

## 7. Relocation

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### 7.1. Introduction

Title II of the Uniform Act ([49 CFR 24](#), Subparts A, C, D, E & F) contains the relocation assistance

provisions required on projects financed with Federal funds. Even if Federal funds are not involved in the ROW phase, if Federal funding is used for any phase of the project, the Uniform Act applies.

The Uniform Act ensures that any person displaced as a direct result of a project is treated fairly, consistently, and equitably so as not to suffer disproportionate injuries. Any qualifying displaced person must be fully informed of all rights and entitlements to relocation assistance and payments provided in this chapter. DOT&PF may not propose or request that a displaced person waive any right or entitlement provided in this chapter.

### Recent Developments and Updates

In 2018 the State of Alaska's statutes regarding Relocations Assistance procedures were updated to match the Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) Federal Transportation Bill of 2012. Those statutory changes are reflected in this *Manual*. The new Alaska law under [AS 34.60](#) now refers directly to [42 USC 4622](#) as amended and [42 USC 4624](#) as amended. The primary changes revolve around higher maximum payments for relocation and re-establishment, purchase price differentials for homeowners, rental supplements for tenants, and eligibility for payments and mortgage differentials. Alaska is more generous than the Federal requirements with regard to mortgage differential eligibility, treating 90-day and 180-day occupants equivalently. The 2018 changes to [AS 34.60](#) are retroactive to 1 October 2014. In addition, effective 26 August 2021, the schedule for Fixed Residential Moving Costs raised the payments due to eligible persons (see Sec. 7.14.2 and [Claim for Fixed Moving Expenses and Dislocation Allowance \(Residential\) Form 25A-R753](#)). This chapter also draws attention to the Uniform Act's broad definition of "person" as it applies to both residential and non-residential parties (such as businesses and farms) and the requirement to comply with Housing of Last Resort.

### Administration

The Statewide ROW Chief is responsible for the statewide policies regarding the relocation program. The regional offices in the Central, Northern, and Southcoast each have a supervisory ROW Agent responsible for the application and tracking of the relocation program. These supervisory ROW Agents report directly to the Regional ROW Chief with one or

more Relocation Agents assigned to the relocation function.

Unless otherwise noted, all instructions in this chapter refer to the ROW Agent who has been assigned the duties of Relocation Agent for a particular project. The purpose of this chapter is to provide the reference necessary to provide advisory and relocation services required by the Uniform Act. This chapter is divided into sections that provide the agent with an understanding of their responsibilities regarding:

1. General planning and relocation expertise needed during project development and the public participation portions of Design.
2. Services to be provided to displaced individuals.
3. Determination of benefits.
4. Relocation of displaced occupants of dwellings (residential).
5. Relocation of businesses, farms and nonprofits (nonresidential).
6. Protocol for processing claims.

In addition, the agent needs to coordinate with the activities of the appraiser, Acquisition Agent, other DOT&PF staff, and contractors in order to provide straightforward and fair services to the impacted persons.

## **7.2. Definitions of Displaced Person and Persons Not Displaced**

Note that “person” is defined in [49 CFR 24.2\(a\)\(21\)](#) as “any individual, family, partnership, corporation, or association” and is thus not limited to residents. The definitions of displaced person and persons not displaced are further defined in [49 CFR 24.2\(a\)\(9\)](#).

## **7.3. Eligibility for Relocation Benefits**

In order to be eligible for benefits, the displaced person(s) must certify that they are either a U.S. citizen or national of the U.S., or an alien who is lawfully present in the United States (see [49 CFR 24.208](#)).

An exception to this eligibility rule is possible only if an alien who is not lawfully present in the United States can demonstrate that denying benefits would cause an exceptional and extremely unusual hardship to the alien’s spouse, parent, or child who is a U.S. citizen or a lawful resident alien.

If the moving claim form certification indicates that one or more members of a displaced family is an alien who is not lawfully present in the United States, prorate the moving expense payment based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80% and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

DOT&PF presumes that any eligible person who lawfully occupies the real property on the date of the initiation of negotiations is entitled to relocation payments and other assistance described in this manual, unless the Regional ROW Chief determines that the person received an eviction notice before the initiation of negotiations and, as a result of that notice is later evicted; or the person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement (in either case described, the landlord did not undertake the eviction for the purpose of evading the obligation to make available the payments and other assistance described in this manual).

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

Clearing encroachments from a project right of way may require relocation assistance and benefits, particularly for the contents or occupants. Early coordination with Environmental and funding partners is essential when these are identified.

## **7.4. Relocation Services Provided**

DOT&PF must provide, at a minimum, those measures, facilities, or services that are necessary or appropriate to carry out the following:

- determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures to obtain assistance; this must include a personal interview with each person;

- advise any displaced person eligible for government housing assistance at the replacement dwelling of any requirements of the assistance program that would limit the size of the replacement dwelling, and of the long-term nature of such rent subsidy;
- provide current and continuing information on availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the displaced person cannot be required to move unless at least one comparable replacement dwelling is made available (See Sec. 7.6); and
- ensure that interviews with displaced business owners and operators contain, at a minimum, the following:
  - replacement site requirements, current lease terms, and other contractual obligations of the business;
  - financial capacity of the business to accomplish the move;
  - identification of any advance relocation payments required for the move, and whether DOT&PF has authority to provide them;
  - determination of the need for outside specialists to assist in planning the move, assist in the actual move, and assist in the reinstallation of machinery and other personal property;
  - identification and resolution of personalty/realty issues before or at the time of the appraisal;
  - estimate of the time required for the business to vacate the site;
  - estimate of the anticipated difficulty in locating a replacement property; and
  - assurance that the benefits from other agencies are not being impacted.

#### **7.4.1. Relocation Assistance Program Package**

The Relocation Assistance Program Package is given to eligible displaced persons to explain the relocation program. Although the content will vary among residential and nonresidential occupants, the materials may include:

- appropriate Relocation Brochure;
- [Certification Concerning Legal Residency in the United States](#);
- [Notice of Eligibility Form 25A-R723](#) stating kinds and amounts of benefits the specific displaced person may be eligible to receive;
- [Affirmation and Request for Relocation Assistance \(Residential\) Form 25A-R725](#) or [Affirmation and Request for Relocation Assistance \(Business\) Form 25A-R726](#) as appropriate; and
- other optional information pertinent to the specific type of eligibility involved; e.g., “Fair Housing” pamphlets and Small Business Administration loan information.

#### **7.5. Relocation Planning**

The scoping for project-related relocation activities facilitates the orderly relocation of everyone in the right of way and gives advance warning of special problems that may necessitate more lead time than normal.

##### **7.5.1. Project Information and Documentation**

1. Collect pertinent project related documents, i.e., plans, design study reports, environmental impact statements, etc.
2. Certification dates for the project.
3. Information contained in the relocation study.
4. Maintain correspondence, documentation, etc., relative to a specific parcel or project in the regional parcel file or the project general correspondence file. Maintain the following information in the Regional Relocation Unit:
  - a. current and continuing lists of replacement dwellings available to persons, without regard to race, color, national origin, gender, age, income, or disability, drawn from various

sources, suitable in price, size, and condition for displaced persons to the extent available;

- b. current and continuing lists for commercial properties and locations for displaced businesses;
- c. current data for costs such as security deposits, closing costs, typical down payments, interest rates and terms;
- d. maps showing the location of schools, parks, playgrounds, shopping, and public transportation routes in the areas, where applicable;
- e. schedules and costs of public transportation, where applicable;
- f. copies of the relocation brochure, local ordinances pertaining to housing, building codes, open housing consumer education literature on housing, shelter costs, and family budgeting;
- g. subscription for apartment directory services, neighborhood and metropolitan newspapers, and multiple listing services, where applicable;
- h. list of licensed and approved movers;
- i. list of insurance companies that will insure the personal property being moved;
- j. list of advisory information for the project to include contact information of key personnel, what the project will affect and outcomes; and
- k. other pertinent information of value to displaced persons.

### **7.5.2. Relocation Study**

Consult with Environmental staff early to ascertain the requirements for NEPA or other relevant reviews. The study should address, in detail, special relocation problems, timing considerations, relocation phasing, and general relocation alternatives.

At the regional environmental section's request, the Regional ROW Chief directs the preparation of a relocation study that will become part of the environmental document for the project. The study should recognize problems associated with the

displacement of individuals and develop solutions to minimize their adverse impacts.

When preparing the study, consider the number of displacements, type, availability or lack of affordable replacement housing or non-residential facilities, the likelihood of last resort housing payments, and special needs that will have to be addressed before negotiations begin.

Basic assumptions should be stated that could invalidate all or part of the study if changed:

- certification dates for the project will remain essentially unchanged;
- reservation that the design will remain essentially unchanged;
- critical recommendations in the relocation plan are implemented; and
- all approvals are obtained as scheduled.

When considering the availability of housing units versus the need—consider completing a table or spreadsheet that:

- compares by price range, number of bedrooms, and occupancy status;
- summarizes the total available dwellings by price range, number of bedrooms, and occupancy status; and
- outlines (one for each year of right-of-way acquisition for the project) the basis for relating the various kinds of housing and non-residential needs and the housing or non-residential facilities available to fulfill them.

If it is necessary to relocate people in mobile homes, provide a complete separate analysis, the results of which are correlated into the project relocation study.

Describe those types of housing where no special effort will be necessary, including areas where relocation assistance payments will easily accomplish relocation. Provide an analysis showing that displaced persons will be able to pay for their housing in the new area. Describe DS&S problems where the normal market may not have enough DS&S housing to absorb the demand within the time span allowed for relocation. Perform the same analyses for non-residential relocations.

If the time scheduled for acquisition and relocation is insufficient to allow orderly relocation based on what the market can absorb, state the best estimate of the time required and recommend changes that would allow for this additional time.

If there is scarcity in some types of housing or non-residential facilities, follow-up studies on previous projects with displaced persons may enable the report to generalize on the percentages of people by housing class or businesses who tend to leave the area completely. A reasonable estimate of people expected to leave the area, based on solid facts, may show that no availability problem exists where there initially appeared to be one.

If the survey indicates an area where there are or may be a large number of ineligible occupants in the right of way, note this along with any foreseeable problems connected with the displaced persons (examples include student housing and motel/hotel occupants).

