

ROW Relocation Assistance Manual



Revised August 2023

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Manual Notice 2023-1

From: Kyle Madsen, Right of Way Division Director

Manual: ROW Relocation Assistance Manual

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Purpose

This revision is intended to update the manual to match current requirements for relocation assistance.

Changes

Overall manual updates - Removed ROWIS references and replaced with TxDOTCONNECT (TxC) references and processes, and made minor wording and grammatical changes.

Chapter 1 - Updated the *Acronyms and Definitions* section.

Chapter 2 - Updated links and added clarification to the following sections: *Federal Law and Regulations* and *State Law*.

Chapter 6 - Updated the following sections: *General Requirements* and *Other Applicable Relocation Advisory Services*.

Chapter 9 - Updated the Notice of Denial of Claim in section of the guide.

Chapter 10, 11, 12, 20, and 24 - Made minor clarification to roles.

Chapter 13 - Removed ROWIS references and replaced with TxC references, and made minor clarification to roles.

Chapter 14 - Updated the *Allowable Moving Expenses – Non-residential* section.

Chapter 21 - Removed ROWIS references and replaced with TxC references.

Chapter 25 - Updated entire *Payment Submissions* chapter.

Chapter 26 - Removed ROWIS references and replaced with TxC references.

Disclaimer

Some hyperlinks will not work when a PDF version of this manual is downloaded and used offline.

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Archives

Past manual notices are available in a [PDF archive](#).

Table of Contents

Chapter 1 — Introduction

| | |
|--|-----|
| Section 1 — Overview..... | 1-2 |
| General..... | 1-2 |
| Section 2 — Acronyms and Definitions | 1-3 |
| Acronyms Used in This Manual | 1-3 |
| Definitions Used in This Manual..... | 1-5 |

Chapter 2 — Laws, Regulations, and TxDOT Policy

| | |
|--|------|
| Section 1 — Federal Law and Regulations | 2-2 |
| Authority for Relocation Assistance | 2-2 |
| Relocation Payments Non-Income Status | 2-2 |
| Fair Housing | 2-2 |
| Fair Housing Exceptions | 2-3 |
| Eligibility - Individuals Unlawfully Present | 2-4 |
| Section 2 — State Law..... | 2-5 |
| Authority | 2-5 |
| Section 3 — TxDOT Policy..... | 2-6 |
| Commission Minute Orders..... | 2-6 |
| Replacement Housing Policy..... | 2-6 |
| Emergency Relocation..... | 2-7 |
| Section 4 — Miscellaneous Provisions | 2-8 |
| No Waiver of Relocation Assistance..... | 2-8 |
| No Duplication of Payments | 2-8 |
| Type of Interest Acquired | 2-8 |
| Partial Acquisitions | 2-8 |
| Acquisition of Remainder | 2-9 |
| Eviction for Cause | 2-9 |
| Date of Displacement | 2-9 |
| Joint Residential and Business Use | 2-10 |
| Refusal of Assistance..... | 2-10 |
| Waivers | 2-10 |
| Global Settlements..... | 2-10 |
| Ineligible Payments | 2-10 |

Chapter 3 — Relocation Assistance Program Organization

| | |
|-------------------------------------|-----|
| Section 1 — State Organization..... | 3-2 |
| Overview | 3-2 |

| | |
|---|-----|
| Section 2 — Relocation Assistance Offices | 3-3 |
| Overview | 3-3 |
| Local Relocation Assistance office | 3-3 |
| Monitoring | 3-3 |
| Section 3 — Civil Rights | 3-4 |
| Overview | 3-4 |
| Chapter 4 — Program Administration | |
| Section 1 — Procedures | 4-2 |
| Material Maintained | 4-2 |
| Delivery of Payment | 4-2 |
| Coordination of Relocation Assistance Activities | 4-3 |
| Chapter 5 — Relocation Assistance and LPAs | |
| Section 1 — LPA Requirements | 5-2 |
| Procedure | 5-2 |
| Chapter 6 — Relocation Assistance Advisory Services | |
| Section 1 — General Requirements | 6-2 |
| Overview | 6-2 |
| Section 2 — Eligibility for Relocation Assistance Advisory Services | 6-3 |
| Requirements | 6-3 |
| Section 3 — Minimum Relocation Assistance Advisory Services for Non-Residential Displacees | 6-4 |
| Requirements | 6-4 |
| Section 4 — Minimum Relocation Assistance Advisory Services for Residential Displacees | 6-5 |
| Requirements Applicable to Residential Displacees Only | 6-5 |
| Section 5 — Other Applicable Relocation Advisory Services | 6-6 |
| Requirements | 6-6 |
| Chapter 7 — Public Information | |
| Section 1 — Types of Public Information | 7-2 |
| Public Hearings | 7-2 |
| Relocation Assistance Booklet | 7-2 |
| Local News Media | 7-2 |
| Chapter 8 — Relocation Program Planning & Construction | |
| Section 1 — Stage Requirements | 8-2 |
| ROW Stage Requirements | 8-2 |
| Construction Stage Requirements | 8-2 |

Chapter 9 — Presentation of Relocation Assistance Information

| | |
|---|-----|
| Section 1 — Notices | 9-2 |
| General Information Notice | 9-2 |
| Notice of Relocation Eligibility | 9-2 |
| Notices to Vacate | 9-3 |
| Notice of Intent to Acquire | 9-4 |
| Notice of Advance Relocation Assistance Eligibility | 9-4 |
| Notice to Late Occupants | 9-5 |
| Notice of Denial of Claim | 9-5 |
| Section 2 — Notice Letters: Examples / Procedures | 9-6 |
| Example Letters | 9-6 |
| Manner of Notices | 9-6 |
| Recipients of Notices | 9-6 |
| Notice of Replacement Amounts | 9-7 |
| Section 3 — Pre-Negotiation Contacts | 9-8 |
| Procedure | 9-8 |
| Notices and Contacts with Persons Who are Not Displaced | 9-8 |

Chapter 10 — General Provisions

| | |
|--|------|
| Section 1 — Procedures | 10-2 |
| Eligibility | 10-2 |
| Date of Displacement | 10-2 |
| Distance of Move | 10-2 |
| More Than One Move | 10-2 |
| Moves to Multiple Locations | 10-2 |
| Owner Retention | 10-3 |
| Property | 10-3 |
| Overtime Charges | 10-3 |
| Notification and Inspection | 10-3 |
| Moving Cost | 10-4 |
| Ineligible Moving and Related Expenses | 10-4 |
| Payment After Death | 10-5 |

Chapter 11 — Residential Moves

| | |
|---|------|
| Section 1 — Eligibility | 11-2 |
| Overview | 11-2 |
| Actual Cost Commercial Move | 11-2 |
| Actual Cost Self-Move | 11-2 |
| Fixed Room Count Schedule | 11-2 |
| Section 2 — Allowable Moving Expenses - Residential | 11-3 |

| | |
|---|------|
| Overview | 11-3 |
| Personalty | 11-3 |
| Personal Transportation | 11-3 |
| Removal and Reinstallation | 11-3 |
| Storage | 11-3 |
| Temporary Lodgings and Meals | 11-3 |
| Insurance | 11-4 |
| Losses in Moving | 11-4 |
| Utilities | 11-4 |
| Mobile Homes | 11-4 |
| Other Expenses | 11-4 |
| Section 3 — Actual Reasonable Moving Expenses | 11-5 |
| Displacee Requirements | 11-5 |
| TxDOT Requirements | 11-5 |
| Section 4 — Fixed Moving Expense Payments | 11-6 |
| Determination of Payment | 11-6 |
| Use of Moving Expense Schedules | 11-6 |
| Counted Rooms | 11-6 |
| Multiple Occupancy of Same Dwelling | 11-7 |
| Owner-Occupant Multi-Family Units | 11-7 |

Chapter 12 — Personal Property Only Moves

| | |
|---|------|
| Section 1 — Eligibility | 12-2 |
| Overview | 12-2 |
| Section 2 — Types of Moving Options | 12-3 |
| Actual Cost Commercial Move | 12-3 |
| Actual Cost Self-Move | 12-3 |

Chapter 13 — Continued Occupancy Incentive Payment

| | |
|--------------------------------|------|
| Section 1 — Eligibility | 13-2 |
| Overview | 13-2 |
| Eligibility Requirements | 13-2 |
| Section 2 — Provisions | 13-3 |
| Overview | 13-3 |
| Amount of Payment | 13-3 |
| Process | 13-3 |

Chapter 14 — Non-residential Moves

| | |
|-------------------------------|------|
| Section 1 — Eligibility | 14-2 |
| Overview | 14-2 |

| | |
|---|-------|
| Determining the Number of Businesses | 14-2 |
| Section 2 — Allowable Moving Expenses - Non-residential | 14-3 |
| Overview | 14-3 |
| Personalty | 14-3 |
| Transportation | 14-3 |
| Labor and Materials | 14-3 |
| Removal and Reinstallation | 14-3 |
| Storage | 14-4 |
| Professional Services - Studies Related to the Replacement Location | 14-4 |
| Professional Services - Professional Move Planner Service .. | 14-4 |
| Scope of Work Requirements | 14-5 |
| Criteria for Move Planner Reimbursement Eligibility | 14-6 |
| Move Planner Payments | 14-8 |
| Insurance | 14-8 |
| Losses in Moving | 14-8 |
| Permits | 14-8 |
| Signs | 14-8 |
| Utilities | 14-9 |
| Moving Estimates | 14-9 |
| Property Disposal Costs | 14-9 |
| Impact Fees | 14-9 |
| Other Expenses | 14-9 |
| Low Value/High Bulk | 14-9 |
| Section 3 — Types of Eligible Moving Expenses - Non-residential | 14-11 |
| Overview | 14-11 |
| Commercial Move | 14-11 |
| Actual Cost Self-Move | 14-12 |
| Negotiated Self-Move | 14-12 |
| Section 4 — Moving Expense Finding | 14-15 |
| Cost Estimate | 14-15 |
| Section 5 — Actual Direct Loss of Tangible Personal Property/Purchase of Substitute | |
| Personal Property | 14-16 |
| Overview | 14-16 |
| Actual Direct Loss of Tangible Personal Property | 14-16 |
| Purchase of Substitute Personal Property | 14-16 |
| Requirements | 14-16 |
| Section 6 — Searching for Replacement Operating Site | 14-18 |
| Overview | 14-18 |
| Receipted Bills | 14-18 |

| | |
|--|-------|
| Time Spent in Search. | 14-18 |
| Section 7 — Reestablishment Expenses - Non-residential | 14-19 |
| Overview | 14-19 |
| Eligible Expenses: | 14-19 |
| Ineligible Expenses | 14-20 |
| Section 8 — Fixed Moving Payments - Businesses, Farms and Nonprofit Organizations | 14-22 |
| Overview | 14-22 |
| Business | 14-22 |
| Farm Operation | 14-23 |
| Nonprofit organization. | 14-23 |
| Section 9 — Non-residential Terms and Calculations. | 14-24 |
| Definitions | 14-24 |
| Net Earnings | 14-24 |
| Contributes Materially. | 14-24 |
| Out of Operation | 14-24 |
| Fixed Payment. | 14-25 |
| Section 10 — Entitlement for Fixed Payment | 14-26 |
| Requirements | 14-26 |
| Section 11 — Commercial Signs | 14-27 |
| Eligibility. | 14-27 |
| Special Provisions for Two-Phase Negotiated Self-Move of Advertising Signs | 14-27 |
| Value of Displaced Sign | 14-28 |
| Section 12 — Relocation Procedures for TxDOT Leasebacks | 14-29 |

Chapter 15 — Replacement Housing

| | |
|---|------|
| Section 1 — Eligibility | 15-2 |
| Overview | 15-2 |
| Eligibility Requirements | 15-2 |
| Time Period | 15-2 |
| Owner of Displacement Dwelling | 15-2 |
| Purchase of Replacement Dwelling. | 15-3 |
| Occupancy | 15-3 |
| Delay in Occupancy After the Purchase of Replacement Dwelling | 15-3 |
| Payment Eligibility in Special Circumstances. | 15-3 |
| Conversion of Payment | 15-4 |
| Change in Occupancy | 15-4 |
| Payment After Death | 15-4 |
| Non-Occupancy | 15-4 |
| DSS Dwelling | 15-5 |

| | |
|---|------|
| Number of Units | 15-5 |
| Statement to Lending Agencies | 15-5 |
| Eminent Domain Action | 15-5 |
| Supplement Revisions | 15-5 |
| Ownership of Replacement Dwelling Before Displacement | 15-6 |
| Multiple Occupancy of Same Dwelling | 15-6 |
| Multiple Ownership of Subject Dwelling | 15-7 |

Chapter 16 — Entitlements for 90-Day Owner-Occupants

| | |
|--|-------|
| Section 1 — Payment Options | 16-2 |
| Overview | 16-2 |
| Section 2 — Determination of Eligibility | 16-3 |
| Section 3 — Limitations | 16-4 |
| Overview | 16-4 |
| Section 4 — Amount of Total Payment | 16-5 |
| Replacement Housing Payment | 16-5 |
| Rental Assistance Payment | 16-5 |
| Section 5 — Replacement Housing Payments | 16-6 |
| Overview | 16-6 |
| Eminent Domain/Administrative Settlement | 16-6 |
| Mixed-Use and Multi-Family Properties Acquired | 16-6 |
| Insurance Proceeds | 16-6 |
| Owner Retention of Displacement Dwelling | 16-7 |
| Section 6 — Maximum Payment Calculations | 16-8 |
| Procedure | 16-8 |
| Section 7 — Incidental Expenses - 90-Day Owner-Occupants | 16-9 |
| Overview | 16-9 |
| Cash Purchase, No Mortgage on Displacement Property | 16-9 |
| Purchases with Mortgage Financing | 16-9 |
| Section 8 — Mortgage Insurance Premium Payments and VA Loan Funding Fees | 16-11 |
| Overview | 16-11 |
| Section 9 — Increased Mortgage Interest Differential Payment (MIPD) | 16-12 |
| Overview | 16-12 |
| Notice of Mortgage Payment Limitations | 16-13 |
| Section 10 — Computation of Mortgage Interest Differential Payments (MIDP) | 16-14 |
| Overview | 16-14 |
| Sample A | 16-14 |
| Sample B | 16-15 |
| Partial Acquisition: Multi-Use Properties, Other Highest and Best Use | 16-15 |

| | |
|---|-------|
| More Than One Mortgage | 16-15 |
| Section 11 — Computation of Housing Supplement. | 16-19 |
| Overview | 16-19 |
| Establishing Subject’s Value | 16-19 |
| Carve-outs of Excess Land and Improvements | 16-19 |
| Subject is a Duplex or Triplex. | 16-20 |
| Portion of Subject Rented Out. | 16-21 |
| Subject’s Value Established by LPA. | 16-21 |

Chapter 17 — Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants

| | |
|---|------|
| Section 1 — Application of Entitlements | 17-2 |
| Overview | 17-2 |
| Section 2 — Eligibility - 90-Day Tenant-Occupants and Less Than 90-Day Owner Occupants | 17-3 |
| Section 3 — Rental Assistance Payment | 17-4 |
| Criteria | 17-4 |
| Eligibility | 17-4 |
| Fair Market Rent | 17-5 |
| Utility Expenses. | 17-5 |
| Subsidized Housing | 17-6 |
| Housing Allowance | 17-6 |
| Disbursement | 17-7 |
| Manner of Disbursement | 17-7 |
| Section 4 — Down Payment Assistance | 17-8 |
| Down Payment. | 17-8 |
| Eligibility for payment. | 17-8 |
| Amount of payment | 17-8 |
| Application of Payment | 17-9 |
| Last Resort Housing | 17-9 |
| Documentation. | 17-9 |
| Incidental Expenses | 17-9 |

Chapter 18 — Entitlements for Mobile Home Occupants

| | |
|---|------|
| Section 1 — General Provisions | 18-2 |
| Overview | 18-2 |
| Partial Acquisition of a Mobile Home Park | 18-2 |
| Initiation of Negotiations. | 18-2 |
| Persons with Both an Ownership and Tenant Interest. | 18-2 |
| Amount of Payment. | 18-3 |
| Comparability | 18-3 |

| | |
|--|-------|
| Rent or Replacement | 18-3 |
| Transporting Costs. | 18-3 |
| Configuration. | 18-3 |
| Section 2 — 90-Day Mobile Home Owner-Occupant. | 18-5 |
| Overview | 18-5 |
| Section 3 — Replacement Housing Entitlements for 90-Day Mobile Home | |
| Owner-Occupants | 18-6 |
| State Acquires Mobile Home and Site. | 18-6 |
| State Acquires Mobile Home Only, Owner-Occupant Rents Site. | 18-7 |
| State Acquires Site Only from Owner-Occupant of Mobile Home. | 18-7 |
| State Acquires Rental Site but Owner-Occupied Mobile Home Not Acquired. | 18-7 |
| Section 4 — 90-Day Mobile Home Tenant-Occupant. | 18-9 |
| Overview | 18-9 |
| Section 5 — Replacement Housing Entitlements for Less Than 90-Day Mobile | |
| Home Occupants. | 18-10 |
| State Acquires Less Than 90-Day Owner-Occupied Mobile Home and Site | 18-10 |
| State Acquires Mobile Home Only, Owner-Occupant Rents Site. | 18-10 |
| State Acquires Site Only From Owner-Occupant of Mobile Home | 18-10 |
| State Acquires Rental Site but Owner-Occupied Mobile Home Not Acquired. | 18-11 |
| State Acquires Tenant-Occupied Mobile Home and Site | 18-11 |
| State Acquires Rental Site but Tenant-Occupied Mobile Home Not Acquired. | 18-12 |

Chapter 19 — Decent, Safe, and Sanitary (DSS) Standards

| | |
|--|------|
| Section 1 — Definition and Exceptions. | 19-2 |
| Definition. | 19-2 |
| Exceptions to DSS Standards | 19-2 |
| Section 2 — Replacement Housing Inspection | 19-4 |
| Procedures | 19-4 |

Chapter 20 — Last Resort Housing

| | |
|--|------|
| Section 1 — Overview. | 20-2 |
| Purpose | 20-2 |
| Applicability | 20-2 |
| Basic Rights of Persons Displaced | 20-3 |
| Ownership or Tenancy Status | 20-3 |
| Section 2 — Computation of Payments. | 20-4 |
| Overview | 20-4 |
| Replacement Housing Payments | 20-4 |
| Mortgage Interest Differential Payments. | 20-4 |
| Rental Assistance Supplement. | 20-4 |

| | |
|---|------|
| Late Residential Occupants | 20-5 |
| Section 3 — Payments and Authorization | 20-6 |
| Payments | 20-6 |
| Authorization | 20-6 |
| Chapter 21 — Residential Comparison Index (RCI) | |
| Section 1 — Overview | 21-2 |
| Purpose | 21-2 |
| Section 2 — Evaluation and Estimate Forms | 21-3 |
| Residential Property Evaluation (Form ROW-R-106) | 21-3 |
| Supplemental Payment Estimate, Replacement Housing (Form ROW-R-107) | 21-3 |
| Section 3 — Development of Index Numbers | 21-5 |
| Index Number Development Charts | 21-5 |
| Factors for Quality Index | 21-7 |
| Condition Index | 21-8 |
| Yard Improvements Index | 21-8 |
| Chapter 22 — Selection of Comparables | |
| Section 1 — Selection Criteria | 22-2 |
| Procedure | 22-2 |
| Section 2 — Alternatives | 22-4 |
| Overview | 22-4 |
| Alternative A | 22-4 |
| Alternative B | 22-4 |
| Alternative C | 22-4 |
| Alternative D | 22-4 |
| Alternative E | 22-5 |
| Section 3 — Special Features | 22-6 |
| Procedure | 22-6 |
| Chapter 23 — Appeals Process | |
| Section 1 — Appeal Provisions | 23-2 |
| Overview | 23-2 |
| Section 2 — Review Procedure for Appeals | 23-3 |
| Handling Reviews | 23-3 |
| Section 3 — Relocation Assistance Review Committee | 23-4 |
| Procedure | 23-4 |
| Chapter 24 — Payment Policies and Procedures | |
| Section 1 — Payment Application | 24-2 |

| | |
|---|------|
| General..... | 24-2 |
| Section 2 — Claims..... | 24-3 |
| Documentation..... | 24-3 |
| Time for Filing..... | 24-3 |
| Expeditious Payments..... | 24-4 |
| Section 3 — Advance Payment Processing..... | 24-5 |
| Procedure..... | 24-5 |
| Section 4 — Payments in Condemnation Cases..... | 24-6 |
| Payments in Advance of Final Judgment..... | 24-6 |
| Payments after Final Judgment..... | 24-6 |
| Section 5 — To Whom Payment Made..... | 24-7 |
| Procedure..... | 24-7 |
| Moving Expenses - Direct Payment to Vendor..... | 24-7 |
| Replacement Housing Payments..... | 24-7 |
| Increased Interest Payments..... | 24-8 |
| Expense Verifications..... | 24-9 |

Chapter 25 — Payment Submissions

| | |
|--|------|
| Section 1 — Guidelines for Electronic Submissions..... | 25-2 |
| Electronic Approval Submissions..... | 25-2 |
| Electronic Payment Submissions..... | 25-2 |
| Section 2 — Documentation for Claims..... | 25-3 |
| Documentation..... | 25-3 |
| Section 3 — Tax Identification Number (TIN) Setup..... | 25-4 |
| Procedure..... | 25-4 |

Chapter 26 — Records

| | |
|---|------|
| Section 1 — Documentation Provisions..... | 26-2 |
| General..... | 26-2 |
| Replacement Housing Documentation..... | 26-2 |
| Displacement Records..... | 26-3 |
| Reports..... | 26-3 |

Chapter 27 — Evictions

| | |
|---------------------------------|------|
| Section 1 — Provisions..... | 27-2 |
| Overview..... | 27-2 |
| Information to be Included..... | 27-2 |
| Attorney Fees..... | 27-2 |

Chapter 1 — Introduction

Contents:

[Section 1 — Overview](#)

[Section 2 — Acronyms and Definitions](#)

Section 1 — Overview

General

This manual presents rules, policies, and procedures for relocating individuals, families, businesses, farms, nonprofit organizations, and personal property only moves.

Rules, policies, and procedures outlined in this manual establish methods for providing relocation services and for making moving and/or replacement housing cost payments.

Section 2 — Acronyms and Definitions

Acronyms Used in This Manual

| | |
|--------------------|---|
| Commission | Texas Transportation Commission |
| Committee | Relocation Assistance Review Committee |
| CFR | Code of Federal Regulations |
| CPA | Comptroller of Public Accounts |
| DBE | Disadvantaged Business Enterprise |
| DE | District Engineer |
| DSS | Decent, Safe, and Sanitary |
| FHA | Federal Housing Administration |
| FHWA | Federal Highway Administration |
| FMR | Fair Market Rent |
| HUD | U.S. Department of Housing and Urban Development |
| LPA | Local Public Agency, i.e., a municipality, county, city, etc. |
| LG | Local Government |
| MIDP | Mortgage Interest Differential Payment |
| NPO | Nonprofit Organization |
| NSM | Negotiated Self-Move |
| OAG | Office of the Attorney General |
| OAS | Outdoor Advertising Signs (billboards; off-premise advertising signs; commercial signs) |
| PPO | Personal Property Only |
| RAP | Rental Assistance Payment |
| RCI | Residential Comparison Index |
| RCSJ | Right of Way Control Section Job |
| RHP | Replacement Housing Payment |
| ROW | Right of Way |
| ROW Division | Right of Way Division |
| ROW PD | Right of Way Project Delivery |
| ROW PD Manager | Right of Way Project Delivery Manager |
| ROW Program Office | Right of Way Division Program Office |
| ROWAPS | Right of Way Acquisition Professional Services |

| | |
|-------|------------------------------------|
| SPP | Substitute Personal Property |
| TINS | Texas Identification Number System |
| TxC | TxDOTCONNECT |
| TxDOT | Texas Department of Transportation |
| VA | Veterans Affairs |

Definitions Used in This Manual

Decent, Safe, and Sanitary Dwelling - A decent, safe and sanitary (DSS) dwelling is a dwelling that meets applicable plumbing, electrical, housing and occupancy codes. These standards shall be met, unless waived for good cause by the FHWA. A complete description of the features required can be found in Chapter 19: Decent, Safe, and Sanitary (DSS) Standards.

Down Payment Assistance - The amount necessary to enable an eligible displaced person to make a down payment (including eligible incidental purchase expenses) on the purchase of an eligible replacement dwelling. Payment is limited to the maximum rent supplement calculated for the displaced person. A 90-day owner occupant is not eligible for this type of payment.

Eminent Domain - Authority to exercise the power to take private property for public use upon payment of just or adequate compensation, based on the theory that property is granted to the property owner upon condition that it may be taken to serve the necessities of the sovereign power. Agencies created by the state to serve the public may exercise the power of eminent domain where that power is conferred by statute.

Incidental Expense - The amount necessary to pay or reimburse an eligible displaced person for certain actual costs incurred by the displaced person, incidental to the purchase of an eligible replacement dwelling, including but not limited to recording fees, escrow fees, title insurance premiums, appraisal fees, credit report fees, and home inspection fees.

Last Resort Housing - The term applies when it has been determined that comparable replacement housing cannot be made available under normal conditions and cost limitations as described in the residential-related Chapters 15, 16, 17 and 18 of this manual.

Mortgage Interest Differential Payment (MIDP) - The amount, as determined by TxDOT, necessary to compensate a 90-day owner occupant for an increased interest cost required to obtain a mortgage for the purpose of purchasing an eligible replacement dwelling. In order to qualify for the MIDP, the owner must have a 180-day bona fide mortgage on the displacement dwelling.

