

CHAPTER 12

RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

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FORMS--RESERVED

## CHAPTER 12

### RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

#### SECTION I - GENERAL

##### 1. PURPOSE AND SCOPE

a. This chapter implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act (the "Uniform Act"). Among other things, the Act designates the Department of Transportation (DOT) as the lead Federal agency. In this regard, DOT's Federal Highway Administration (FHWA) Office of Real Estate Services is the technical expert for relocation issues and its staff is available for assistance to all Federal agencies on any relocation matters. Additional relocation assistance guidance, information laws, and regulations are available from FHWA's website at <http://www.fhwa.dot.gov/realestate>.

b. The scope of this chapter applies to all Department of the Navy programs or projects involving the acquisition of real property or the displacement of people, businesses, or farm operations.

c. Unless otherwise noted, "property" refers to "real property" in this Chapter.

##### 2. REFERENCES

- (a) Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs Act (Uniform Relocation Act), 42 U.S.C. §§ 4601-4655
- (b) (Reserved)
- (c) [Civil Rights Act of 1964 \(42 U.S.C. § 2000d\)](#)
- (d) [Civil Rights Act of 1968 \(a/k/a, Fair Housing Act\) \(42 U.S.C. §§ 3601-3639\)](#)
- (e) [Exec. Order No. 11,063 \(27 Fed. Reg. 11,527 \(Nov. 24, 1962\)\)](#), as amended by [Exec. Order No. 12,259 \(46 Fed. Reg. 1,253\)\(Dec. 31, 1980\)](#)
- (f) [Department of Transportation, 49 C.F.R. pt. 24](#)
- (g) [Disaster Relief Act of 1974 \(42 U.S.C. §§ 5121-5206\)](#)
- (h) (Reserved)

### 3. DEFINITIONS

A complete listing of relocation-specific definitions in [Paragraph 32](#).

### 4. POLICY

a. Department of the Navy (DON) policies are based on provisions of reference (a) as follows:

(1) Relocation Assistance. Whenever the acquisition of property for a DON program or project results in the displacement of persons, specific relocation services and payments to aid them must be made. Services and payments within the scope of [reference \(a\)](#) shall be rendered in a fair, consistent, and equitable manner to ensure that:

(a) persons displaced by Navy acquisitions do not suffer disproportionate economic losses as a result of projects designed for the benefit of the public as a whole; and

(b) these regulations are implemented in an efficient and cost effective manner.

(2) Property Acquisition. Complete the acquisition of property required by DON in a manner that will:

(a) Assure fair and consistent treatment of property owners affected by the various DON property acquisition programs;

(b) Encourage and expedite acquisition of properties by negotiation rather than condemnation; and

(c) Build public confidence in DON property acquisition programs.

### 5. RESPONSIBILITY

a. [Reference \(a\)](#) is applicable to all DON property acquisition programs. Responsibility is vested in each Facilities Engineering Command (FEC), acting independently or through its relocation assistance contractor or cooperating agency, to ensure that all essential provisions of these laws are known and followed. Commander, Naval Facilities Engineering Command approval is no longer

required for waivers of assurances of the availability of decent, safe and sanitary housing under Section 205(c)(3) of [reference \(a\)](#). However, each FEC is required to document its relocation assistance actions.

b. A general recitation of the provisions and requirements of [references \(a\)](#) and [\(f\)](#) are as follows:

(1) As soon as feasible, the FEC will notify the property owner in writing of the DON's interest in acquiring the property and of the basic protections allowed by law and [reference \(f\)](#), including the Navy's obligation to secure an appraisal of the property. Each notice must be personally served or sent by certified first-class mail, return receipt requested;

(2) To qualify for benefits as a displaced person, a tenant-owner must support any claim for a relocation payment. Claim support is established by documentation that may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of expenses. A displaced person must be given reasonable assistance necessary to complete and file any required claim for payment.

(3) No payment shall be made to a tenant-owner for any property improvements unless:

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

(b) The owner of the property on which the improvements are located disclaims all interest in them; and

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

(4) Certain benefits authorized by Title II of [reference \(a\)](#) are available as follows:

(a) Whenever a program or project will result in the displacement of any person, business, farm operation, or other personal property, the FEC shall provide for payments and benefits to the displaced person. The payments and benefits shall be rendered according sections 4622 and 4625 of [reference \(a\)](#); and

(b) If the FEC determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury by reason of the occupancy, it may make available to that person relocation advisory services authorized under section 4622(c) of [reference \(a\)](#);

(5) For property acquisitions under Federal law, contracts or options to purchase property will not incorporate the provisions for making payments for relocation costs and related items provided in Title II of the Uniform Act. Appraisers shall not consider or include in their property appraisals any allowances for the benefits provided by [sections 4621-4638](#) of the Uniform Act. If there is condemnation with a Declaration of Taking, determine the estimated compensation based solely on the appraised value of the property giving without consideration of, or reference to, the payments that may be made under those sections of the Uniform Act;

(6) A displaced person shall file all claims for a relocation payment with the FEC within 18 months after:

(a) For tenants, the date of displacement;

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

The FEC may waive this time period for good cause; and

(7) The provisions of the Uniform Act apply to the acquisition of all property for, and the relocation of all persons displaced by, DON programs and projects. It is immaterial whether the property is acquired by a Federal or state agency or whether Federal funds contribute to the cost of the property.

## **SECTION II - GENERAL RELOCATION REQUIREMENTS**

### **6. RELOCATION NOTICES**

a. Public Information. The FEC shall make available to the general public full information concerning the Navy's relocation programs.

b. General information notice. At the earliest possible time, the FEC shall furnish persons scheduled to be

displaced with a general written description of DON's relocation program that does at least the following:

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

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

(3) Informs the person(s) that he/she/they will not be required to move without at least 90 days advance written notice. It also informs any person(s) to be displaced from a dwelling that he/she/they cannot be required to move permanently unless at least one comparable replacement dwelling has been made available; and

(4) Informs the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless the ineligibility would result in exceptional and extremely unusual hardship to a qualified spouse, parent, or child as defined in [Paragraph 32](#).

(5) Describes the person(s) right to appeal the FEC determination of their application for assistance for which they may be eligible under [reference \(f\)](#).

c. Notice of relocation eligibility. Eligibility for relocation assistance shall begin on the date of "initiation of negotiations" (defined in [Paragraph 32](#)) for the property. When this occurs, the FEC shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

d. Ninety-day notice.

(1) General. No lawful occupant(s) shall be required to move unless he/she/they have received at least 90 days advance written notice of the earliest date by which he/she/they may be required to move.

(2) Timing of notice. The FEC may issue the notice



90 days before it expects the person to be displaced or earlier.