State which parcels should be appraised and acquired first and include any appropriate special recommendations for handling them. Identify those parcels where extra time will solve special problems. If there is low availability of one type of unit more time may well solve the relocation problem. Such problems may involve rest homes, old hotels with permanent residents, housing for elderly, mobile home parks, specialized warehouses, medical facilities, farms, or other specialized or atypical properties.

If research indicates a lack of available business relocation sites or significant relocation problems, bring these issues to the attention of the Regional ROW Chief. Include a discussion of possible solutions to the identified problems.

During this study, contact property owners, if necessary, to develop data that includes the following:

1. Estimate of the number of households to be displaced, including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and disabled persons when applicable. Some of this data is available from secondary sources such as government and utility records.
2. 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 displaced. When an adequate supply of comparable housing is not expected to be available, consider housing of last resort.

3. Estimate of the number, type, and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees who may be affected.
4. Estimate of the availability of replacement business sites. If an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. If relocation planning for displaced businesses is expected to involve complex or lengthy moving processes; or involve small businesses with limited financial resources or few alternative relocation sites; the relocation study should include an analysis of business moving problems.
5. Consideration of any special relocation advisory services that may be necessary from DOT&PF and other cooperating agencies.
6. Any other pertinent or helpful information.

This information is required for each of the design alternatives under consideration in the environmental document. After completing these activities, the Regional ROW Chief must submit the study to the regional environmental coordinator to include in the environmental document.

### **7.5.3. Corridor Public Meeting**

A Corridor Public Meeting is a meeting related to the project corridor. The Regional Environmental Section may request the Regional ROW Chief direct the preparation of the corridor presentation.

Present the following information at the corridor public meeting:

1. Information contained in the relocation study.
2. The relocation brochure.
3. If applicable, a discussion of the relocation program in terms of availability of relocation assistance and services, eligibility requirements and payment procedures under Alaska law and the Uniform Act.
4. The Public Statement (Exhibit 7-1).

#### **7.5.4. Design Public Meeting**

A Design Public Meeting is a meeting related to the project design. The Regional Environmental Section may request the Regional ROW Chief prepare information for the design meeting. The Regional ROW Chief must update the relocation study as a relocation plan for the selected alignment to identify any changes that have occurred in the number or type of displaced persons and any changes in the availability of replacement properties.

Present the following information at the design public meeting:

1. Eligibility requirements and payment procedures.
2. Discussion of the services available under DOT&PF's relocation advisory assistance program, including the address and telephone number of the local relocation office and cooperating local agencies, if any, by name.
3. Updated estimate of the number of individuals or families to be relocated;
4. Public Statement (Exhibit 7-1).
5. Relocation brochure.

#### **7.5.5. Open House**

The Regional Environmental Section may use an Open House concept in place of the Corridor Public Meeting and the Design Public Meeting. The Regional ROW Chief must make the same relocation information available to the open house attendees.

#### **7.6. Catalog of Comparable Replacement Housing**

Compile a catalog of comparable replacement housing using the [Comparable Housing Listing Form 25A-R713](#), and update it as project needs require and the local market dictates. The purpose of this catalog is to analyze the market in terms of rentals and homes for sale. Arrange the listing in terms of asking price and rents. Include only those dwellings that meet the criteria for a comparable replacement dwelling. Dwellings must pass the DS&S inspection to be part of the catalog.

#### **7.7. Relocation Advisory Assistance Services**

DOT&PF must provide relocation advisory assistance services to ensure that the maximum assistance

possible is provided to eligible persons required to relocate because of the project.

If the displaced person has limited English proficiency, secure through the DOT&PF's Civil Rights Office the assistance of a translator with whom the displaced person is comfortable. Obtain a signed affidavit from the translator attesting that the displaced person understood the information presented and is making any agreements knowingly, willingly, and in full understanding of their obligations.

These services are intended as a minimum to assist in relocation to DS&S housing that meets their needs. Provide the services by personal contact. If unable to make personal contact, include information in the files regarding the reasonable efforts made.

#### **7.7.1. Replacement Housing to be Inspected**

Inspect replacement housing to assure it meets the DS&S standard before making it available. If the replacement housing was found by the displaced person, DOT&PF may not make a replacement housing payment unless DOT&PF inspects it and finds it to be DS&S compliant. Refer to [Replacement Dwelling Inspection Report Form 25A-R780](#).

#### **7.7.2. Availability of Comparable Replacement Housing**

DOT&PF may not require any displaced person to move unless DOT&PF has made at least one comparable replacement property available. Where possible, make three or more comparable DS&S replacement properties available and list them on the Benefit Statement. A comparable replacement property will be considered to have been made available to a person if the Relocation Agent has:

1. informed the person of its location;
2. allowed the person enough time to negotiate and enter into a purchase agreement or lease for the property;
3. subject to reasonable safeguards, assured the person of receiving the relocation assistance and acquisition payment to which they are entitled in sufficient time to complete the purchase or lease; and
4. inspected replacement housing for DS&S and confirm at time of offer that comparable replacement housing is available and DS&S.



### 7.7.3. Eligibility

Services shall be offered to all persons occupying property:

- acquired or to be acquired;
- immediately adjacent to the acquired real property if DOT&PF believes they may have difficulty adjusting to changes resulting from the acquisition that was acquired, and choose to relocate their adjacent residence, business, or farm operation; and
- after it was acquired by DOT&PF, when such occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a project.

No services shall be offered to persons or businesses not certified as lawfully present in the United States.

### 7.7.4. Relocation Contact and Activities

After receipt of Authority to Proceed with the acquisition phase, the Regional ROW Chief directs the Relocation Unit to proceed with the following subsections.

#### General Information Notice

Furnish any person scheduled to be displaced with [General Information Notice Form 25A-R705](#) and the relocation brochure. Notify the owner before contacting tenants. Advise the potential displaced persons that only U.S. citizens or aliens who are lawfully present in the United States are eligible for relocation benefits.

As required by [49 CFR 24](#), include, at a minimum, the following in the General Information Notice:

1. inform the person that they may be displaced for the project;
2. generally describe the relocation payments for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining payment;
3. inform the person that, unless they are subject to #6 below, 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;

4. inform the person that they will not be required to move without at least 90 days' written notice that meets the requirements of [49 CFR 24](#);
5. inform the person that they cannot be required to move permanently unless at least one comparable replacement property is made available and assure them that they will not be required to move earlier than 90 days after a replacement property is available (see [49 CFR 24](#));
6. inform the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and
7. describe the person's right to appeal DOT&PF's determination of benefits or relocation services under [49 CFR 24](#) and [17 AAC 81](#). (For rules regarding appeals, see [49 CFR 24.10](#) and [17 AAC 85](#) and consult with the Regional and Statewide Right-of-Way Chiefs and DOT&PF's attorney at the Department of Law.)

#### Request for Relocation Assistance

For residential moves, obtain the signature of the displaced person on the [Affirmation and Request for Relocation Assistance \(Residential\) Form 25A-R725](#) or complete the [Agent's Affirmation of Presentation Form 25A-R728](#) if the displaced person will not sign the form. If they do not waive assistance, supply lists of replacement housing that meets the DS&S standard.

List the addresses of the comparable housing offered on the Record of Relocation Contacts. Offer all displaced persons transportation to inspect housing to which they are referred. The elderly, disabled, or financially-disadvantaged persons are among those that may need special assistance and require additional planning and coordination appropriate accommodations.

For a displaced business, obtain the signature of the owner on the [Affirmation for Request for Relocation Assistance \(Business\) Form 25A-R726](#) and supply lists of comparable commercial properties available.

Inform the displaced person of the different moving options available and inquire as to any moving plans.

## Owner-occupants of Multifamily Dwellings

An eligible owner-occupant of a multifamily dwelling is eligible to receive a residential moving expense payment for moving personal property from the owner-occupied dwelling unit. The owner-occupant is also eligible to receive moving payments for personal property owned in the other units of the multifamily dwellings in accordance with Sec. 7.15.

## Subject Dwelling Occupancy Report

Upon the initial contact with each displaced person, complete a [Displacement Dwelling Occupancy Report \(Residential\) Form 25A-R708](#) for residential displaced persons or a [Non-Residential Occupancy Report Form 25A-R710](#) for nonresidential displaced persons. These forms contain questions about the displaced person's ethnicity and gender. Explain to the owner that this information is required for all parcels by the Federal agency funding the project to fulfill its reporting requirements. File the form in the parcel relocation file, usually as the first entry.

## Notice of Relocation Eligibility

Eligibility for relocation assistance begins on the date of the issuance of a notice of intent to acquire, the initiation of negotiations for the occupied property, or the actual acquisition of the property, whichever occurs first.

Give the [Notice of Eligibility Form 25A-R723](#) to all occupants within two weeks after the offer is made for the property. If the Notice of Eligibility is sent by certified mail, make personal contact within 30 days after initiation of negotiations to furnish any additional explanations necessary. If appropriate, the applicable 90-day notice may be given at the same time as the Notice of Eligibility.

## Relocation Notices

Throughout the project either personally serve, or send by certified or registered first class mail, return receipt requested, the following notices (as applicable) to displaced persons, and document it in the Record of Negotiations and place a copy in the parcel relocation file:

- [General Information Notice Form 25A-R705](#);
- [Notice of Intent to Acquire Form 25A-R715](#);
- [Notice of Eligibility Form 25A-R723](#);
- an appropriate Benefit Statement (Benefit Statement ([Owner-Occupant of 180 Days or](#)

[More\) Form 25A-R730, Benefit Statement \(Occupant Less Than 90 Days\) Form 25A-R733, Benefit Statement – Residential \(Owner-Occupant more than 90 Days\) Form 25A-R735, Benefit Statement \(Tenant of More Than 90 Days\) Form 25A-R738, Benefit Statement \(Tenant of Less Than 90 Days\) Form 25A-R740, or Benefit Statement \(Business\) Form 25A-R743](#));

- [Moving Incentive Program Statement Form 25A-R744](#) if applicable for a State-funded project;
- 90-Day Notice to Vacate;
- 90-Day Informational Notice; and
- appropriate Affirmation Forms ([Affirmation and Request for Relocation Assistance \(Residential\) Form 25A-R725, Affirmation and Request for Relocation Assistance \(Business\) Form 25A-R726, and Agent's Affirmation of Presentation Form 25A-R728](#)).

For persons unable to read and understand the notice, provide appropriate translation/translator and counseling. Each notice must indicate the name and telephone number of the Agent who may be contacted for answers to questions or other needed help. Consult with the DOT&PF Civil Rights Office if there is concern that the property owner may not understand or may need assistance.