Nonresidential - The term nonresidential includes a business operation, farm operation, or NPO.

Off-System - Off the TxDOT-designated highway system. (source: [TxDOT Glossary October 2013](#))

On-System - On the TxDOT-designated highway system. (source: [TxDOT Glossary October 2013](#))

OnBase - OnBase is the enterprise content management platform used by TxDOT to electronically store documents.

Personal Property Only (PPO) - A move of personal property from the acquired property for project purposes, where there is not a need for a full relocation of a residence and/or a nonresidential operation.

Price Differential - That amount, in addition to the just compensation paid by TxDOT, which is necessary to enable an eligible displaced person to purchase and occupy a decent, safe and sanitary replacement dwelling. The computation is based on the most comparable dwelling selected by TxDOT.

Rental Assistance Payment (RAP) - The amount, determined by TxDOT, necessary to compensate an eligible displaced person for the increased cost of renting and occupying a decent, safe and sanitary replacement dwelling. The computation is based on the most comparable dwelling selected by TxDOT. The payment is determined by multiplying 42 times the amount obtained by subtracting the rent, plus utilities, for the displacement dwelling from the rent, plus utilities, at the replacement site, not to exceed the previously approved amount.

Replacement Housing Payment (RHP) - Any payment, or combination of payments, authorized to be paid to eligible displaced persons to enable such displaced persons to obtain decent, safe and sanitary replacement housing.

ROW Project Delivery (ROW PD) files - These are the files (aka parcel or project files) maintained in ROW PD offices, or if applicable, a TxDOT representative's office files, i.e. ROWAPS Provider.

TxDOTCONNECT (TxC) - TxDOT's custom-built system for managing the delivery of transportation programs, projects, and right of way. Visit TxDOT's website for more [TxDOTCONNECT resources](#).

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

Chapter 2 — Laws, Regulations, and TxDOT Policy

Contents:

[Section 1 — Federal Law and Regulations](#)

[Section 2 — State Law](#)

[Section 3 — TxDOT Policy](#)

[Section 4 — Miscellaneous Provisions](#)

Section 1 — Federal Law and Regulations

Authority for Relocation Assistance

On January 2, 1971, Congress enacted *Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC, 4601 et seq.)*. The Uniform Act provides relocation payments and advisory assistance for displacees who are displaced by highway construction on the Federal-Aid Highway System. Provisions of Public Law 91-646 apply, whether or not Federal funding is used for ROW acquisition, if the transportation project will be eligible for Federal funding in construction. Federal regulation governing relocation is contained in *49CFR, Part 24, Subparts C through F*.

Relocation Payments Non-Income Status

Payments received under this manual will not be considered income for purpose of *Internal Revenue Code of 1986*. Likewise, payments are not considered income for the purpose of determining the eligibility, or extent of eligibility, of any person for assistance under the Social Security Act or any other Federal law, **except** Federal law providing low-income housing assistance. See *42 USC Section 4636*.

Fair Housing

Federal fair housing law contains the following provision for most residential transactions:

“After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, or national origin.”

If a real estate broker, agent or salesperson is handling the sale or rental of a residence, then compliance with the Federal fair housing law is presumed. However, if the property owner handles the sale or rental, then check with the owner to determine compliance with the law.

Displacees are protected according to:

- ◆ *Title VIII of the Civil Rights Act of 1968* as amended (commonly known as the Federal Fair Housing Law) (refer to *42 USC 3601, et seq; 24 CFR Parts 100 and 103*; and
- ◆ *the Housing and Urban Development (HUD) Amendment Act of 1974*.

These laws make it illegal to:

- ◆ refuse to sell or rent residential property due to race, color, religion, sex, handicap, familial status, or national origin (Note: The U.S. Department of Transportation adds “age, sex and handicap” to the list);
- ◆ discriminate against any person in the terms, conditions or privileges of sale or rental of residential property or in the provision of services or facilities in connection with such a sale or rental;
- ◆ advertise a dwelling for rent or sale in a discriminatory manner;
- ◆ misinform a person regarding availability of residential property;
- ◆ engage in [blockbusting](#) for profit; or
- ◆ practice discrimination in financing of housing.

Fair Housing Exceptions

The following exemptions to the Fair Housing Act apply to a single-family residence if the owner of residence sold or rented:

- ◆ owns less than three residences at any one time;
- ◆ does not live in the residence at the time of the sale - this specific exemption may only be used by the owner once during any 24 month period;
- ◆ does not own any interest in proceeds from sale or rental of more than three single-family residences at any one time; or
- ◆ does not employ services of a real estate broker, agent, or salesperson in the sale or rental.

The law states that any person must be deemed a real estate broker, agent, or salesperson if he/she:

- ◆ within the past twelve months, has acted as principal in three or more transactions involving sale or rental of any dwelling or any interest therein;
- ◆ within the past twelve months, has acted as agent, other than in the sale of his or her own personal residence, by providing services in two or more transactions involving sale or rental of any dwelling or interest therein;
- ◆ owns a dwelling occupied, or intended for occupancy, by five or more families; or
- ◆ does not advertise the residence for sale or rental in a discriminatory manner.

The laws do **not** apply to rental units in dwellings containing living quarters designed for no more than four families living independently of each other, provided that the owner actually lives in one

of the quarters. Finally, the laws do **not** apply to dwellings and rental units owned and operated by certain religious organizations and private clubs.

Eligibility - Individuals Unlawfully Present

Effective March 15, 1999, changes to *49 CFR, Part 24*, require that individuals unlawfully present in the U.S. are ineligible for entitlements under the relocation assistance program.

A person is determined unlawfully present if he/she fails to certify that he/she is a citizen or national of the U.S., or his/her certification is determined invalid.

Aliens lawfully present in the U.S. must provide supporting documentation of their residency status. Evaluate this documentation according to *49 CFR 24.208*. Coordinate the evaluation with the ROW Program Office for statewide consistency.

A person who is unlawfully present in the U.S., but who can demonstrate that denial of relocation assistance benefits will result in an “exceptional and extremely unusual hardship” to the person's spouse, parent, or child (if that spouse, parent, or child is a citizen of the U.S. or an alien lawfully admitted for permanent residence in the U.S.), may be considered eligible to receive relocation benefits. Coordinate the evaluation with the ROW Program Office for statewide consistency.

The TxDOT form [ROW-R-CE, Certification of Eligibility](#) is available.

Section 2 — State Law

Authority

Property Code, Section 21.046 provides for relocation payments and advisory assistance to displacees for any program or project undertaken by any State agency or political subdivision of the State. This section directs each agency to establish rules and regulations necessary to carry out provisions of the Public Law 91-646, and also authorizes payments and expenditures not in excess of those authorized by the Public Law 91-646. Texas relocation assistance rules may be found in [43 TAC, Chapter 21, Subchapter G](#).

Section 3 — TxDOT Policy

Commission Minute Orders

Minute Order No. [78183](#), passed February 18, 1981, and Minute Order No. [65168](#), passed August 5, 1971, contain policy related to relocation payments and assistance. Relocation program costs are financed with State funds, except for funds expended on the Interstate or on other Federal projects for which Federal participation in the cost of ROW is programmed.

The Commission directed the TxDOT Executive Director to formulate operational procedures to implement policy of the Commission. Specifically, the Commission directed that procedures provide for:

- ◆ methods of establishing eligibility of displacees to receive one or more types of financial assistance payments; and,
- ◆ methods for examining and **promptly** acting on relocation review requests from displacees.

Replacement Housing Policy

A displacee shall not be required to move permanently from his/her residence until one comparable replacement dwelling is made available. When computing the replacement housing supplement, the standard number of comparables required under this policy is three. However, if local market conditions are such that three comparable replacement dwellings cannot be identified, fewer than three referrals may be used. The justification shall be recorded on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#).

A comparable dwelling is considered to be made available to a displacee, if the displacee:

- ◆ is informed of its location;
- ◆ has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
- ◆ is assured of receiving the relocation assistance and acquisition compensation (subject to reasonable safeguards) to which the displacee is entitled in sufficient time to purchase or rent the replacement property.

When possible, displacees must be given reasonable opportunities to relocate to DSS replacement dwellings in the neighborhood of their choice within their financial means. However, this policy does not require TxDOT to provide a displacee with a larger payment than necessary for a displacee to relocate to a comparable replacement dwelling.

Emergency Relocation

When a displacee is required to temporarily relocate because of a “disaster or emergency,” as described below, the following apply:

- ◆ take action to assure that the displacee is temporarily relocated to a DSS dwelling;
- ◆ the displacee must be entitled to compensation for reasonable moving expenses and reasonable increases in monthly housing costs incurred due to the temporary relocation; and
- ◆ promptly offer the displacee at least one comparable replacement dwelling. The date of displacement is the date the displacee moves from the temporarily occupied dwelling. This date is used for the purpose of filing a claim and meeting eligibility requirements for a relocation payment.

A temporary displacement “disaster or emergency” is:

- ◆ a major disaster as defined in *Section 102(c) of the Disaster Relief Act of 1974 (42 USC Section 5121)*;
- ◆ a presidentially-declared national emergency; or
- ◆ an emergency requiring immediate vacation of the real property, (e.g., when continued occupancy of a displacement dwelling constitutes a danger to the health or safety of the occupants or the public)

Section 4 — Miscellaneous Provisions

No Waiver of Relocation Assistance

A displacing agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the Uniform Act as contained in 49 CFR, Part 24.

No Duplication of Payments

No person will receive any payment if that person receives a payment, including acquisition funds, under Federal, State, local law or from insurance proceeds that has the same purpose and effect as a payment.

TxDOT is not required to conduct an exhaustive search for other payments, and is only required to avoid creating duplication based on its knowledge at the time a payment is computed.

See Chapter 24, Section 2 of this manual for instructions regarding governmental employees and active duty military personnel displaced from residential dwellings.

Type of Interest Acquired

If the ROW interest acquired is enough to cause displacement, then the type of interest (e.g., drainage easement) acquired does not affect eligibility for payment of relocation costs. Similarly, terms under which a tenant lawfully occupies property do not affect the tenant's eligibility for payment of relocation costs, if the tenant is displaced by a project.

Partial Acquisitions

The occupant of a remainder who elects to move after a partial acquisition is not necessarily eligible for relocation payments. In addition to other eligibility requirements, ROW PD must determine that the partial acquisition renders the remainder unsuitable for continued occupancy. In this case, relocation payments must be claimed within 18 months of written notification by ROW PD.

If a partial acquisition displaces a business or farm operation or causes a displacee to vacate a dwelling (or other real property) on the remainder, or to move personalty from the remainder, then the displacee is eligible for additional moving expense compensation.

Considerations in determining a displacement are:

- ◆ for residential displacees: the partial acquisition renders a dwelling on the remainder non-decent, safe and sanitary, and the appraiser assigns complete damages to the dwelling.

- ◆ for non-residential displacees: the partial acquisition renders a business, farm or non-profit organization unable to conduct business in the same or similar manner as prior to acquisition.

When it is determined by TxDOT that a partial acquisition causes a residential or non-residential displacee to relocate from the remainder, any such displacee:

- ◆ will be considered displaced; and
- ◆ will be eligible to receive the same payments as though their dwellings or business, farm or NPO were within the portion of the real property acquired.

Acquisition of Remainder

If an owner voluntarily sells a remainder under the uneconomic remainder procedures (refer to the *ROW Appraisal and Review Manual*), then any owner or tenants displaced due to acquisition of the remainder are eligible for relocation benefits. If a voluntarily acquired remainder is not uneconomic, then only displaced tenants are eligible for relocation benefits.

Eviction for Cause

A displacee who lawfully occupies real property on the date negotiations are initiated is assumed to be entitled to relocation payments and other assistance described in this manual, unless TxDOT determines that:

- ◆ the displacee received an eviction notice before initiating negotiations and is then evicted as a result of that eviction notice; or
- ◆ the displacee is evicted after initiation of negotiations for other reasons.

In neither of the above cases, can the eviction occur for the purpose of evading TxDOT's obligation to make available payments and other assistance. Eviction by TxDOT for failure to move or cooperate in the relocation process does not negate the displaced person's eligibility for assistance and/or payments.

Date of Displacement

For determining relocation payment eligibility, the date of displacement is the latter of:

- ◆ the date the person moves, or is required to move by notice (whichever is earlier);
- ◆ the date a comparable replacement dwelling is made available.

Joint Residential and Business Use

When displaced individuals or families occupy living quarters on the same premises as a displaced business, farm, or nonprofit organization, these individuals or families are considered separate displaced persons for purposes of determining entitlement to relocation payments.

Refusal of Assistance

A displacee who relocates on his/her own initiative can refuse relocation services and still be eligible for payments. However, the displacee must meet eligibility requirements and apply within the time limits to qualify for relocation benefits.

Waivers

Provisions of this manual not required by law may be waived as an exception to policy when the waiver will not reduce any assistance or protection available to a displacee. Individual waivers must be justified and approved by the ROW Program Office.

FHWA approval of a waiver is required when Federal funding is involved in any part of the project and the waived provision is a Federal regulation requirement.

Global Settlements

Title 49 CFR 24 separates the acquisition and relocation activities with the intent to preclude global settlements, which is the packaging of relocation entitlements with the fair market value to reach an administrative settlement in the acquisition.

Global settlements are not consistent with the requirements of the Uniform Act in that relocation benefits shall be determined in accordance with specific fact-based criteria. Relocation benefits are a reimbursement of eligible expenses which requires certain actions on the displacee's part prior to receiving a payment. Any settlement of relocation benefits is considered to be in noncompliance with statutory and regulatory requirements.

Ineligible Payments

No person will receive payments for costs associated with:

- ◆ legal fees, except those associated with the purchase of lease of a replacement non-residential site;
- ◆ preparing a claim for a relocation payment; or
- ◆ representing a claimant before TxDOT or any other entity.

Chapter 3 — Relocation Assistance Program Organization

Contents:

[Section 1 — State Organization](#)

[Section 2 — Relocation Assistance Offices](#)

[Section 3 — Civil Rights](#)

Section 1 — State Organization

Overview

The ROW Program Office is responsible for TxDOT's statewide relocation assistance and payment program.

ROW PD manages relocation assistance program operations as a decentralized activity. ROW PD is responsible for providing assistance according to (1) this manual's policies and requirements and (2) pertinent Federal and State laws. Each ROW project, including Farm to Market roads, must have staff assigned to provide relocation assistance to displacees.

Section 2 — Relocation Assistance Offices

Overview

The relocation assistance office must remain open during regular working hours.

ROW PD shall provide the following to **all** displacees:

- ◆ name, office location, and telephone number of the ROW PD employee responsible for relocation;
- ◆ phone number for contact after regular working hours;
- ◆ appointments at times and places that are **convenient** for displacees.

Local Relocation Assistance office

If ROW PD determines that a local office is necessary, a relocation assistance office that is more convenient to displacees may be established. This office should be open during hours convenient to displacees, including evening hours when necessary.

Monitoring

ROW PD shall monitor relocation assistance activities performed by political subdivisions or contract agencies for projects involving Federal funds. The level of monitoring shall be enough to assess compliance with this manual.

Section 3 — Civil Rights

Overview

Affirmative action must be taken to provide replacement housing resources that are open to **all** displacees without regard to their race, color, age, religion, gender, place of national origin, or disability.

All relocation assistance activities shall be performed according to TxDOT's non-discrimination policy. This policy is presented in [Laws, Regulations, and TxDOT Policy](#) and in [TxDOT's Relocation Assistance booklet](#). Process any discrimination complaints against TxDOT through the procedure in Laws, Regulations, and TxDOT Policy.

Chapter 4 — Program Administration

Contents:

[Section 1 — Procedures](#)

Section 1 — Procedures

Material Maintained

Relocation assistance offices shall maintain and provide the following information for each ROW project:

- ◆ current information on availability, purchase prices, and rental costs of DSS residential dwellings available in the area. TxDOT is responsible for providing each residential displacee with at least one comparable replacement dwelling similar to his/her original ownership/tenancy status. If the displacee desires alternate housing, or a change in his/her ownership/tenancy status, the relocation assistance officer shall make reasonable effort to accommodate his/her desire. Current information on the availability, purchase price, and rental cost of suitable commercial and farm properties for displaced businesses;
- ◆ current information on security deposits, closing costs, typical down payments, interest rates, and other financing terms;
- ◆ maps showing locations of schools, parks, playgrounds, and retail businesses;
- ◆ schedules, routes, and costs for public transportation;
- ◆ copies of TxDOT's *Relocation Assistance* booklet;
- ◆ apartment directories and multiple listing services, as available. Keep neighborhood and metropolitan newspapers that provide information on properties for sale or rent.

Delivery of Payment

Deliver relocation payments to payees personally or by certified mail with return receipt requested. These payments shall not be delivered by persons who:

- ◆ were involved in computing the payment; or
- ◆ provided relocation assistance to the payee, according to this manual.

When payment is delivered personally, document the project file with a receipt signed by the payee including the:

- ◆ warrant number and dollar amount;
- ◆ date received by the payee; and
- ◆ name of the person making the delivery.

The relocation agent may accompany the person delivering the payment to identify the payee.

These provisions shall apply when relocation payments and services are administered by other agencies under contract or agreement with TxDOT.

Coordination of Relocation Assistance Activities

TxDOT relocation assistance activities shall be coordinated with other project work tasks and other State, Federal, and local agencies causing displacement. This coordination provides consistent treatment to displacees and reduces duplication of activities.

TxDOT shall not compete with private enterprise when providing relocation assistance.

TxDOT shall avoid involvement in a displacee's private affairs.

TxDOT shall avoid fraud, waste and mismanagement associated with relocation assistance.

Chapter 5 — Relocation Assistance and LPAs

Contents:

[Section 1 — LPA Requirements](#)

Section 1 — LPA Requirements

Procedure

LPAs must comply with TxDOT's instructions on relocation assistance, in accordance with Chapter 2 of this volume and TxDOT's *Real Estate Acquisition Guide for Local Public Agencies*.

The respective responsibilities for relocation assistance should be set out in each contractual agreement for ROW procurement, between TxDOT and the LPA.

Chapter 6 — Relocation Assistance Advisory Services

Contents:

[Section 1 — General Requirements](#)

[Section 2 — Eligibility for Relocation Assistance Advisory Services](#)

[Section 3 — Minimum Relocation Assistance Advisory Services for Non-Residential Displacees](#)

[Section 4 — Minimum Relocation Assistance Advisory Services for Residential Displacees](#)

[Section 5 — Other Applicable Relocation Advisory Services](#)

Section 1 — General Requirements

Overview

ROW PD shall establish a relocation assistance advisory services program and shall provide maximum reasonable assistance to displacees. These services shall be provided by personal contact and are intended to assist residential displacees in relocating to a DSS dwelling or non-residential displacees in relocating to an adequate replacement location for a business, farm or NPO. Records of these personal contacts shall be documented on form [ROW-R-96 Relocation Advisory Assistance Parcel Record](#) and shall be maintained according to Displacement Records. If personal contact cannot be made, ROW PD shall document the efforts made to contact the displacee.

Section 2 — Eligibility for Relocation Assistance Advisory Services

Requirements

Relocation assistance advisory services shall be offered to a displacee lawfully present in the U.S. who:

- ◆ moves from other real property used for his/her dwelling, or moves his/her personalty from other real property, because of acquisition of ROW used for his/her business or farm operation; or
- ◆ occupies property acquired by TxDOT when occupancy:
 - began after the ROW acquisition; and
 - is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a program or project.

Relocation assistance advisory services may be offered to a displacee lawfully present in the U.S. who occupies property adjacent to acquired ROW, when it is determined that the person suffered substantial economic injury due to ROW acquisition.

Relocation assistance advisory services may be offered to a displacee **unlawfully** present in the U.S. who can demonstrate that denial of relocation assistance benefits will result in an exceptional and extremely unusual hardship to the person's spouse, parent, or child (if that spouse, parent, or child is a citizen of the U.S. or an alien lawfully admitted for permanent residence in the U.S.).

Section 3 — Minimum Relocation Assistance Advisory Services for Non-Residential Displacees

Requirements

For businesses, farms, and NPOs a determination shall be made as to the relocation needs and preferences of each displacee. Additionally, an explanation shall be made of relocation payments and other assistance for which the displacee may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each displacee. At a minimum, interviews with the displaced non-residential owners and operators shall include the following items:

- ◆ The business's replacement site requirements, current lease terms and other contractual obligations and the financial capability of the business to accomplish the move.
- ◆ Determination of the need for outside specialists that will be required to assist in planning the move, effectuating the actual move, and in the reinstallation of machinery or other personal property.
- ◆ An identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve personalty/realty issues prior to, or at the time of, the appraisal of the property.
- ◆ An estimate of the time required for the business to vacate the site and of the anticipated difficulty in locating a replacement property.
- ◆ An identification of any advance relocation payment processing required for the move, and TxDOT's legal capacity to provide them.

Section 4 — Minimum Relocation Assistance Advisory Services for Residential Displacees

Requirements Applicable to Residential Displacees Only

The relocation needs and preferences of residential displacees shall be determined. An explanation of the relocation payments and other assistance for which the displacee may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance shall be provided. A personal interview with each displacee shall include the following assistance or information:

- ◆ Current and continuing information on the availability, purchase prices and rental costs of comparable replacement dwellings.
- ◆ Explanation of the fact that person cannot be required to move unless at least one comparable replacement dwelling is made available.
- ◆ Written notification, as soon as feasible, of the specific comparable replacement dwelling and the price, or rent, used for establishing the upper limit of the replacement housing payment. The notification shall include the basis for the determination, so that the displacee is aware of the maximum replacement housing payment for which person may qualify.
- ◆ If feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, TxDOT shall notify the displacee that a replacement housing payment shall not be made unless the replacement dwelling is subsequently inspected and determined to be DSS.
- ◆ If feasible, minority persons shall be given reasonable opportunities to relocate to DSS replacement dwellings not located in an area of minority concentration, that are within their financial means. This policy, however, does not require TxDOT to provide a larger payment than necessary, to enable a displacee to relocate to a comparable replacement dwelling.
- ◆ TxDOT shall offer residential displacees transportation to inspect housing to which they are referred.
- ◆ Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling, as well as of the long term nature of such rent subsidy, and the limited duration (42 months) of the relocation rental assistance payment.

Section 5 — Other Applicable Relocation Advisory Services

Requirements

- ◆ Current and continuing information on the availability, purchase prices and rental costs of suitable commercial and farm properties and locations shall be provided to non-residential displacees. Assistance in obtaining, or becoming established in, a suitable replacement location shall be provided to any person displaced from a business, NPO, or farm operation.
- ◆ Counseling shall be provided to the displacee in order to minimize the adjustment period caused by the relocation.
- ◆ Appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons shall be provided to the displacee, as well as technical help when applying for such assistance.
- ◆ Limited English Proficiency (LEP) encounters shall be tracked in TxC. These individuals need access to the same benefits, programs, information and services provided to everyone else. Tracking these encounters helps TxDOT stay in compliance with Title VI of the Civil Rights Act of 1964. Refer to the TxC [Tracking LEP Encounters job aid](#).

Chapter 7 — Public Information

Contents:

[Section 1 — Types of Public Information](#)

Section 1 — Types of Public Information

Public Hearings

Relocation assistance services and benefits, as well as TxDOT's replacement housing policy, shall be presented and discussed at public hearings. TxDOT's *Environmental Procedures in Project Development* Manual describes in detail information to be presented at such hearings.

Relocation Assistance Booklet

This booklet that is available in English and Spanish:

- ◆ describes TxDOT's policies on: moving costs, supplemental housing benefits, incidental expenses, review procedures, and replacement housing.
- ◆ shall be made available, without cost, **at public hearings** and to interested individuals and organizations.

Local News Media

Use of local news or other media is at the discretion of the District Engineer. Document media use in ROW PD files.

Chapter 8 — Relocation Program Planning & Construction

Contents:

[Section 1 — Stage Requirements](#)

Section 1 — Stage Requirements

ROW Stage Requirements

Requests from ROW PD to the ROW Program Office for authorization to acquire ROW for a project must include:

- ◆ an estimate of the number of households to be displaced, the types of dwellings, and ownership or tenancy status. This estimate should include special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities, when applicable;
- ◆ an estimate of the number, type and size of businesses, farms and NPOs to be displaced. This estimate should identify any non-residential displacements that may involve complex or lengthy moves, and address those with limited financial resources and/or limited alternative replacement sites;
- ◆ an estimate of the number of replacement dwellings and sites available for both residential and non-residential displacees. This estimate should include a statement noting any housing ordinances or applicable codes that may affect replacement housing, or the ability of a non-residential displacee to relocate to an adequate replacement site;
- ◆ consideration of any special relocation advisory services that may be necessary from TxDOT and other cooperating Agencies;
- ◆ one copy of the District-approved ROW map.

If there are no displacements or local housing occupancy ordinances or codes, notify the ROW Program Office of this fact in writing.

If replacement housing is not available under normal conditions or within cost limitations, include a specific request to use **last resort housing** in ROW PD's request for authorization to acquire ROW. This request must accompany a report stating the need for last resort housing.

When ROW is acquired in hardship cases, or for protective buying, relocation planning may be submitted on an individual basis.

Construction Stage Requirements

Make comparable replacement housing available to displacees. Offer replacement housing, or the assistance necessary to provide this replacement housing to the displacee according to [Replacement Housing](#) Policy. In ROW PD files, document that comparable replacement housing was made available to displacees before project construction bids were advertised.