(3) Content of notice. The 90-day notice shall either state a specific date as the earliest date by which the occupant(s) may be required to move, or state that the occupant(s) will receive a further notice indicating, at least 30 days in advance, the specific date by which they must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant(s) will not have to move earlier than 90 days after a dwelling is made available. (**See Paragraph 7.**)

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

## **7. AVAILABILITY OF COMPARABLE REPLACEMENT DWELLING BEFORE DISPLACEMENT**

a. General. No person(s) that will be displaced shall be required to move from his/her/their dwelling unless at least one "comparable replacement dwelling" (defined in [Paragraph 32](#)) has been made available. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

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

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

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

b. Circumstances permitting waiver. The FEC may grant a waiver of the general statement in [subparagraph a.](#), in any case where it is demonstrated that the person(s) must move because of:

(1) A major disaster as defined in subsection 102(c) of [reference \(g\)](#);

(2) A presidentially declared national emergency;  
or

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

c. Basic conditions of emergency move. Whenever the person(s) are required to relocate for a temporary period because of an emergency as described in [subparagraph b.](#), the FEC shall:

(1) Take whatever steps are necessary to assure that the person(s) are temporarily relocated to a decent, safe, and sanitary dwelling (as defined in [Paragraph 32](#));  
and

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

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

## **8. RELOCATION PLANNING/ADVISORY SERVICES/COORDINATION**

a. Relocation planning. During the early stages of planning property acquisition projects, problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations should be recognized and solutions developed to minimize the adverse impacts of displacement. That planning, where appropriate, will precede any action by the FEC that will cause displacement.

It should be scoped to the complexity and nature of the anticipated displacing activity, including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study that may include the following:

(1) An estimate of the number of households to be displaced, including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impact on persons of ethnic origin, the elderly, large families, and the handicapped, when applicable;

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions (as discussed in [Paragraph 24](#)) should be instituted;

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

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

b. Loans for planning and preliminary expenses. The provisions of section 4635 of the Uniform Act permit the use of project funds for loans to non-profit or other specified organizations to pay for planning and other preliminary expenses to encourage the development of housing to meet the needs of displaced persons. If DON elects to consider using these provisions, the Department of Transportation, or lead agency, will establish the criteria and procedures for that use upon request.

c. Relocation assistance advisory services.

(1) General. The FEC shall carry out a relocation assistance advisory program that satisfies the requirements of [references \(c\), \(d\), and \(e\)](#), and offers the services described in [subparagraph c.\(2\)](#). If the FEC determines that a person occupying property adjacent to the property acquired for the project is caused substantial economic

injury because of the acquisition, it may offer advisory services to that person.

(2) Services to be provided. The advisory program shall include the measures, facilities, and services that may be necessary or appropriate to:

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

(b) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings. Also, explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in [Paragraph 7.a.](#).

(1) As soon as feasible, the FEC must inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (See [Paragraph 23](#) (a) and (b) and the basis for the determination. This is needed to make the person(s) aware of the maximum replacement housing payment for which he/she/they may qualify.

(2) Where feasible, inspect the housing before making it available to assure that it meets applicable standards. (See the definitions for "comparable replacement dwelling" and "decent, safe and sanitary dwelling" in [Paragraph 32.](#)) If that inspection is not made, notify the person that will be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(3) Whenever possible, give persons of ethnic origin reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of ethnic origin concentration, that are within their financial means. This does not require the Navy to pay a person more than is necessary to enable him or her to relocate to a comparable replacement dwelling.

(4) Offer all persons, especially the elderly and handicapped, transportation to inspect housing to which they are referred.

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

(d) Minimize hardships to persons in adjusting to relocation by offering counseling, advice about other sources of assistance that may be available, and other help that may be appropriate.

(e) Give persons that will be displaced appropriate information about Federal and state housing programs, disaster loan, and other programs administered by the Small Business Administration, and other Federal and state programs offering assistance to displaced persons, and technical help to persons applying for assistance.

(f) Any person who occupies Navy-acquired property, when the occupancy began subsequent to the acquisition, and the FEC permits the occupancy by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as the FEC determines appropriate.

(3) General Contacts.

(a) Department of Veterans Affairs (VA). The Department of Veterans Affairs maintains a housing counseling service and a displaced persons priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and Federally assisted programs. Also, the local VA Loan Guarantee Office should be contacted.

(b) Small Business Administration. The Small Business Administration offers technical and loan counseling services for small businesses. The FEC should advise a displaced businessperson of these services.

(c) Department of Agriculture. The Department of Agriculture has many farm programs available. Coordination with the Department is recommended when a farm operation is displaced.

(d) Department of Housing and Urban Development (HUD). Prior to relocating individuals from a project site, consult the appropriate HUD regional/area office regarding the availability of replacement housing. HUD may have housing or urban renewal projects pending with a state or municipality that could assist in obtaining replacement dwellings for displaced persons. Also contact the Federal Housing Administration (FHA) to determine if homes it owns in the area of displacement can be made available to displaced persons. Individuals displaced by a Navy project may be entitled to priority in obtaining FHA's housing program loans.

(e) Local Governmental Organizations. Local governmental organizations and agencies, such as redevelopment and housing authorities, may have rent supplement, public housing, or related relocation assistance programs that may be used to provide housing for the occupants displaced from a project. Local programs should be used where they exist. Local non-governmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners' associations, home builders' associations, and other organizations may have information and offer services that may be of help in obtaining comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also, many states have veterans' organizations that offer services to veterans. The availability of state organizations should be ascertained and used.

d. Coordination of relocation activities. Coordinate relocation activities with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and duplication of functions is minimized. (Also see [Part 24.6 of reference \(f\)](#).)

## 9. EVICTION FOR CAUSE

a. Eviction for cause must conform to applicable state and local law. Any person who occupies the property and is not in unlawful occupancy on the date of the initiation of negotiations is presumed to be entitled to relocation

payments and other assistance set forth in [reference \(f\)](#), unless the FEC determines that:

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

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

(3) In either case, the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in [reference \(f\)](#). For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available.

**10. GENERAL REQUIREMENTS CLAIMS FOR RELOCATION PAYMENTS/ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES**

a. General Requirements Claims for Relocation Payments.

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

(2) Expeditious payments. The FEC will review claims in an expeditious manner. Promptly notify the claimant as to any additional documentation 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.

(3) Advance payments. If a person demonstrates the need for an advance relocation payment to avoid or reduce a hardship, the FEC shall issue the payment, subject to such safeguards as are appropriate to ensure accomplishment of the payment objective.

(4) Time for filing.

(a) All claims for a relocation payment must be filed with the FEC 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 property, whichever is later.

(b) The FEC shall waive this time period for good cause.