## Rental Agreement

Inform the displaced person of the requirement to pay rent to DOT&PF for the property after it is acquired, and that they must sign a rental agreement (Sec. 9.6.1). The rental agreement is authorized by the Regional ROW Chief.

## Benefit Statement

Within two weeks after initiation of negotiations, if possible, but by the time DOT&PF acquires the property, give the displaced person the appropriate benefit statement, showing the amount of replacement housing or rent supplement by use of one of the following forms:

- [Benefit Statement \(Owner-Occupant of 90 days or more\) Form 25A-R730](#);
- [Benefit Statement \(Owner-Occupant of Less Than 90 days\) Form 25A-R733](#);



- [Benefit Statement \(Tenant of More Than 90 days\) Form 25A-R738](#);
- [Benefit Statement \(Tenant of Less than 90 days\) Form 25A-R740](#); or
- [Benefit Statement \(Business\) Form 25A-R743](#).

### Replacement Housing

Dwellings considered as replacement housing must meet the DS&S standard as well as the applicable housing and occupancy codes, which may include requirements relating to potentially hazardous substances.

No dwelling located on, or in close proximity to, an identified hazardous waste site may be considered as a comparable replacement dwelling.

### 7.8. 90-Day Homeowner Occupants

In addition to other authorized payments, eligible individuals and families displaced from a dwelling (including a condominium or cooperative apartment) required for a Federal-aid project may be eligible for replacement housing payments. The displaced person is not required to relocate to the same occupancy status (homeowner vs. tenant) but has other options according to ownership status and tenure of occupancy as described in this chapter.

#### 7.8.1. Eligibility

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

1. actually owned and occupied the displacement dwelling for at least 90 days immediately before the initiation of negotiations; and
2. purchases and occupies a DS&S replacement dwelling within one year after the later of the following dates (the Regional ROW Chief may extend the one-year period for good cause):
  - a. date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date DOT&PF deposits the full amount of the Recommendation of Just Compensation in the court; or
  - b. date DOT&PF meets its obligation under Sec. 7.7.2.

#### 7.8.2. Amount of Payment

Except under Housing of Last Resort, the replacement housing payment for an eligible 90-day homeowner-occupant may be as much as \$31,000 (see Sec. 7.10). Payment under this section is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable dwelling is made available to that person, whichever is later. Calculate the payment as the sum of the following amounts:

1. The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined under Sec. 7.8.3.
2. The increased interest costs and other debt service costs incurred in connection with the mortgage(s) on the replacement dwelling as determined under Sec. 7.8.4.
3. The reasonable expenses incidental to the purchase of the replacement dwelling, as determined under Sec. 7.8.5.

See [Claim for Payment \(Replacement Housing Supplement\) Form 25A-R760](#) and Exhibit 7-2.

#### 7.8.3. Price Differential

##### Basic Computation

Add the price differential to be paid under Sec. 7.8.2 to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of the following:

- reasonable cost of a comparable replacement dwelling and site; or
- purchase price of the DS&S replacement dwelling actually purchased and occupied by the displaced person.

##### Mixed-use and Multifamily Properties

If the displacement dwelling was part of a property that contained another dwelling unit or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, consider only that portion of the acquisition payment actually attributable to the displacement dwelling as its acquisition cost when computing the price differential.

## Insurance Proceeds

Include in the acquisition cost of the displacement dwelling 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.). Doing this will avoid duplicate compensation when computing the price differential.

## Owner Retention of Displacement Dwelling

If the owner retains ownership of the dwelling, moves it from the displacement site, and reoccupies it on a replacement site, calculate the purchase price of the replacement dwelling as the sum of the following amounts:

1. The cost to move and restore the dwelling to a condition comparable to that before the move.
2. The cost to make the unit a DS&S-compliant replacement dwelling (see definitions).
3. The current market value for residential use of the replacement site unless the claimant rented the displacement site and has a reasonable opportunity to rent a suitable replacement site.
4. The retention value of the dwelling, if the retention value is reflected in the acquisition cost used when computing the replacement housing payment.

Use the [Claim for Payment \(Owner Retention of Dwelling\) Form 25A-R763](#) for a claim under this section. This is done by approval of the Regional ROW Chief on a case-by-case basis.

### 7.8.4. Increased Mortgage Interest Costs

The amount DOT&PF will pay under Sec. 7.8.2 is determined by the buy down method.

This method provides a lump sum payment 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(s) on the displacement dwelling.

Include other debt service costs in the payments, if not paid as incidental costs, and base the payments only on bona fide mortgages that were valid liens on the displacement dwelling for at least 90 days before the initiation of negotiations.

Use the following guidelines in the computation of the increased mortgage interest costs payment, which is

contingent upon the owner placing a mortgage on the replacement dwelling:

1. Base the payment on the unpaid mortgage balance(s) on the displacement dwelling.
2. However, if the person obtains a smaller mortgage than the mortgage balance(s) computed in the buy down determination, prorate the payment and reduce it accordingly.
3. For a home equity loan, determine the unpaid balance as that which existed 90 days before the initiation of negotiations, or the balance on the date of acquisition, whichever is less.
4. Base the payment on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.
5. Ensure that the interest rate on the new mortgage does not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions local to the replacement dwelling.

DOT&PF must pay purchaser's points and loan origination or assumption fees, but not seller's points, to the extent that the following criteria are met:

- they are not paid as incidental expenses;
- they do not exceed rates normal to similar real estate transactions in the area; and
- the Regional ROW Chief determines them to be necessary.

Compute the points and fees based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

Advise the displaced person of the approximate amount of this payment and the conditions that they must meet to receive the payment (i.e. obtain a mortgage of at least the same amount as the old mortgage and for at least the same term).

Inform the person of the interest rate and points used to calculate this payment.

It is suggested that DOT&PF may make the payment available (or place it in an escrow account) at or near the time of closing on the replacement dwelling, with the goal of reducing the new mortgage as intended.

Use the [Computations for Incidental Expenses and Increased Interest Costs Form 25A-R765](#) for purposes of this section.

Check for updated Federal Housing Authority (FHA) programs (i.e. reverse mortgage program).

### **7.8.5. Incidental Expenses**

The incidental expenses DOT&PF will pay under Sec. 7.8.2 or Sec. 7.9.3 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. They include the following:

1. legal, closing, and related costs, including those for title search, preparing conveyance documents, notary fees, preparing surveys and plats, and recording fees;
2. lender, FHA, or VA application and appraisal fees;
3. loan origination or assumption fees that do not represent prepaid interest;
4. certification of structural soundness and termite inspection when required;
5. credit report;
6. owner's and mortgagee's evidence of title (such as title insurance), not to exceed the costs for a comparable replacement dwelling;
7. escrow agent's fee; and
8. other costs the Regional ROW Chief determines are incidental to the purchase.

Use the [Computations for Incidental Expenses and Increased Interest Costs Form 25A-R765](#).

### **7.8.6. Rental Assistance Payment for 90-Day Homeowner**

A 90-day homeowner-occupant who could be eligible for a replacement housing payment under Sec. 7.8.1, but who elects to rent a replacement dwelling, is eligible for a rental assistance payment. The rental assistance payment limit under Sec. 7.9.2 does not apply to this category of displaced person. Instead, the payment is limited to the amount the displaced person would have received had they elected to purchase and occupy a comparable replacement dwelling. Compute and disburse the payment in accordance with Sec. 7.9.2.

## **7.9. 90-Day Occupants**

Except under Housing of Last Resort, a tenant or owner-occupant displaced from a dwelling may be entitled to a payment of as much as \$7,200 for rental assistance or down payment assistance (see Sec. 7.10).

### **7.9.1. Eligibility**

To be eligible for 90-day occupant assistance, the occupant must meet the following criteria:

1. Actually and lawfully occupied the displacement dwelling for at least 90 days immediately before the initiation of negotiations.
2. Has rented, or purchased, and occupied a DS&S replacement dwelling within one year (unless the Regional ROW Chief extends this period for good cause). For a tenant, that date is the date they move from the displacement dwelling.

### **7.9.2. Rental Assistance Payment**

Except under Housing of Last Resort, an eligible displaced person who rents a replacement dwelling is entitled to a payment of as much as \$7,200 for rental assistance (see Sec. 7.10). This limit does not apply to a 90-day homeowner-occupant described in Sec. 7.8.6. Calculate the payment by taking 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of the following amounts:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling.
2. The monthly rent and estimated average monthly cost of utilities for the DS&S-compliant replacement dwelling actually occupied by the displaced person.

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

1. The annual average monthly cost for rent and utilities at the displacement dwelling for the year before displacement. (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 displaced person's income or other circumstances).
2. Thirty percent of the displaced person's average-gross-household income if the amount is classified

as “low income” by the U.S. Department of Housing and Urban Development’s (HUD) Annual Survey of Income Limits for the Public Housing and Sec. 8 Programs. HUD’s Annual Survey of Income Limits can be found at FHWA’s link:

<https://www.huduser.gov/portal/datasets/il.html>.

For persons whose income exceeds the survey’s “low income” limits, or for dependents or those refusing to provide income information, the base monthly rental must be established solely on the criteria in Item 1 above.

Assume a full-time student or a resident of an institution to be a dependent, unless they demonstrate otherwise.

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

Disburse the payment under this section in a lump sum, unless the Regional ROW Chief determines that the payment should be made in installments. If installments are chosen, except as limited by Sec. 7.25.8, the full amount vests immediately, regardless of whether there is any later change in their income or rent, or in the condition or location of their property.

DOT&PF intends that the full amount of the replacement housing payment for rental assistance should be applied to the rental of the replacement dwelling. DOT&PF may make payment to the owner of the rental replacement housing if the Regional ROW Chief determines it to be necessary for placement into a rental situation and obtains the written consent of the displaced person.

Use the following forms for purposes of this section:

- [Payment Evaluation \(Rent Supplement\) Form 25A-R768](#); and
- [Claim for Payment \(Rent Supplement\) Form 25A-R770](#).

### **7.9.3. Down Payment Assistance**

A displaced person who purchases a replacement dwelling and qualifies as a 90-day tenant or 90-day homeowner-occupant, may receive a down payment in the amount they would have received as rental assistance under Sec. 7.9.2. If the computed down

payment is less than \$7,200 (for 90-day occupant), the Regional ROW Chief may increase the down payment amount to as much as \$7,200. The increase is applied in a uniform and consistent manner to all displaced persons in like circumstances. (See also, Sec. 7.10 Replacement Housing of Last Resort.)