Chapter 9 — Presentation of Relocation Assistance Information

Contents:

[Section 1 — Notices](#)

[Section 2 — Notice Letters: Examples / Procedures](#)

[Section 3 — Pre-Negotiation Contacts](#)

Section 1 — Notices

General Information Notice

A person scheduled to be displaced shall be furnished with a general written description of TxDOT's relocation program at least 90 days before the required date to vacate. The notice may be issued in person or it may be sent by certified mail, return receipt requested with a follow up personal contact to furnish additional explanations. The notice, which may be issued separately or with other notices, shall inform a displacee:

- ◆ that he/she might be displaced for the project;
- ◆ that he/she might be eligible for relocation payment(s), the type of eligible payment(s), the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- ◆ that he/she will be given reasonable relocation advisory services, including referrals to replacement properties, assistance with filing payment claims, and other necessary assistance the displaced person may need to successfully relocate;
- ◆ that he/she will not be required to move without at least 90 days advance written notice, and that any person to be displaced from a dwelling cannot be required to move permanently, unless at least one comparable replacement dwelling has been made available;
- ◆ 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;
- ◆ that he/she has the right to appeal, within 90 days of TxDOT's determination, as to eligibility for, or the amount of, any relocation claim;
- ◆ that he/she shall adhere to the 18-month deadline in which to incur expenses and file claims;
- ◆ that he/she shall provide TxDOT reasonable advance notice of the estimated start date of his/her move or disposition of displaced personalty;
- ◆ that he/she shall provide TxDOT a list of items to be moved;
- ◆ that he/she shall permit TxDOT to monitor the move and make reasonable and timely inspections of personalty at both the displacement and replacement sites; and
- ◆ that deviation from any of the preceding five items may jeopardize eligibility or relocation benefits, as determined by TxDOT.

Notice of Relocation Eligibility

Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire, the initiation of negotiations, or actual acquisition, whichever occurs first. For TxDOT purposes, relocation

assistance eligibility will normally occur at the “initiation of negotiation” (initial written offer to purchase the right of way) and TxDOT shall promptly notify all occupants, in writing, of their eligibility for applicable relocation assistance. The notice, which shall be issued at least 90 days before the required date to vacate, may be:

- ◆ issued separately; or
- ◆ with other notices; or
- ◆ issued in person; or
- ◆ sent by certified mail, return receipt requested.

Notices to Vacate

No lawful occupant shall be required to move unless he/she has received at least 90 days advance written notice of the earliest date by which he/she may be required to move.* To the greatest extent practicable, a person lawfully occupying ROW and required to move from a dwelling, or to move a business, farm, or NPO shall receive timely written notice of the intended date to vacate. To meet these requirements, the following separate written notices shall be issued to each applicable displacee:

- ◆ **90-Day Notice** - Issued on or after the initiation of ROW negotiations. Due to different project circumstances, the timing of the notice shall be at TxDOT’s discretion. All such notices shall include a statement that the displacee will not be required to move from his/her dwelling, business, farm, or NPO before (1) 90 days from the notice date or (2) if a residential displacee, the date that comparable replacement housing was made available, whichever is later. If the 90-day notice is issued before comparable replacement housing is made available, the notice shall state that the occupant will not be required to move earlier than 90 days after such comparable replacement housing is made available. In all instances, the 90-day notice shall state that the occupant will be given a separate 30-day written notice specifying the required date to vacate.
- ◆ **30-Day Notice** - This notice, which is required for all displacees, shall inform the displacee of the specific date to vacate. **Do not give this notice until TxDOT has legal possession of the right of way.** The displacee shall be advised that the housing or rent supplement will not be increased later, unless the date to vacate is extended in writing by TxDOT. Any payment for incidental expenses and any increased interest payment shall be based on the lesser costs in effect as of (1) the displacee’s specified date to vacate or (2) the date the displacee actually moves, whichever is earlier.
- ◆ **Urgent Need** - In unusual circumstances, and if it is determined by TxDOT that a 90-day notice is impractical because continued occupancy of the property would constitute a substantial danger to health or safety, an occupant may be required to move earlier. Prior to issuing a notice to vacate in less than 90 days, coordination shall be established with the ROW Program Office in

order to obtain FHWA approval and special relocation entitlements. A copy of this determination shall be included in the applicable case file.

* Intended dates to vacate may be extended when warranted; however, extensions shall be in writing and shall give a new specific date to vacate. A notice to vacate is not required if an occupant moves voluntarily before the notice is given. If a displacee moves voluntarily before receiving a notice to vacate, a narrative of events about the move shall be documented in ROW PD files.

Notice of Intent to Acquire

A notice of intent to acquire, not be confused with the notice to owner, is TxDOT's written communication provided to a person to be displaced, which clearly sets forth that TxDOT intends to acquire the property. This includes persons to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance.

Notice of Advance Relocation Assistance Eligibility

A written notice of advance relocation assistance eligibility shall be issued when it is necessary to establish eligibility **before** initiation of negotiations. This notice shall not be issued without prior approval by the ROW Program Office.

If a notice of advance relocation assistance eligibility is issued, the date the displacee moves from the proposed ROW is considered the same as the date of initiation of negotiations. This notice shall not be issued before receiving authorization for initiating project negotiations or for acquisition of individual parcels for protective buying or due to hardship.

A notice of advance relocation assistance eligibility shall include:

- ◆ an eligibility statement, with any applicable restrictions;
- ◆ the anticipated date of initiation of negotiations;
- ◆ instructions on how to obtain additional information on relocation payments and services; and
- ◆ a copy of the TxDOT *Relocation Assistance* booklet.

If a notice of advance relocation assistance eligibility is given to an owner, notice shall also be given to his/her tenants within 30 days. The owner shall simultaneously be notified of such action.

A notice of advance relocation assistance eligibility shall not be issued unless initiation of ROW negotiations is imminent, to prevent subsequent occupancy of the ROW and to minimize rental difficulties for owners.

Notice to Late Occupants

When a residential or a non-residential displacee occupies improvements within the proposed ROW after the initiation of negotiations, the displacee shall be furnished the following notification of his/her entitlement to applicable relocation benefits:

- ◆ a written statement including the date negotiations were initiated;
- ◆ a written description of the relocation assistance program, eligibility requirements, including requirement for the late occupant to continue occupancy until TxDOT's possession of the property, in order to qualify for relocation assistance entitlements; and
- ◆ TxDOT's *Relocation Assistance* booklet;

The notice to the late occupant shall be issued promptly following his/her occupancy of the proposed ROW, and at least 90 days before the date to vacate. If this notice is issued before TxDOT acquires legal possession, the displacee shall be issued a **second** notice when TxDOT acquires legal possession. This notice shall inform him of his/her eligibility to receive a relocation payment.

This notice to the late occupant may be issued in person or it may be sent by certified mail, return receipt requested, with a follow-up personal contact to furnish additional explanations.

Notice of Denial of Claim

If TxDOT disapproves all or part of a payment claim, or refuses to consider the claim on its merits because of untimely filing of a claim for expenses incurred on or before the 18-month deadline, the claimant is to be notified promptly in writing of the determination.

Section 2 — Notice Letters: Examples / Procedures

Example Letters

Example letters for presenting relocation information to displacees are available on the [TxDOT website](#).

Manner of Notices

Each notice required in this Chapter shall be personally delivered or sent by certified mail, with return receipt requested, and documented in ROW PD files. Each notice shall be written in plain, understandable language. Assistance shall be provided to persons unable to read and understand a notice. Each notice shall contain the name and telephone number of a person who may be contacted for assistance.

Recipients of Notices

Recipients of displacement notices fall into two distinct categories: owners and tenants.

- ◆ Owners shall be provided the following applicable information at the initiation of property negotiations:
 - A written explanation of eligibility requirements to receive relocation payments, resulting from the acquisition of his/her business or residence.
 - A notice to **residential** displacees, who were owner-occupants for more than 90 days, of entitlement to payments for replacement housing, incidental expenses, and increased interest costs for financing a replacement dwelling. **Emphasize to displaced 90-day owner-occupants that the replacement housing payment described in the notice depends upon acceptance of the negotiated offer.**
 - Advice to residential displacees about the option to rent.
 - TxDOT's *Relocation Assistance* booklet.
 - An explanation of available relocation services and information on where to obtain these services.
- ◆ Tenants shall be provided the following information promptly after the initiation of property negotiations:
 - A written statement, including date of initiation of property negotiations, and an explanation of eligibility requirements to receive relocation benefits.
 - TxDOT's *Relocation Assistance* booklet.
 - An explanation of available relocation services and information on where to obtain these services.

Notice of Replacement Amounts

The displacee shall be informed, in writing, of:

- ◆ the specific amount of the computed replacement housing or rent supplement;
- ◆ the purchase price or rent used as the basis for establishing the supplemental housing payment upper limit; and
- ◆ the location of the comparable replacement dwelling used to determine the replacement housing supplement. Where possible, make three comparable dwellings available. If the dwelling used in computing a supplement is no longer available, inform the displacee of the location of preferably three, but a minimum of one, other comparable dwellings. These dwellings shall be available at a cost equal to or less than the cost of the dwelling used for computing the displacee supplement.

When a displacee is notified to vacate a displacement dwelling, and if comparable replacement housing is not available at a cost equal to or less than the computed replacement housing cost, a new replacement housing supplement shall be determined. However, do not offer the displacee a revised supplement that is less than the supplement originally offered. An exception to this policy would occur if the value of the displacee's displacement dwelling is revised upward, requiring a re-computation of the replacement housing supplement.

Furnish this notice to the displacee:

- ◆ near the time the displacee will be actively looking for replacement housing; or
- ◆ within a reasonable period of time of any displacee's request; but
- ◆ at least 90 days before the date the displacee is required to vacate the ROW.

If a displacee indicates he/she is dissatisfied with the determination of his/her eligibility for payment or the amount of payment offered, he/she shall be offered a thorough explanation of TxDOT's method of arriving at the allowed payment. If displacee is still not satisfied, give him a form [ROW-R-109 Request for Review of Relocation Assistance Payment](#), and advise him of the procedure for requesting an application review.

Housing payments are based on a displacee's ownership or tenancy status when the first written offer is made for the ROW. If a displacee desires an alternate ownership or tenancy status, make a reasonable effort to meet this desire. If housing is available on which alternate replacement housing supplement can be computed, then base the replacement housing payment on the requested alternate and present the amount, in writing, to the displacee.

Section 3 — Pre-Negotiation Contacts

Procedure

When contact is made before initiation of negotiations, inform the displacee:

- ◆ that relocation benefits are based on lawful occupancy; and
- ◆ that moving and related expenses incurred before receipt of a written offer to acquire ROW may not be eligible for reimbursement unless the displacee receives a written notice of advance relocation eligibility **before** his/her move is initiated.

Notices and Contacts with Persons Who are Not Displaced

When acquiring ROW, if only rural land will be acquired, and there are no displacements, the owners and tenants do not need to be personally contacted. Instead, the owners and tenants may be advised of their eligibility for relocation assistance services by certified mail, with return receipt requested. Inform owners and tenants about how, and where, an application requesting a review may be submitted.

Chapter 10 — General Provisions

Contents:

[Section 1 — Procedures](#)

Section 1 — Procedures

Eligibility

A displacee lawfully present in the U.S. is eligible to receive payment for the reasonable expenses of moving his/her personalty. A residential displacee **unlawfully** present in the U.S. (refer to *49 CFR, Section 24.208*) is eligible to receive payment for the reasonable expenses of moving his/her personalty if he/she can demonstrate that denial of relocation assistance benefits will result in an exceptional and extremely unusual hardship to the person's spouse, parent, or child (if that spouse, parent, or child is a citizen of the U.S. or an alien lawfully admitted for permanent residence in the U.S.). A hardship case is not automatic when an eligible dependent is involved.

Date of Displacement

For determining relocation payment eligibility, the date of displacement is the latter of:

- ◆ the date the person moves, or is required to move by notice (whichever is earlier);
- ◆ the date a comparable replacement dwelling is made available.

Distance of Move

There is no limitation on the distance a displacee moves, in state or out of state. If the displacee chooses to relocate in excess of 50 miles, reimbursement shall be based on the cost of moving, not to exceed 50 miles unless, TxDOT determines that relocation cannot be accomplished within the 50-mile area. In this case, and with prior approval from the ROW PD Manager, payment is allowed only to the nearest adequate and available site.

More Than One Move

A displacee will normally be eligible for payment for only one move. However, when in the public interest, prior approval may be given for payment for more than one move.

For example, TxDOT scheduling may require moving personalty from the displacement site to a temporary site before the replacement site is ready for occupancy. In this case, the ROW Program Office may approve a second move to the permanent replacement site.

Moves to Multiple Locations

Typically, all displaced personalty is moved from the displacement site to one replacement location. However, it may be necessary to relocate personalty from the displacement site to multiple replace-

ment sites. Prior approval from the ROW PD Manager shall be obtained and the multiple replacement sites justified as reasonable and necessary.

Payment for moves to multiple sites must not exceed the cost of moving **all** personalty to the nearest selected site that will accommodate a majority of the displaced personalty.

Owner Retention

When a displaced residential owner-occupant retains a realty improvement in the parcel, the cost of moving it onto the remainder or replacement site is not eligible for reimbursement as a moving cost. However, if he/she chooses to use his/her dwelling as a means of moving personalty, the cost of moving personalty on a fixed schedule basis is an eligible expense.

Property

Determine which items are classified as realty to be valued in the appraisal of the property before assigning appraisal work. Make this determination in agreement with TxDOT's policies on negotiations and with the *ROW Appraisal and Review Manual* section on "[Legal Instructions - Personalty and Realty.](#)" When ROW is acquired by an LPA, try to determine which items are personalty and which are realty at the pre-appraisal stage.

When identifying personal property eligible for moving expense payments, review the list of personal property furnished by the appraiser in relation to the inventory list compiled by the displacee and TxDOT personnel to avoid making relocation payments for items classified as realty.

Overtime Charges

Base moving expense payments (including cost estimates) on "straight time" labor rates, and not on "overtime" labor rates, unless the displacee can justify the need to move at night, on weekends, or on holidays. When ROW PD determines that the move must be conducted outside of "normal work hours," moving payments may include a reasonable amount for overtime charges. Justification for overtime charges must be documented in the project files.

Notification and Inspection

To receive moving payments, the displacee must:

- ◆ provide TxDOT with advance notice of the estimated move date or the disposal date of displaced personalty;
- ◆ provide TxDOT with a dated list of items to be moved, including a separate list of items requiring special handling or extra services for removal and reinstallation; and

- ◆ allow TxDOT to make timely inspections of the displaced personalty at the displacement and replacement sites, and to monitor the move.

ROW PD shall:

- ◆ monitor moves to ensure agreement with expected costs, directing added attention towards complex or high-cost moves expected to exceed \$20,000.00;
- ◆ perform pre-move and post-move “on-site” inspections to confirm that property listed on the pre-move inventory is physically located at the displacement site, and is moved and reinstalled at the replacement site;
- ◆ document any sizable differences in the project files and revise the agreed upon payment amount accordingly;
- ◆ record, in the project files, TxDOT’s pre-move and post-move inventory verifications; and
- ◆ record, in the project files, the inspection findings, the inspection date, and the inspector’s name.

Moving Cost

Base moving cost estimates on the moving plan or on previously agreed upon terms and conditions. These estimates, particularly those that TxDOT pays a company or individual to prepare, should include:

- ◆ dates (e.g. date prepared, date inspected);
- ◆ name and address of the company or person preparing the estimate;
- ◆ name of the person being moved;
- ◆ relocation address and move distance on which costs are calculated;
- ◆ a description of property to be moved or reinstalled; and
- ◆ applicable costs such as labor, transportation, packing and crating, special equipment, insurance, and materials needed for the move.

As an alternative to formal advertising, bids from qualified contractors may be requested by mail, in-person, or via telephone.

Ineligible Moving and Related Expenses

A displacee is **not** entitled to payment for:

- ◆ costs for moving structures or other real property improvements in which the displacee kept ownership, except as authorized for replacement housing payments;
- ◆ interest on a loan to cover moving expenses;

- ◆ loss of business goodwill;
- ◆ loss of profits;
- ◆ loss of trained employees;
- ◆ additional operating expenses of a business, farm, or NPO due to operating in a new location, except as eligible under rules governing reestablishment expenses as described in [Reestablishment Expenses -Non-residential](#);
- ◆ personal injury;
- ◆ expenses incurred searching for a replacement dwelling;
- ◆ physical real property modifications at the replacement site, except for those reasonable and necessary modifications eligible under [Allowable Moving Expenses -Non-residential](#) and [Reestablishment Expenses -Non-residential](#);
- ◆ expenses for providing utilities from the property line to a structure, except as authorized for replacement housing or as eligible under non-residential moving expenses;
- ◆ costs incurred for complying with OSHA, or any other Federal, State, or local requirement, at the replacement site, that are not specifically related to the reinstallation of displaced personalty and its proper functioning, except as eligible under [Reestablishment Expenses -Non-residential](#);
- ◆ costs for personalty storage on real property owned or leased by the displacee;
- ◆ losses incurred due to negligence of the displacee, displacee's agent, or employees;
- ◆ costs for obtaining copies of tax returns or other records for supporting fixed moving payments;
- ◆ legal fees or other costs for preparing a relocation payment claim, or for representing the claimant before TxDOT;
- ◆ moving and related expenses incurred before initiation of ROW negotiations or issuance of a notice of advanced relocation eligibility, whichever occurs first, unless prior ROW Program Office approval is obtained; or
- ◆ costs of moving to a site in violation of a Federal, State, or local regulation. For example, outdoor advertising signs declared as personal property and junkyards may only be relocated to conforming locations.

Payment After Death

If a displacee vacates State-acquired property but dies before he/she is paid for moving costs, pay displacee's moving costs to displacee's beneficiaries or estate.

Chapter 11 — Residential Moves

Contents:

[Section 1 — Eligibility](#)

[Section 2 — Allowable Moving Expenses - Residential](#)

[Section 3 — Actual Reasonable Moving Expenses](#)

[Section 4 — Fixed Moving Expense Payments](#)

Section 1 — Eligibility

Overview

A residential displacee is entitled to reimbursement for those moving expenses determined by TxDOT to be reasonable and necessary. Methods for determining reimbursement include the following.

Actual Cost Commercial Move

Reimbursement documented by **paid** receipts from a professional mover.

Actual Cost Self-Move

Reimbursement documented by **paid** receipts for equipment rentals, fuel, etc., and inventory of moved personalty. Additionally, the displacee must provide an itemized certified accounting of the number of hours spent on the move and the claimed hourly wage rate. The hourly wage rate is limited to that claimed by bonded commercial movers for commercial moves of similar property. Residential moves under the self-move option cannot be based on the lower of two bids or estimates.

Fixed Room Count Schedule

Make reimbursement as described in [Fixed Moving Expense Payments](#) and [Use of Moving Expense Schedules](#).

Section 2 — Allowable Moving Expenses - Residential

Overview

When moving on an actual cost basis, consider the following items in this section as eligible moving expenses, if determined to be reasonable and necessary.

Personalty

Costs, including packing and unpacking, for moving personalty lawfully located on the site from which it is moved not to exceed 50 miles, unless TxDOT determines that relocation beyond 50 miles is justified and has prior approval from the ROW PD Manager.

Personal Transportation

Costs for transporting residential displacees to the new location are eligible moving expenses. Reimburse these costs at the current TxDOT rate, or, if commercial transportation is used, reimbursement can be for reasonable actual fees. Costs for special personal services, such as ambulance transportation for invalid displacees, are eligible.

Removal and Reinstallation

Costs for disconnecting, dismantling, removing, reassembling, and reinstalling displaced household appliances and other personalty are eligible moving expenses.

Storage

Prior to the move, the ROW PD Manager may approve requests for personalty storage. The need for storage must be documented in ROW PD files. Durations of storage approved by the ROW PD Manager should be for a reasonable and necessary amount of time, not to exceed 12 months. Costs for personalty storage exceeding 12 months require approval by the ROW Program Office. **Costs for storing personalty on the remainder of real property being acquired, or on other property owned or leased by the displacee or a member of his/her family, are not eligible.** Animal boarding is not considered personalty storage.

Temporary Lodgings and Meals

The ROW PD Manager may approve reimbursement of the reasonable costs of temporary lodgings and meals, for up to 14 days, when it is determined, before the move, that such costs are necessary. The necessity of incurring such costs must be documented in ROW PD files. Reimburse-

ment for costs incurred in excess of 14 days may be approved by the ROW Program Office on a case by case basis. Costs for lodging displacees in vacation quarters or resort facilities outside the relocation area are not eligible. Costs for temporary lodgings and meals in other property owned by the displacee or rented by him for other purposes are also ineligible.

Insurance

Costs for insurance premiums covering loss or damage of personalty while in storage or transit are eligible expenses; however, the coverage amount must not exceed reasonable replacement value of the moved property.

Losses in Moving

Reasonable replacement value of property lost, stolen, or damaged in the moving process when insurance covering such loss, theft, or damage is not readily available is an eligible expense. However, property lost, stolen or damaged through the fault or negligence of the displacee, displacee's agent, or employees is ineligible.

Utilities

Costs for utility and telephone hookup charges are eligible; however, refundable service deposits are not eligible.

Mobile Homes

Eligible costs are as follows:

- ◆ reasonable costs for disassembling, moving, reassembling, and anchoring any attached structures (such as porches, decks, skirting and awnings) that are not acquired by TxDOT as real property;
- ◆ reasonable costs for repairs or modifications, determined necessary by TxDOT, for moving the mobile home to a replacement site; and
- ◆ non-returnable mobile home park entrance fees, unless TxDOT determines that a comparable mobile home park is available which does not require an entrance fee.

Other Expenses

Costs not specifically listed as ineligible in [Ineligible Expenses](#) and determined by TxDOT to be reasonable and necessary.

Section 3 — Actual Reasonable Moving Expenses

Displacee Requirements

A displacee may be reimbursed for the costs of a move by a commercial moving firm or for the costs of a self-move. Itemized and receipted bills and lists of goods and property moved must support such costs.

The displacee, before the start of his/her move, shall inform TxDOT of:

- ◆ his/her intention to have his/her goods and property moved commercially and the name of the company or individual who will perform the move;
- ◆ the date of the move and the address to where his/her personalty will be relocated;
- ◆ a dated list of goods and property to be moved; and
- ◆ any unusual conditions or special handling requirements that could affect the moving cost.

TxDOT Requirements

TxDOT shall:

- ◆ perform a pre-move, displacement site review, when possible, to verify the displaced property list and any special conditions and requirements that could affect moving costs;
- ◆ monitor the move; moves involving both a residential displacement and a home business displacement must be closely monitored to ensure no duplication of payment due to possible overlapping of personal property (residential items vs. business items);
- ◆ perform a post-move, replacement site review, when possible, to determine if personalty is actually moved and installed as stated in submitted invoices;
- ◆ verify submitted invoices and receipts with issuing organizations and individuals (should always be followed up on); and
- ◆ advise the displacee regarding the eligibility of expenses before the move.

Section 4 — Fixed Moving Expense Payments

Determination of Payment

Moving Expense Schedules A & B

| A. UNFURNISHED UNITS - Occupant owns furniture. | | | | | |
|---|---------|---------|----------------------|----------------------|---------|
| No. of Rooms | One | Two | Three | Four | Five |
| Amount | \$600 | \$800 | \$1,000 | \$1,200 | \$1,400 |
| No. of Rooms | Six | Seven | Eight | Each Additional Room | - |
| Amount | \$1,600 | \$1,750 | \$1,900 | \$150 | - |
| B. FURNISHED UNITS - Occupant does not own furniture. | | | | | |
| First Room | | | Each Additional Room | | |
| \$400 | | | \$50 | | |

Eligible residential displacees (including seasonal residents and sleeping rooms) are entitled to a fixed payment instead of payment for actual moving expenses. Determine fixed payment as shown below.

Use of Moving Expense Schedules

When displacees choose the fixed schedule payment option, TxDOT shall determine the number of eligible rooms with the head of household present, before starting a move.

Fixed schedule payments do not apply to part-time occupants or to moving personalty of a non-occupant owner.

Occupants who move **from** a mobile home may be paid for moving their personalty as presented in the Moving Expense Schedules, if they choose to do so. Occupants shall be paid on an actual cost basis for moving the mobile home from the displacement site. Occupants who move their personalty separately from the mobile home may choose to do so based on actual cost.

A displacee whose residential move is performed by a displacing agency at no cost to the displacee is entitled to a payment not to exceed \$50. A displacee with minimal personalty, who occupies a dormitory style room, is entitled to a payment not to exceed \$50.

Counted Rooms

The phrase “counted room” is defined as space in a dwelling unit containing the typical quantity of household furniture, equipment, and/or personalty. It includes living rooms, dining rooms, kitch-

ens, family rooms, utility rooms, bedrooms, studies, basements, and garages. Other rooms or storage areas containing substantial personalty may be counted as additional rooms. Areas of storage containing mostly non-residential personalty must be excluded in the counted rooms. For these items, follow provisions under Allowable Moving Expenses - Non-residential or Personal Property Only Moves, whichever is applicable.

When personalty is displaced from several rooms or areas at the displacement site that individually would not qualify as counted rooms. Such property may be combined for establishing eligibility as counted rooms.

Reminder: When acquiring combination residential-business units do not include the business property in the residential room count. The residential property should not be moved as part of the business. Vacant rooms and areas from which no personalty is displaced are not considered eligible rooms for payment purposes.

Multiple Occupancy of Same Dwelling

If two or more occupants (families or individuals) of the displacement dwelling move to **different** replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by TxDOT, of the moving expense payment that would have been made if the occupants had moved to the **same** replacement dwelling. However, if TxDOT determines that these occupants maintain separate households within the same displaced dwelling unit, they are entitled to separate moving expense payments.