(5) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the FEC, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the FEC determines that two or more occupants maintained separate households within the same dwelling, the occupants are separately entitled to relocation payments.

(6) Deductions from relocation payments. The FEC should deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, the FEC should deduct from relocation payments any rent that the displaced person owes the Navy; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as [Paragraph 7](#) requires. The FEC cannot withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Notice of denial of claim. If the FEC 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 must promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

b. 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.

© In the case of an unincorporated business, farm, or non-profit 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 non-profit organization, by its chief executive officer or president, that the corporation is authorized to conduct business within the United States.

(2) The certification provided pursuant to [subparagraphs \(1\)\(a\), \(b\), and \(c\)](#) must indicate whether the person certifying is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The Navy or other agency funding the project or program can demand additional certification requirements.

(3) In computing relocation payments under reference (a), if any member(s) of a household or owner(s) of an unincorporated business, farm, or non-profit 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 the household, unincorporated business, farm, or non-profit organization would otherwise be eligible shall be computed for the household based on the number of eligible members, and for the unincorporated business, farm, or non-profit organization, based on the ratio of ownership between eligible and ineligible owners.

(4) The FEC shall consider the certification under this paragraph to be valid, unless the FEC determines in accordance with [subparagraph \(6\)](#) that it is invalid based on a review of an alien's documentation or other information the FEC considers reliable and appropriate.

(5) Any review by the FEC of the certifications provided pursuant to this paragraph shall be

conducted in a nondiscriminatory fashion. The FEC shall apply the same standard of review to all certifications it receives, except the standard may be periodically revised.

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

(a) If the FEC believes that the certification of a person that he or she is an alien lawfully present in the United States is invalid, it shall obtain verification of the alien's status from the local U.S. Citizenship and Immigration Services office. The request for verification shall include the alien's full name, date of birth, alien number, and a copy of the alien's documentation.

(b) If the FEC believes that the certification of a person that he or she is a citizen or national is invalid, it shall request evidence of United States citizenship or nationality from that person, and if necessary, verify the accuracy of such evidence from the issuer.

(7) No relocation payments or relocation advisory assistance shall be provided to a person who has not delivered the certification discussed in this paragraph, or who has been determined to be not lawfully present in the United States, unless that person can demonstrate to the FEC's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to his/her spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for personal residence in the United States.

(8) For purpose of [subparagraph \(7\)](#), the phrase "exceptional and extremely unusual hardship" to the 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 that person will directly result in:

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

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

(c) Any other impact that the FEC determines will have a significant and demonstrable adverse impact on the spouse, parent, or child.

### **SECTION III - RECORDKEEPING, REPORTS, AND APPEALS**

#### **11. RECORDS**

a. The FEC shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with [reference \(f\)](#). The FEC shall retain these records for at least three 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. Alternatively, records maintenance and retention may vary according to the applicable regulations of the Navy or other Federal funding agency.

b. Confidentiality of records. The records the FEC maintain according to [Part 24.9](#) of [reference \(f\)](#) are confidential regarding their use as public information, unless applicable law allows otherwise.

#### **12. REPORTS**

The FEC shall submit a report of its property acquisition and displacement activities to the Federal agency funding the project (other than the Navy) if that Federal agency requires it. A report will not be required more frequently than every three years, or as the Uniform Act authorizes, unless the Federal funding agency demonstrates good cause. The FEC shall prepare the report and submit it in the format contained in [Appendix B](#) of [reference \(f\)](#).

### 13. APPEALS PROCEDURES

a. General. The FEC shall promptly review appeals according to the requirements of [reference \(f\)](#) and applicable law.

b. Actions that may be appealed. Any aggrieved person may file a written appeal with the FEC in any case in which the person believes that the FEC has failed to properly consider the person's application for assistance under [reference \(f\)](#). That assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under [sections 24.106](#) or [24.107](#) of [reference \(f\)](#), or a relocation payment required under [reference \(e\)](#). The FEC shall consider a written appeal regardless of its form.

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

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

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

f. Scope of appeal review. In deciding an appeal, the FEC shall consider all pertinent justification and other material the person submits, as well as all other available information needed to ensure a fair and full appeal review.

g. Determination and notification after appeal. Promptly after receipt of all information a person submits in support of an appeal, the FEC shall make a written determination on the appeal and furnish the person a copy. The determination shall include an explanation of the basis upon which the decision was made. If the FEC does not grant the full relief requested, it must advise the person of his or her right to seek judicial review.

h. Agency official to review appeal. The FEC official conducting the appeal review shall be either the FEC Commander/Commanding Officer or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

#### **SECTION IV - PAYMENTS FOR MOVING AND RELATED EXPENSES**

#### **14. PAYMENTS FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES - RESIDENTIAL MOVES**

a. Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (as defined in [Paragraph 32](#)) is entitled to payment of his or her actual moving and related expenses, as the FEC determines to be reasonable and necessary. This includes expenses for:

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

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

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

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

(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 that loss, theft, or damage is not reasonably available.

(7) Other expenses related to moving that are not listed as ineligible under [Paragraph 18](#), as the FEC determines to be reasonable and necessary.

**15. FIXED PAYMENT FOR MOVING EXPENSES - RESIDENTIAL MOVES**

Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under [Paragraph 14](#). Determine this allowance according to the applicable Federal Highway Administration's approved schedule. This includes a provision that the expense and dislocation allowance to a person having minimum personal possessions and occupies a dormitory style room shared by two or more other unrelated persons shall be limited to \$50. This limitation also applies to a person whose residential move is performed by an agency at no cost to the person.

**16. PAYMENT FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES - NON-RESIDENTIAL MOVES**

a. Eligible costs. Any business or farm operation that qualifies as a displaced person (defined in [Paragraph 32](#)) is entitled to payment for actual moving and related expenses, as the FEC determines to be reasonable and necessary, including expenses for:

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

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

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in [subparagraph a.\(12\)](#). This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for installing utilities from the "main" to the building or improvement are excluded.)

(4) Storage of the personal property for a period

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not to exceed 12 months, unless the FEC determines that a longer period is necessary.

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

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

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

(8) Professional services 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.

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

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

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

(b) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm

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operation is discontinued, base the estimated cost on a moving distance of 50 miles.)

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

(12) Purchase of substitute personal property. If an item of personal property that 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 at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(b) The estimated cost of moving and re-installing the replaced item, but with no allowance for storage. At the FEC's discretion, it may base the estimated cost for a low cost or uncomplicated move on a single bid or estimate.

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

(a) Transportation;

(b) Meals and lodging away from home;

(c) Time spent searching, based on a reasonable salary or earnings; and

(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 the site.