The displaced person must apply the full amount of the replacement housing payment for down payment assistance to the purchase price of the replacement dwelling and related incidental expenses. DOT&PF may make the payment to an escrow account before closure of the loan if the following criteria are met:

- loan agency agrees to return the payment should the sale not be consummated; and
- replacement dwelling meets the necessary DS&S inspection requirements.

Use the following forms for purposes of this section:

- [Payment Evaluation \(Down Payment\) Form 25A-R773](#); and
- [Claim for Payment \(Down Payment\) Form 25A-R775](#).

## **7.10. Replacement Housing of Last Resort**

In accordance with [49 CFR 24.404\(a\)](#), whenever a project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants as specified in [49 CFR 24.401](#) or [49 CFR 24.402](#), the Regional ROW Chief must provide additional or alternative assistance, which is termed “last resort housing assistance.”

The Regional ROW Chief must adequately justify and concur in a Relocation Agent’s decision to provide last resort housing assistance. The method selected for providing last resort housing assistance must be cost effective, considering all elements that contribute to total project costs. (Will project delay justify waiting for less expensive comparable replacement housing to become available?)

DOT&PF may not require any eligible person (Sec. 7.3) to move unless a comparable replacement property is available to that person. No person may be deprived of any rights the person may have under the Uniform Act ([49 CFR 24](#)). DOT&PF may not require any displaced person to accept a replacement property under these procedures (unless DOT&PF



and the displaced person have entered into a contract to do so) instead of any acquisition payment or any relocation payment for which the displaced person may otherwise be eligible.

If the replacement housing claim form indicates any members of the displaced family are unlawfully present in the United States, do not count them as a part of the family, and reduce the family size accordingly. Select comparable replacement housing to reflect the makeup of the remaining persons and compute the replacement housing payment accordingly.

### **7.10.1. Methods of Providing Comparable Replacement Housing of Last Resort**

DOT&PF has broad latitude in implementing this section, but it must implement it for reasonable cost on a case-by-case basis, unless an exception to case-by-case analysis is justified for an entire project. State procurement regulations must be complied with if contracting directly for goods or services. Consult with the regional procurement office. The Statewide ROW Chief must approve any methods other than payment in excess of the established limits.

The methods of providing replacement housing of last resort include the following:

1. A replacement housing payment in excess of the limits in Sections 7.8.2, 7.9.2, or 7.9.3, as appropriate. DOT&PF may provide a rental assistance subsidy in installments or in a lump sum as determined by the Regional ROW Chief.
2. Rehabilitation of, or additions to, an existing replacement dwelling.
3. The construction of a new replacement dwelling.
4. The provision of a direct loan that requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property and may bear interest or be interest-free. See Sec. 2.9.7.
5. The relocation of a dwelling and, if necessary, rehabilitation of that dwelling after relocation.
6. The purchase of land or a replacement dwelling by DOT&PF and subsequent sale or lease to, or exchange with, a displaced person.
7. The removal of barriers to disabled persons.

8. The change in status of the displaced person with their concurrence from tenant to homeowner when it is more cost effective to do so, as in cases where a down payment may be less expensive than a last resort rental assistance payment.

Under special circumstances, consistent with the definition of a comparable replacement dwelling, DOT&PF may consider modified methods of providing replacement housing of last resort based on space and physical characteristics different from those in the displacement dwelling. This includes upgraded, but smaller replacement housing that is DS&S compliant and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence.

Use a variation from the usual methods of obtaining comparability only if the variation does not result in lower housing standards or in a lower quality of living style. However, in no event may DOT&PF require a displaced person to move into a property that is not functionally equivalent in accordance with the definition of “Comparable Replacement Dwelling” (49 CFR 24). A mobile home may be used in extreme circumstances to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available. If only a portion of a large dwelling is being used, a smaller dwelling may be used as replacement housing.

### **7.11. Persons Ineligible to Receive Replacement Housing Payment**

DOT&PF must provide assistance under this section to an otherwise eligible displaced person who is not eligible to receive a replacement housing payment 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 (see Sec. 7.9.2). DOT&PF must provide assistance to cover 42 months.

### **7.12. Utilization of Payment by Displaced Person**

Whenever DOT&PF provides monetary assistance, the displaced person must apply the money to the intended purpose.

### **7.13. Voluntary Sale for Last Resort Housing**

Relocation benefits are inapplicable to an owner-occupant who voluntarily sells property to the State



for last resort housing, and the owner-occupant so certifies in a statement maintained in DOT&PF's files.

#### **7.14. Payment for Residential Moves and Related Expenses**

A displaced person's actual, reasonable, and necessary moving expenses for moving personal property from a dwelling (including a mobile home) may be determined based on the cost of one or a combination of the following methods:

- commercial moves performed by a professional mover; and
- self moves performed by the displaced person in one or a combination of the following methods:
- Fixed Residential Moving Cost Schedule under Sec. 7.14.2; and
- actual cost of the move, supported by receipted bills for labor and equipment. Hourly labor rates may not exceed the cost paid by a commercial mover to employees performing the same activity. Equipment rental fees should be based on the actual cost of renting the equipment but may not exceed the cost paid by a commercial mover for the same equipment.

Non-residential self moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.

The occupant of a mobile home may elect to move the contents by the schedule or on an actual cost basis. DOT&PF must make any payment for moving the mobile home itself on an actual cost basis. Also see Sec. 7.18.3.

If the moving claim form certification indicates that one or more members of a displaced family is an alien who is not lawfully present in the United States, DOT&PF must prorate the moving expense payment based on the proportion of lawful occupants to the total number of occupants. For example, if four out of five members of a family to be displaced are lawfully present, the proportion of lawful occupants is 80% and that percentage is to be applied against the moving expenses payment that otherwise would have been received.

##### **7.14.1. Residential Moves: Actual Expenses**

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to payment for actual moving and related expenses as the

Regional ROW Chief determines to be reasonable and necessary, including expenses for the following:

- transportation of the displaced person and personal property (costs may be on a mileage basis, not to exceed the current IRS mileage rate for business expenses, or reasonable actual fees if commercial transport is used. Transportation costs for a distance beyond 50 miles are not eligible unless the Regional ROW Chief determines that relocation beyond 50 miles is justified, based on written support);
- packing, crating, unpacking, and uncrating of the personal property;
- disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property;
- storage of the personal property for up to 12 months, unless the Regional ROW Chief determines that a longer period is justified based upon written support;
- insurance for the replacement value of the property in connection with the move and necessary storage;
- 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 the loss, theft, or damage is not reasonably available; and
- other moving related expenses (unless ineligible under Sec. 7.17.12) that the Regional ROW Chief determines are reasonable and necessary.

The following forms are required for a claim under this section:

- [Claim for Actual Moving Expenses Form 25A-R745](#); and
- [Tabulation of Actual Moving Expenses \(Nonresidential\) Form 25A-R750](#).

##### **7.14.2. Residential Moves: Fixed Payment for Moving Expenses**

Any eligible person displaced from a dwelling, a seasonal residence, or a dormitory-style room is entitled to receive a fixed residential moving cost payment, based on room count, as an alternative to a

payment for actual moving and related expenses covered under Sec. 7.14.1. Determine the room count when requested.

In some cases, a displaced person will have an unusually large amount of furniture in one or more rooms (such as in a basement or attic). In this case the number of rooms and the Fixed Residential Moving Cost Schedule payment may be adjusted to reflect this situation. The definition of “Counted room” and the Fixed Residential Moving Cost Schedule for either occupants moving from unfurnished units or from furnished units where the occupant does not own the furniture are set forth on the [Claim for Fixed Moving Expenses and Dislocation Allowance \(Residential\) Form 25A-R753](#).

Occasionally, a displaced person may store personal property outdoors, yet still choose to move the property as a scheduled move. In this case, you may determine the reasonable cost of moving this outdoor property and add it to the schedule as additional rooms or as a moving cost finding.

The expense and dislocation allowance to a person whose residential move is performed by an agency at no cost to them shall be limited to \$100.

If an owner-occupant chooses to retain the home and leaves personal property in the dwelling while the dwelling is being moved, the displaced person is eligible to receive the moving costs by the schedule outlined above. If the move by schedule option is selected, the displaced person is not eligible to receive payments for any other moving expenses, storage costs, nor the cost of temporary lodging.

The expense and dislocation allowance to a person with minimal personal possessions who occupies a dormitory-style room shared by two or more other unrelated persons shall be limited to \$100.

### **7.15. Owner-occupants of Multifamily Dwellings**

An eligible owner-occupant of a multifamily dwelling is eligible to receive a residential moving expense payment for moving personal property from the owner-occupied dwelling unit in accordance with Sec. 7.14. The owner-occupant is also eligible to receive moving payments for personal property owned in the other units of the multifamily dwellings in accordance with Sec. 7.16.

### **7.16. Payment for Nonresidential Moves and Related Expenses**

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

1. Commercial move based on the lower of two bids or estimates prepared by a commercial mover. DOT&PF may accept a single bid for a low-cost or uncomplicated move. A self-move payment may be based on one or a combination of the following:
  - a. lower of two bids or estimates prepared by a commercial mover or the Relocation Agent; and
  - b. actual cost of the move, supported by receipted bills for labor and equipment (hourly labor rates may not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover).
2. A fixed payment instead of a payment for actual moving and related expenses (“payment in lieu” or “in lieu of” payment).

The prohibition of benefits payments to an alien who is not lawfully present in the United States (Sec. 7.3) must be applied differently to the differing ownership situations found in sole proprietorships, partnerships, or corporations.

In a sole proprietorship, the eligibility of the business is synonymous with the residency status of the proprietor. Therefore, if the proprietor is an alien who is not lawfully present in the United States, the business is not eligible.

In a partnership, if any of the owners are illegal aliens, DOT&PF may make no relocation payment to those owners. Reduce the total relocation payment by a percentage based on the proportion of ineligible owners.

A corporation, which is considered a “person” under State law, need only certify that it is authorized to conduct business in the United States.