Owner-Occupant Multi-Family Units

In addition to payment for moving eligible occupants and personalty from a dwelling unit, the owner of a multi-family dwelling is eligible to receive a non-residential moving payment for his/her personalty located in other units of the multi-family dwelling.

Chapter 12 — Personal Property Only Moves

Contents:

[Section 1 — Eligibility](#)

[Section 2 — Types of Moving Options](#)

Section 1 — Eligibility

Overview

Eligible expenses for a person who is required to move personal property from real property, but is not required to move from a dwelling (including a mobile home), business, farm or NPO. Include those expenses described in Chapter 11, with the exception of “temporary lodging and meals” and “fixed room count” schedule. Methods of determining reimbursement are limited to the options listed in Section 2.

Section 2 — Types of Moving Options

Actual Cost Commercial Move

Reimbursement documented by paid receipts from a professional mover.

Actual Cost Self-Move

Reimbursement shall be documented by paid receipts for equipment rentals, fuel, etc., and inventory of moved personalty. Additionally, the displacee shall provide an itemized, certified accounting of the number of hours spent on the move and the claimed hourly wage rate. The hourly wage rate is limited to that charged by bonded commercial movers for moves of similar property. Moves that only involve personal property, under the self-move option, cannot be based on the lower of two bids or estimates.

If displacing a mini-storage facility, a move schedule can be developed based on the lower of two commercial bids to address each storage unit size being displaced. The amount for various unit sizes in the schedule can be used as the basis for reimbursement of a self-move without the required receipts and time logs. This move schedule must be approved by the ROW PD Manager prior to any displacements occurring.

Chapter 13 — Continued Occupancy Incentive Payment

Contents:

[Section 1 — Eligibility](#)

[Section 2 — Provisions](#)

Section 1 — Eligibility

Overview

On a project by project basis, residential tenants may be eligible for an incentive moving payment for continuing to occupy the displacement dwelling until TxDOT's possession of the real property. Use of this payment requires the ROW PD Manager to submit a written request to the ROW Program Office for approval. This request should be made prior to the initiation of negotiations for any parcel on the right of way project.

Eligibility Requirements

To qualify for the continued occupancy incentive payment, a displaced residential tenant must meet the following criteria:

- ◆ Tenant is lawfully present in the United States as described in the previous chapter, [General Provisions](#).
- ◆ Tenant has actually and lawfully occupied the displacement dwelling prior to the initiation of negotiations (first written offer).
- ◆ Tenant agrees to continue in occupancy of the displacement dwelling until TxDOT has taken possession of the property, through either negotiation or condemnation.
- ◆ Tenant vacates the displacement dwelling within 30 days of formal notice after TxDOT takes possession.

Section 2 — Provisions

Overview

This incentive payment is offered to maximize relocation benefits to eligible tenants, to assist landlords in retaining rental income until possession by TxDOT, and to minimize additional payments required by TxDOT for late residential occupants. This payment does not affect any entitlement to, or amount of, any other relocation benefits due the displaced tenant. Participation in this incentive is solely at the election of the displacee. If the displaced tenant chooses to participate in this incentive, available comparable housing will be evaluated prior to the final move. If comparable housing is no longer available within the parameters of the original rental supplement, a revision will be required.

Amount of Payment

The continued occupancy incentive payment for each approved project will be based on the overall average rent for residential properties within the project, multiplied by four months. ROW PD will provide rental rates for dwellings on the project, along with the request to utilize this payment. The ROW Program Office will analyze these rates and establish an average rent. There are no provisions for a partial payment, only the full amount, if the displaced tenant continues to occupy the displacement site until TxDOT's possession, either through negotiations or eminent domain. If for any reason the displaced tenant decides to move prior to TxDOT's possession, he/she forfeits any claim to this incentive payment.

Process

Prior to the issuance of the 90-day notice, containing the approved rental supplement amount and available comparable(s), the displaced tenant will be informed of this incentive payment and the requirements to qualify for the payment. If they elect to participate, the following process shall be utilized:

- ◆ ROW PD shall have the displaced tenant indicate that they understand and elect to participate in this optional benefit, and shall note such election on form [ROW-R-96 Relocation Advisory Assistance Parcel Record](#).
- ◆ ROW PD shall compute the eligible rental assistance supplement and issue a 90-day notice to the tenant, in the normal manner outlined in [Entitlements for 90-Day Occupants](#).
- ◆ ROW PD shall continue to offer all relocation assistance advisory services as required by the displaced tenant.
- ◆ Upon possession of the real property by TxDOT, ROW PD personnel shall verify that replacement housing is still available to the displaced tenant for the rental cost of the originally

selected comparable dwelling. If the cost of comparable housing has increased, a revision to the original supplement will be computed and submitted to the ROW Program Office for compliance review.

- ◆ Once the new supplement is approved or the original rental supplement is deemed adequate and the move is completed, ROW PD shall submit a claim on behalf of the displaced tenant for the rental supplement, moving costs for the move of personal property, and a separate claim for the continued occupancy incentive payment. The incentive payment will be submitted as an “actual cost” residential moving expense, and be designated as “continued occupancy incentive” in TxC.

Chapter 14 — Non-residential Moves

Contents:

[Section 1 — Eligibility](#)

[Section 2 — Allowable Moving Expenses - Non-residential](#)

[Section 3 — Types of Eligible Moving Expenses - Non-residential](#)

[Section 4 — Moving Expense Finding](#)

[Section 5 — Actual Direct Loss of Tangible Personal Property/Purchase of Substitute Personal Property](#)

[Section 6 — Searching for Replacement Operating Site](#)

[Section 7 — Reestablishment Expenses - Non-residential](#)

[Section 8 — Fixed Moving Payments - Businesses, Farms and Nonprofit Organizations](#)

[Section 9 — Non-residential Terms and Calculations](#)

[Section 10 — Entitlement for Fixed Payment](#)

[Section 11 — Commercial Signs](#)

[Section 12 — Relocation Procedures for TxDOT Leasebacks](#)

Section 1 — Eligibility

Overview

A displacee qualifying for a non-residential move is entitled to payment for actual moving and related expenses. This payment shall be for one move only and determined, by TxDOT, as reasonable and necessary. Such payment may include:

- ◆ reasonable expenses in moving personalty from State-acquired real property;
- ◆ direct losses of tangible personalty in moving or discontinuing an activity;
- ◆ reasonable expenses in searching for a replacement location; and
- ◆ reasonable and necessary expenses in reestablishing a business.

In place of payment for actual moving expenses, an eligible business or NPO may be eligible to choose a fixed moving payment of between \$1,000 and \$40,000.

Determining the Number of Businesses

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

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

For relocation purposes, if a displacee owns the fee, the structure, and the business operating within the structure, said displacee shall qualify as a business owner. This displacee shall be eligible for one set of relocation benefits.

Section 2 — Allowable Moving Expenses - Non-residential

Overview

When moving on an actual-cost basis, consider the following items and conditions as eligible moving expenses if determined to be reasonable and necessary.

Personalty

Costs, including packing and unpacking, for moving personalty lawfully located on the site from which it is moved.

Transportation

Costs incurred for moving a displaced person or personal property a distance of not more than 50 miles, unless TxDOT determines that relocation beyond 50 miles is justified. Requests for moves exceeding 50 miles must have prior approval from the ROW PD Manager.

Labor and Materials

Costs for packing, crating, unpacking and uncrating of the personal property.

Removal and Reinstallation

Costs for disconnecting, dismantling, removing, reassembling, and reinstalling displaced machinery, equipment, other personalty, and substitute personalty, including:

- ◆ connection to available nearby utilities (from the property line);
- ◆ modifications to personalty necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site;
- ◆ modifications necessary to adapt utilities at the replacement site to the personalty; and
- ◆ modifications to real property, at the replacement site, necessary to permit the reinstalled personalty to function properly and according to code.

Such costs are not applicable to items classified as real property, acquired in the acquisition process, and retained by the owner. Reasonable and necessary will remain the determining criteria for all eligible costs.

Storage

Prior to the move, the ROW PD Manager may approve requests for personalty storage. The necessity for such storage must be documented in the project files. The duration of storage approved by the ROW PD Manager should be for a reasonable and necessary amount of time, not to exceed 12 months. Costs for personalty storage exceeding 12 months require approval by the ROW Program Office. Costs for storing personalty on the remainder of real property being acquired are not eligible. The same exclusion applies to costs for storing personalty on other property owned or leased by the displacee or a member of his/her family.

Professional Services - Studies Related to the Replacement Location

Reasonable and necessary expenses incurred prior to the purchase or lease of the replacement site to determine its suitability for the displaced person's business, farm or NPO are eligible for reimbursement, as moving expenses. This includes, but is not limited to soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of the replacement site). Professional services attributable to "reestablishment" or "searching expenses" will only be eligible for reimbursement as part of the total eligible claim amount under State and Federal law.

Professional Services - Professional Move Planner Service

Professional services, such as those provided by a move planner, may be reimbursed if TxDOT determines them to be an actual, reasonable, and necessary move expenses for the following:

- ◆ planning the move of the personal property;
- ◆ moving the personal property; and
- ◆ installing the relocated personal property at the replacement site.

For TxDOT to determine whether a move planner is required, TxDOT must be afforded the following:

- ◆ conduct an interview with the displacee business, farm, or non-profit;
- ◆ access the subject site for inspection purposes; and
- ◆ review the proposed scope of work identifying the qualifications of the move planner and outlining specific tasks related to planning the personal property move ("Scope of Work").

TxDOT's approval for all move planners shall be granted on the basis of a well-defined scope of work and estimated costs. The scope of work, cost estimates, and mandatory requirements must be provided to TxDOT for review and approval **prior to any work being done by the move planner and prior to the start of the move**. Any revisions to the pre-approved scope of work and cost estimate must be approved by the ROW PD Manager prior to the displacee incurring further costs.

Failure to do so may limit eligible claims for move planner services to the original amount approved by TxDOT.

Failure to obtain pre-approval by TxDOT of a move planner may result in the denial of future claims for reimbursement of move planner expenses.

TxDOT reserves the right to decline approval of any move planner based on unacceptable past performance.

Scope of Work Requirements

All persons considered for relocation assistance professional services must submit a detailed scope of work with:

- ◆ breakdown of hours by task related to the move;
- ◆ anticipated hourly commitment by each task related to the move;
- ◆ hourly rate;
- ◆ list of items of personal property versus items of real property; and
- ◆ a resume, inclusive of references and contact information from previous clients.

When developing the scope of work, note that conceptual building or site layouts intended for construction/reconstruction at the replacement site (not directly attributable to the reinstallation of the moved or substitute personal property) are not considered eligible move costs or related expenses. In addition, the preparation of claims, activities related to the appraisal and/or acquisition of the subject property, reestablishment tasks, and representing the displacee before TxDOT are not eligible expenses from a move planner.

TxDOT shall determine the eligibility, reasonableness, and necessity of all claims, as well as provide additional advisory services related to the move. As a result, the displacee shall provide required access to TxDOT to evaluate the claims. Any bids provided by a move planner as the basis for a move claim must be accompanied by a preapproved inventory and scope of work. The identical preapproved scope and inventory shall be provided to the professionals utilized by TxDOT when obtaining additional bids for comparison purposes.

The following are **mandatory qualifications** of the Professional Move Planner:

- ◆ Five years of experience with a TxDOT approved ROWAPS; or
- ◆ Experience providing moving services to at least **two** like-type enterprises under guidelines of the Uniform Act. Project and contact information must be provided for the entity monitoring for Uniform Relocation Act Compliance to verify quality of work and understanding of the Uniform Act.

If the proposed move planner is a ROWAPS vendor, they may not be employed on the project where the proposed move planner services will be rendered.

NOTE: If services to be provided are strictly “technical” in regards to the displaced personal property, the above qualifications will be limited to the provider demonstrating a thorough knowledge of the tasks performed.

If the mandatory qualifications have been met and approved, the reimbursable hourly rate will be approved based on the standard criteria tiers shown in Table 14-1.

Table 14-1: Standard Criteria Tiers

| Tier | Rate | Criteria |
|---|----------------|---|
| Tier 1 | \$150 per hour | <ul style="list-style-type: none"> ◆ 1-20 relocations with Uniform Act experience; and ◆ All experience must be within the past 5 years |
| Tier 2 | \$175 per hour | <ul style="list-style-type: none"> ◆ 21-50 relocations with Uniform Act experience; and ◆ At minimum, 3 like-type¹ completed relocations that can be confirmed, by TxDOT, through contacting references; and ◆ All experience must be within the last 10 years |
| Tier 3 | \$200 per hour | <ul style="list-style-type: none"> ◆ 50 or more relocations with Uniform Act experience; and ◆ At minimum, 3 like-type¹ completed relocations on a TxDOT project that can be confirmed, by TxDOT, utilizing the ROW CSJ and Parcel ID provided; and ◆ All experience must be within the past 15 years |
| ¹ Like-type relocations must be the same in nature, characteristics and difficulty are subject to TxDOT's determination. | | |

Once approved, a meeting will be scheduled by TxDOT to discuss conditions of the agreement and criteria requirements for reimbursement. All documentation of qualifications shall be maintained in TxDOT's files.

Criteria for Move Planner Reimbursement Eligibility

The following criteria should be used by TxDOT in reviewing the move planner invoices in determining eligibility for reimbursement under the Uniform Act, specifically 49 CFR Section 24.301. If the displacee is claiming that these expenses are eligible under a different provision of the Uniform Act, the displacee should identify the applicable section of the Uniform Act and TxDOT will analyze whether the expenses could be eligible under that provision.

- ◆ The displacee is eligible for reimbursement of professional services performed prior to the purchase or lease to determine its suitability for the displaced business operation, including but not limited to soil testing, feasibility, and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). The move planner must provide qualifications to perform such tasks to be eligible expenses.

- ◆ If an activity requires additional consultants to provide professional services, the reimbursement approved for the task will be for the consultant with primary expertise (e.g. hiring a mover to pack, transport and unpack - the mover's fee is reimbursable; whereas, the move planner's time would be limited to the required inventory preparation, mutually agreed upon development of the scope of services for bidders, and securing or developing the bids required from the displacee for a negotiated self-move, where applicable).
- ◆ Representing the displacee to TxDOT or its representatives is not an eligible move-related professional service and is not reimbursable. If the move planner is acting as both a move planner and an advocate/representative for the displacee, only the pre-approved time spent as a move planner is eligible for reimbursement. If at any time, as determined by TxDOT, the two roles are in conflict toward a cooperative and timely completion of the relocation of the business, TxDOT reserves the right to withdraw the approval to proceed as a move planner. The displacee will be notified in writing of any changes to this approval.
- ◆ Preparing claims is not an eligible professional service. TxDOT provides advisory services related to the Uniform Act, which includes assistance with claim preparation and to answer questions related to eligibility and the documentation needed to maximize the financial benefits. Securing the components for claim documentation such as bids required of the displacee for negotiated self-moves and substitute personal property requests may be eligible move planner tasks.
- ◆ Documentation of the move planner activities provided for reimbursement must be specific regarding the task and time spent (For example - “phone call with X or reviewed email from Y” is not specific. Documentation should be detailed and include - Who was on the call? How did it relate to planning the move? What product was the end result?). Billings should include the back-up specific to the pre-approved scope of services being claimed rather than including documentation for non-approved or additional tasks.
- ◆ Only services provided by one of the move planner individuals approved by TxDOT are eligible for reimbursement. If a move planner task requires the effort of more than one employee, justification for additional support must be provided in the request for pre-approval or before such involvement takes place if unexpected. If the qualified move planner is an individual, hours for their supervisor to review their work are not eligible for reimbursement.
- ◆ The service provided must be within the scope of move planner activities to plan the move and installation of the personal property relocated to the replacement location to be eligible for reimbursement.
- ◆ Activity related to the preparation of the inventory list of personal property previously paid for by TxDOT is not approved for additional reimbursement.
- ◆ Not every task is complex enough to require a move planner. The move planner must be necessary and the expenditure reasonable for the task as determined by TxDOT.

- ◆ If portions of the submitted relocation claim were determined to be eligible, but other portions of the relocation claim were determined to be ineligible, TxDOT will deduct the applicable amount for the ineligible activity when processing the relocation claim.

Move Planner Payments

All payments for the reimbursement for Move Planner work shall be made directly to the displacee unless authorized by a three-way agreement. It should be noted that any contract for professional services of a move planner is strictly between the displacee and the move planner and TxDOT is responsible only for reimbursing the displacee for such costs that are both eligible and adequately documented. TxDOT has no responsibility/liability for what the professional move planner does or how it is done.

Insurance

Costs for insurance premiums covering loss or damage of personalty while in storage or transit are eligible expenses; however, the coverage amount must not exceed reasonable replacement value of the moved property.

Losses in Moving

Reasonable replacement value of property lost, stolen, or damaged in the moving process (not through the fault or negligence of the displacee, displacee's agent, or employees) are eligible expenses, when insurance covering such loss, theft, or damage is not readily available.

Permits

Except for those eligible under [Reestablishment Expenses - Nonresidential](#), costs for any licenses, permits, or certifications required of the displacee at the replacement site are eligible expenses. However, payment shall be based on the remaining useful life of any existing licenses, permits, or certifications.

Signs

Costs for modification and re-lettering of signs; as well as costs for replacing stationery, business cards, affected promotional items, and other specifically addressed printed items on hand at the time of displacement made obsolete due to the move. Costs may also include reimbursement for the unused portion of any applicable advertising.

Utilities

Costs for utility, telephone, and computer service transfer fees when such expenses are necessary to effect relocation. Refundable service deposits are not eligible. Eligible expenses also include connections to available nearby utilities from the ROW to improvements at the replacement site.

Moving Estimates

Costs incurred by TxDOT for obtaining moving estimates, not to exceed two estimates per move. If the two estimates are incompatible, a third estimate may be obtained provided the need for such estimate is documented in TxDOT files.

In complex or unusual moves, when it is determined that advertising is the only means of securing estimates of the costs for packing, transporting, and unpacking, or for other necessary services, the advertising expense is eligible.

Property Disposal Costs

Reasonable costs incurred while attempting to sell an item displaced by the project but not to be relocated.

Impact Fees

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

Other Expenses

Costs not specifically listed as ineligible in [Ineligible Expenses](#) and determined by TxDOT to be reasonable and necessary. If it is determined that a contract can be transferred to the replacement location, certain fees, such as termination fees, will be ineligible.

Low Value/High Bulk

When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value, in the judgment of TxDOT, the allowable moving cost payment shall not exceed the lesser of:

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

Types of personal property that may fall under this option include, but are not limited to, stockpiled sand, gravel, minerals, metals and other like-type items as determined by TxDOT.

Section 3 — Types of Eligible Moving Expenses - Non-residential

Overview

A non-residential displacee is entitled to reimbursement for moving expenses determined by TxDOT to be reasonable and necessary. The amount of reimbursement depends on which of three methods listed below is used to accomplish the move. The move may be accomplished by one or a combination of these methods, providing there is no duplication of payment in any part of the move.

Commercial Move

A non-residential displacee may be reimbursed for the costs of a move performed by a qualified individual or company. Itemized receipts and lists of goods and property moved must support such costs.

The displacee, before the start of the move, shall:

- ◆ advise TxDOT of its intention to have its goods and property moved commercially, and provide the name of the company or individual who will perform the move;
- ◆ inform TxDOT of the date of the move in advance and allow TxDOT to monitor the move; and
- ◆ inform TxDOT of any unusual conditions or special handling requirements that could affect the moving cost.

TxDOT shall:

- ◆ advise displacee of TxDOT's determination regarding eligibility of expenses before start of the move;
- ◆ perform a pre-move, displacement site review, when possible, to verify the displaced property list and any special conditions and requirements that could affect moving costs;
- ◆ monitor the move;
- ◆ perform a post-move replacement site review, when possible, to determine if personalty is actually moved and installed as stated in submitted invoices; and
- ◆ verify submitted invoices and receipts with issuing organizations and individuals; and

In complex moves and in any move where costs are expected to exceed \$20,000, develop a moving plan as described under the NSM section immediately following.

When moving costs are expected to exceed \$20,000, obtain two supporting cost estimates from qualified commercial moving firms or individuals.

Actual Cost Self-Move

If a non-residential displacee elects to perform his/her move on an actual cost basis, the move shall be supported by paid receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment, but not to exceed the cost paid by a commercial mover.

Negotiated Self-Move

If a displacee chooses to take full responsibility for all or part of moving the displaced personalty, payment may be approved for the moving expenses not to exceed the lowest acceptable estimate obtained or prepared by TxDOT. Additional documentation of expenses by displacee is not required. Payment shall include all eligible moving costs; however, removal and reinstallation expenses may be considered as separate claims. When possible, all claims related to a particular move should be submitted for payment simultaneously. A NSM must be handled in the following sequence:

For complex moves and moves expected to cost over \$20,000, the displacee, with assistance from TxDOT, must prepare a moving plan prior to moving the displaced property and before other actions are initiated. The moving plan shall identify all factors that could affect the moving cost and shall:

- ◆ be in writing, dated, and agreed to by both the displacee and TxDOT before any moving cost estimates are obtained;
- ◆ be submitted to TxDOT for review within 60 days of receiving the 90-day notice;
- ◆ contain a brief, clear description of the property to be moved, the location of and distance to the replacement site, and the date the move is to be performed;
- ◆ outline work specifications and requirements for each phase of the move, detailing identification of items requiring removal and reinstallation and any special handling, packing, or crating;
- ◆ conform with TxDOT requirements and recognized moving principles;
- ◆ identify all allowable services, including disconnect/reconnect of utilities and other types of services; complex services, as determined by TxDOT, shall be performed on an actual cost basis;
- ◆ include only personalty owned by the displacee to be moved to the new location. Resolve any questions regarding allowable costs or items or personalty, which may have been acquired as realty before releasing the plan for a cost estimate. Refer questions not resolved at the project level to the ROW Program Office.
- ◆ include a signed and dated inventory of all tangible personalty to be moved. When the number of items to be moved is so great that a detailed inventory is impractical, use photographs or

videotape to **supplement** the inventory. For example, parts stored in bins do not need to be inventoried, but list the number of bins to be moved and a summary of their contents in the inventory, and document them with photographs. Support photographic inventories with sketches showing the location and direction of each photograph, as shown in [Inventory Diagrams](#).

For moves expected to cost \$20,000 or less, TxDOT and the displacee must agree on work specifications and requirements of the move. The displacee must provide a signed and dated inventory of property to be moved, including identification of all items requiring removal and reinstallation, packing, crating, or individual handling. The displacee must also provide a list of other services, including utility and telephone connections. These functions must be completed before other actions are initiated for moving the displaced business.

Upon finalization of the moving plan or agreed terms and conditions for the move, the displacee must submit an application to TxDOT, using form [ROW-R-119 Negotiated Self-Move Request](#), before the move start date. Applications must be accompanied by the plans, inventories, and information outlined in the preceding paragraphs. NSM requests will not be accepted after the start of any move. Therefore, carefully consider the timing and handling of the submission. Before starting the move, the negotiated self-move must have TxDOT's approval.

After receiving the displacee's executed *ROW-R-119 Negotiated Self-Move Request*, TxDOT shall secure two cost estimates from qualified commercial moving firms or individuals. These estimates shall be based on the moving plan or agreed upon terms and conditions. As an alternative, when the cost of moving is expected to be \$2,500 or less, a NSM payment may be based on a single moving expense finding prepared by a qualified **TxDOT employee**. The displacee shall be informed that supporting estimates shall not include compensation for ineligible items or services and that only reasonable and necessary expenses that can be fully supported will be allowed.

A displacee's NSM request received for approval that does not exceed \$500,000 shall be placed, with required supporting information and cost estimate, in ROW PD files.

If estimated moving expenses exceed \$500,000, submit the displacee's executed *ROW-R-119 Negotiated Self-Move Request*, supporting information, and ROW PD's recommendation, to the ROW Program Office for approval before the displacee incurs any moving expenses.

The displacee shall be informed that approval of a NSM request is not guaranteed. At the discretion of TxDOT, a displacee may be deemed ineligible for the NSM option but would still be eligible for other moving expense options. Being deemed ineligible for a NSM, or disapproval of certain expenses in a NSM, is not appealable. The following are a few examples of when TxDOT may not approve a NSM:

- ◆ request submitted to TxDOT with insufficient time to review the move plan and expenses prior to starting the move; or

- ◆ projected expenses requested for approval cannot be deemed reasonable and necessary due to unknown facts about the replacement location; or
- ◆ a displacee has hired a move planner to coordinate the move.

If a requested self-move payment exceeds the low cost estimate or is considered unacceptable for other reasons, open discussions with the displacee to arrive at a reasonable payment that is less than the low cost estimate. If an amount can be agreed upon, submit the displacee's application for self-move, with supporting information, for approval by the authorized person. If discussions prove unsuccessful, return the displacee's application for self-move to the displacee and relocate the displaced property on an actual cost basis as a commercial move or, if eligible, as an alternate self-move.

Each displacee should understand that if the self move is not performed according to provisions under which the agreed amount was reached, the payment will either be **denied** or **adjusted** in proportion to the work performed.

Section 4 — Moving Expense Finding

Cost Estimate

Non-residential moving costs may be estimated by a qualified TxDOT employee, not assigned the parcel for relocation assistance purposes, if the expected moving costs do not exceed \$2,500.