(14) Other moving-related expenses that are not listed as ineligible under [Paragraph 18](#), as the FEC determines to be reasonable and necessary.

b. Notification and inspection. The following requirements apply to payments under this [subparagraph 16.b.](#)

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(1) The FEC shall inform the displaced person in writing of the requirements of [subparagraphs b.\(2\) and \(3\)](#) as soon as possible after the initiation of negotiations.



The FEC may include this information in the relocation information provided to the displaced person as set forth in [Paragraph 6](#).

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

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

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

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

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

(1) The depreciated reproduction cost of the sign, as determined by the FEC, less the proceeds from its sale; or

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

#### **17. RE-ESTABLISHMENT EXPENSES NON-RESIDENTIAL MOVES**

a. In addition to the payments available under **12-22** [Paragraph 16](#), a small business, as defined in [Paragraph 32](#), farm, or nonprofit organization, may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small

business, farm, or nonprofit organization, at a replacement site.

b. Eligible expenses. Re-establishment expenses must be reasonable and necessary, as determined by the FEC. They may include, but are not limited to, the following:

(1) Repairs or improvements to the replacement real property as required by Federal, state, or local law, code, or ordinance;

(2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;

(3) Construction and installation costs, not to exceed \$1,500, for exterior signing to advertise the business;

(4) Provision of utilities from the "main" to improvements on the replacement site;

(5) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;

(6) Licenses, fees, and permits when not paid as part of moving expenses;

(7) Feasibility surveys, soil testing and marketing studies;

(8) Advertisement of replacement location, not to exceed \$1,500;

(9) Professional services in connection with the purchase or lease of a replacement site;

(10) Estimated increased costs of operation during the first two years at the replacement site, not to exceed \$5,000, for items such as:

(a) Lease or rental charges;

(b) Personal or real property taxes;

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(c) Insurance premiums; and

(d) Utility charges.

(11) Impact fees or one-time assessments for anticipated heavy utility usage.

(12) Other items that the FEC considers essential to the re-establishment of the business.

(13) Expenses exceeding the regulatory maximums stated in [subparagraphs b.\(3\) and \(10\)](#) may be considered eligible expenses if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at a similar replacement site. In these cases, the regulatory limitation for reimbursement of those costs may be waived by the FEC, or the Federal agency funding the project, but the total costs payable under this subparagraph shall not exceed the \$10,000 statutory maximum.

c. Ineligible expenses. The following is a nonexclusive listing of re-establishment 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) Interior or exterior refurbishments at the replacement site for aesthetic purposes, except as provided in [subparagraph a.\(5\)](#);

(4) Interest on money borrowed to make the move or purchase the replacement property;

(5) Payment to a part-time business in the home that does not contribute materially to the household income.

## **18. INELIGIBLE MOVING AND RELATED EXPENSES**

a. 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

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ownership. However, this part does not preclude the computation stated in [Paragraph 21.c.\(4\)\(b\)](#); or

(2) Interest on a loan to cover moving expenses;

or

- (3) Loss of goodwill; or
- (4) Loss of profits; or
- (5) Loss of trained employees; or
- (6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in [Paragraph 17.b.\(10\)](#); or
- (7) Personal injury; or
- (8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the FEC; or
- (9) Expenses for searching for a replacement dwelling; or
- (10) Physical changes to the property at the replacement location of a business or farm operation, except as provided in [Paragraphs 16.a.\(3\)](#) and [17.b.](#); or
- (11) Costs for storage of personal property on property currently owned or leased by the displaced person.

**19. FIXED PAYMENT FOR MOVING EXPENSES—NON-RESIDENTIAL MOVES**

a. Business. A displaced business may be eligible to choose a fixed payment instead of the payments for actual moving and related expenses and actual reasonable re-establishment expenses provided in [Paragraphs 17](#) and [18](#). The fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business as computed in accordance with [subparagraph e.](#), but not less than \$1,000 or more than \$20,000. The displaced business is eligible for the payment if the FEC determines that:

- (1) The business owns or rents personal property

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that must be moved in connection with the displacement and for which an expense would be incurred in the move and the business vacates or relocates from its displacement site; and

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

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

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

(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 displaced person's income during the two taxable years before displacement (See the "contributes materially" definition in [Paragraph 32](#)).

b. Determining the number of businesses. In determining whether two or more displaced legal entities constitute a single business entitled to only one fixed payment, consider all pertinent factors, 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.

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c. A displaced farm operation. (defined in [Paragraph 32](#)) may choose a fixed payment instead of the payments for actual moving and related expenses and actual reasonable re-establishment expenses. The fixed payment may be in an amount equal to its average annual net earnings as computed

according to [subparagraph e.](#), but not less than \$1,000 nor more than \$20,000. In the case of a partial acquisition of land that was a farm operation before the acquisition, the fixed payment shall be made only if the FEC determines that:

(1) The acquisition of part of the property and caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

d. Nonprofit organization. A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$20,000 instead of the payments for actual moving and related expenses and actual reasonable re-establishment expenses, if the FEC determines that it cannot be relocated without a

substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test unless the FEC demonstrates otherwise. Any payment exceeding \$1,000 must be supported with financial statements for the two, 12-month periods preceding the acquisition. The amount to be used for the payment is the average of two years' annual gross revenues less administrative expenses. (See Appendix A of [reference \(f\)](#))

e. Average annual net earnings of a business or farm operation. The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, state, and local income taxes, during the two tax years immediately before the tax year in which it was displaced. If the business or farm was not in operation for the full two tax years before displacement, base net earnings on the actual period of operation at the displacement site during the two tax years before displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the FEC determines it to be more equitable. Net earnings include any compensation the owner, the owner's spouse, and dependents obtain from the business or farm operation. The displaced person shall furnish the FEC proof of net earnings through income tax returns, certified

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financial statements, or other reasonable evidence that the FEC determines is satisfactory.

## **20. DISCRETIONARY UTILITY RELOCATION PAYMENTS**

a. Whenever a program or project causes the relocation of a utility facility (as defined in [Paragraph 32](#)) and the relocation of the facility creates extraordinary expenses for its owner, the FEC may, at its option, make a relocation payment to the owner for all or part of those expenses, if the following criteria are met.