### **7.16.1. Nonresidential Moves: Actual Reasonable Moving and Related Expenses**

Any business or farm operation that qualifies as a displaced person (see 49 CFR 24) is entitled to payment for those actual moving and related expenses as the Regional ROW Chief determines are reasonable and necessary, including expenses for the following:

1. Transportation of personal property; limited to 50 miles unless the Regional ROW Chief determines that relocation beyond 50 miles is justified, based on written support.
2. Packing, crating, unpacking, uncrating of the personal property.
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described under #13 of this section; includes connecting to nearby utilities; also includes modifying personal property (mandated by Federal, State, or local law, code or ordinance) necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site.
4. Modifications necessary to adapt the utilities at the replacement site to the personal property; include expenses for providing utilities from the ROW to the building or improvement when the Regional ROW Chief determines they are actual, reasonable, and necessary.
5. Storage of the personal property for up to 12 months. Regional ROW chief may extend this based on written support.
6. Insurance for the replacement value of the personal property in connection with the move and necessary storage.
7. Any license, permit, or certification not covered in the appraisal, required of the displaced person at the replacement location. Payment may be based on the remaining useful life, as of the date of the move, of the license, permit, or certification.
8. 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) when insurance covering the loss is not reasonably available.
9. Professional services necessary for planning the move of the personal property, such as consultants, professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation are included if the Regional ROW Chief determines they are actual, reasonable, and necessary. Examples include:
  - a. feasibility surveys, soil testing, and marketing studies; and
  - b. professional services in connection with the purchase or lease of a replacement site.
10. Relettering signs and replacing stationery on hand at the time of displacement that is made obsolete as a result of the move.
11. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation; payment shall consist of the lesser of the following:
  - a. market value of the item for continued use at the displacement site, less the proceeds from its sale; (The claimant must make a good faith effort to sell the personal property, unless the Regional ROW Chief determines that such effort is unnecessary. When payment for property loss is claimed for goods held for sale, base the market value on the cost of the goods to the business or farm operation, not on the potential selling price.) or
  - b. estimated cost of moving the item, with no allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (If the business or farm operation is discontinued, base the estimated cost on a moving distance of 50 miles.)
12. The reasonable cost incurred in attempting to sell an item that is not to be relocated.

13. Purchase of substitute personal property; if an item of personal property 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 the following:
  - a. 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. estimated cost of moving and reinstalling the replaced item, but with no allowance for storage. The estimated cost for a low-cost or uncomplicated move may be based on a single bid or estimate.
14. Searching for a replacement location; a displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Regional ROW Chief determines to be reasonable, that are incurred in searching for a replacement location including the following:
  - a. transportation, meals, and lodging away from home;
  - b. time spent searching, based on \$25 per hour;
  - c. 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;
  - d. time spent obtaining permits and attending zoning hearings; and
  - e. time spent negotiating the purchase of a replacement site, based on a reasonable salary or earnings.
15. Advertising signs; the amount of a payment for direct loss of an advertising sign that is personal property shall be the lesser of the following:
  - a. depreciated reproduction cost of the sign, as determined by the Regional ROW Chief, less the proceeds from its sale; or
  - b. estimated cost of moving the sign but with no allowance for storage.
16. If the personal property to be moved is of low value and high bulk, and the Regional ROW Chief determines that the cost of moving the property

would be disproportionate to its value, the allowable moving cost payment may not exceed the lesser of the following:

- a. amount that would be received if the property were sold at the site; or
- b. replacement cost of a comparable quantity delivered to the new business location.

17. Impact fees or one-time assessments for anticipated heavy utility usage.
18. Other moving related expenses (unless ineligible under Sec. 7.17.12 of this manual) as the Regional ROW Chief determines are reasonable and necessary.

The following forms are required for a claim under this section:

- [Claim for Actual Moving Expenses Form 25A-R745](#); and
- [Tabulation of Actual Moving Expenses Form 25A-R750](#).

### **7.17. Nonresidential Moves: Preparation of Specifications, Notification, and Inspection**

The Regional ROW Chief must inform the displaced person, in writing, of the necessity of preparing move specifications. This should be done as soon as possible after negotiations begin. The move specification is a detailed agreement between the displaced person and DOT&PF on how the move is to be accomplished. The displaced person prepares this document (with DOT&PF assistance if necessary). The displaced person should be informed that he or she may hire a professional to prepare the document and include the cost of preparation as part of the displaced person's moving expenses. The document becomes the basis to prepare the bids or estimates because it informs the person preparing the move estimate of what must be done to accomplish the move.

The move specifications should address such items as the following:

- order of the move;
- advance notification of the date of the move;
- special handling required;
- detach and reinstallation instructions;

- inventory;
- unique circumstances of the move; and
- location to which the property will be moved.

For low-cost or uncomplicated moves, the Regional ROW Chief may waive the move specifications requirement.

Make reasonable and timely inspections of the personal property at the displacement and replacement sites and monitor the move.

#### **7.17.1. Nonresidential Moves: Self-Moves**

If the displaced person elects to take full responsibility for all or part of the move of the business, farm operation, or nonprofit organization, the Regional ROW Chief may approve a payment for the moving expenses. Before the move, the displaced person must complete the [Self-Move Agreement \(Business\) Form 25A-R755](#).

The amount may not exceed the lower of two acceptable bids or estimates obtained by the ROW Section, or prepared by a qualified, authorized DOT&PF representative. The person preparing these bids or estimates must sign and date them and indicate the replacement location. A self-move payment does not require the displaced person to submit any additional documentation of moving expenses actually incurred in the move.

Monitor the move to ensure the property is actually moved to the replacement site and that the payment to the displaced person was based upon costs that were actual, reasonable, and necessary. This can be documented in the file by pre- and post-move inventories and the agent's move monitoring report contained within the [Self-Move Agreement \(Business\) Form 25A-R755](#).

For an uncomplicated move of less than \$2,500, the Regional ROW Chief may determine that a single bid or estimate is required. If, in the Regional ROW Chief's opinion, bids or estimates cannot be obtained or if circumstances (such as large fluctuations in inventory) prevent reasonable bidding, DOT&PF may pay the displaced owner the actual reasonable moving costs, supported by receipts or other evidence of expense incurred.

The allowable expenses of a self-move under this provision may include the following:

- amounts paid for truck and/or equipment hired;
- if vehicles or equipment owned by a business being moved are used, a reasonable amount to cover gas and oil, and the cost of insurance and depreciation directly allocable to hours and/or days the equipment is used for the move;
- wages paid for the labor of persons who physically participate in the move; labor costs are to be computed on the basis of actual hours worked at the hourly rate paid (the hourly rate may not exceed that of commercial movers or contractors in the locality for each profession or craft involved); and
- if a business proposes to use working foremen or group leaders regularly employed by the business to provide supervisory services in connection with the move, the amount of their wages covering time spent in actual supervision of the move may be included as a moving expense.

#### **7.17.2. Nonresidential Moves: Eligible Reestablishment Expenses**

In addition to the payments available above, a small business, farm, or nonprofit organization may be eligible to receive a payment not to exceed \$25,000 for expenses actually incurred in relocating and reestablishing the small business, farm, or nonprofit organization at a replacement site. The Regional ROW Chief determines reasonable and necessary reestablishment expenses, supported by evidence of expenses actually incurred. Examples include, but are not limited to, the following:

1. Repairs or improvements to the replacement real property as required by Federal, State, or local law, code, or ordinance.
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
3. Construction and installation costs for exterior signing to advertise the business.
4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.



5. Advertisement of replacement location.
6. Estimated increased costs of operation during the first two years at the replacement site, for items such as lease or rental charges, personal or real property taxes, insurance premiums, and utility charges, excluding impact fees.
7. Other items the Regional ROW Chief considers essential to reestablishment.

**7.17.3. Nonresidential Moves: Ineligible Reestablishment Expenses**

The following is a nonexclusive listing of reestablishment expenditures DOT&PF does not consider to be reasonable, necessary, or otherwise eligible:

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

**7.17.4. Nonresidential Business Fixed Payment for Moving Expenses**

A displaced business may be eligible to choose a fixed payment instead of the payments for actual moving and related expenses, search expense and reestablishment expense (“in lieu” payment). Determine the fixed payment amount by computing the average annual net earnings of the business in accordance with Sec. 7.17.8. The payment may not be less than \$1,000 or more than \$40,000.

The displaced business is eligible for the payment if the Regional ROW Chief determines that:

1. The business owns or rents personal property 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.
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 Regional ROW Chief

determines that it will not suffer a substantial loss of its existing patronage.

3. The business is not part of a commercial enterprise with at least one other establishment that is not being acquired by DOT&PF [AS 34.60.040 (c)(2)], and that is engaged in the same or similar business activities.
4. The business is not operated at a displacement dwelling solely for the purpose of renting the dwelling to others.
5. The business is not operated at the displacement site solely for the purpose of renting the site to others.
6. The business contributed materially (see definitions) to the income of the displaced person during the two taxable years before displacement.

Use the following forms for a claim under this section:

- [Request for Determination of Entitlement for Payment in Lieu of Moving Costs \(Business or Farm\) Form 25A-R757](#); and
- [Claim for Payment Income Basis in Lieu of Moving Expense \(Business or Farm\) Form 25A-R758](#).

**7.17.5. Determining the Number of Businesses**

To determine whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, consider all pertinent factors, including the extent to which:

- same premises and equipment are shared;
- substantially identical or interrelated business functions are carried out and business and financial affairs are co-mingled;
- entities are held out to the public, and to those customarily dealing with them, as one business; and
- same person, or closely-related persons own, control, or manage the affairs of the entities.

**7.17.6. Farm Operation Fixed Payment for Moving Expenses**

Any displaced farm operation (see definitions) may choose a fixed payment instead of the payments for actual moving and related expenses, search expense

and reestablishment expenses (“in lieu” payment). Determine the fixed payment amount by computing the farm’s average annual net earnings in accordance with Sec. 7.17.8. The payment may not be less than \$1,000 or more than \$40,000. For a partial acquisition of land that was a farm operation before the acquisition, DOT&PF must make the fixed payment only if the Regional ROW Chief determines that one of the following applies:

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

Use the following forms for a claim under this section:

- [Request for Determination of Entitlement for Payment in Lieu of Moving Costs \(Business or Farm\) Form 25A-R757](#); and
- [Claim for Payment Income Basis in Lieu of Moving Expense \(Business or Farm\) Form 25A-R758](#).

#### **7.17.7. Nonprofit Organizations**

The amount DOT&PF must use for the payment is the average of two years’ annual gross revenues, less administrative expenses. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales, or other forms of fund collection that enable the nonprofit organization to operate. Administration expenses are those for administrative support such as rent, utilities, salaries, advertising, and other like items, as well as fundraising expenses. Operating expenses to carry out the purposes of the nonprofit organization are not administrative expenses. Verify the monetary receipts and expense amounts with certified financial statements or financial documents required by public agencies.