Include the following items in the TxDOT cost estimate:

- ◆ a signed and dated list of property to be moved, including items requiring packaging, crating, or special handling. When a move involves an advertising sign, the estimate must include the sign inventory, applicable section and permit number, and a sketch or photograph of the sign showing its size, number of poles, types of materials, lighting, and present advertisement;
- ◆ distance to or location of replacement site;
- ◆ eligible removal and reinstallation expenses;
- ◆ estimated costs for the per hour labor of persons who physically participate in and are necessary for the move. However, the hourly rates may not exceed those paid locally by commercial movers or contractors;
- ◆ transportation and equipment costs based upon the time period a vehicle or equipment is actually needed for the move, at the lowest hourly or daily rate normally charged by commercial rental agencies for comparable vehicles or equipment;
- ◆ other time and cost factors on which the expense finding is based (such as units, weights, or hourly rates);
- ◆ other conditions or items, if any, which may affect the moving cost;
- ◆ name and title of the individual preparing the estimate; and
- ◆ the preparation date of the estimate.

Section 5 — Actual Direct Loss of Tangible Personal Property/Purchase of Substitute Personal Property

Overview

Payment for “actual direct loss of tangible personal property” or “purchase of substitute personal property” is allowed when a business, farm or NPO is entitled to relocate its displaced personalty, in whole or part, but chooses not to do so. Payment may only be made after an effort is made by the owner to sell the displaced item of personal property, unless TxDOT personnel determines it is unnecessary. The amount of the sale, trade-in or salvage must be supported with a bill of sale or similar documentation. Actual reasonable costs associated with the sale, as well as copies of advertisements, offers to sale, auction records, and other data supporting the sale shall also be documented. Determine payment as outlined below.

Actual Direct Loss of Tangible Personal Property

If an item of personalty is not moved and replaced with a substitute item that performs a comparable function at the replacement site, the owner is entitled to payment for the lesser of:

- ◆ the depreciated in-place value of the item, less sale proceeds; or
- ◆ the estimated item cost of moving and reinstalling (if currently in operation at the displacement site) the displaced item cost, with no allowance for storage. If the business, farm operation, or NPO is discontinued, the estimated cost must be based on a moving distance of 50 miles.

Purchase of Substitute Personal Property

If an item of personalty is not moved but instead replaced with a substitute item that performs a comparable function at the replacement site, the owner is entitled to payment for the lesser of:

- ◆ the substitute item cost, including installation cost at the replacement site, minus any sale or trade-in proceeds from the displaced item; or
- ◆ the estimated cost of moving and reinstallation cost (if currently in operation at the displacement site), with no allowance for storage.

Requirements

To be eligible for this type payment the claimant must have made a good faith effort to sell the personalty, unless TxDOT determines such an effort not necessary. Document TxDOT’s determinations concerning these attempted sales in the project file. When a property loss is claimed for goods held for sale, base the fair market value on the cost of the goods to the owner, not the

potential selling price. Reasonable costs associated with the advertising and sale of the personal property by the owner shall be considered an eligible moving expense.

Upon request and in agreement with applicable law, the displacee must transfer to TxDOT, at no cost, ownership of any personalty not moved, sold, or traded in.

When personalty is abandoned with no owner effort to dispose of such property by sale, the owner will not be entitled to moving expenses, or losses, for the items involved.

Personalty removal costs must not be considered an offsetting charge against other payments to a displacee.

The cost to move the item must not exceed the lower of two cost estimates obtained by TxDOT from qualified firms or individuals, or the estimated cost determined by a qualified TxDOT employee as described in above [Moving Expense Finding](#). A TxDOT appraiser or an outside source may establish depreciated in-place value, if prepared in writing, in a manner clearly identifying the item, its value, the estimator, and the date of the valuation. Estimated moving costs and estimated depreciated in-place value of an item must receive approval from the ROW Program Office. Submit all moving cost estimates and values for review by the ROW Program Office before the planned property disposal date.

For any and all substitute equipment requests, obtain bids for move by two movers and obtain two estimates of the cost of new equipment. This is done in order to determine the lesser expense of these four bids: two bid estimates from movers to move the items along with two estimates of the cost of new equipment (this may include shipping, handling and set-up fees). The lesser expense of either the cost to move or the cost of “new, in place” would be the maximum reimbursable amount.

Section 6 — Searching for Replacement Operating Site

Overview

A displaced business, farm operation, or NPO may be reimbursed for reasonable expenses in searching for a replacement site, not exceeding \$2,500.00. Expenses may include those for transportation, meals (excluding tips and alcohol), lodging, and the reasonable value of time spent in the search of a replacement location, obtaining permits/attending zoning hearings and time spent in negotiating the purchase of a replacement site based on a reasonable salary or earnings.

Real estate agent/broker search fees are eligible, but sales commissions associated with the purchase of the replacement location are not eligible.

Receipted Bills

Paid receipted bills must support all expenses claimed, except the displacee's search time. Meals need an itemized receipt. When a displaced business or business owner's vehicle is used and receipts for transportation expenses are not available, transportation expenses may be supported by documented miles traveled. The mileage rate must be the same as that paid by TxDOT for employees' personal cars used for business. Eligible expenses for lodging include the daily room rate, in an amount not to exceed 20% of the state rate in the search area, and any applicable taxes. The paid lodging receipt must include the dates of arrival and departure and the daily room and tax rates.

Time Spent in Search

Payment for the displacee's search time must be based on reasonable earnings for the searching person. A certified statement of the time and dates spent searching must accompany the claim.

Section 7 — Reestablishment Expenses - Non-residential

Overview

A small business (not more than 500 on-site employees), farm operation, or NPO is entitled to receive a payment **not to exceed** \$25,000 for expenses incurred in relocating and reestablishing the business, farm, or NPO. This payment is to assist a small business, farm, or NPO in continuing its operation at a new location in the same manner. Payment may also be made to establish a different type of business operation. Reestablishment expenses claimed must be reasonable and necessary, as determined by TxDOT. Reestablishment expenses may include the following items.

NOTE: In order for a business owner to be eligible for reimbursement of reestablishment expenses, and to avoid a duplication of payment (see 49 CFR Section 24.3 No duplication of payments), all acquisition funds must be expended at the replacement site prior to reimbursement.

Eligible Expenses:

- ◆ Repairs or improvements at the replacement site as required by Federal, State or local law, code, or ordinance not specifically required for reinstallation of displaced personalty; these are included as moving costs under Allowable Moving Expenses - Non-residential, [Removal and Reinstallation](#). Reasonable and necessary are the determining criteria.
- ◆ Modifications to the replacement property to accommodate the business operation. There are two concepts included within this eligibility:
 - First, if a suitable replacement structure is not available and it is determined necessary for the owner of a small business, farm, or NPO to purchase or lease vacant property and build a structure to conduct business, adding the structure would not be an eligible reimbursement. Modifications to a structure to accommodate the business operation may be eligible for reimbursement. These modifications shall not include costs of substantial improvements normally found in a finished structure such as air conditioning and heating, septic or sewer service, well or water service, and walls and ceilings except as modifications specific to the nature of the displaced business. Site preparation may be included in modification costs.
 - Second, when a replacement property already contains a structure, costs for structure modifications necessary to accommodate the business operation (such as moving walls, changing doors, installing lighting) are eligible. An exception occurs if specific modifications are required to promote the proper operation of the relocated personalty, these costs are included as moving costs under Allowable Moving Expenses - Non-residential, [Removal and Reinstallation](#). Reasonable and necessary are the determining criteria.
- ◆ Installation costs for exterior signing to advertise the business;
- ◆ Replacement of soiled or worn surfaces at the replacement site (paint, paneling, or carpeting);

- ◆ Licenses, fees, and permits if not paid as moving expenses;
- ◆ Advertisement of the replacement location;
- ◆ Impact fees or one-time assessments for anticipated heavy utility usage;
- ◆ Other items TxDOT considers essential to reestablishment of the small business, farm, or NPO;
- ◆ Estimated increased operating costs during the first two years at the replacement site for such items as:
 - personal or real property taxes;
 - insurance premiums;
 - utility charges, excluding impact fees; or
 - lease or rental charges. Discussion and agreement should be made with the owner who intends to lease or rent replacement facilities as to the **space required** at the replacement property to **operate in a similar manner** as at the displacement site. This procedure eliminates TxDOT's participation in costs for space not necessary for the business reestablishment. The owner may decide to lease or rent excessive space, but advise the owner that TxDOT will not participate in the additional costs. If unusual circumstances are encountered, submit these for approval by the ROW Program Office before committing to the displacee.

An increase in operating costs may be considered if total replacement site operating costs exceed total displacement site operating costs. If replacement site costs are equal or less than displacement site costs, no payment will be made. If replacement site costs exceed displacement site costs, document all costs.

Operating costs are reportable business expenses; therefore, business income tax records provide a record of operating costs before displacement. Replacement site costs can be documented or estimated by using sources such as new leases, utility company projections for utility charges, and taxing authority records for estimated tax increases. This documentation is required to support a claim for increased operating costs. No consideration must be given to a business status change (i.e., a change from tenant to owner operated).

Ineligible Expenses

Reestablishment expenses not considered reasonable, necessary, or otherwise eligible include the following:

- ◆ capital asset purchases, such as office furniture, filing cabinets, machinery, or trade fixtures;
- ◆ purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of business operations;
- ◆ interest on money borrowed to make the move or purchase the replacement property;

- ◆ payment to a part-time home business that does not materially contribute to household income;
and
- ◆ payment to a lessee whose business is sub-leasing space.

Refer questions concerning expense eligibility to the ROW Program Office before making commitments to displacees.

Section 8 — Fixed Moving Payments - Businesses, Farms and Nonprofit Organizations

Overview

In place of actual moving and reestablishment expenses, an eligible business, farm operation, or NPO may choose a fixed payment (not less than \$1,000 or more than \$40,000) based on its average annual net earnings. To qualify for the fixed payment method, the following factors must apply.

Business

For a displaced business to be entitled to a fixed payment, TxDOT must determine the following:

- ◆ The business owns or rents personalty:
 - that must be moved as a result of displacement;
 - for which expenses are incurred due to displacement; and
 - from which the business must vacate or relocate due to displacement.
- ◆ The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings).
- ◆ The business is not part of a commercial enterprise having more than three other entities not being acquired by TxDOT that are under the same ownership and engaged in the same or similar business activities.
- ◆ The business is not operated in a displacement structure solely for the purpose of renting such structure to others.
- ◆ The business is not operated at the displacement site solely for the purpose of renting the site to others.
- ◆ The business contributed materially to displacee income during the two taxable years preceding the taxable year in which displacement occurs or during such other period as TxDOT determines equitable.

Two or more displaced legal entities constitute a single business entitled to a single fixed payment. In making this determination, consider all relevant factors including the extent to which:

- ◆ the same premises and equipment are shared;
- ◆ substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- ◆ the entities are held out to the public as one business; and
- ◆ one person (or closely related persons) owns, controls, or manages the entities' affairs.

Farm Operation

For partial acquisition of land that was a farm operation before acquisition, fixed payment must be allowed only if TxDOT determines that:

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

Nonprofit organization

A displaced NPO may choose a fixed payment of from \$1,000 to \$40,000, in place of actual moving and reestablishment expenses, if TxDOT determines that it cannot be relocated without a substantial loss of service. A NPO is assumed to meet this test unless TxDOT demonstrates otherwise. Financial statements for the two 12-month periods preceding acquisition must support any payment exceeding \$1,000.

Payment should equal the average of the last two years annual gross revenues less administrative expenses. Operating expenses to carry out the purposes of the NPO are not to be included in administrative expenses. Monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies. Examples of three types of income and expenses include:

- ◆ gross revenues - Membership fees, class fees, cash donations, tithes, receipts from sales, or other forms of fund collection that enable the organization to operate;
- ◆ administrative expenses - Primarily for administrative support, such as rent, utilities, salaries, advertising, and similar items, as well as fund-raising expenses; and
- ◆ operating expenses - Purchase of capital assets such as office furniture, filing cabinets, machinery, trade fixtures, product inventory, stationery, envelopes, stamps, brochures, or other items used to carry out the purposes of the organization.

Section 9 — Non-residential Terms and Calculations

Definitions

For purposes of this section, the following definitions or procedures apply.

Net Earnings

Average annual business or farm operation net earnings for fixed payment determination may be calculated using one of the two time periods listed below:

- ◆ One-half of net earnings before taxation for the two taxable years preceding the taxable year of displacement. Net earnings include compensation from the business or farm operation to its owner, the owner's spouse, and any dependents. For a corporation, net earnings include compensation to the principal owner, the owner's spouse, and the owner's children. For the purpose of this compensation, a "loss" for any given year shall be considered "zero" income.
- ◆ An alternate time period for determining net earnings may be used when TxDOT determines such to be more equitable. Written approval for use of an alternate time period must be obtained from the ROW Program Office. Send a full explanation of the reasons why the immediately preceding two year period is not representative of the typical business or farm operation's earnings with the alternate period request.

Contributes Materially

The phrase "contributes materially" means that during the two taxable years preceding the taxable year in which displacement occurs, or during such other period determined to be equitable, a business or farm operation:

- ◆ had average annual gross receipts of at least \$5,000; or
- ◆ had average annual net earnings of at least \$1,000; or
- ◆ contributed at least 33 1/3 percent of the owner's average annual gross income from all sources.

If application of the above criteria creates an inequity or hardship in a given situation, the ROW Program Office may approve use of other appropriate criteria.

Out of Operation

If a business or farm operation has not been in operation for the full two taxable years preceding the displacement year, net earnings must be based on the actual period of operation at the displacement site, projected to an annual rate. An example for making annual projection calculations follows.

A business begun in 1982, and operated for three months during that tax year. It operated for 12 months in the 1983 tax year, and relocated in February 1984.

GIVEN:

- ◆ Net earnings for 1982 = \$1,000 (3 months)
- ◆ Net earnings for 1983 = \$14,000 (12 months)

FORMULA:

- ◆ Projected annual net earnings = Total net earnings x 12 / Months in operation

CALCULATION:

- ◆ Projected annual net earnings = \$15,000 x 12 / 15 = \$12,000

Fixed Payment

Copies of certified Federal income tax returns obtained from the Internal Revenue Service should accompany any request for the “fixed payment.” If such returns cannot be obtained or are not available, accountant certified financial statements and other reasonable supporting evidence may be utilized on a case by case basis. A NPO must provide proof of exemption from Federal income taxes under *Internal Revenue Code (26USC 501)* and document its nonprofit organization status under Texas law.

Section 10 — Entitlement for Fixed Payment

Requirements

A determination of entitlement for fixed payment (form [ROW-R-102 Fixed Moving Expense Payment - Business, Farm, or Nonprofit Organization](#)) with supporting documents must be submitted for TxDOT approval and returned to the claimant before starting the proposed relocation. If the entitlement request is denied, the claimant has a right to request a formal review of the denial. In any event, the claimant will be promptly informed of:

- ◆ the reasons for request denial; and
- ◆ its right to have the decision reviewed by TxDOT's Relocation Assistance Review Committee.

Section 11 — Commercial Signs

Eligibility

If an active, permitted, commercial sign structure is displaced by a highway construction project, then the current owner of the commercial sign permit is eligible for moving expenses, including:

- ◆ the expense of moving the sign a distance not to exceed 50 miles; or
- ◆ the loss of direct tangible personalty; or
- ◆ the expense of searching for a replacement sign site, not to exceed \$2,500.00 (see Section 6).

The provisions of this chapter do not apply to:

- ◆ signs that are realty;
- ◆ illegally constructed commercial signs, unpermitted or abandoned signs;
- ◆ eligible signs that are moved or proposed to be moved to a site in violation of State, Federal, or local regulations;
- ◆ signs, if the owner is entitled to other payments having the same general purpose;
- ◆ signs owned by, and located on, the same premises as a displaced business, farm operation, or NPO. These signs are considered items of the business, farm operation, or NPO, as appropriate.

The owner of a displaced sign may be reimbursed for its reasonable moving expenses in agreement with the provisions of [Types of Eligible Moving Expenses - Non-residential](#). Each cost submission must include a sign inventory (number of signs on the parcel), applicable section and permit numbers, and a description of the sign including its dimensions, number of poles, lighting, material types, and current advertisement.

Special Provisions for Two-Phase Negotiated Self-Move of Advertising Signs

Since an outdoor sign move only involves one item of personal property and is not normally complex in nature, an outdoor sign may be pre-approved for a two-phase negotiated self-move into storage. This would include the first phase of the move into temporary storage and a second move from storage to a legal replacement site. Both phases of the move may be paid at the conclusion of the first phase of the move, if properly verified and documented. This allows the sign owner the ability to continue to search for a replacement site within the time limits set by Commercial Signs Regulatory Program permitting regulations (48 months) without the potential loss of relocation assistance benefits due to the Uniform Act requiring payment to be made within 18 months. No costs for modifications at the replacement site shall be eligible unless such modification would be reasonable, necessary and required of the existing sign at any replacement site.

The entire claim for documented searching expenses and storage, limited to 12 months at a third party site, may also be paid at the completion of the first phase of the move for the term approved by TxDOT.

Value of Displaced Sign

Though most commercial signs are firmly affixed to the ground and, therefore, are considered to be real property fixtures, certain commercial signs may be portable or movable in nature and, therefore, may be considered to be personal property.

Payment for direct loss of a commercial sign that is personalty must be the lesser of:

- ◆ the depreciated value of the displaced sign, as determined by TxDOT, less sign sale or salvage value proceeds; or
- ◆ the estimated cost to dismantle and transport the sign directly to the owner's nearest shop or storage area, not exceeding 50 miles.

Determine the depreciated value referred to above according to the procedures for commercial signs under the Commercial Signs Regulatory Program. These procedures use valuation methods based on value findings, cost schedules, and appraisals. Whether by appraisal, value finding, or cost schedules, sign evaluations are made by TxDOT personnel. When using cost schedules to determine value, apply the schedules to each sign and to determine depreciation on each sign using depreciation schedules or applicable depreciation factors established for the sign owner under the Commercial Signs Regulatory Program. Any sign not adaptable to the schedules must be appraised. A minimum value of \$10 may be established for any sign.

Section 12 — Relocation Procedures for TxDOT Leasebacks

TxDOT's Leaseback Program involves occasions when it is mutually beneficial for TxDOT and non-residential displacees to enter into a lease agreement allowing continued operation of a business, farm operation, or NPO on TxDOT-acquired ROW. Such agreements are for a specific time period. The displacee retains all entitlements of the Relocation Assistance Program, subject to the following guidelines.

TxDOT's relocation agent obtains a complete inventory of personalty owned by the displaced business, farm operation, or NPO that must be moved. The inventory must be made within 10 days of TxDOT taking possession of the property. For negotiated parcels, possession is on the date of closing. For parcels acquired through condemnation, possession is on the date the Commissioners' Award is deposited into the Court Registry.

TxDOT's relocation agent obtains at least two commercial moving estimates to move the personalty as of the date of the inventory, up to the maximum 50-mile limit allowed under *Public Law 91-646*. The lesser estimate establishes the maximum moving expense for which the displacee is eligible for personalty relocation, upon leaseback period termination.

Upon leaseback period termination, the displacee may choose to move commercially by the actual cost, negotiated self-move, or alternate self-move method with all expenditures properly documented. For any method chosen, the maximum allowable TxDOT reimbursement is represented by the lesser of the two commercial estimates. If the personalty inventory is significantly reduced, or the distance to the replacement site is less than originally estimated, reimbursement may be less than the predetermined amount. Actual paid receipts or additional commercial moving estimates made before the relocation are required for documentation of this lesser amount.

When a TxDOT Leaseback Agreement supersedes a previously established vacating date, TxDOT will establish a new vacating date in writing. A vacating notice will be given at least 90 days before the Leaseback Agreement termination date, and the new vacating date will not be less than 30 days after the agreement termination date. This allows the displacee 30 days to vacate the property after operations cease.

Any departure from these procedures must be submitted to the ROW Program Office for approval, along with necessary documentation, before any required action date. This chapter does not restrict any relocation entitlement, but establishes procedures to use in leaseback situations to prevent TxDOT overpayment and assist the displacee in an equitable manner.

Chapter 15 — Replacement Housing

Contents:

[Section 1 — Eligibility](#)

Section 1 — Eligibility

Overview

Eligible displacees may be provided a payment for DSS replacement housing under the following provisions.

Eligibility Requirements

To qualify for a replacement housing supplement, a displaced person must be a citizen, a national, or an alien lawfully present in the United States (except under certain hardship conditions).

- ◆ If the displaced person is a citizen or a national, no further steps are required.
- ◆ If the displaced person is an alien lawfully present, he/she must provide documentation supporting his/her status. Evaluate this documentation in accordance with *49CFR Section 24.208*, and in coordination with the ROW Program Office for statewide consistency. All relocation claim forms must be accompanied by a certification regarding citizenship status that must be signed by the displaced person.

To comply with *49 CFR Section 24.208*, all relocation notices shall include the following statement: “Any person or entity 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. A hardship case is not automatic when an eligible dependent is involved.”

Time Period

To qualify for a replacement housing supplement, a displacee shall purchase and occupy or rent and occupy a DSS replacement dwelling within the applicable time period described in [Determination of Eligibility](#) or [Eligibility - 90-Day Tenant-Occupants and Less Than 90-Day Owner Occupants](#).

A displacee **is not** required to purchase or rent “the comparable” used to determine the replacement housing supplement to qualify for a payment. Comparability is used merely as a standard to determine the maximum replacement housing payment for which the displacee may be entitled.

Owner of Displacement Dwelling

A displacee is considered to have met the requirement for ownership of a displacement dwelling if the person holds any of the following interests in real property acquired:

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

- ◆ an interest in a cooperative housing project that includes the right to occupy the displacement dwelling;
- ◆ a contract to purchase any of the interests or estates described immediately above; or
- ◆ any other interest, including a partial interest, which, in the judgment of TxDOT, warrants consideration as ownership.

Purchase of Replacement Dwelling

A displaced person meets the requirement to purchase a replacement dwelling, if the person does any of the following:

- ◆ purchases a DSS dwelling;
- ◆ purchases and renovates a substandard dwelling;
- ◆ relocates the displacement dwelling;
- ◆ constructs a dwelling or contracts for the purchase or construction of a dwelling on a site provided by a builder, or on a site the person owns or purchases; or
- ◆ currently owns a previously purchased dwelling and site, the valuation of which will be on the basis of fair market value.

Occupancy

A displaced tenant or owner “occupies” a replacement dwelling only if the dwelling is his/her permanent place of residence, and he/she meets eligibility requirements for supplemental housing payment.

Delay in Occupancy After the Purchase of Replacement Dwelling

If a displaced person initially occupies a replacement dwelling after the date by which occupancy is required, but the delay beyond this date is caused by reasons beyond the displaced person’s control, as determined by TxDOT, the occupancy requirement is satisfied.

Payment Eligibility in Special Circumstances

No person will be denied eligibility for a replacement housing payment solely because he/she is unable to meet the occupancy requirements described in this section due to a disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, FHWA or TxDOT.

Conversion of Payment

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under provisions of [Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants](#) is eligible to receive a payment for purchase of a replacement dwelling if he/she applies for the payment and meets eligibility criteria, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that was disbursed will be deducted from the purchase payment that the displacee may receive under the provisions of Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants.

Change in Occupancy

If a displacee receives a relocation payment under provisions of [Entitlements for 90-Day Owner-Occupants](#) and [Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants](#) for the purchase or rent of a DSS replacement dwelling that costs less to purchase or rent than the comparable dwelling on which his/her approved housing or rent supplement was based, then the displacee is entitled to a payment for the unused balance of the approved housing or rent supplement, if he/she applies for the payment and meets eligibility criteria.

Payment After Death

A replacement housing supplement is personal to the displacee. Upon his/her death, the undisbursed portion of this supplement will not be paid to the heirs or assigns, except for the following:

- ◆ 1/42nd of the approved rental supplement will be paid for each month the displacee occupied the replacement dwelling.
- ◆ The full payment will be disbursed when a member of a displaced family dies and the other family member(s) continue to occupy a DSS replacement dwelling selected according to this manual.
- ◆ Any portion of a replacement housing supplement necessary to satisfy the legal obligation of an estate, in connection with selection of a replacement dwelling by or on behalf of a deceased person, will be disbursed to the estate.

Non-Occupancy

A displaced person, who has entered into a contract for the construction or rehabilitation of a replacement dwelling and, for reasons beyond his/her reasonable control, cannot occupy the replacement dwelling within the one-year period prescribed in [Entitlements for 90-Day Owner-Occupants](#) is considered to have purchased and occupied the dwelling as of the contract date. Replacement housing payments under these conditions will be deferred until **actual** occupancy is accomplished and an inspection has been performed establishing the dwelling as DSS. Document the reason for the delay in the parcel file.

DSS Dwelling

A displacee may relocate to a DSS dwelling of his/her choice, including one used to compute his/her supplement. However, the payment, if any, is limited to the amount of the applicable housing payment authorized by [Entitlements for 90-Day Owner-Occupants](#) and [Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants](#).

Number of Units

Only one replacement housing payment will be made for each dwelling unit acquired, except when more than one family occupies a single-family dwelling unit.

Statement to Lending Agencies

When a displacee qualifies for a replacement housing payment, but has not yet rented or purchased and occupied a suitable replacement dwelling, TxDOT, after inspecting the displacee's choice for a replacement dwelling and finding it meets standards for DSS housing, will, upon the displacee's request, state to any interested party, financial institution or lending agency that the displacee is eligible for payment of a specified sum contingent upon the displacee purchasing or renting (as applicable) and occupying the inspected dwelling by the required date.

Eminent Domain Action

Do not process a parcel for condemnation action until the current replacement housing supplement is approved by TxDOT and is formally offered to the owner. Requests to acquire by eminent domain will contain one of the following declarations:

- ◆ “An approved replacement housing supplement was offered to the owner”; or
- ◆ “A replacement housing supplement is not involved.”