(1) The utility facility legally occupies state or local government property, or property over which the state or local government has an easement; and

(2) The utility facility's right of occupancy arises under state law or local ordinance specifically authorizing the use, or where the use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement; and

(3) Relocation of the utility facility is required by, and is incidental to, the primary purpose of the project or program undertaken by the Navy; and

(4) There is no Federal law, other than the Uniform Act, that clearly establishes a policy for the payment of utility moving costs that is applicable to the Navy's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the FEC is in accordance with state law.

b. For the purposes of [Paragraph 20](#), the term "extraordinary expenses" means those expenses that, in the opinion of the FEC, are not routine or predictable expenses relating to the utility's occupancy of property. These expenses are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear the expenses as a condition for use of the property, or has voluntarily agreed to be responsible for the expenses.

c. A relocation payment to a utility facility owner for moving costs under this [Paragraph 20](#) may not exceed the cost to functionally restore the service disrupted by the

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project, less any increase in value of the new facility and salvage value of the old facility. The FEC and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work,

and the method of accumulating costs and making payment (see Appendix A of [reference \(f\)](#)).

## **SECTION V - REPLACEMENT HOUSING PAYMENTS**

### **21. REPLACEMENT HOUSING PAYMENT FOR 180-DAY HOMEOWNER-OCCUPANTS**

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

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

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

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

(b) The date the Navy's obligation under [Paragraph 7](#) above is met.

b. Amount of payment. The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$22,500. (See also [Paragraph 24](#).) This payment 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 the person, whichever is later. The payment shall be the sum of:

(1) The amount by which the replacement dwelling cost exceeds the displacement dwelling acquisition cost, as determined in accordance with [subparagraph c.](#); and

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(2) The increased interest costs and other debt service costs that are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with [subparagraph d.](#); and



(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with [subparagraph e.](#)

c. Price differential.

(1) Basic computation. The price differential that should be paid under [subparagraph b.](#) is the amount that must be added to the acquisition cost of the displacement dwelling to arrive at a total amount equal to the lesser of:

(a) The reasonable cost of a comparable replacement dwelling as determined in accordance with [Paragraph 23.a.](#); or

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

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

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

(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 will be the sum of:

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

(b) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined in [Paragraph 32](#)); and

(c) The current fair market value for residential use of the replacement site (see [Appendix A of reference \(f\)](#)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

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

d. Increased mortgage loan interest costs. The FEC shall determine the factors to use in computing the amount to pay a displaced person under [subparagraph b.\(2\)](#). The payment for increased mortgage loan interest cost shall be the amount that will reduce the mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage loan(s) on the displacement dwelling. In addition, payments must include other debt service costs, if not paid as incidental costs, and will be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days before the initiation of negotiations. [Subparagraph d.\(1\) through \(5\)](#) shall apply to the computation of the increased mortgage loan interest costs payment, which payment shall be contingent upon a mortgage being recorded against the replacement dwelling.

(1) Base the payment on the unpaid mortgage loan balance(s) on the displacement dwelling. However, in the event the person obtains a smaller mortgage loan than the mortgage loan balance(s) computed in the buy-down determination, prorate and reduce the payment accordingly. (See [Appendix A of reference \(f\)](#)) In the case of a home equity loan, the unpaid balance shall be the balance that existed 180 days before the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) Base the payment on the remaining term of the mortgage loan(s) on the displacement dwelling or the term of the new mortgage loan, whichever is shorter.

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(3) The interest rate on the new mortgage loan used in determining the amount of the payment shall not exceed the prevailing 30-year fixed interest rate for conventional mortgage loans 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;

© The FEC determines them to be necessary;

and

(d) The computation of those points and fees shall be based on the unpaid mortgage loan balance on the displacement dwelling, less the amount determined for the reduction of the mortgage loan balance under this paragraph.

(5) Advise the displaced person of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts about the person's current mortgage(s) are known. Make the payment available at or near the time of closing on the replacement dwelling to reduce the new mortgage loan balance as intended.

e. Incidental expenses. The incidental expenses to be paid under [subparagraph b.\(3\)](#) or [Paragraph 23.c.\(1\)](#) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

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

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

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

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(4) Certification of structural soundness and termite inspection when required.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, i.e., title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the FEC determines to be incidental to the purchase.

f. Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under [subparagraph a.](#), but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed \$5,250, computed and disbursed in accordance with Paragraph 22.b. below.

## **22. REPLACEMENT HOUSING PAYMENT FOR 90-DAY OCCUPANTS**

a. Eligibility. A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, as computed in accordance with [subparagraph b.](#), or to down payment assistance, as computed in accordance with [subparagraph \(c\)](#), if the displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the FEC 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:

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

(2) The date the person moves from the displacement dwelling.

b. Rental assistance payment.

(1) Amount of payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$5,250 for rental assistance. (See also [Paragraph 24.](#)) The payment shall equal 42 times the amount obtained by subtracting the base monthly rent for the displacement dwelling from the lesser of:

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

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

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

(a) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period before displacement, as the FEC determines. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or

(b) Thirty (30) percent of the person's average gross household income. (If the person refuses to supply appropriate evidence of income or is a dependent, establish the base monthly rent solely on the criteria in [subparagraph b.\(2\)\(a\)](#). A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.); or

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

(3) Manner of disbursement. The FEC, at its discretion, may disburse a rental assistance payment in

either a lump sum or in installments. However, except as limited by [Paragraph 23.f.](#) below, the full amount vests immediately, whether there is any later change in the person's income or rent, or in the condition or location of the person's housing.

c. Downpayment assistance payment.

(1) Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment in the amount the person would receive under [subparagraph b.](#) if the person rented a comparable replacement dwelling.. The FEC, at its discretion, may increase a down payment assistance payment to any amount not to exceed \$5,250. However, the payment to a displaced homeowner cannot exceed the amount the owner would receive under [Paragraph 21 b.](#) above if he or she met the 180-day occupancy requirement. The FEC's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under [Paragraph 21.a.](#) above is not eligible for this payment. (See also [Appendix A of reference \(f\)](#)).

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

**23. ADDITIONAL RULES GOVERNING REPLACEMENT HOUSING PAYMENTS**

a. Determining cost of comparable replacement dwelling. Base the upper limit of a replacement housing payment on the cost of a comparable replacement dwelling (defined in [Paragraph 32](#)).

(1) If available, examine at least three comparable replacement dwellings and compute the payment based on the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An

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adjustment shall be made to the asking price of any dwelling to the extent justified by local market data (see also [Paragraph 8.a.\(2\)](#) above and [Appendix A of reference \(f\)](#)). An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the

displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), subtract the value of that attribute from the acquisition cost of the displacement dwelling for purposes of computing the payment.