A displaced nonprofit organization (see definitions) may choose a fixed payment of \$1,000 to \$40,000, instead of the payments for actual moving and related expenses, search expense, and re-establishment expenses (“in lieu” payment), if the Regional ROW Chief determines that relocation will result in substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test unless the Regional ROW Chief demonstrates otherwise. The organization must support any payment in excess of \$1,000 by

submitting financial statements for the two 12-month periods before acquisition.

#### **7.17.8. 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 taxable years immediately before the taxable year in which it was displaced.

If the business or farm was not in operation for the full two taxable years before displacement, then base the net earnings on the actual period of operation at the displacement site during the two taxable years before displacement, projected to an annual rate.

The Regional ROW Chief may decide that average net earnings from a different time period are more equitable.

Net earnings include any compensation obtained from the business or farm operation by its owner, the owner’s spouse, and dependents.

The displaced person must furnish DOT&PF with proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence that the Regional ROW Chief determines is satisfactory.

#### **7.17.9. More Than One Move**

If it is in the public interest, DOT&PF may allow more than one move. The Regional ROW Chief must furnish complete written justification for the moves.

#### **7.17.10. Advertising for Bids**

DOT&PF may pay the expenses incurred in advertising for packing, crating, and transportation when the Regional ROW Chief determines that advertising is necessary. Advertising should be limited to complicated or unusual moves where advertising is the only method of securing bids.

#### **7.17.11. Transfer of Ownership**

Upon request and in accordance with applicable law, the displaced person or entity must transfer to the State, ownership of any personal property that has not been moved, sold, or traded in. This may be done by a waiver.

### **7.17.12. Ineligible Moving and Related Expenses: Residential and Nonresidential**

A displaced person is not entitled to payment for the following:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; this does not preclude the computation under “Owner Retention of Displacement Dwelling” (Sec. 7.8.3).
2. Interest on a loan to cover moving expenses.
3. Loss of goodwill.
4. Loss of profits.
5. Loss of trained employees.
6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location, except as provided in Sec. 7.17.2.
7. Personal injury.
8. Any legal fee or other cost to prepare a claim for a relocation payment or to represent the claimant before DOT&PF.
9. Expenses for searching for a replacement residential dwelling.
10. Physical changes to the real property at the replacement location of a business or farm operation, except as provided in Sections 7.16 and 7.17.2.
11. Costs for storage of personal property on real property owned or leased by the displaced person; the Regional ROW Chief may approve rental of van storage when the displaced person or entity provides support in writing.
12. Refundable security and utility deposits.

### **7.18. Personal Property Only**

The eligible expenses for a person required to move personal property items from real property but are not required to move from a dwelling (including a mobile home), business, farm, or nonprofit organization, include those expenses described in Sections 7.14 and 7.16. An example is personal property located on property that is being acquired, but the business or residence will not be taken and can still operate.

### **7.18.1. Mobile Homes**

The occupant of a mobile home may elect to move the contents by the schedule or on an actual cost basis. DOT&PF must make any payment for moving the mobile home itself on an actual cost basis.

Mobile homes are usually considered personal property; however, if a particular mobile home is considered real property, it will be valued as such in the appraisal.

Whether a particular object is personal or real property depends on whether it can be easily moved and what has been the owner’s intent. If it has been held out for tax purposes as personal property, then in all likelihood it would be personal property.

For a mobile home to be considered real property, it would have to demonstrate the characteristics of real property, such as being set on a cement block foundation; having numerous additions and modifications of a permanent nature; not being easily moved; and being taxed as real property.

### **7.18.2. Applicability**

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

The same prohibition on relocation payments to illegal aliens (Sec. 7.3) that apply to residents of permanent structures apply to residents of mobile homes.

### **7.18.3. Moving and Related Expenses-- Mobile Homes**

An eligible non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under Sec. 7.16.1. An eligible owner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving the mobile home on an actual cost basis in accordance with Sec. 7.14.1. If the mobile home is not acquired but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at Sec. 7.18.4, the owner is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

The following three paragraphs apply to payments for actual moving expenses under Sec. 7.14.1:

1. A displaced mobile home owner who moves the mobile home to a replacement site is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances such as porches, decks, skirting, and awnings that were not acquired; anchoring of the unit; and utility disconnect and reconnect charges.
2. If a mobile home requires repairs and/or modifications so that it can be moved and/or made DS&S-compliant, and it would be economically feasible to incur the additional expense, DOT&PF may reimburse the reasonable cost of such repairs and/or modifications.
3. Mobile Home Park Entrance Fee. DOT&PF may reimburse a nonrefundable mobile park entrance fee if it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park, or if payment of the fee is necessary to effect relocation. DOT&PF will not reimburse any refundable deposit.

#### **7.18.4. Replacement Housing Payment for 90-Day Mobile Home Owner-Occupants**

Except under Housing of Last Resort (see Sec. 7.10), a displaced owner-occupant of a mobile home may be entitled to a replacement housing payment of as much as \$31,000 under Sec. 7.8 if the following conditions are met:

1. The person owned the displacement mobile home and occupied it on the displacement site for at least 90 days immediately before the initiation of negotiations to acquire it, if the mobile home is real property, or if the mobile home is personal property, but the person owns the mobile home site.
2. The person owned and occupied the mobile home at least 90 days before DOT&PF notified them in writing that they were determined to be a displaced person.
3. The person meets the other basic eligibility requirements at Sec. 7.8.1.
4. DOT&PF acquires the mobile home or mobile home site, or DOT&PF does not acquire the mobile home but the owner is displaced from the mobile home because DOT&PF determines that

the mobile home meets one of the following criteria:

- a. is not and cannot economically be made DS&S compliant;
- b. cannot be relocated without substantial damage or unreasonable cost;
- c. cannot be relocated because there is no available comparable replacement site; or
- d. cannot be relocated because it does not meet mobile home park entrance requirements.

If DOT&PF does not acquire the mobile home, and the Regional ROW Chief determines that the owner-occupant is displaced and eligible for a replacement housing payment, the payment for a comparable replacement mobile home is the lesser of the following:

- net cost to purchase a replacement mobile home (the purchase price of the replacement mobile home, less trade-in or sales proceeds from the displacement mobile home); or
- cost of DOT&PF's selected comparable mobile home, less DOT&PF's estimate of the salvage or trade-in value of the displacement mobile home.

If the displacement mobile home site is leased or rented, a displaced 90-day owner-occupant is entitled to a rental assistance payment computed as described in Sec. 7.9.2. The rental assistance payment may be used in one of the following ways:

- applied to lease a replacement site;
- applied to the purchase price of a replacement site; or
- applied with any replacement housing payment attributable to the mobile home to the purchase of a replacement mobile home or conventional DS&S dwelling.

If the Regional ROW Chief determines a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a payment for the purchase of a replacement mobile home. However, the owner is eligible for moving costs and replacement housing payment for the purchase or rental of a comparable site.

### **7.18.5. Replacement Housing Payments for 90-Day Mobile Home Occupants**

Except under Housing of Last Resort (see Sec. 7.10), a displaced tenant or owner-occupant of a mobile home or site is eligible for a replacement housing payment of as much as \$7,200, under Sec. 7.9 if the following conditions are met:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately before the initiation of negotiations.
2. The person meets the other basic eligibility requirements at Sec. 7.9.1.
3. DOT&PF acquires the mobile home or mobile home site, or DOT&PF does not acquire the mobile home, but the owner is displaced from the mobile home because of one of the circumstances described in item 4 in Sec. 7.18.4.

### **7.18.6. Replacement Housing Payment Based on Dwelling and Site**

Consider both the mobile home and mobile home site when computing a replacement housing payment. For example, an occupant may own the mobile home and rent the site or may rent the mobile home and own the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site or rent a replacement mobile home and purchase a replacement site. In such cases, DOT&PF must make the total replacement housing payment for a dwelling and a payment for a site, each computed under the applicable paragraph in Sections 7.8.2, 7.9.2, or 7.9.3.

DOT&PF shall make the applicable replacement housing payments due to a displaced person. These payments may total as much as \$31,000 under Sec. 7.18.4 or \$7,200 under Sec. 7.18.5, or more under Housing of Last Resort (see Sec. 7.10).

### **7.18.7. Cost of Comparable Replacement Dwelling**

If a comparable replacement mobile home is not available, compute the replacement housing payment based on the reasonable cost of a conventional comparable replacement dwelling. If the Regional ROW Chief determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Regional ROW Chief may determine that, for purposes of computing the price differential under Sec. 7.8.3, the cost of a comparable

replacement dwelling is the sum of the following amounts:

- value of the mobile home as established by the market;
- cost of any necessary repairs or modifications; and
- estimated cost of moving the mobile home to a replacement site.

### **7.18.8. Initiation of Negotiations**

If DOT&PF does not acquire the mobile home but the occupant is considered displaced, the initiation of negotiations is the date negotiations were initiated to acquire the land. If DOT&PF does not acquire the land, the initiation of negotiations is the date the [Notice of Eligibility Form 25A-R723](#) is signed.

### **7.18.9. Person Moves Mobile Home**

If the owner is reimbursed for the cost of moving the mobile home under this chapter, they are 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.

### **7.18.10. Partial Acquisition of Mobile Home Park**

The acquisition of a portion of a mobile home park property may leave the remainder deemed an uneconomic remnant by the Review Appraiser. If the Regional ROW Chief determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, DOT&PF will consider the owner and any tenant as a displaced person entitled to relocation payments and other assistance if they are otherwise eligible under Sec. 7.3.

### **7.19. Notice of Intent to Acquire**

If, in rare instances, after authority to acquire is received and before initiating negotiations for a parcel, the Regional ROW Chief determines that it is necessary to establish eligibility for relocation payments for a parcel, issue a [Notice of Intent to Acquire Form 25A-R715](#), accompanied by a relocation brochure.

A notice of intent to acquire is DOT&PF's written communication provided to a person to be displaced, clearly setting forth the intent to acquire the property and establishing eligibility for relocation assistance.



Furnish a copy of the notice to each tenant within 15 days and notify the owner that this was done. To prevent possible subsequent occupancy and minimize rental problems for the owner, use discretion in issuing the notice.