Supplement Revisions

Re-compute an approved replacement housing or rent supplement when:

- ◆ the sale or rent price of the selected comparable changes, or comparable housing is no longer available at or below the original established price, and the displacee is required to vacate the needed ROW or is actively looking for a replacement home;
- ◆ the subject's value changes due to reappraisal;
- ◆ the value offered by an LPA exceeds TxDOT's approved value; or
- ◆ the amount of just compensation payable for a parcel is increased or decreased by a Special Commissioners' Award, a final court judgment, or an administrative settlement. Handle a revi-

sion based on this situation according to procedures for replacement housing payments in eminent domain cases, unless an administrative settlement establishes specific values.

Do not adjust supplements downward for situations cited in the first diamond above if the displacee is offered the currently approved amount. To revise an approved supplement, submit a revised form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) with supporting information to the ROW Program Office.

Ownership of Replacement Dwelling Before Displacement

Any person who has obtained legal ownership of a replacement dwelling or land upon which his/her replacement dwelling is constructed, either before or after displacement, and occupies the replacement dwelling after being displaced, but within the time limit specified for 90-day owner-occupants and 90-day tenant-occupants, is eligible for a replacement housing payment if the replacement dwelling meets requirements for DSS housing.

Use the fair market value of the replacement land or dwelling to determine the replacement housing payment. The fair market value of land and improvements located on a parcel remainder will be the same as values established for properties in the approved appraisal for the parcel. The fair market value for dwellings and lands previously acquired by a county or city will be the same as those established for the properties by the County Appraisal District, or by a written appraisal report provided by the property owner. These appraisal reports shall be prepared according to recognized professional appraisal standards and must conform to the requirements described in TxDOT's *Appraisal and Review Manual*. TxDOT review appraisers will review all appraisal reports to determine compliance with these standards. Costs associated with preparing this appraisal will be the displacee's responsibility.

When a County Appraisal District value is used for a payment determination, conduct an "on-site" inspection of the real property to verify that the County appraisal covers the same land, dwelling and exterior attributes that are being claimed as the replacement residential property for the relocation assistance payment. Document the parcel file with a copy of the County property evaluation as it appears in the County Appraisal District's records, or with the approved appraisal provided by the displacee. Document the control dates in the ROW PD files as established in [Determination of Eligibility](#) or [Eligibility - 90-Day Tenant-Occupants and Less than 90-day Owner-Occupants](#) in the parcel files.

Multiple Occupancy of Same Dwelling

If two or more legal occupants (families or individuals) of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share of relocation payments, as determined by TxDOT. The actual replacement-housing payment to each family or individual will be based on increased housing costs in excess of their share of costs at the displace-

ment dwelling (or financial means if applicable), with total family or individual payments not to exceed the approved replacement-housing supplement.

Multiple Ownership of Subject Dwelling

When a single-family dwelling is owned by several persons, and occupied by only some of the owners, compute the replacement housing supplement in the normal way. The payment, however, will be the lesser of:

- ◆ the difference between the owner-occupant's share of the acquisition cost of the acquired dwelling and the actual cost of the replacement dwelling purchased by the displacees; or
- ◆ the difference between the total acquisition cost of the acquired dwelling and the amount determined by TxDOT as necessary to purchase a comparable dwelling (the approved supplement).

If a displacee(s) holds a life estate interest in the TxDOT-acquired property, use an annuity table (recognized by the courts) to determine the value of displacee's share of the parcel acquisition cost. Coordinate these situations with the ROW Program Office before informing the displacee of the specific amount of his/her replacement housing entitlement.

Displaced owner-occupants who do not or cannot purchase and occupy a DSS dwelling after the adjustments of the acquisition share, will be entitled to receive a rent supplement payment if they rent and occupy a DSS dwelling.

Chapter 16 — Entitlements for 90-Day Owner-Occupants

Contents:

[Section 1 — Payment Options](#)

[Section 2 — Determination of Eligibility](#)

[Section 3 — Limitations](#)

[Section 4 — Amount of Total Payment](#)

[Section 5 — Replacement Housing Payments](#)

[Section 6 — Maximum Payment Calculations](#)

[Section 7 — Incidental Expenses - 90-Day Owner-Occupants](#)

[Section 8 — Mortgage Insurance Premium Payments and VA Loan Funding Fees](#)

[Section 9 — Increased Mortgage Interest Differential Payment \(MIPD\)](#)

[Section 10 — Computation of Mortgage Interest Differential Payments \(MIDP\)](#)

[Section 11 — Computation of Housing Supplement](#)

Section 1 — Payment Options

Overview

A displaced 90-day owner-occupant may receive a replacement housing payment:

- ◆ for the additional cost necessary to purchase replacement housing (price differential);
- ◆ to compensate the owner for loss of favorable financing on his/her existing mortgage in financing of replacement housing if the owner has a 180-day bona fide mortgage on the displacement dwelling; and
- ◆ to reimburse the owner for certain incidental expenses related to the purchase of replacement housing.

The combined total of these amounts may not exceed \$31,000. If the displaced owner elects to rent a replacement dwelling, he/she may be eligible for a rental assistance payment not to exceed what he/she would receive under the price differential option.

Section 2 — Determination of Eligibility

A displaced 90-day owner-occupant is eligible for replacement housing payment if he/she:

- ◆ meets eligibility requirements in [Eligibility Requirements](#);
- ◆ owned and occupied the displacement dwelling for not less than 90 days immediately before initiation of negotiations; and
- ◆ purchases and occupies a DSS replacement dwelling within one year after the later of either:
 - the date he/she receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court, or
 - the date at least one comparable replacement dwelling was made available to him.

Note: TxDOT may extend the one-year eligibility period for good cause.

Section 3 — Limitations

Overview

The replacement housing payment for an eligible 90-day owner-occupant may not exceed \$31,000, except as provided in [Last Resort Housing](#). The payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year after the later of either:

- ◆ the date the displaced owner-occupant is paid for the displacement dwelling; or
- ◆ the date a comparable replacement dwelling is made available to this person.

Section 4 — Amount of Total Payment

Replacement Housing Payment

The replacement housing payment is an amount not to exceed \$31,000, which is the sum of:

- ◆ the amount by which the probable cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined according to provisions for computing replacement housing supplements;
- ◆ the amount necessary to compensate the displaced person for any increased interest costs and other debt service costs incurred in connection with the mortgage(s) on the replacement dwelling, according to the policies and procedures for increased interest payments; and
- ◆ the amount of reasonable expenses incidental to purchase of the replacement dwelling.

If the sum of the replacement housing payment (computed supplement), increased interest costs, and incidental expenses exceed \$31,000, handle the payment under provisions of [Last Resort Housing](#).

Rental Assistance Payment

A 90-day owner eligible for a replacement housing payment described in the preceding subsection who **rents** a replacement dwelling is eligible for a payment not to exceed the price differential option, except as provided in [Last Resort Housing](#). Compute the payment according to policies and procedures for rental supplements.

Section 5 — Replacement Housing Payments

Overview

The replacement housing payment is the amount which, when added to the acquisition cost of the displacement dwelling, equals the lesser of:

- ◆ the reasonable cost of a comparable replacement dwelling, according to policies on replacement housing supplement computations; or
- ◆ the purchase price of the DSS replacement dwelling purchased and occupied by the displaced person.

Eminent Domain/Administrative Settlement

For condemned property, the acquisition price of the displacement dwelling is the amount of the final judgment rendered. When a replacement housing payment is computed based on an adjusted value for the displaced dwelling (the subject) and the final judgment or administrative settlement does not specify how much of the award is for the displaced dwelling and its related land and attributes, then re-compute a preliminary housing supplement by adjusting the subject's value in the same proportion as the award is to the approved value. For example, if the award increases the value of the parcel by 10 percent, then increase the subject value used for the preliminary supplement by 10 percent.

Mixed-Use and Multi-Family Properties Acquired

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

Insurance Proceeds

To the extent necessary to avoid duplicate compensation, include insurance proceeds received by a person because of loss to the displacement dwelling due to a catastrophic occurrence (e.g. fire, flood) in the acquisition cost of the displacement dwelling when computing the price differential.

Owner Retention of Displacement Dwelling

If the owner elects to retain ownership of his/her dwelling, move it from the displacement site, and reoccupy it on a replacement site, then the purchase price of the replacement dwelling is the sum of:

- ◆ cost of moving and restoring the dwelling to a condition comparable to that before the move;
- ◆ costs to make the unit a DSS replacement dwelling;
- ◆ fair market value of the replacement site for residential use unless the displacee **rented** the displacement site and there is a reasonable opportunity for the displacee to rent a suitable replacement site; and
- ◆ retention value (cost) of the dwelling if such retention value is reflected in the acquisition cost (parcel appraisal) used in computing the replacement housing supplement.

Typically, cost of retaining and relocating a dwelling is less than the acquisition cost of the parcel, and the displacee is not eligible to receive any part of an approved supplement.

Section 6 — Maximum Payment Calculations

Procedure

The amount that an owner can receive, up to the maximum approved supplement, depends on and is limited by the total cost of his/her replacement dwelling. Therefore, when an owner retains a dwelling and claims a supplement, determine the total eligible costs, which shall include the following:

- ◆ the retention value of the dwelling;
- ◆ the cost to move, restore and bring the retained dwelling to DSS standards;
- ◆ the cost of installing utilities;
- ◆ the fair market value of the replacement site. Document the fair market value of a parcel remainder or a replacement site (land) previously acquired by a displacee in ROW PD's files according to [Ownership of Replacement Dwelling Before Displacement](#).
- ◆ the costs for reasonable landscaping and other items may be eligible costs if these items were part of the original property and were not excluded (carved-out) from the subject's value before computing the displacee's supplement.

Utility hookup fees, service deposits and other items normally paid for as moving expenses and betterments or additions to the real property are not eligible costs for computing a housing supplement. If the dwelling is retained and moved to the owner's remainder, carve-out the subject's value according to policies on carve outs of excess land and improvements in [Chapter 6, Establishing Right of Way Values, ROW Appraisal and Review Manual](#).

The retention value is not included in the housing supplement computations if the owner subsequently sells or does not occupy the subject dwelling.

Section 7 — Incidental Expenses - 90-Day Owner-Occupants

Overview

Incidental expenses are costs of services incurred by a displacee that are incidental to the purchase of a replacement residential property. TxDOT reimbursements for these expenses are limited to costs necessary, reasonable, and customarily paid by **homebuyers** in the subject project area.

TxDOT reimbursement of incidental costs shall not be a factor in advising a displacee about services that he/she should obtain in purchasing a replacement residential property. Incidental expense payments **should not** include costs for services that are normally paid by **sellers** of residential properties, or provided by title companies or closing agents as part of other services. Charges made by title companies and closing agents for the sole purpose of seeking TxDOT reimbursement are not eligible for payment. Unconventional expenses incurred when purchasing a replacement dwelling that is not located in the United States are not eligible for reimbursement.

Eligible incidental expenses normally paid by buyers of residential properties may include the following.

Cash Purchase, No Mortgage on Displacement Property

When there is no mortgage on the displacement property, the incidental expenses may include recording fees, appraisal cost, reasonable cost of replacement housing inspection, owner's title policy, and in special situations, a closing agent fee. If the displacement agency determines that the displacee needs to obtain a loan to relocate (as in the case of an owner-occupant with a partial interest who must obtain a loan to purchase replacement property), then the cost of obtaining the loan could be considered necessary and would be an eligible, incidental expense.

Purchases with Mortgage Financing

When there is a valid lien on the displacement property for at least 90 days immediately preceding the initiation of negotiations, reasonable necessary costs incurred in obtaining mortgage financing to acquire replacement property may be eligible for TxDOT reimbursement. Any additional cost in securing a larger mortgage on the replacement property than existed on the displacement property is not considered a necessary expense. The following are eligible incidental expenses normally incurred by buyers of residential properties with mortgage financing:

- ◆ legal, closing, and related costs, including costs incurred for title search, preparing conveyance instruments, notary fees, preparing surveys and plats and recording fees;
- ◆ lender, FHA and VA application and appraisal fees;

- ◆ loan origination or assumption fees and purchaser's discount points that do not represent pre-paid interest;
- ◆ professional home inspection, certification of structural soundness and termite inspection;
- ◆ credit report;
- ◆ owner's and mortgagee's evidence of title (e.g., title insurance not to exceed costs for a comparable replacement dwelling);
- ◆ escrow agent's fee;
- ◆ state revenue or documentary stamps, sales or transfer taxes (not to exceed costs for a comparable replacement dwelling); and
- ◆ other costs that TxDOT determines incidental to the purchase and normally paid by the buyer.

Section 8 — Mortgage Insurance Premium Payments and VA Loan Funding Fees

Overview

These are limited to the lesser of:

- ◆ the single premium for the actual amount of the mortgage insurance, or
- ◆ the amount required to secure mortgage insurance for a mortgage on the replacement property that does not exceed the remaining principal balance of the mortgage on the displacement property.

This does not apply to mortgage insurance premiums paid in installments by homebuyers.

Title insurance is normally provided by the seller of a residential property, and the premium covers most of the services rendered by the title company. If the cost of title insurance must be paid by a displacee, reimbursement of his/her cost is limited to the cost of title insurance for the comparable property used in computing the displacee's replacement housing supplement.

Purchaser points and loan origination or assumption fees that do **not** represent prepaid interest are eligible for reimbursement.

Only basic information is included in the above guidelines. Other incidental expenses may be eligible for reimbursement if TxDOT determines they are normal for residential real estate sales in the area. ROW PD determines whether these other expenses are necessary and reasonable and may coordinate the determination with the ROW Program Office before making any commitment to pay the expenses.

Section 9 — Increased Mortgage Interest Differential Payment (MIPD)

Overview

An increased mortgage interest payment is the amount that reduces the mortgage balance on a new mortgage to an amount that is amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. Payments will also include other debt service costs, if not paid as incidental costs. The following rules apply:

- ◆ Compute the payment based on mortgages that were valid liens on the displacement dwelling for at least 180 days before initiation of negotiations.
- ◆ Usually, base the payment on the unpaid mortgage balance(s) on the displacement dwelling. However, if the person obtains a smaller mortgage than the mortgage balance(s) computed in the buy-down determination, prorate and reduce the payment accordingly (see [sample estimate computation](#)). For a home equity loan, the unpaid balance is that balance which existed 180 days before initiation of negotiations, or the balance on the date of acquisition, whichever is less.
- ◆ Base the payment on the shorter remaining term of the existing mortgage or the new mortgage.
- ◆ The interest charge on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions near the replacement dwelling.
- ◆ Pay purchaser's points and loan origination or assumption fees, but not seller's points, to the extent:
 - they are not paid as incidental expenses;
 - they do not exceed rates normal to similar real estate transactions in the area; and
 - TxDOT determines them to be necessary.

Base the computation of such points and fees on the lesser of the unpaid mortgage balance on the displacement dwelling or the new mortgage amount, whichever is less.

Advise the displaced person of the **approximate** amount of this payment and the conditions required to receive the payment once the facts about the person's **current** (existing) mortgage(s) are known. Make the payment available at or near the time of closing on the **replacement** dwelling.

NOTE: When the existing mortgage(s) data is available, promptly compute an estimated increased interest payment and offer it to the displacee. Base the estimate on the fixed rate for conventional

mortgages, assuming a new mortgage balance is higher than the remaining principal balance on the displacement dwelling.

Sample Estimate Computation

| - | Old Mortgage | New Mortgage Estimate |
|------------------------------|---------------|----------------------------------|
| Amount | \$50,000.00 | \$50,000.00 plus assumed |
| Monthly Principal & Interest | \$458.22 | Unknown |
| Interest Rate | 7% Fixed Rate | Conventional 10% |
| Remaining Term | 174 months | 174 months - plus months assumed |

A monthly payment of \$458.22 at 10% for a period of 174 months will pay off a mortgage of \$42,010.50. \$50,000.00 minus \$42,010.50 equals \$7,989.50. \$7,989.50 is the estimated increased interest payment.

Notice of Mortgage Payment Limitations

Explain the following conditions to the displacee:

- ◆ the principal balance of the new mortgage must exceed the \$50,000.00 remaining principal balance on the displacement;
- ◆ the new interest rate must equal or exceed the 10% fixed rate on conventional mortgages used in the estimate; and
- ◆ the remaining term of the new mortgage must equal or exceed the 174 months of the existing term left on the displacement dwelling.

If the principal balance of the new mortgage is less than the computed new balance of \$42,010.50, reduce and prorate the interest payment as follows:

- ◆ \$35,000.00 = New mortgage principal balance
- ◆ \$35,000.00 (\$42,010.50 = 0.8331 (prorate factor))
- ◆ \$7,989.50 (estimated) x 0.8331 = \$6,656.05

Also, prorate points and/or origination fees based on the computed new mortgage balance of \$42,010.50 by the same 0.8331 factor.

If the new interest rate is actually less than the fixed rate upon which the estimate was based, the payment amount may be reduced. If the remaining term on the new mortgage is less than the remaining term used to compute the estimate, the payment may be reduced.

Section 10 — Computation of Mortgage Interest Differential Payments (MIDP)

Overview

Advise displacees of the estimated payment for increased interest early enough in the negotiation of relocation entitlements to allow consideration of this payment in determining the new mortgage amount for the replacement dwelling purchased. This will reduce the mortgage principal balance to an amount that can be amortized using the same monthly principal and interest payment of the displacement dwelling mortgage.

FHWA’s MIDP form shall be used and submitted with payment requests. It is located on their website as follows: https://www.fhwa.dot.gov/real_estate/uniform_act/relocation/midpcalcs/

The estimate is therefore made and offered before details of the new mortgage are known. The [sample computation](#) shown in the previous section produced an estimated payment of \$7,989.50, which would be offered to the displacees with a full explanation of conditions required to receive this amount when a new mortgage is obtained. When the new mortgage balance obtained is less than the computed payoff balance, prorate the payment.

When a loan origination fee and/or purchaser’s discount points are involved in the new loan, compute increased interest payments as follows:

Sample A

Mortgage Data

| | Existing Mortgage | New Mortgage |
|-----------------------------|-------------------|----------------------------------|
| Interest rate | 7% | 10% fixed rate |
| Remaining principal balance | \$50,000.00 | \$50,000.00 plus assumed |
| Monthly P & I payment | \$458.22 | Unknown |
| Remaining term | 174 months | 174 months - plus months assumed |
| Loan origination fee | N/A | 1% |
| Purchaser’s discount points | N/A | 2 |

Using a financial calculator and following Page 2 of form [ROW-R-117B Buydown Computation of Increased Interest](#), the computation provides the following result:

1. Lesser remaining balance: \$50,000.00
2. Lesser remaining term: 174 months
3. \$50,000.00 at 7% for 174 months = payment of: \$458.22

4. Payment of \$458.22 at 10% for 174 months will pay off a mortgage in the amount of: \$42,010.50
5. \$50,000.00 minus \$42,010.50 = \$7,989.50
6. Add origination fee (amount for item 4): \$420.11
7. Add discount points (amount for item 4): \$840.21
8. Total buy-down interest amount (Add items 5, 6 & 7): \$9,249.82

Sample B

Assuming that the actual principal balance of the new mortgage is \$35,000.00, compute the increased interest payment as follows:

1. Lesser remaining balance: \$50,000.00
2. Lesser remaining term: 174 months
3. \$50,000.00 at 7% for 174 months = payment of: \$458.22
4. \$458.22 at 10% for 174 months will pay off: \$42,010.50
5. \$50,000.00 minus \$42,010.50 = \$7,989.50
6. Add origination fee (amount for item 4): \$420.11
7. Add discount points (amount for item 4): \$840.21
8. Prorate factor: $\$35,000.00 : \$42,010.50 = 83.31\% = 0.8331$
9. $(\$7,989.50 + \$420.11 + \$840.21) \times 0.8331 = \$7,706.03$

Partial Acquisition: Multi-Use Properties, Other Highest and Best Use

For partial acquisitions, and when the dwelling is on a normal residential site for the area, reduce the mortgage balance and monthly payment to the same proportion that the acquisition bears to the whole property value before computing the increased interest payment. However, when the mortgage requires the mortgage to be paid off, treat it as though it is a whole acquisition.

Where a dwelling is located on a site larger than normal for residential use, it is a multi-use property, or the site has a higher and better use, reduce the existing mortgage balance and monthly payment to the same proportion the residential value of the dwelling portion bears to the before value of the whole property.

More Than One Mortgage

When there is more than one mortgage on either the acquired dwelling or the replacement dwelling or on both dwellings, compare the mortgages in the order they occur, (i.e., first, second, third).

Since the various mortgages compared will not be equal, compare any balance left of a given mortgage with an equal amount of the next mortgage of the other property. On each comparison, use the shortest term. After all the mortgages on either property are compared with mortgages of the other property, sum the total computed payments derived from each comparison to determine the increased interest payment to the displacee. Since the total mortgage for each property will not usually be the same, the remaining portion of the mortgages on the dwelling with the largest total will not enter into the computations - just as though there was only one mortgage on each property and the computations were based on the lowest mortgage sum. An example of these calculations follows:

MORTGAGE DATA (More Than One Mortgage)

| 1st Mortgage | Existing Mortgage | New Mortgage |
|------------------------------|--------------------------|---------------------|
| Interest Rate | 5% | 8% |
| Remaining Term | 144 months | 240 months |
| Remaining Principal Balance | \$8,375 | \$9,000 |
| 2nd Mortgage | Existing Mortgage | New Mortgage |
| Interest Rate | 6% | 9% |
| Remaining Term | 27 months | 60 months |
| Remaining Principle Balance | \$746 | \$1,725 |
| 3rd Mortgage | Existing Mortgage | New Mortgage |
| Interest Rate | 7% | none |
| Remaining Term | 9 months | - |
| Remaining Principal Balance: | \$137 | - |

First Computation

Monthly payment for \$8,375.00 at 5% for 144 mos. = \$77.46 (\$8,375 PV; 5.0) 12 = % int.; 144 = n; 2nd pmt.)

Payment of \$77.46 at 8% for 144 mos. will pay off a mortgage in the amount of \$7,155.97 (\$77.46 = Pmt.; 8) 12 = % int.; 144 = n; 2nd PV)

\$8,375.00 minus \$7,155.97 = (Int. Payment) \$1,219.03

Second Computation

At this point, the entire existing first mortgage is accounted for leaving a balance of \$625 in the first mortgage of the replacement property. The \$625 is compared to \$625 of the second of the existing mortgages as follows:

Monthly payment for \$625 at 6% for 27 mos. = \$24.80 (\$625 = PV; $6 \div 12 = \% \text{ int.}$; $27 = n$; 2nd pmt.)

Payment of \$24.80 at 8% for 27 mos. will pay off a mortgage in the amount of \$610.94 (\$24.80 = Pmt.; $8 \div 12 = \% \text{ int.}$; $27 = n$; 2nd PV)

\$625.00 minus \$610.94 = (Int. Payment) \$14.06

Third Computation

A balance of \$121 remains in the second of the existing mortgages which is compared to \$121 of the second mortgage of the replacement dwelling as follows:

Monthly payment for \$121 at 6% for 27 mos. = \$4.80 (\$121 = PV; $6 \div 12 = \% \text{ int.}$; $27 = n$; 2nd pmt.)

Payment of \$4.80 at 9% for 27 mos. will pay off a mortgage in the amount of \$116.93 (\$4.80 = Pmt.; $9 \div 12 = \% \text{ int.}$; $27 = n$; 2nd PV)

\$121 minus \$116.93 = (Int. Payment) \$4.07

Fourth Computation

The entire existing second mortgage is accounted for, leaving only the \$137 existing third mortgage that will be compared with \$137 of the remaining \$1,604 balance of the second mortgage on the replacement dwelling as follows:

Monthly payment for \$137 at 7% for 9 mos. = \$15.67 (\$137 = PV; $7 \div 12 = \% \text{ int.}$; $9 = n$; 2nd pmt.)

Payment of \$15.67 at 9% for 9 mos. will pay off a mortgage in the amount of \$135.88 (\$15.67 = Pmt.; $9 \div 12 = \% \text{ int.}$; $9 = n$; 2nd PV)

\$137 minus \$135.88 = (Int. Payment) \$1.12

The remaining \$1,467 balance on the second mortgage on the replacement dwelling is not considered, since it was the displacee's decision to borrow more money on his/her replacement dwelling than on his/her existing dwelling, which is not required. The total interest payment is the sum of the four computations as shown below:

First Computation = \$1,219.03

Second Computation = \$14.06

Third Computation = \$4.07

Fourth Computation = \$1.12

Total Increased Interest = \$1,238.28

Section 11 — Computation of Housing Supplement

Overview

In determining the amount, if any, of a housing supplement, select and tabulate comparable properties on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#). Based upon an analysis of these comparables (described on form [ROW-R-106 Residential Property Evaluation](#)), select the one property that is most comparable to the subject. Identify this comparable with an asterisk on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*. Consider the probable selling price of the selected comparable as the cost of the replacement dwelling and, from this amount, subtract the value of the subject property. The resultant amount is the maximum amount the 90-day owner-occupant is eligible to receive in purchasing a replacement dwelling.

Establishing Subject's Value

Subject Located on Typical Residential Site. When a dwelling is on a tract of normal size and typical for residential use in the area, the subject's value is the amount offered to the owner for the parcel, or the acquisition cost of the parcel established by the acquiring agency. This includes any damages to the remainder for a partial acquisition, but not the value of the remainder.

Subject Located on Non-residential Land. When a dwelling is on a tract that has a higher and better use than residential, the subject's value is the approved value of the dwelling plus the approved value of a portion of the land that represents a tract typical for residential use in the area. If the acquisition is less than a typical residential site, add a proportion of any damages that would apply to the remainder of the typical site to the above value to establish the subject's value.