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

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

b. Inspection of replacement dwelling. Before making a replacement housing payment or releasing a payment from escrow, the FEC shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined in [Paragraph 32](#).

c. Purchase of replacement dwelling. Consider a displaced person to have met the requirement to purchase a replacement dwelling, if the person:

- (1) Purchases a dwelling; or
- (2) Purchases and rehabilitates a substandard dwelling; or
- (3) Relocates a dwelling that he or she owns or purchases; or
- (4) Constructs a dwelling on a site he or she owns or purchases; or
- (5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

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(6) Currently owns a previously purchased dwelling and site whose valuation is based on fair market value.

d. Occupancy requirements for displacement or replacement dwelling. No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in this chapter 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 Navy, or the Federal agency funding the project; or

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

e. Conversion of payment. A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under [Paragraph 22.b](#) is eligible to receive a payment under [Paragraphs 21 or 22.c](#), if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1 year period. Deduct any portion of the rental assistance payment that has been disbursed from the payments computed under [Paragraphs 21 or 22.c](#).

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

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

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

(3) Any portion of a replacement housing payment

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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.

#### **24. REPLACEMENT HOUSING OF LAST RESORT**



a. Determination to provide replacement housing of last resort. Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in [Paragraphs 21 and 22](#), as appropriate, the FEC shall extend additional or alternative assistance under the provisions of this paragraph. Adequately justify any decision to provide last resort housing assistance 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; and

(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; and

(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 that contribute to total program or project costs. (Will delaying the project justify waiting for less expensive comparable replacement housing to become available?)

b. Basic rights of persons who will be displaced.

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Notwithstanding any provision of this paragraph, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available. No person may be deprived of any rights the person may have under [reference \(a\)](#) or [reference \(f\)](#). The FEC shall not require any displaced person to accept a dwelling the Navy offers under these procedures (unless the FEC and the displaced person have entered into a contract to do so) in

lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

c. Methods of providing comparable replacement housing. The FEC shall have broad latitude in implementing this paragraph, however reasonable cost will guide implementation, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

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

(a) A replacement housing payment that exceeds the limits set forth in [Paragraphs 21](#) or [22](#). The FEC, at its discretion, may grant a rental assistance subsidy in installments or in a lump sum.

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

(c) The construction of a new replacement dwelling.

(d) Disbursing a direct loan that requires regular amortization or deferred repayment. The loan may be unsecured or secured by the property. The loan may bear interest or be interest-free.

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

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

(g) The removal of barriers to the handicapped.

(h) The change in status of the displaced person with his or her concurrence from tenant to homeowner when it is more cost effective to do so, such as when a down

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payment may be less expensive than a last resort rental assistance payment.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of meting out replacement housing of last resort allow consideration of replacement housing based on space and physical characteristics that are different from those in the displacement dwelling, (See Appendix A of

reference (f)). This includes upgraded but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing having probable functional obsolescence. In no event, however, shall the FEC require a displaced person to move into a dwelling that is not functionally equivalent as defined in Paragraph 32.

(3) The FEC shall grant assistance under this paragraph to a displaced person who is not eligible to receive a replacement housing payment under Paragraphs 21 and 22 above because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the person's financial means. A rental rate within a person's financial means is 30 percent of the person's gross monthly household income. The assistance must extend over a period of 42 months.

## SECTION VI - MOBILE HOMES

### 25. APPLICABILITY

This section describes the requirements governing relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this section. Except as modified in this Chapter, the displaced person is entitled to a moving expense payment in accordance with Section IV and a replacement housing payment in accordance with Section V to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

### 26. MOVING AND RELATED EXPENSES - MOBILE HOMES

a. A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in

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accordance with Paragraph 14. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under Paragraph 16. However, if the mobile home is not acquired, but the homeowner-occupant acquires a replacement housing payment under one of the circumstances described in Paragraph 27.a.(3), the owner is not eligible for payment for moving the mobile home. However, the owner may be eligible for a payment for moving personal property from the mobile home.

b. The following rules apply to payments for actual moving expenses under [Paragraph 14](#):

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

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

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

**27. REPLACEMENT HOUSING PAYMENT FOR 180-DAY MOBILE HOMEOWNER-OCCUPANTS**

a. A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed \$22,500, under [Paragraph 21](#) if:

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

(2) The person meets the other basic eligibility requirements at [Paragraph 21.a.](#); and

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(3) The Navy acquires the mobile home and/or mobile home site, or does not acquire the mobile home, but displaces the owner from it because the FEC determines that the mobile home:

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

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

(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.

(4) If the Navy does not acquire the mobile home and the FEC determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used in computing the price differential amount, described in [Paragraph 21.c.](#), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

**28. REPLACEMENT HOUSING PAYMENT FOR 90-DAY MOBILE HOME OCCUPANTS**

a. A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed \$5,250, under [Paragraph 22](#) 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 in [Paragraph 22.a.](#); and

(3) The Navy acquires the mobile home and/or mobile home site, or does not acquire the mobile home, but the owner or tenant is displaced from it because of one of the circumstances described in [Paragraph 27.a.\(3\)](#) above.

**29. ADDITIONAL RULES GOVERNING RELOCATION PAYMENTS TO MOBILE HOME OCCUPANTS**

a. Replacement housing payment based on dwelling and  
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site. Consider both the mobile home and mobile home site when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In these cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site. Compute each under the applicable paragraph of [Section V](#). However, the total replacement housing payment under [Section](#)

V may not exceed the maximum allowed payment for the dwelling, either \$22,500 or \$5,250. (See also [subparagraph b.](#))

b. Cost of comparable replacement dwelling.

(1) If a comparable replacement mobile home is not available, compute the replacement housing payment on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(2) If the FEC determines that it would be practical to relocate the mobile home, but the owner occupant elects not to do so, the FEC may determine that, for purposes of computing the price differential under [Paragraph 21.c.](#), the cost of a comparable replacement dwelling is the sum of:

(a) The value of the mobile home;

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

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

c. Initiation of negotiations. If the mobile home is not acquired, but the occupant is considered displaced, the "initiation of negotiations" is the initiation of negotiations to acquire the property. If the property is not acquired, the "initiation of negotiations" is the written notification that he or she is a displaced person.

d. Person moves mobile home. If the owner is reimbursed for the cost of moving the mobile home, he or she

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is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

e. Partial acquisition of mobile home park. The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the FEC determines that a mobile home located on the remaining part of the property must be moved as a direct result of the project, consider the owner and any tenant a displaced

person who is entitled to relocation payments and other assistance under [reference \(f\)](#).