### **7.19.1. Notification of Initiation of Negotiations**

Federal law requires that the relocation brochure and a brief explanation of the relocation program be given to owners at the first acquisition contact. If a written offer to acquire is given to the owner, this is the “initiation of negotiations.” While this *may* be done by the Acquisition Agent (see Ch. 6), because the Relocation Agent is more knowledgeable of the program, it is recommended that the Relocation Agent accompany the Acquisition Agent at this time.

### **7.19.2. Displaced Person Contact After Initiation of Negotiations**

Contact the owner and any tenants as soon as possible after initiation of negotiations. Contact new tenants as their tenancy is known. Note and initial the details of *all* contacts (date, time, persons present, items discussed, questions raised and resolved) on the [Record of Relocation Contacts Form 25A-R720](#). A complete record is important in case the displaced person files an appeal or a different agent has to handle portions of the relocation.

Explain the eligibility requirements to receive payments, increased interest costs, incidental expenses, and the option to rent replacement housing, relocation services available, and where they may be obtained. Give a relocation brochure if not given previously.

### **7.19.3. Notice of Relocation Eligibility**

Eligibility for relocation assistance begins on the date of the issuance of a notice of intent to acquire, the initiation of negotiations for the occupied property, or the actual acquisition of the property, whichever occurs first. Give the [Notice of Eligibility Form 25A-R723](#) to all occupants within two weeks after the offer is made for the property. If the Notice of Eligibility is sent by certified mail, make personal contact within 30 days after initiation of negotiations to furnish any additional explanations necessary. If appropriate, the applicable 90-day notice may be given at the same time as the Notice of Eligibility.

### **7.19.4. Request for Relocation Assistance**

For residential moves, obtain the signature of the displaced person on the [Affirmation and Request for Relocation Form 25A-R725](#) or complete the [Agent’s Affirmation of Presentation Form 25A-R728](#) if the displaced person will not sign the form. If the displaced person requests assistance, supply lists of replacement housing that meets the DS&S standard.

List the addresses of the comparable housing offered on the Record of Relocation Contacts. Offer all displaced persons, especially the elderly and disabled persons, transportation to inspect housing to which they are referred. Work with the DOT&PF’s Civil Rights Office to ensure compliance and accommodation.

For a displaced business, obtain the signature of the owner on the [Affirmation and Request for Relocation Assistance \(Business\) Form R25A-R726](#) and supply lists of comparable commercial properties available.

Inform the displaced person of the different moving options available and inquire as to any moving plans.

### **7.19.5. Rental Agreement**

If a displaced person remains on the displacement property after it has been acquired, inform the displaced person of the requirement to pay rent to DOT&PF for the property after it is acquired, and that the person must sign a rental agreement (Sec. 9.6.1).

## **7.20. Business Services Provided**

DOT&PF must provide, at a minimum, those measures, facilities, or services that are necessary or appropriate to carry out this subsection.

Determine the relocation needs and preferences of the business to be displaced and explain the relocation payments and other assistance for which they may be eligible, the related eligibility requirements, and the procedures to obtain assistance; this must include a personal interview.

Provide current and continuing information on availability, purchase prices, and rental costs of comparable sites.

Ensure that interviews with displaced business owners and operators contain, at a minimum, the following:

- replacement site requirements, current lease terms, and other contractual obligations of the business;

- financial capacity of the business to accomplish the move;
- determination of the need for outside specialists to assist in planning the move, assist in the actual move, and assist in the reinstallation of machinery and/or other personal property;
- identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve these issues before or at the time of the appraisal;
- estimate of the time required for the business to vacate the site;
- estimate of the anticipated difficulty in locating a replacement property; and
- identification of any advance relocation payments required for the move, and whether DOT&PF has authority to provide them.

### 7.21. Appeals

Any person who is dissatisfied by DOT&PF's benefits or relocation services may file a written appeal with DOT&PF, using the procedures in [17 AAC 81.020](#), including (if necessary) the procedures for a relocation appeals board hearing in accordance with [17 AAC 85.040](#) (d)-(e).

Advise every eligible displaced person of the right to appeal. Explain the procedures for making an appeal verbally when the benefit statement is delivered, if not before. A displaced person may file a written appeal in any case in which they believe DOT&PF failed to properly determine eligibility for, or the amount of, a relocation payment required under this chapter.

### 7.22. Moving of Hazardous Materials

There is a significant distinction between "hazardous materials" (permissible legal materials such as paint and oil) and "hazardous wastes" (byproducts of industrial and commercial uses, legal or otherwise). This distinction may be significant in a legal sense and cause other complications that will need to be resolved at the earliest possible stage.

For purposes of this general discussion, the term "hazardous materials" is used for general identification purposes. Early and close coordination with the Alaska Department of Environmental Conservation (DEC) is a necessity for resolving these complex issues.

DOT&PF must determine and provide relocation payments separate and apart from consideration of liability for hazardous materials treatment or removal. In other words, DOT&PF cannot withhold relocation payments because of a hazardous materials problem (except as noted in 7.22.1).

A displaced person (individual, business, or farm) cannot be forced to move hazardous materials when the person is displaced, and the person may abandon it when they move from the acquired property. However, the displaced person remains liable for the control, treatment, or removal of any abandoned hazardous materials under the applicable Federal, State, or local laws.

#### 7.22.1. Personal Property

Nothing in the Uniform Act or this manual affects a displaced person's responsibility for hazardous materials under Federal, State, or local law.

If the removal of items of personal property would cause or contribute to contamination at the displacement or the replacement site (because of leakage, improper storage, etc.), do not consider those items removable personal property, and do not allow them to be moved until the Regional ROW Chief coordinates with DEC regarding proper disposition of the materials before moving/disposal, and if possible, before assumption of State ownership of the materials.

A displaced person may be compensated for moving hazardous materials to that displaced person's new location or to a certified or licensed disposal or recycling center within 50 miles. The displaced person is responsible for obtaining all necessary permits and fulfilling their legal obligations. They coordinate these actions with DEC.

If the displaced person elects to abandon the hazardous materials rather than move them, pay the displaced person the actual cost of moving their other personal property in accordance with Sections 7.14 or 7.16. The person may also be entitled to a payment for actual direct loss of tangible personal property for the hazardous materials unless the Regional ROW Chief determines that the displaced person's use or ownership of the materials before displacement was in violation of applicable law.

If otherwise eligible, provide the displaced person a fixed or "in lieu" payment pursuant to Sections 7.14.2 or 7.17.4 in place of the payments described above.

### 7.23. Eviction for Cause

DOT&PF presumes that any eligible person who lawfully occupies the real property on the date of the initiation of negotiations is entitled to relocation payments and other assistance described in this manual, unless the Regional ROW Chief determines that the displaced person received an eviction notice before the initiation of negotiations and, as a result of that notice is later evicted; or the person

is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement. In either case described, the landlord did not undertake the eviction for the purpose of evading the obligation to make available the payments and other assistance described in this manual.

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

### 7.24. Parcels Acquired by Condemnation

When the State initiates eminent domain proceedings, eligible owner-occupants are still eligible for replacement housing supplements. Compute the provisional advance replacement housing payment and pay it on the basis that DOT&PF's maximum offer for the property is the acquisition price. If the owner does not agree to the adjustment, DOT&PF must defer the replacement housing payment until a legal settlement is reached.

The replacement housing payment may be made only upon the owner-occupant's signed agreement that:

- upon final acceptance of the condemnation or stipulated settlement or judgment, DOT&PF will re-compute the replacement housing payment; compare the settlement amount to the actual price paid or the amount determined by the Regional ROW Chief to be necessary to acquire a comparable DS&S-compliant dwelling; and
- if the settlement amount plus the amount of the provisional replacement housing payment advanced exceeds the price paid for a comparable dwelling or DOT&PF's determined cost, the displaced person agrees to refund to the State, from the settlement, an amount equal to the amount of the excess; in no event, however, may

the State require the displaced person to refund more than the advanced replacement housing payment (this potential action needs to be in the agreement signed by the displaced person).

### 7.25. Administration Relocation Claim Processing

To obtain a relocation payment, the displaced person must file a written claim for payment on the appropriate form provided by DOT&PF. The regional relocation supervisor must review all claim forms before requesting approval by the Regional ROW Chief. No more than one replacement housing payment will be made for each dwelling unit, except in the case of multifamily occupancy of a single-family dwelling, as shown in Sec. 7.25.5. Inspect all replacement housing before occupancy whenever possible, but certainly before payment is made.

With certain limited exceptions, relocation payments to illegal aliens are prohibited. By signing a relocation claim form, the displaced person certifies residence status.

#### 7.25.1. Time for Filing

A displaced person must file all claims for a relocation payment with the regional ROW Section within 18 months after the following:

- for tenants, the date of displacement; and
- for owners, whichever is later:
  - date of displacement;
  - date of the final payment for acquisition of the real property (for condemnations, the date the full amount of the Recommendation of Just Compensation is deposited in the court); or
  - date DOT&PF meets its obligation under Sec. 7.7.2 of this manual.

The Regional ROW Chief may waive this time period for good cause.

#### 7.25.2. Disapproval of Claim

If the Regional ROW Chief disapproves all or a part of a payment claimed or denies the claim because of untimely filing or other grounds, they must promptly notify the claimant in writing, providing the basis for the determination and the appeal procedures (Sec. 7.21).

### **7.25.3. Purchase Voucher Preparation**

A purchase voucher prepared for payment must reference the type of document authorizing the payment (Claim for Actual Moving Expenses Form, Claim for Rent Supplement Form). The date of agreement must be the date the claim is approved for payment. Attach the original approved claim form to the processed purchase voucher and file it in the parcel relocation file.

### **7.25.4. Payments**

DOT&PF must make payments for replacement housing supplements directly to the displaced person or family or upon written instruction from the displaced person, directly to the lessor for rent or the seller toward the purchase of a DS&S dwelling. If an applicant otherwise qualifies for a replacement housing payment, and upon specific request, DOT&PF must make payments into escrow before the displaced person moves.

DOT&PF must make payments for moving expenses directly to the displaced person. By written prearrangement between DOT&PF, the displaced person, and the mover, the displaced person may present an unpaid moving bill to DOT&PF for direct payment to the mover.

### **7.25.5. Multiple Occupants of One Displacement Dwelling Unit**

Two or more occupants of a dwelling may move to separate replacement dwellings. If they do, each occupant is entitled to a reasonable prorated share, as determined by the Regional ROW Chief, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling.

However, if two or more occupants of a dwelling maintain separate households within that dwelling, they each have separate entitlement to relocation payments.