In either situation, "major exterior attributes" (excess land if applicable, and improvements separate from the residence) not replaced at the selected comparable replacement property should be subtracted (carved-out) from the parcel's approved value. Examples of "major exterior attributes" include, but are not limited to, such improvements as swimming pools, fencing, specialized landscape features, tennis courts, storage sheds, etc. Their values can normally be found on the approved form *ROW-A-10 Tabulation of Values* attached to the appraisal report.

Carve-outs of Excess Land and Improvements

A carve-out of excess land and improvements usually involves one of the following circumstances.

- ◆ The acquisition involves land and improvements not necessary for use of the dwelling by its occupants (usually rural properties or a resident-business combination). In these instances, the subject's value is the approved value of the dwelling unit, and residential improvements, plus the approved value of land associated with the residential use of the property, (OR) the total

approved value of the acquired property, less the value of excess land and major exterior attributes not replaced at the selected comparable site.

- ◆ The selected comparable contains less than half of the acquired land associated with the residential use of the displacement property. When this occurs, a carve-out of excess land value at the displacement site will be performed in order to reflect the same amount of land located at the comparable site. If the selected comparable contains land in excess of land acquired at the displacement site, all or a portion of damages to the remaining land at the displacement site may be included in the subject value for relocation purposes.
- ◆ The acquisition involves two or more dwelling units, one of which is owner-occupied, on a typical city lot, or involves a business and an owner-occupied dwelling unit on a typical city lot. In these instances, the value of the owner-occupied dwelling, improvements associated with the owner occupied dwelling and the value of the land used with the occupied dwelling are added together, (OR) the excess land, non-owner-occupied dwelling(s), business, and other major exterior attributes not replaced at the selected comparable dwelling are carved-out of the approved value of the acquired property to provide the basis for computing the housing supplement.

When a carve-out of excess land and/or improvements is necessary, complete and attach form [ROW-R-CARV Carveout Calculation Worksheet](#) to form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#). In the tabulation, include the itemized amount of land and improvements being subtracted from the acquisition cost of the property. In the tabulation, also show any damages subtracted from the parcel acquisition cost for land or for improvements on the remainder that have no relationship to the displaced residence. The itemized values, including damages, must correspond to those in the approved appraisal report. Exclude improvements having no relationship to use of the dwelling. An exception might be made in rural areas where small barns and sheds are typical of homesteads in the area, excluding large outbuildings, corrals, and pens associated with operation of a farm or ranch as a business.

Show all itemized assets included in the subject's value in the subject's quality or yard improvements index, as applicable. The amount of land carved out for the dwelling site should be governed by what is typical of the area, and its value in computing the supplement is the appraised value for that part of the parcel.

Subject is a Duplex or Triplex

When the subject is a duplex or triplex, the unit occupied by the displacee should be carved-out as in the preceding subsection. In calculating supplements for displacees from these properties, any dwelling unit that is comparable to the quarters actually occupied by the displacee, such as an apartment or unit in another duplex or triplex, or a single family residence, may be chosen as a comparable. The comparable dwelling should be the same as that acquired (i.e., if the acquired property is a triplex, then the comparable should be a triplex). If comparables are not available, then use structures of the next lowest density. Never use a higher density structure as a comparable. Use

the value of the owner's living as the base for the replacement housing computation, and not the value of the whole property. Therefore, the housing supplement is equal to the difference between the carved-out value of the owner's living unit plus the approved value for the land, and the carved-out value of a comparable living unit plus land in the most comparable available property.

Portion of Subject Rented Out

If the owner-occupant of a single-family dwelling rents out a portion of his/her dwelling, calculate supplemental payments to the owner-occupant in the normal manner, as though there is no tenant. Calculate the tenant's rental supplement by choosing replacement properties that are comparable to the rooming facilities he/she occupies.

Subject's Value Established by LPA

Where an LPA makes an appraisal, such as for the acquisition of ROW for a Farm to Market road, furnish TxDOT with information to support the subject's value and to permit a constructive review of the recommended replacement housing supplement forms. Minimum supporting information includes:

- ◆ a sketch of the floor plan;
- ◆ a photograph of the subject dwelling; and
- ◆ a copy of the LPA appraisal report.

Chapter 17 — Entitlements for 90-Day Tenant-Occupants and Less than 90-Day Owner-Occupants

Contents:

[Section 1 — Application of Entitlements](#)

[Section 2 — Eligibility - 90-Day Tenant-Occupants and Less Than 90-Day Owner Occupants](#)

[Section 3 — Rental Assistance Payment](#)

[Section 4 — Down Payment Assistance](#)

Section 1 — Application of Entitlements

Overview

A displaced person meeting the requirement of a 90-day tenant, or a less than 90-day owner, is entitled to a replacement housing payment not to exceed \$7200 for renting and occupying a replacement dwelling. As an alternative, the replacement housing payment may be used for the purchase of a replacement dwelling. The approved amount must be applied toward the down payment and/or toward the incidental expenses applicable to the purchase of a DSS replacement dwelling as specified in Down Payment Assistance.

Section 2 — Eligibility - 90-Day Tenant-Occupants and Less Than 90-Day Owner Occupants

A displaced 90-day tenant or less than 90-day owner is eligible for rental assistance or down payment assistance, as computed according to [Rental Assistance Payment](#), if the person meets all of the following criteria:

- ◆ he/she is eligible according to the requirements of [Eligibility Requirements](#);
- ◆ he/she actually and lawfully occupied the displacement dwelling for at least 90 days immediately before the initiation of negotiations; and
- ◆ he/she rented or purchased (as applicable), and occupied a DSS replacement dwelling within one year after the following dates:
 - for a tenant, the date he/she moves from the displacement dwelling, or the required vacating date (whichever is earlier);
 - for an owner-occupant, the later of the date he/she receives final payment for the displacement dwelling, or for condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or the date he/she moves from the displacement dwelling.

Section 3 — Rental Assistance Payment

Criteria

An eligible displacee who rents a replacement dwelling is entitled to a payment, not to exceed \$7,200, for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the **base monthly rental** for the displacement dwelling from the lesser of:

- ◆ the monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
- ◆ the monthly rent and estimated average monthly cost of utilities for the DSS replacement dwelling actually occupied by the displacee.

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

- ◆ the average monthly cost for rent and utilities at the displacement dwelling for a reasonable period of time prior to displacement; or “fair market rent” if the displacee is an owner-occupant or a tenant that pays “little or no rent.” TxDOT defines “little or no rent” as less than half of the estimated rent of displacement dwelling on the open market;
- ◆ thirty percent (30%) of the displacee’s average monthly gross household income if the amount is classified as “low income” by HUD’s Annual Survey of Income Limits for the Public Housing and Section 8 Programs;
- ◆ the total of the amounts designated for shelter and utilities if the person receives a welfare assistance payment from a program that specifically designates that amount only for shelter and utilities.

Eligibility

Determine the tenant’s eligibility for a rental assistance payment by including the total gross household income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers’ compensation, social security or the net income from a business. It shall not include income received or earned by dependent children and full time students under 18 years of age. Documentation of income may be provided by IRS income tax returns, W-2 forms, paycheck stubs, accountant certified profit and loss statements or other documentation TxDOT deems appropriate.

When there are two or more persons living together without an identifiable head of household, each of the displaced persons will attest to his/her own annual gross income or current monthly income. Base the rent supplement on the combined financial means of all occupants of the displaced household.

If a displacee cannot or will not provide reasonable verifiable documentation of his/her income or financial means, the cost of comparable housing shall be considered within the displacee's financial means, and base monthly rent shall be considered as the average cost of rent and utilities and the displacement dwelling, or "fair market rent" if applicable. For example, when a person's mode, manner of living or assets indicate a higher than reported income from cash payments, or the displacee's monthly rent and utility payments are exceptionally high in relation to his/her reported income, the cost of comparable replacement housing will be considered within the displacee's financial means.

If the displacee will receive a housing subsidy after displacement, compute the rental assistance payment based on the person's actual out-of-pocket costs for replacement housing. If a displacee is dependent upon family or outside sources for the majority of his/her living expenses, base monthly rent will be considered as the average cost of rent and utilities at the displacement dwelling.

Fair Market Rent

Use fair market rent, as established by TxDOT, instead of average monthly cost for rent and utilities at the displacement dwelling if:

- ◆ a displaced owner-occupant elects to relocate as a tenant; or
- ◆ a tenant pays less than half of the fair market rent for the displacement dwelling, unless fair market rent is 30 percent or more of the tenant's income or its use would result in other hardship.

Formulate fair market rent from the average monthly rental and utility cost of comparable dwellings (preferably three) located in the subject area. Document fair market rent determinations in the project file. These dwellings should be comparable to the subject property in terms of the standard for DSS dwellings. Include reasons for using fair market rent on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#).

Utility Expenses

Utility services are defined as gas, electricity, water, sewer, and garbage collection charges. Include utilities in the base monthly rent computation because utilities are considered an integral part of monthly housing costs. The objective in adjusting for utilities is to achieve consistency between rental properties and ultimately to reduce any additional out-of-pocket monthly expenses for tenants of all types of dwellings, including mobile homes. The existence of adequate utilities is a primary requirement for a DSS dwelling.

Use of the HUD Utility Schedule Model for the project area is preferred by TxDOT. Add utility costs to the subject (including mobile homes), comparable and replacement rents unless they are already included in the rent.

If comparable utility services are included in both the monthly rent of the displacement dwelling and the monthly rent of the selected replacement dwelling, record this information on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) and compute the rent supplement on a rent vs. rent basis.

If a utility service is **not** included in the monthly rent of a **displacement** dwelling, record the type and monthly cost of the utility service in the remarks section of form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*. If a utility service is not included in the monthly rent of a comparable **replacement** dwelling, record the type and monthly cost of the utility service in the remarks section of form [ROW-R-106 Residential Property Evaluation](#). Record background information pertaining to the determination of a utility service cost in the parcel file.

Subsidized Housing

Subsidized housing includes public housing, government subsidized housing, and housing program subsidies.

When a public housing unit or a privately owned dwelling with a government subsidy tied to the unit will be used as comparable replacement housing, compute the rental assistance payment according to preceding [Rental Assistance](#) Calculation for normal rental payments.

When a person displaced from a privately owned government subsidized dwelling or from a public housing unit receives a housing program subsidy not tied to the displacement dwelling, such as a HUD Section 8 Existing Housing Certificate or a Housing Voucher, and the displacee is to be relocated in a comparable unsubsidized dwelling, subtract the amount of the housing subsidy from the probable rental cost of the replacement dwelling before computing the rental assistance payment. In such cases, explain the rent adjustment in the remarks section of form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#).

Nothing in this section prohibits a Federal, State or local agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. TxDOT must, however, inform the person of his/her options under this section, and inform the person that receiving a government housing subsidy requires computing the relocation rental assistance payment based on the person's actual out-of-pocket costs for the replacement housing.

Housing Allowance

Obtain form [ROW-R-IA Income Affidavit](#), attesting to no duplication of payments, from each tenant displacee before computing the displacee's rental assistance payment. If a displacee does not provide TxDOT a sworn affidavit regarding his/her receipt, or non-receipt, of a government housing allowance, he/she cannot be granted a relocation rental assistance payment because TxDOT will not possess information needed for payment calculation. If it is discovered that a dis-

placee is in receipt of a government housing allowance not reported on his/her affidavit, the person's rental assistance payment will be withdrawn for recalculation of the proposed payment.

Disbursement

If a computed rent supplement exceeds \$7,200, handle it according to [Last Resort Housing](#).

Manner of Disbursement

Payment under this section is made in a lump sum amount. A displacee who receives a relocation payment for the rent of a DSS replacement dwelling that costs less to rent than the comparable dwelling on which his/her approved rent supplement was based is entitled to a payment for the unused balance of the approved rent supplement if he/she applies for the payment and meets criteria for this payment.

Section 4 — Down Payment Assistance

Down Payment

For this section, the phrase “down payment” means the amount paid towards the cost of the DSS dwelling actually purchased and occupied, including the actual required incidental expenses associated with the purchase.

Eligibility for payment

A 90-day tenant-occupant displaced from a dwelling is eligible for down payment assistance not to exceed \$7,200.

A displaced person eligible to receive a payment as a 90-day owner-occupant (home owner or mobile home owner) is not eligible for this down payment assistance, except for purchasing a mobile home site when the displacement site is rented.

Amount of payment

An eligible displacee who purchases a replacement dwelling is entitled to down payment assistance not to exceed the lesser of:

- ◆ For a 90-day occupant:
 - the actual rent supplement; or
 - the cost of the DSS replacement dwelling including required incidental expenses.
- ◆ For a less than 90-day owner-occupant:
 - the actual rent supplement; or
 - the cost of the DSS replacement dwelling including required incidental expenses

At the discretion of TxDOT, and with advance approval from the ROW Program Office, a down payment assistance payment may be increased to any amount not to exceed \$7,200. TxDOT shall apply this discretion in a uniform and consistent manner, so that eligible displacees in like circumstances are treated equally.

This payment, however, may not exceed the payment that a less than 90-day owner-occupant would receive if the 90-day occupancy requirements were met. Use this option in a uniform and consistent manner.

Application of Payment

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

Last Resort Housing

When the rent supplement exceeds \$7,200, provisions of [Last Resort Housing](#) apply. A 90-day tenant-occupant may be paid a down payment in excess of \$7,200, but not to exceed the lesser of:

- ◆ the actual rent supplement; or
- ◆ the cost of the DSS replacement dwelling including required incidental expenses.

Documentation

Document TxDOT's files and claims for down payments with:

- ◆ a copy of the closing statement showing required signatures;
- ◆ the closing agent's certification that **all** funds are paid as shown on the closing statement; and
- ◆ a copy of the approved rental supplement (form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#)).

Incidental Expenses

In the case of 90-day tenant-occupants, the down payment plus incidental expenses must not exceed the computed rent supplement. For a definition and detailed information on incidental expenses, see [Incidental Expenses- 90-Day Owner-Occupants](#).

Chapter 18 — Entitlements for Mobile Home Occupants

Contents:

[Section 1 — General Provisions](#)

[Section 2 — 90-Day Mobile Home Owner-Occupant](#)

[Section 3 — Replacement Housing Entitlements for 90-Day Mobile Home Owner-Occupants](#)

[Section 4 — 90-Day Mobile Home Tenant-Occupant](#)

[Section 5 — Replacement Housing Entitlements for Less Than 90-Day Mobile Home Occupants](#)

Section 1 — General Provisions

Overview

Typically, replacement housing payments for occupants of displaced mobile homes are the same as for standard dwelling occupants, and will be handled according to policies and procedures described here.

Ownership or tenancy of a mobile home (not the land on which it is located) determines the occupant's status as owner or tenant. Length of ownership and occupancy of the mobile home, on the mobile home site, determines the occupant's status as a 90-day owner or a 90-day tenant.

The occupant must occupy the mobile home on the same site (or in the same mobile home park) for the required 90 days to be eligible for appropriate payment limitations (\$7,200 or \$31,000).

Partial Acquisition of a Mobile Home Park

Acquisition of a portion of a mobile home park property may leave a remaining part of the property inadequate for continued operation of the park. If TxDOT determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner or tenant is considered a displaced person entitled to relocation payments and other assistance in this chapter.

Initiation of Negotiations

If a mobile home is not actually acquired, but the occupant is considered displaced under this section, the "initiation of negotiations" is the date of initiation of negotiations to acquire the land, or, if the land is not acquired, the date the occupant is notified in writing that he/she is a displaced person for purposes of this chapter.

Persons with Both an Ownership and Tenant Interest

A displaced mobile home occupant may have owned the displacement mobile home and rented the site, or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In these cases, the total replacement housing payment consists of a payment for a dwelling and a payment for a site. The total replacement housing payment to a person will not exceed the maximum payment (either \$31,000 or \$7,200) permitted under [Amount of Total Payment](#). However, if the replacement housing or the rent supplement exceeds the maximum amount authorized for normal supplemental housing payments (\$31,000 or

\$7,200), the displacee is entitled to a replacement housing payment or rent supplement under [Last Resort Housing](#).

Amount of Payment

When computing the amount of a replacement housing payment for a person displaced from a mobile home, the cost of a comparable replacement dwelling is the reasonable cost of a comparable replacement mobile home, including the site. This applies whether the displaced person's actual replacement dwelling is another mobile home or a conventional home.

Comparability

A mobile home is considered a replacement dwelling for a displaced mobile home if it substantially meets other requirements for replacement housing. When a comparable mobile home is not available, calculate the replacement housing payment based on the reasonable cost of other manufactured housing or a conventional dwelling that is available and meets the requirements of comparability.

Rent or Replacement

Where the mobile home is determined to be personal property, the housing payment is for the purchase or rent of a replacement site only.

Transporting Costs

If the owner is reimbursed for the cost of moving the mobile home under this chapter, he/she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. However, the person may be eligible for assistance in purchasing or renting a replacement site.

When a displacee elects to purchase a mobile home as replacement housing, all transportation and set up expenses necessary to place the mobile home on a lot, in DSS condition, will be included as part of the total acquisition price of the replacement housing.

Configuration

Mobile homes can be purchased in several configurations (i.e., with or without furnishings). Do not use the sale price for a furnished replacement dwelling when computing a replacement housing or down payment supplement since the subject is always acquired unfurnished by the State. When a displacee elects to purchase a mobile home as a replacement dwelling, the billing for the housing or down payment supplement must not include the cost of non-realty items. The rent supplement for a

displaced tenant who does not own his/her furnishings, but has been renting a furnished mobile home, should be based on furnished comparable dwellings.

Section 2 — 90-Day Mobile Home Owner-Occupant

Overview

A displaced 90-day owner-occupant is entitled to a replacement housing payment, not to exceed \$31,000 under Entitlements for [Payment Options 90-Day Owner-Occupants](#), if the person owned a displacement mobile home **and** occupied it on the displacement site for at least 90 days immediately before the initiation of negotiations; and:

- ◆ the person purchases **and** occupies a DSS replacement dwelling within one year after the later of:
 - the date the person receives final payment for the displacement dwelling or, in case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or
 - the date at least one comparable replacement dwelling was made available to the person; and
- ◆ TxDOT acquires the mobile home and/or mobile home site as real property, or the mobile home is not acquired by TxDOT but the owner is displaced because TxDOT determines that the mobile home:
 - is not and cannot economically be made DSS. Determine the housing payment in these cases by subtracting the trade-in or salvage value of displacee's mobile home at the acquired site from the probable cost of comparable DSS replacement housing or, if less, the cost to rehabilitate the existing mobile home to DSS standards if practical to do so; or
 - cannot be moved without substantial damage or unreasonable costs due to structural conditions. Determine this payment the same as for non-DSS housing in preceding; or
 - cannot be moved because there is no available comparable replacement site; or
 - cannot be moved because it does not meet mobile home park entrance requirements.

If a computed supplement exceeds the \$31,000 limit authorized in the preceding subsection, handle the supplement under provisions of [Last Resort Housing](#).

Section 3 — Replacement Housing Entitlements for 90-Day Mobile Home Owner-Occupants

State Acquires Mobile Home and Site

If the owner of a displaced mobile home and site elects to purchase a replacement dwelling and site, compute the supplement, if any, according to provisions of [Computation of Housing Supplement](#) and base the supplement on the cost of a comparable mobile home and site.

In determining the amount of the supplement, select three comparables, if available, and tabulate them on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#). Make a careful analysis of these comparables and include support for the selected comparable on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*.

Indicate the one property most comparable to the subject in all respects by an asterisk on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*. Consider this property's listing price as the cost of a replacement dwelling. Subtract the value of the subject property from the probable selling price of the comparable. The result is the maximum amount the 180-day owner-occupant is eligible to receive for purchase of a replacement dwelling.

If the computed housing supplement exceeds \$31,000, handle under the provisions for Last Resort Housing.

If the displacee elects to purchase a replacement dwelling but rents a replacement site, the replacement housing payment, if any, is:

- ◆ the price differential between the acquired mobile home and the lesser of 1) the price of the selected comparable; or 2) the actual cost of the DSS replacement dwelling, plus
- ◆ the difference in the amount determined necessary to rent a comparable mobile home site for 42 months (42 times the fair market rent of the site acquired).

The replacement housing payment in the above example shall not exceed the total payment if the owner-occupant had purchased both the replacement dwelling and site.

Show all payments and incidental costs (mentioned in the preceding subsection) on the closing statement.

If the displacee elects to rent a replacement dwelling and site, he/she may be entitled to a payment not to exceed \$7,200. Compute this supplement according to policies and procedures in [Rental Assistance Payment](#).

State Acquires Mobile Home Only, Owner-Occupant Rents Site

When the State acquires an owner-occupant mobile home located on a rented site, the replacement housing supplement, if any, is:

- ◆ the probable amount determined necessary to purchase a comparable mobile home (without land) less the amount for which the State acquired the displacee's mobile home; plus
- ◆ the difference in the amount determined necessary to rent a comparable mobile home site for 42 months (42 times the rent being paid for the site acquired).

The rental assistance payment for the site may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional DSS dwelling.

If the displacee elects to rent a replacement dwelling and site, then the supplement, if any, may not exceed \$7,200 and is computed according to policies and procedures in [Rental Assistance Payment](#). This rent supplement may not exceed the approved payment to purchase a replacement site.

State Acquires Site Only from Owner-Occupant of Mobile Home

When the State acquires a site but not the mobile home on the site, and the mobile home must be moved, then the replacement housing payment is the amount, if any, that when added to the amount for which the State acquired the site, equals the lesser of:

- ◆ the amount the owner must pay for a replacement site; or
- ◆ the amount determined by TxDOT as necessary to purchase a comparable replacement site.

If the owner-occupant of the displaced mobile home elects to rent a replacement mobile home site, compute the supplement (not to exceed \$7,200) according to policies and procedures in [Rental Assistance Payment](#). This rent supplement may not exceed the approved payment to purchase a replacement site.

State Acquires Rental Site but Owner-Occupied Mobile Home Not Acquired.

When a rental site is acquired, but the mobile home on the site is not acquired and must be moved, the owner-occupant of the mobile home is eligible for a supplemental payment:

- ◆ to rent a comparable replacement mobile home site according to [Rental Assistance Payment](#) or
- ◆ for a down payment and related incidental expenses to purchase a replacement mobile home site. Handle this payment according to [Down Payment Assistance](#).

If the rent supplement discussed in the preceding subsection exceeds \$7,200, then the owner is entitled to a payment as a displaced 90-day tenant-occupant according to Computation of Payments on last resort housing.

Section 4 — 90-Day Mobile Home Tenant-Occupant

Overview

A displaced 90-day tenant of a mobile home is eligible for a replacement housing payment, not to exceed \$7,200, if:

- ◆ the person occupied the displacement mobile home on the displacement site for at least 90 days immediately before the initiation of negotiations;
- ◆ the person meets the other eligibility requirements; and
- ◆ the State acquires the mobile home as real property, or the mobile home is not acquired by the State but the owner or tenant is displaced from the mobile home because of one of the circumstances described in above [90-Day Mobile Home Owner-Occupant](#).

Handle rent supplements that exceed \$7,200 for 90-day mobile home tenant-occupants according to Computation of Payments.

Section 5 — Replacement Housing Entitlements for Less Than 90-Day Mobile Home Occupants

State Acquires Less Than 90-Day Owner-Occupied Mobile Home and Site

If an owner-occupant of a displaced mobile home and site elects to purchase a replacement dwelling and site, he/she is entitled to a down payment assistance payment not to exceed \$7,200 according to [Down Payment Assistance](#).

If the displacee elects to rent a replacement dwelling and site, he/she is entitled to a rental assistance supplement computed according to [Rental Assistance Payment](#). If the computed rent supplement exceeds \$7,200, handle it according to [Computation of Payments](#) on last resort supplements for 90-day owner-occupants. In any case, the rent supplement or down payment may not exceed what the displaced mobile homeowner would receive if he/she met requirements for a 90-day owner-occupant.

State Acquires Mobile Home Only, Owner-Occupant Rents Site

If an eligible displaced owner-occupant elects to purchase a replacement mobile home and rent a replacement mobile home site, the displacee is entitled to a supplemental housing payment, the total of which cannot exceed \$7,200, for:

- ◆ a down payment and related incidental expenses to purchase a DSS replacement mobile home according to [Down Payment Assistance](#) may not exceed what the displaced mobile homeowner would receive if he/she met requirements for a 90-day owner-occupant; plus
- ◆ the difference in the amount, determined by TxDOT, necessary to rent a comparable mobile home site for 42 months (42 times the rent being paid for the displacement site). Compute this rental supplement according to [Rental Assistance Payment](#).

If the displacee elects to rent a replacement dwelling and site, he/she is entitled to a rental assistance supplement computed according [Rental Assistance Payment](#). If the computed rental supplement exceeds \$7,200, handle it according to [Computation of Payments](#) on last resort supplements for 90-day tenant-occupants.

State Acquires Site Only From Owner-Occupant of Mobile Home

After purchase and occupancy of a replacement mobile home site, a displaced mobile home owner-occupant is entitled to down payment assistance payment not to exceed \$7,200 according to [Down Payment Assistance](#).

If the displaced mobile home owner-occupant elects to rent a replacement site, he/she is entitled to a rent supplement computed according to [Rental Assistance Payment](#), not to exceed what he/she would have received for a site purchase supplement if he/she had qualified as a 90-day owner-occupant. Determine this supplement, if any, by subtracting 42 times the estimated economic rent of the displacement mobile home site from the amount determined by the State as necessary to rent a comparable mobile home site for 42 months. If the computed rent supplement exceeds \$7,200, handle it according to [Computation of Payments](#) on last resort supplements for 90-day tenant-occupants.