**SECTION VII - FEC ACQUISITION, RELOCATION AND  
APPLICATION PROCESSING PROCEDURES**

**30. ACQUISITION PROCEDURES**

The provisions of sections 4651-4655 of the Uniform Act ([reference \(a\)](#)) apply to the acquisition of property for all Federal or Federally assisted programs or projects.

a. Just compensation. Section 4651(3) of [reference \(a\)](#) establishes the policy that before initiation of negotiations for the acquisition of property, the head of the Federal agency concerned shall establish an amount that he/she believes to be the just compensation. In no event shall that amount be less than the agency's approved appraisal of the fair market value of the property. [P-73 Chapter 16](#) contains the procedures for approval of appraised fair market values for proposed land acquisitions.

b. Initiation of Negotiations. When negotiations for the acquisition of real property are initiated, the FEC must provide the owner of the property with a written statement concerning the proposed acquisition. This statement will include, as a minimum, the following:

(1) Identification of the property and the estate or interest that will be acquired, including the buildings, structures, and other improvements on the land and the fixtures considered to be a part of the property; and

(2) The amount of the estimated just compensation for the property as determined by the Navy, and a statement of its basis. In case of a partial taking, separately state

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damages, if any, to the remaining property.

c. Offer to Purchase. After delivery of the statement to the owner, the FEC will make a prompt offer to purchase the property for the amount contained in the statement. After the initial offer is made, continue negotiations and make every effort to reach a mutually acceptable Purchase Agreement as set forth in [P-73, Chapter 8](#).

d. Appraisal Standards. [P-73, Chapter 16](#) sets forth standards for appraisals DON uses, including criteria for

determining qualifications of appraisers and establishment of a system of review by qualified appraisers, in compliance with Section 301(3) of reference (a). The FEC should follow [P-73, Chapter 16](#) provisions in the selection, award, review and use of information and data of appraisals to ensure compliance with reference (a).

e. Notice to Move. In compliance with [section 4651\(5\)](#) of [reference \(a\)](#), the FEC may not, to the greatest extent practicable, require a person to move from a dwelling or to move his/her business or farm operation without at least 90 days written notice of the date by which the move is required. However, that section of the Uniform Act applies only in those instances where actual displacement of persons, businesses, or farm operations occurs. [Appendix A](#) contains a sample of the required notice.

### 31. APPLICATION PROCESSING PROCEDURES

**\*\*NOTE: REFERENCED FORMS ARE OUTDATED AND UNAVAILABLE ON NAVFAC FORMS SYSTEM. NEWER FORMS ARE BEING RESEARCHED AND WILL BE ADDED TO THIS CHAPTER.**

a. Preliminary Relocation Data Form. As soon as practicable after commencing acquisition procedures, the FEC will prepare and maintain one copy of Preliminary Relocation Data Form. Prepare a form for each owner, tenant, or other person living within the boundaries of the property proposed for acquisition who is not a member of an owner's or tenant's family. This action is needed to obtain pertinent information relative to each prospective applicant for relocation assistance and/or payment. This information and data will also lead to provide a broad scope of the relocation assistance program. Preparation of this form is preferred before the property is vacated. Provide the

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prospective applicants with general information as to benefits under [sections 4621-4638](#) of [reference \(a\)](#) when the information and/or data from preparation of this form is obtained.

b. Application Forms. Applicants should complete the Application Forms with any assistance that they may require from the FEC. Applicants must support each application with invoices, receipts, or other items to substantiate the payment of each item of the claim. Applicants must file these applications for benefits with the FEC within the time limits as stated in [Paragraph 10.d](#). When the property is



acquired by condemnation, the date on which awards for the property have been satisfied will be considered as the date of payment.

c. Report of Investigation. Upon receipt of an application for benefits, the FEC will promptly initiate an investigation of the facts that may be warranted, record findings, and make necessary computations relative to the application. A computation worksheet should be used for this purpose. Upon completion of the investigation, the FEC will complete a report of it.

d. Determination of Relocation Benefits Due Applicant. Upon receipt of an application for relocation benefits, the FEC will review the application and supporting documents, determine the allowable amounts due and record these amounts. If the application is approved for payment in part or in full and funds are available, forward the completed assembly to the disbursing office for payment citing the funds appropriate for the particular project. Concurrently with submission of the payment application to the disbursing officer, the FEC will initiate a letter to the applicant advising him/her of the action taken on his/her claim.

e. Notice of Determination. The letter to the applicant advising him/her of the determination made on his/her claim, will provide the following information and data as a minimum:

- (1) Date of receipt of application;
  - (2) Amount of claim as submitted;
  - (3) Analysis of documentation included with application;
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- (4) Determination of amount approved for payment;
  - (5) Explanation of any difference between the amount claimed and amount approved for payment;
  - (6) Advise of action taken, including the submission of a request for issuance of check to disbursing officer;
  - (7) Date when applicant may reasonably expect delivery of the check;

(8) Advise that acceptance of the check will not prejudice his/her right of appeal if he/she considers that the indicated settlement is not fair and equitable based on the explanation provided; and

(9) Method of submission of an appeal.

f. Filing of appeals. Upon receipt of the determination made on an application for benefits, the applicant may file an appeal. The FEC will treat any objection to the determination it receives from the applicant as an appeal, and the FEC will promptly acknowledge and initiate a review in an effort to resolve the matter.

g. Processing Appeals. Upon receipt of any appeal or objection to the determination made on an application for benefits, the FEC shall follow the appeals procedures stated in [Paragraph 13](#).

## SECTION VIII - DEFINITIONS/APPENDIX

### **32. DEFINITIONS**

**NOTE:** The Uniform Act contains specific definitions for terms used in this chapter. FECs may expand these definitions for clarity. However, the expansions should not result in a deviation in concept from those provisions in the Uniform Act. The definitions are as follows:

a. Alien not lawfully present in the United States. An alien who is not lawfully present in the United States as defined in [8 C.F.R. § 103.12](#) and includes:

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

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

b. Agency. The Federal agency, state, state agency, or person that acquires real property or displaces a person. (See [Subpart 24\(a\)](#) of [reference \(f\)](#) for definitions of agency sub-categories)

c. Appraisal. 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.

d. Business. Any lawful activity, except a farm operation, that is conducted:

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

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

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

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

e. Citizen. For purposes of [reference \(f\)](#), includes both citizens of the United States and noncitizen nationals.

f. Comparable replacement dwelling. A dwelling that is:

(1) Decent, safe, and sanitary as described in

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[subparagraph f](#);

(2) Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, confers the same usefulness, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However in determining whether a replacement dwelling

is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling (see [Appendix A of reference \(f\)](#));

(3) Adequate in size to accommodate the occupants;

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

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

(6) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses (see also [Paragraph 23](#));

(7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance (**See** [Appendix A of reference \(f\)](#)); and

(8) 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 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's

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financial means if the homeowner will receive the full price differential as discussed in [Paragraph 21.c.](#), all increased mortgage loan interest costs as described in [Paragraph 21.d.](#), and all incidental expenses as described in [Paragraph 21.e.](#), plus any additional amount required to be paid under [Paragraph 24](#).

