets the other basic eligibility requirements at 49 CFR Part 24, § 24.402(a); and

3. CDOT acquires the mobile home and/or mobile home site, or the mobile home is not acquired by CDOT but CDOT determines that the occupant is displaced from the mobile home because of one of the circumstances described at 49 CFR Part 24, § 24.502(a)(3).

Section 5.17 – Quality Assurance

CDOT has the overall responsibility for the acquisition, management, and disposal of real property interests on its Federal-aid projects, including when those projects are carried out by local agencies or contractors. This responsibility shall include ensuring compliance with the requirements of Federal laws and regulations.

The CDOT Right of Way Relocation Program will undertake quality assurance efforts to ensure compliance. Such efforts may include, but will not be limited to, inter-regional and intra-regional file reviews, routine distribution of customer service surveys and demographic information forms to displacees with self-addressed stamped envelopes to Project Development, Headquarters ROW, and independent site visits and interviews with displacees after relocations have been completed.

Surveys shall be kept confidential and used only to improve CDOT's Program.

Section 5.18 – Records Management

Right of Way Project Records will be retained according to retention periods described in the Right of Way and Survey Record File Plans. The Record File Plan may also indicate the archive location for any documents with a permanent retention period. Record File Plans are maintained by CDOT's Records Management Program.

Most Right of Way relocation records have either a permanent retention period or a retention period of 3.5 years from the Form 950 project closure date, including local agency projects. Exceptions to the 3.5 year period apply in the case of major CMGC, Design-Build, P3 or other innovative contract projects, projects that are subject to internal or external audit, projects with litigation holds, and projects funded with emergency funding.

Project Development, Headquarters ROW will maintain original copies of all Right of Way acquisition documents as received in warrant request packages, closing packages or other transmittals. Region ROW Units may maintain copies of these documents in electronic or paper format as long as needed, but for no shorter than the duration of the project.

Adobe Sign is the electronic signature and professional seal software selected by CDOT and required for use on project Records. Adobe Sign is not the electronic signature program for use on documents requiring a CDOT Controller or State Controller signature (contracts). Adobe Sign may be used for relocation documents. If a document required for a warrant request package or closing package is signed electronically, the electronic document should be sent to Project Development Branch, Headquarters ROW or saved in the established EDMS.

Project Development, Headquarters ROW will archive permanent Right of Way relocation records in an established Electronic Document Management System (EDMS) on an ongoing basis in the necessary formats to ensure accessibility for 100 years. Recorded deeds, easements and other conveyances will be saved electronically upon receipt by Project Development, Headquarters ROW. Other records may be saved or created electronically in an EDMS by Headquarters or Region ROW Units as determined to be necessary. Records with a less than a permanent retention period may be retained solely in paper format if preferred by Region and Headquarters ROW Units.

After the project is closed, final ROW Plans must be scanned in the current archival format at the time form 950 is issued. Tabulation sheets should include recording information of all parcel acquisitions during the project. Destruction of paper copies cannot occur until the archival process has been completed.

The Project Development, Headquarters ROW parcel file and main project files will be evaluated for additional archiving after issuance of a final Right of Way Clearance for the project. Non-permanent records will be identified and prepared for destruction 3.5 years after the Form 950 project closure date.

Original Right of Way acquisition documents, whether permanent or non-permanent, should only be destroyed after a destruction form has been approved by the ROW Program Manager.