The Regional ROW Chief must determine the number of households in a dwelling, based on the use of the dwelling, the relationship of the occupants, and any other relevant information. The payment computation for each household should be based on the part of the dwelling each household occupies and the space shared with others. For owner-occupants, the acquisition price to be used as the basis for replacement housing payment computations is that amount each owner received from the total payment for the property to be acquired.

### **7.25.6. Deductions from Relocation Payments**

The Regional ROW Chief shall deduct the amount of any advance relocation payment from each relocation payment to which a displaced person is otherwise entitled. The Regional ROW Chief shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to another creditor.

### **7.25.7. Conversion of Payment**

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under Sec. 7.9.2 is eligible to receive a payment under Sec. 7.8 or Sec. 7.9.3 if they meet the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Deduct any portion of the rental assistance payment that is disbursed from the payment computed under Sec. 7.8 or Sec. 7.9.3.

### **7.25.8. Payment After Death**

A replacement housing payment is personal to the displaced person and, upon his or her death, DOT&PF may not pay an undisbursed portion of any such payment to the heirs or assigns, except that DOT&PF must:

- pay the amount attributable to the displaced person's period of actual occupancy of the replacement housing;
- in any case in which a member of a displaced family dies, disburse the remaining payment to the remaining family members of the displaced household; and
- disburse to the estate any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person.

### **7.25.9. Hardship**

If a person demonstrates the need for an advance relocation payment to avoid or reduce a hardship, the Regional ROW Chief may approve the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished. The purchase voucher authorizing payment must reference the specific claim form or other documentation justifying payment.

#### **7.25.10. No Duplication of Payments**

No person shall receive any payment under this chapter if that person receives another payment under Federal, State, or local law that is determined to have the same purpose and effect as a payment under this chapter.

#### **7.25.11. Relocation Payments Not Considered As Income**

A relocation payment received by a displaced person under this chapter is not considered income for the purpose of the Internal Revenue Code of 1954 or for the purpose of determining the eligibility or the extent of eligibility for assistance under the Social Security Act or any other Federal law, except for any Federal law providing low-income housing assistance ([49 CFR 24](#)).

#### **7.26. Civil Rights**

DOT&PF must select prime contractors and subcontractors on a nondiscriminatory basis and as required by Title VI of the Civil Rights Act of 1964 and Executive Orders 11246 and 11625.

#### **7.27. Restrictions on Agent Establishing a Relocation Payment**

The agent who establishes the estimate of value of a moving or replacement housing payment may not negotiate for the acquisition of the parcel nor deliver payments to the displaced person.



## **PUBLIC STATEMENT**

### **Department of Transportation & Public Facilities Right-of-Way Acquisition Procedures**

Any property required for the construction of a project will be appraised either by a staff appraiser of this Department, a fee appraiser, or both. After the Department has an approved appraisal, negotiations for the purchase of the property with the property owner begin. The approved appraisal is the basis for the fair market value offer.

“Market value” is defined as the price a willing buyer would pay for a property offered by a willing seller with neither party having any obligation to either buy or sell. This is known as the willing buyer--willing seller concept and is the basis for “market value.”

For the State to pay less than market value would be unfair to the property owner. For the State to pay more than the market value of the property would be unfair to the taxpayer who provides the money for improvements.

Title 34, Ch. 60, of the Alaska Statutes defines the Federal-aid project benefits available to persons displaced from their homes, farms, and businesses, and benefits that nonprofit organizations may receive. These benefits are not a part of the market value of the property acquired but are in addition to the payment for property.

The State of Alaska offers the following benefits under the relocation program. The benefits are explained more fully in the relocation brochure available for you to take with you after the meeting:

- (1) Relocation advisory assistance is available for all individuals, families, businesses, farms, or nonprofit organizations displaced as a result of a public improvement, as well as for adjacent property owners who suffer substantial economic damage resulting from acquisition.
- (2) A moving payment is available for individuals, families, businesses, farms, and nonprofit organizations in occupancy on the first negotiating call or in occupancy at the time the State obtains legal possession of the property. This payment is for actual and reasonable costs to move personal property up to 50 miles. As an alternative to actual costs of moving, an individual or a family living in a dwelling is eligible to receive a moving expense and relocation allowance, that is based on the number of rooms of furniture and/or personal property to be moved.
- (3) Under certain conditions, displaced farms, businesses, and nonprofit organizations may be eligible for benefit payments of up to \$40,000 in lieu of actual moving costs.
- (4) For owner-occupants of dwellings for more than 90 days prior to the start of negotiations, under certain conditions, an additional payment may be available for the additional cost necessary to purchase a replacement house, to compensate the owner for increased interest costs in financing a replacement house, and to reimburse the owner for incidental expenses to the purchase of replacement housing, the combination of which may not exceed \$31,000.
- (5) For owners and renters for more than 90 days prior to the start of negotiations who prefer to rent, a rental replacement housing payment of up to \$7,200 may be made to allow the rental of a decent, safe, and sanitary dwelling.

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- (6) For owner-occupants and renter occupants of dwellings for 90 days prior to the start of negotiations who elect to purchase a decent, safe, and sanitary house, an alternate benefit to apply on the down payment of as much as \$7,200 without entering Housing of Last Resort is available.

The Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act and the State Relocation Assistance and Real Property Acquisition Practices operating procedures are very complex. The dollar figures just quoted are maximum figures. You are cautioned that benefits must be computed in accordance with these laws and regulations and on an individual basis. Usually, the benefits do not reach the maximums quoted.

**THE FOLLOWING INFORMATION IS TO BE GIVEN AT CORRIDOR MEETINGS:**

- (1) The approximate number of individuals, families, businesses, farms and nonprofit organizations that would be displaced for each proposed route.
- (2) A projection of the probable availability of decent, safe, and sanitary replacement housing within the means of those displaced is to be made up to the anticipated year of the project. In addition, any alternate plans for replacement housing displaced persons are to be presented.

**THE FOLLOWING INFORMATION IS TO BE PRESENTED AT DESIGN MEETINGS:**

The time required for right-of-way acquisitions and relocation is estimated at \_\_\_\_\_ months from date of authorization to appraise and acquire property for the project. This will permit adequate appraisal and negotiation time and provide at least 90 days for relocation of the displaced persons affected after notice of acquisition. In addition, no persons will be displaced until they have been relocated to decent, safe, and sanitary housing, have obtained the right of possession of comparable replacement housing, or have been offered decent, safe, and sanitary housing that is available for immediate occupancy. No owner-occupant will be required to move until receiving payment for the property or the money is deposited in the Registry of the Court.

It is estimated that \_\_\_\_\_ individuals or families will need to be relocated.

Alternate housing for this project is readily available. A search of the residential market reveals that \_\_\_\_\_ dwellings are for sale by real estate brokers and private owners. Also, a search of the rental market reveals that \_\_\_\_\_ single-family dwelling units in multiple housing complexes are available for rent. Mobile home courts have vacancies available and mobile home dealers have large inventories of replacement dwellings. Further studies indicate this amount of housing can reasonably be expected to be (as many, more, or less) than indicated here during the foreseeable future.

(Note: The above language may be changed to suit the replacement housing situation for each separate project.)

The replacement dwelling units mentioned are decent, safe, and sanitary, and are functionally equivalent and substantially the same as those to be acquired: fair housing, open to all persons regardless of race, color, national origin, gender, age, income, or disability in areas not less desirable than the dwellings to be acquired in regard to public utilities and public and commercial facilities, reasonably accessible to the displaced person's place of employment, adequate to accommodate the displaced person in an equal or better neighborhood, and within that person's financial means.

If the displaced person is dissatisfied with the payment benefits, he or she may initiate the relocation appeals procedure within 60 days after notification of eligibility or payment amount, through a request in writing for a determination from the Chief Engineer of the Division of Design and Engineering Services. If, within 30 days after the Chief Engineer's determination, the displaced person is still dissatisfied, an appeal may be made to the Regional Director. In turn, the Regional Director will appoint a three-member appeals board that will provide each appellant an opportunity to be heard. Any additional appeals actions must be made through civil litigation.

The Regional Right-of-Way Agent will render the appellant assistance in each step of the procedure. Initiating the appeals procedure does not invalidate the benefits for which the displaced person is eligible.

The Right-of-Way program for this project will be under the supervision of \_\_\_\_\_,  
whose office is located at \_\_\_\_\_  
in \_\_\_\_\_, Alaska. Their telephone number is: \_\_\_\_\_.

**THIS COMMENT IS TO BE MADE AT ALL PUBLIC MEETINGS:**

The benefits available under the laws and the eligibility requirements for such benefits are outlined in the relocation brochure. Copies of this brochure are available at this meeting and, if your property will be affected by the project, I suggest you take a copy with you when you leave. The Right-of-Way Agent will explain the program in full at the time of negotiations. Eligibility for the various benefits under the program will have been determined and will be explained fully at that time.

**COMPUTATION EXAMPLE FOR DETERMINING  
REPLACEMENT HOUSING PAYMENT**

**(If dwelling is located on land appraised at a higher value use than residential)**

**Sample Computation:**

Total Acquisition Price	\$110,000
Comparable Replacement Housing	\$90,000
Less Acquisition Price of Acquired Dwelling	(\$30,000)
Less Acquisition Price for that portion of acquired land representing a typical <u>residential tract in the area</u>	(\$50,000)
Replacement Housing Payment	\$10,000

If the mortgage is obviously based on the higher use, reduce the interest payment to the percentage ratio that the estimated residential value has to the before value:

In the above example, the acquired dwelling (\$30,000) plus the associated land portion (\$50,000) total \$80,000 that, divided by the acquisition price (\$110,000), represents 72% of the total acquisition price. To determine the interest differential, the remaining principal balance and the monthly mortgage payment would each be reduced to 72% of the actual amount.

**Old Mortgage:** (30 years on \$80,000 with 25 years remaining term)

Remaining Principal Balance:  $\$78,988 \times 72\% = \$56,871.36$

Monthly Payment (principal and interest):  $\$812.38 \times 72\% = \$584.91$

Interest Rate: 12% (commercial rate)

**New Mortgage:**

Interest Rate:	10% (residential rate)
Principal Balance	\$56,871.36
Monthly Payment (principal & interest)	\$516.78

No interest differential payment is due in the above example since the monthly payment for the new mortgage is less than the monthly payment for the old mortgage.

**Exhibit 7-2  
Computation Examples**