(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 the provisions of [reference \(f\)](#), the person's monthly rent and estimated average monthly utility costs for the

replacement dwelling do not exceed the person's base monthly rent for the displacement dwelling as described in [Paragraph 22.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 the FEC pays that portion of the monthly housing costs of a replacement dwelling that exceeds 30 percent of the person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities. Rental assistance must be paid under [Paragraph 23](#).

g. Contribute materially. Means that during the two tax years prior to the tax year in which displacement occurs, or during such other period as the FEC determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least \$5,000; or

(2) Had average annual net earnings of at least \$1,000; or

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

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

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h. Decent, Safe, and Sanitary dwelling. A dwelling that meets applicable housing and occupancy codes. However, any of the following standards that are not met by an applicable code shall apply unless waived for good cause by the Navy or the Federal agency funding the project. Adjustments may be made only in cases of unusual circumstances or in unique geographic areas. The dwelling must:

(1) Be structurally sound, weather tight, and in good repair;

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

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

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

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

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

i. Displaced person.

(1) General. Except as stated in [subparagraph \(2\)](#), any person who moves from the property or moves his or

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her personal property from the property: (This includes a person who occupies the property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described in [Paragraphs 21.a](#) and [22.a](#)):

(a) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, that 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 in part, other property on which the person conducts a business or farm operation, for a project. However, eligibility for that person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under [Paragraph 8](#), and moving expenses under [Paragraphs 14, 15, and 16](#).

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

(a) A person who moves before the initiation of negotiations (see also [Paragraph 22.e.](#)), unless the FEC determines that the person was displaced as a direct result of the program or project; or

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

(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. The determination will be made by the FEC in accordance with any guidelines established by the Navy or the Federal agency funding the project (see also [Appendix A of reference \(f\)](#)); or

(e) An owner-occupant who moves as a result  
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of an acquisition as described at [sections 24.101\(a\)\(1\) and \(2\) of reference \(f\)](#), or as a result of the rehabilitation or demolition of the 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 [reference \(f\)](#)); or

(f) A person that the FEC determines is not displaced as a direct result of a partial acquisition; or

(g) A person who, after receiving a notice of relocation eligibility (described in [Paragraph 6.](#)),

is notified in writing that he or she will not be displaced for a project. The notice will not be issued unless the person has not moved and the FEC agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or

(h) An owner-occupant who voluntarily conveys his or her property, as described in [Sections 24.101\(a\)\(1\) and \(2\) of reference \(f\)](#), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the FEC will not acquire the property. In those cases, however, any resulting displacement of a tenant is subject to the regulations in [reference \(f\)](#); or

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

(j) An person who retains the right of use and occupancy of the property for a fixed term after its acquisition by the Department of the Interior under [16 U.S.C. §§ 1-19jj-4 \(National Park Service Organic Act\)](#) or [16 U.S.C. §§ 4601-4601-11 \(Land and Water Conservation Fund Act\)](#); or

(k) A person who is determined to be in unlawful occupancy prior to the initiation of negotiations (see [subparagraph y.](#), or a person who has been evicted for cause, under applicable law, as provided for in [Paragraph 9.](#)

(l) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits in accordance with [subpart 24.208 of reference \(f\)](#).

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j. Dwelling. 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.

k. Farm operation. 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 those products or commodities



in sufficient quantity to be capable of contributing materially to the operator's support.

l. Federal financial assistance. A grant, loan, or contribution disbursed 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 person.

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

(1) Whenever the displacement results from the acquisition of the property by a Federal 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 property for the project. However, if the Federal or state agency issues a notice of its intent to acquire the 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.

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

(3) In the case of a permanent relocation to  
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protect the public health and welfare, under the 42 U.S.C. §§ 9601-9675 (Comprehensive Environmental Response Compensation and Liability Act) the "initiation of negotiations" means the formal announcement of the relocation or the Federal or Federally coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

n. Lead Agency. DOT acting through the Federal Highway Administration.

o. Mortgage. The classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, property, under the laws of the state in which the

property is located, with credit instruments, if any, secured by the property.

p. Nonprofit organization. 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).

q. Notice of intent to acquire or notice of eligibility for relocation assistance. Written notice furnished to persons who will be displaced, including those who will 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.

r. Owner of a dwelling. A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in property.

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

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

(3) A contract to purchase any of the interests or estates described in [subparagraph r.\(1\) or \(2\)](#); or

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

s. Person. Any individual, family, partnership, corporation, limited liability company, or association.

t. Program or project. 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 guidelines of the funding Federal agency.

u. Salvage Value. The probable sale price of an item, if offered for sale on the condition that it will be

removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

v. Small Business. A business having at least one, but not more than 500 employees working at the site being acquired or displaced by a program or project, which 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 [Paragraph 17](#).

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

x. Tenant. A person who has the temporary use and occupancy of property owned by another.

y. Uneconomic Remnant. A parcel of property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner.

z. Uniform Act. (See reference (a).)

(aa). Unlawful Occupancy. A person is considered to

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

(bb). Utility Costs. Expenses for heat, light, water, and sewer.

(cc). Utility facility. 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 of those systems. A utility facility may be publicly, privately, or cooperatively owned.

(dd). Utility relocation. 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 easements on a new location; moving, rearranging, or changing the type of existing facilities; and taking any necessary safety and protective measures. It also means 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.

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**APPENDIX A**

**LETTER OF NOTICE**

DATE \_\_\_\_\_

PARCEL NO. \_\_\_\_\_  
LOCATION \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear

According to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), you may be entitled to: (1) reimbursement of actual reasonable moving expenses and actual direct leases of personal property resulting from your move; (2) the choice of an alternate payment if your real estate is used in a business or farm operation; and (3) a replacement housing payment if your real estate was occupied by you as a dwelling. You will become entitled to the reimbursement when the United States acquires your real estate for which it signed an Agreement for Purchase on \_\_\_\_\_.

Enclosed is an application for reimbursement and/or payments and a voucher. If you wish to request a reimbursement and/or payments, you must file the application within **six months** from the real estate acquisition date, or within **six months** from the date the real estate is vacated, whichever is later, with the following exceptions. If you are moving to a comparable replacement dwelling within **one year** from the final payment date for your real estate, or **one year** from the date you moved, whichever is later. If you have moved to temporary quarters pending completion of construction of the replacement dwelling, which is decent, safe, and sanitary, you may file the application within **six months** from the construction completion date, provided you occupy the replacement dwelling upon completion of construction. If you conducted a business or farm operation and are continuing it at another location, you may file the application within **six months** from the date you occupied the replacement site. The application must be completed in full. In the voucher, you only need to include, in the column marked "amount," the total amount requested, and your signature on the line marked "payee."

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So that you may send the completed application and voucher to this office, I am enclosing a addressed envelope that requires no postage.

Sincerely yours,

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FORMS-RESERVED