State Acquires Rental Site but Owner-Occupied Mobile Home Not Acquired.

When a rental site is acquired, but the mobile home on the site is not acquired and the mobile home must be moved, the owner-occupant of the mobile home is eligible for a supplemental housing payment:

- ◆ to rent a comparable replacement mobile home site according to [Rental Assistance Payment](#), or
- ◆ for a down payment and related incidental expenses to purchase a replacement mobile home site. Handle this payment according to [Down Payment Assistance](#).

If the rent supplement exceeds \$7,200, handle it according to [Computation of Payments](#) on last resort housing for 90-day tenant-occupants.

State Acquires Tenant-Occupied Mobile Home and Site

If the displacee elects to rent a replacement dwelling and site, he/she is entitled to a replacement housing supplement for that purpose. Compute the rent supplement according to [Rental Assistance Payment](#).

If the displacee elects to purchase a replacement dwelling and site, he/she is entitled to a down payment assistance payment not to exceed \$7,200 according to [Down Payment Assistance](#).

If the displacee elects to purchase a replacement dwelling and rent a replacement site, or to rent a replacement dwelling and occupy it on a replacement site that he/she elects to purchase, he/she is entitled to a payment not to exceed \$7,200 for the purchase or rent of either a replacement dwelling or a replacement site. If the rental assistance entitlement in preceding [State Acquires Owner-Occupied Mobile Home and Site](#) exceeds \$7,200, then the displacee is entitled to a last resort payment under the provisions of [Computation of Payments](#) for purchasing or renting either a replacement dwelling or a replacement site.

State Acquires Rental Site but Tenant-Occupied Mobile Home Not Acquired.

When a rental site is acquired, but not the mobile home on the site, and such mobile home must be moved, the tenant-occupant of the mobile home is eligible for a supplemental housing payment under any of the following conditions.

If the displacee elects to rent a replacement dwelling and site, he/she is entitled to a replacement housing supplement for that purpose. Compute the rent supplement according to [Rental Assistance Payment](#).

If the displacee elects to purchase a replacement dwelling and site, he/she is entitled to a down payment assistance payment not to exceed \$7,200 according to [Down Payment Assistance](#).

If the displacee elects to purchase a replacement dwelling and rent a replacement site, or to rent a replacement dwelling and occupy it on a replacement site that he/she elects to purchase, then he/she is entitled to a payment not to exceed \$7,200 for purchasing or renting either a replacement dwelling or a replacement site. If the rental assistance entitlement in preceding subsection exceeds \$7,200, the displacee is entitled to a last resort payment according to [Computation of Payments](#) for purchasing or renting either a replacement dwelling or a replacement site.

Chapter 19 — Decent, Safe, and Sanitary (DSS) Standards

Contents:

[Section 1 — Definition and Exceptions](#)

[Section 2 — Replacement Housing Inspection](#)

Section 1 — Definition and Exceptions

Definition

A decent, safe and sanitary (DSS) dwelling is any dwelling that meets applicable housing and occupancy codes. However, if any of the following standards are not met by an applicable code, they will apply, unless waived for good cause by the Federal Highway Administration. The dwelling will have all of the following features:

- ◆ Be structurally sound, weather-tight, and in good repair. A replacement dwelling may reflect some physical defects and deferred maintenance if the flaws are easily correctable and do not threaten the general fitness, functional condition or habitability of the structure.
- ◆ Contains a safe electrical wiring system adequate for lighting and other customary electrical devices.
- ◆ Contains a heating system capable of sustaining a temperature of approximately 70 degrees, except in those areas where local climatic conditions do not require such a system.
- ◆ Be adequate in size related to the number of rooms and area of living space needed to accommodate the displacee(s). The number of persons occupying each habitable sleeping room will not exceed that permitted by local codes. In absence of local codes, TxDOT will evaluate each situation and determine needs based in accordance with the Uniform Act. It is TxDOT policy that no children of the opposite gender can occupy the same sleeping room if they have reached the age of 12 years at the time of displacement.
- ◆ There will be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. For a housekeeping dwelling, there will be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.
- ◆ Contains unobstructed exit to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.
- ◆ For a displaced person with a disability, be free of any barriers which would prevent reasonable ingress, egress, or use of the dwelling by the displacee. This includes all physical disabilities, not just those attributable to persons who are motion impaired.

Exceptions to DSS Standards

For extreme hardship or other extenuating circumstances, an exception may be granted to the DSS standards, and the displacee may still qualify for a replacement housing supplement. Requests for

these exceptions must be handled individually; be limited to situations beyond the control of the displacee; and must prevent adherence to the standards. Submit requests for such exceptions to the ROW Program Office for further submission to FHWA for approval. Approved exceptions will not affect computation of the replacement housing payment.

Section 2 — Replacement Housing Inspection

Procedures

Prior to computing a replacement housing supplement, and prior to making the selected comparable dwelling available to a residential displacee, TxDOT shall confirm by physical inspection that the comparables listed on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) meet DSS standards.

All housing inspections shall be documented on form [ROW-R-116 Replacement Housing Inspection](#), and supported with clear photographs of the inspected dwelling. Any defect in the dwelling shall be recorded on this form. If the inspection reveals that the replacement housing does not meet DSS standards, it shall not be used as a comparable dwelling.

In order to determine the displacee's eligibility to receive a replacement housing payment, TxDOT's physical inspection shall confirm the replacement dwelling meets DSS standards prior to releasing the payment to the displacee. If a residential displacee is not eligible to receive a housing supplement, but is eligible for payments of increased interest or incidental costs, a physical inspection confirming the replacement dwelling meets DSS standards is required.

TxDOT shall encourage a displacee to request a preliminary inspection before purchasing or occupying a replacement dwelling to confirm it meets DSS standards. Inspections involving inter-district relocations shall be coordinated between the involved ROW PD offices. TxDOT shall assist a displacee relocating out-of-state by submitting a written request for a DSS inspection, along with all applicable information, to the appropriate State.

Chapter 20 — Last Resort Housing

Contents:

[Section 1 — Overview](#)

[Section 2 — Computation of Payments](#)

[Section 3 — Payments and Authorization](#)

Section 1 — Overview

Purpose

This chapter's purpose is to present policies and procedures for replacement housing on a reasonable cost basis when it is determined that comparable replacement housing cannot be made available under normal conditions and cost limitations. Any decision to provide last resort housing assistance must be adequately justified by one of the following criteria.

On an individual basis, and for good cause, appropriate consideration was given to:

- ◆ the availability of comparable replacement housing in the project area;
- ◆ the resources available to provide comparable housing; and
- ◆ the individual circumstances of the displacee.

By a determination that:

- ◆ there is little, if any, comparable replacement housing available to the displacee within an entire project area **and** last resort housing is necessary for the entire area; and
- ◆ a project cannot proceed to completion in timely manner without last resort housing assistance; and
- ◆ the method selected for providing last resort housing assistance is cost effective, considering all elements contributing to total project costs.

Applicability

Provisions for last resort housing may be applied when comparable replacement housing is available for the displaced person, **but**:

- ◆ the sum of the computed replacement housing supplement, including incidental expenses and increased interest, is estimated to exceed the \$31,000 limitation for 90-day owner-occupants of conventional dwellings or displaced mobile homes with a 180-day bona fide mortgage on the displacement dwelling; or
- ◆ the sum of the computed replacement housing supplement, including incidental expenses, is estimated to exceed the \$31,000 limitation for 90-day owner-occupants of conventional dwellings or displaced mobile homes; or
- ◆ the computed rent supplement exceeds the \$7,200 limitation for replacement housing for 90-day occupants of displaced conventional housing and mobile homes; or
- ◆ the computed rent supplement exceeds the \$7,200 limitation for replacement housing for less than 90-day owner-occupants of displaced conventional housing and mobile homes; or

- ◆ it cannot be made available to a late residential occupant within his/her financial means.

Basic Rights of Persons Displaced

No person is required to move from a displacement dwelling unless comparable housing is available. No person may be deprived of any rights under *Public Law 91-646*.

Ownership or Tenancy Status

TxDOT shall provide a comparable replacement dwelling that places the displacee in the same ownership or tenancy status possessed before displacement. TxDOT's obligation is fulfilled when a comparable replacement dwelling is made available to the displacee in compliance with provisions for last resort housing. At the request of the displacee, TxDOT may provide a dwelling which changes the ownership or tenancy status of the displacee if the dwelling is available and can be provided at a cost which will not exceed the amount required to relocate the displacee to a comparable dwelling in the same ownership or tenancy status possessed before displacement.

Section 2 — Computation of Payments

Overview

Last Resort Housing is a method by which supplemental payments in excess of the normal cost limits may be approved. Computation of the various types of supplements is described in Replacement Housing Payments (see below) and Residential Housing Evaluation, with the exception of the cost limits and the policies described in the following subsections.

Replacement Housing Payments

A displacee who meets the requirement of a 90-day owner-occupant may be eligible for a supplemental housing payment and closing costs (incidental expenses) to purchase a comparable replacement dwelling. In addition, a 90-day owner-occupant with a 180-day bona fide mortgage on the displacement dwelling may be eligible for increased interest costs. When the sum of these items exceeds \$31,000, provisions of this chapter are applicable. TxDOT shall determine the amount of the replacement housing payment according to policies and procedures for normal housing payments.

Mortgage Interest Differential Payments

A last resort increased interest payment is the amount necessary to reduce the balance of either the existing 180-day bona fide mortgage or new mortgage, whichever is less, to an amount at which the displacee's monthly principal and interest payment and term is the same at the new higher interest rate as it was on the existing mortgage. The same requirements for offering an estimated amount, explaining conditions under which that estimated amount would be received, including loan origination fee and discount points, and, where applicable, prorating the payment when the new principal balance is less than the computed payoff balance, apply in last resort as described in [Incidental Expenses - 90-Day Owner-Occupants](#) and [Mortgage Interest Differential Payment](#). Since last resort calculations are the same, it will not matter if the total entitlements of replacement housing exceed \$31,000.

Rental Assistance Supplement

90-Day Owner-Occupants

Last resort rental assistance payments for 90-day owner-occupants shall not exceed the lesser of:

- ◆ the amount, determined by TxDOT, necessary to purchase a comparable replacement dwelling;
- or

- ◆ the difference in the amount, determined by TxDOT, necessary to rent a comparable replacement dwelling for 42 months and 42 times the fair market rent of the displacement dwelling.

90-Day Tenant-Occupants and Less Than 90-Day Owner-Occupants

A last resort rental assistance payment for a 90-day tenant-occupant, or a less than 90-day owner-occupant, shall not exceed the difference in the amount determined by TxDOT necessary to rent a comparable dwelling for 42 months and 42 times the base monthly rent being paid for the displacement dwelling. These payments are governed by policies and procedures for normal rental assistance payments.

If a suitable DSS dwelling is available for purchase, the displacees may be entitled to down payment assistance toward the purchase of the DSS dwelling **actually** purchased and occupied, providing the amount of the down payment assistance does not exceed the previously computed rental supplement.

Late Residential Occupants

When a displaced residential tenant does not meet the length of occupancy requirements that apply to a 90-day tenant, or is unable to provide documentation establishing a date of occupancy, the tenant shall be considered a “late” residential tenant, and entitled to all relocation benefits afforded to a normal 90-day tenant under Chapter 17 of this manual. Any “late occupant” must continue occupancy of such dwelling until TxDOT obtains possession of the real property, in order to receive relocation benefits.

Section 3 — Payments and Authorization

Payments

Last resort housing payments shall be paid in a lump sum to the displacee, except when TxDOT finds that handling a relocation payment on an installment basis is better. When installment payments are warranted, obtain advance approval for such payment in writing from the ROW PD Manager before making a commitment to the displacee. The written approval shall be included with the request for payment submission.

Submit all last resort housing claims according to Computation of Payments: [Replacement Housing Payment](#) and Entitlements for 90-Day Owner-Occupants.

Authorization

Specific authorization is required to make relocation payments under provisions of Last Resort Housing. Handle requests for this authorization according to the following procedures.

If a need for Last Resort Housing becomes apparent before a General Expenditure Authorization is issued for a ROW project, submit a request for use of such housing to the ROW Program Office with TxDOT expenditure authorization request as described in Computation of Payments: Replacement Housing Payment. In the release request, include a report of residential displacee needs as described below.

If the need for Last Resort Housing arises after a ROW project is released for ROW acquisition, submit a request to use Last Resort Housing to the ROW Program Office with a report of the residential displacee needs. In the report, cover all residential occupants who must be moved from the project area and include, as a minimum, the following information. Negative statements will be made where applicable.

- ◆ Tabulation of affected parcels;
- ◆ Tabulation of residential displacees by their occupancy status (owner or tenant), and by type of dwelling from which displaced (e.g., single family, apartment, mobile home);
- ◆ Explanation of the need for Last Resort Housing;
- ◆ Estimate of the following items:
 - total amount of funds for last resort housing supplements, including increased interest and incidental expenses. Show the number of displaced owner-occupants who will or may be entitled to a Last Resort Housing supplement in parentheses following this cost estimate.

- total amount of funds for last resort rental supplements. Show the number of tenant displacees who will or may be entitled to a Last Resort Rental supplement in parentheses following this cost estimate.
- ◆ Any other comments pertinent to the provision of replacement housing.

Chapter 21 — Residential Comparison Index (RCI)

Contents:

[Section 1 — Overview](#)

[Section 2 — Evaluation and Estimate Forms](#)

[Section 3 — Development of Index Numbers](#)

Section 1 — Overview

Purpose

The Residential Comparison Index (RCI) has been developed for comparison of displacement and comparable dwellings. As described in Development of Index Numbers, the attributes of each dwelling are assigned numerical values. The higher the index number, the better the quality, size, age and condition of a dwelling. When properly indexed, a dwelling with a higher RCI typically has a higher sale or rent value than comparative dwellings. Determine RCIs for all displacement and comparable residential properties.

Section 2 — Evaluation and Estimate Forms

Residential Property Evaluation (Form ROW-R-106)

Tabulate residential property evaluations and index numbers on form [ROW-R-106 Residential Property Evaluation](#) for comparable properties. This form shall be used to collect data on properties for sale or rent, and shall be included with the corresponding form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) as supporting documentation.

Number the forms consecutively; no two having the same number on a project. Comparables used in submissions for supplements must be available, and must meet the standard for DSS dwellings. If form *ROW-R-106 Residential Property Evaluation* was previously submitted, it must be updated within four months of computing the current supplement.

Update forms *ROW-R-106 Residential Property Evaluation* with respect to features, like property improvements and dwelling age, which can affect the index. If little or no change occurred, it is satisfactory to revise the information and inspection date on the old form.

Completed forms *ROW-R-106 Residential Property Evaluation* are filed according to RCSJ numbers. If it is desirable to use a comparable property from one project for another project, make reference (on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*) to the RCSJ where the comparable is located.

In the improvements section of the form, describe the quality, condition, and yard improvements categories using the same terminology as shown on the Development of Index Numbers chart. Use the chronological dwelling age, not the effective age. The dwelling square footage is that used for living purposes. It does not include porches, garages, or outside utility and storage areas.

In the remarks section of the form, include notes of unusual features such as those that enhance or detract from the value or livability of the property, explanations of variances from the norm in indexing, explanation of a high or low listed sales price, and type of neighborhood. Include a photograph which clearly depicts the comparable dwelling. Include utility costs in the remarks section with individual utility services itemized.

Supplemental Payment Estimate, Replacement Housing (Form ROW-R-107)

ROW PD shall submit the replacement housing supplement on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) to the ROW Program Office for compliance review and approval date entry in TxC, even if the supplement is zero. The claimant's names on the form shall agree with payee names in requests for payments submitted later. For a husband and wife, include both on page 1 of the form. Similarly, when there are several displacees from a single dwelling and a head of household cannot be identified, include all displacee names on page 1 of the form.

Comparable dwellings must be available at the time of supplement calculation. Tabulate these dwellings on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing* in the housing or rent supplement sections. Properties available at the time of supplement calculation may not be available at the time of acquisition. At the time the displacee is required to move, a comparable replacement dwelling shall be available to him at or below the selling price of TxDOT's selected comparable; otherwise, the supplement shall be recalculated. Analyze comparables and use the most appropriate property to determine the cost to purchase or rent comparable replacement housing.

Any variances or unusual circumstances shall be included on page 2 of form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*. The remarks shall not simply repeat information from form [ROW-R-106 Residential Property Evaluation](#), but shall support and elaborate on all of the facts pertinent to the subject property.

When applicable, form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing* shall include an itemization of values of excess land and improvements carved-out from the parcel acquisition cost. Form [ROW-R-CARV Carveout Calculation Worksheet](#) shall be completed and attached to form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing* when these calculations have been made.

In the remarks section of form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*, include the estimated average monthly utility costs at the displacement dwelling, with individual values itemized. In multiple ownership cases, also include information such as the relationship of living heirs, or if a deceased owner dies testate or intestate. When a tenant is related to the property owner, explain the tenant-landlord relationship and identify the value of any services being rendered in place of actual rent.

When there are multiple residential units on a parcel, record the displacement unit number (e.g., apartment building) on form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*. Also, record the month and year the displacee began occupancy. In the case of a subsequent or late residential occupant, record the day, month and year of initial occupancy.

Section 3 — Development of Index Numbers

Index Number Development Charts

Development of Index Numbers

| Age Index: | AGE INDEX: |
|--------------------------------|--------------------------------|
| 10 – New dwelling | 5 - 21 to 25 Year old dwelling |
| 9 - 1 to 5 Year old dwelling | 4 - 26 to 30 Year old dwelling |
| 8 - 6 to 10 Year old dwelling | 3 - 31 to 35 Year old dwelling |
| 7 – 11 to 15 Year old dwelling | 2 - 36 to 40 Year old dwelling |
| 6 – 16 to 20 Year old dwelling | 1 - Over 40 Year old dwelling |

Quality Index

| Dwelling Size By Living Square Feet | | | | | | | | | | | | |
|--|------|------|------|------|------|------|------|------|------|------|------------|------|
| Quality | 400 | 600 | 800 | 900 | 1000 | 1100 | 1200 | 1300 | 1400 | 1500 | 1600 | 1700 |
| Excellent | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| Very Good | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| Good | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| Fair | 2 | 3 | 4 | 4 | 5 | 5 | 6 | 6 | 7 | 7 | 8 | 8 |
| Poor | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Quality | 1800 | 1900 | 2000 | 2200 | 2400 | 2600 | 2800 | 3000 | 3200 | 3400 | 3600&Above | |
| Excellent | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | |
| Very Good | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | |
| Good | 19 | 20 | 21 | 22 | 22 | 23 | 23 | 24 | 25 | 25 | 26 | |
| Fair | 8 | 9 | 9 | 9 | 10 | 10 | 10 | 11 | 11 | 11 | 12 | |
| Poor | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | |

(For the above Quality Index, use the number most representative of dwelling quality and size).

Index Numbers

| Condition Index: | Yard Improvements Index: |
|-------------------------|---------------------------------|
| 5 – Excellent | 5 – Excellent |
| 4 – Very Good | 4 - Very Good |

Index Numbers

| Condition Index: | Yard Improvements Index: |
|-------------------------|---------------------------------|
| 3 – Good | 3 – Good |
| 2 – Fair | 2 – Fair |
| 1 – Poor | 1 – Poor |
| - | 0 – None |

Sum the individual indexes obtained to determine the RCI as shown in the following example of a single-family residence, 15 years old, containing 1,175 living square feet, with good quality, condition and yard improvements:

RCI Example

| Age | Quality | Condition | Yard Improvements | RCI equals |
|------------|----------------|------------------|--------------------------|-------------------|
| 7 + | 13 + | 3 + | 3 + | 26 |

The following is a general description of the categories making up the RCI.

- ◆ Age Index: This index represents the actual dwelling age, not the effective age.
- ◆ Quality Index: This index represents design and construction, covering the broadest range of features affecting dwelling value. Features included in this category are:
 - structure and foundation;
 - plumbing fixtures and pipe;
 - electrical fixtures and wiring;
 - heating, ventilation, and air conditioning;
 - roofing;
 - flooring;
 - interior and exterior wall finishes;
 - garages;
 - porches;
 - fireplaces;
 - swimming pools;
 - other quality features;
 - floor plan (privacy arrangement, traffic circulation, room sizes, light and ventilation);
 - number of closets; and
 - exterior design.

Factors for Quality Index

Use the “excellent” classification for a luxurious dwelling with multiple baths, central heating and air conditioning, fireplace, playroom, multi-car garage, swimming pool, and premium roof materials, hardware and plumbing. This dwelling should be a one-of-a-kind design. Generally, there will be no other housing having an identical design and features. It should be built from unique architectural plans and written specifications, be constructed of above-average materials and workmanship, and exceed building codes. It should contain large rooms such as a formal living room, dining room, large foyer, den or family room, and other special purpose rooms with a floor plan that permits direct access to most areas of the house without crossing through other rooms.

Use the “very good” classification to describe a custom-built dwelling with fewer luxurious features than an “excellent” dwelling. It should be an individual design, but not necessarily “one-of-a-kind.” It may be built from modified or designer plans that were contracted by a specific buyer. Its materials and workmanship, windows, doors, cabinets and vanities should be standard or above standard. It should meet or exceed building codes, have a formal living room, foyer, den or family room, above-average size rooms, and some special purpose features.

Use the “good” classification to describe an average dwelling with fewer luxurious features than a “very good” dwelling. It will be of standard design, built for speculation or for a contract buyer from “stock” or builder’s plans, and have standard materials and workmanship that meet or exceed building codes. It may have variances in its shape or rooflines to distinguish it from neighboring houses built from the same plans. An attached garage, carport, enclosed breezeway, porch, or patio is common. It may have a separate dining area, a den or family room, a foyer, and some ornamentation. Its windows, doors, cabinets, and interior trim may show some selectivity.

Use the “fair” classification to describe an economy dwelling. It is generally of a plain design, box-shaped, seldom L-shaped, with a plain roof and minimal overhang. It is usually built for speculation from stock plans using modular and pre-assembled units. It has no special purpose rooms (e.g., recreation, den, and pantry), little or no ornamentation, factory assembled windows and doors, materials and workmanship just meeting building codes, and low cost as the primary consideration in construction. The dining area is usually combined with the living-kitchen area. Features such as added rooms, porches, or awnings do not change this classification. Older homes without special features, modern fixtures, or insulation, as well as dwellings in declining neighborhoods or Non-residential urban areas are typically in this category.

A “poor” quality dwelling may or may not be DSS, and its design or physical location may be undesirable for normal residential purposes. Use this classification to describe dwellings with fewer features and qualities than characteristic of a “fair” dwelling.

Condition Index

This index represents the dwelling's physical appearance. It covers a feature's ability to perform its function regardless of quality. For example, plumbing fixtures in a new dwelling may be considered in very good condition but of low quality due to inferior materials. The amount of maintenance performed to keep the dwelling presentable, and its equipment in good working order, influences the condition index.

Consider the following factors in determining the condition index:

- ◆ Use the “excellent” classification for new and exceptionally well-maintained dwellings. The structure should have an outstanding appearance with no defects.
- ◆ Use the “very good” classification to describe dwellings reflecting some use and depreciation but whose appearance and state of fitness are above average. Its built-in appliances, utility, cooling, heating, and other systems should be without defects.
- ◆ Use the “good” classification to describe a dwelling that is clean and well maintained. Its appearance will generally reflect normal use and depreciation, but not unusual abuse or deferred maintenance. Its built-in appliances, utility, cooling, heating, and other systems should be fully operational. Defects, if any, should be minor and easily correctable.
- ◆ Use the “fair” classification to describe a dwelling that reflects some structural defects, a run-down appearance, and deferred maintenance. Its cooling, heating, electrical, and plumbing systems are functional, but old and in need of maintenance or replacement. The general fitness of this dwelling is less desirable than described in preceding classifications and it marginally qualifies as a DSS dwelling.
- ◆ Use the “poor” classification to describe a defective, run-down dwelling not classified as DSS, as described in DSS Standards

Yard Improvements Index

This index represents the appearance, fitness, and features of the landscape around a dwelling. It includes lawns, flower beds, shrubbery, trees, walks, drives, fences, and patios. Determine indexing in this category based on how the property compares to the real estate market as a whole, not just to properties in the immediate neighborhood.

Consider the following factors in determining the yard improvements index:

- ◆ Use the “excellent” classification for yard improvements representative of professional planning, landscaping, and maintenance. These yards should include features such as underground sprinkler systems, special gardens and lighting, gazebos, fish ponds, fountains, custom fencing, special planters.

- ◆ Use the “very good” classification to describe yard improvements reflecting above-average landscaping and maintenance. Yards in this category may have some of the features noted for the “excellent” classification.
- ◆ Use the “good” classification to describe a yard with typical features that reflect recurring maintenance.
- ◆ Use the “fair” classification to describe yards that display few improvements, little landscaping, and mediocre care.
- ◆ Use the “poor” classification to describe yards that have very little landscaping and show substantial neglect.
- ◆ Use the “none” classification to describe yards showing no sign of enhancement or care.

In developing an index number, there will be instances when a dwelling will have improvements atypical of dwellings being studied. In these cases the supplement preparer should use his/her judgment to keep a reasonable relationship between the displacement and comparable dwellings. The index system cannot solve all comparison problems that may arise and is intended as a guide to be supplemented by experience. Explain any interpolation of index numbers used to describe a dwelling on form [ROW-R-106 Residential Property Evaluation](#) for comparable dwellings and on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) for the displacement dwelling.

Chapter 22 — Selection of Comparables

Contents:

[Section 1 — Selection Criteria](#)

[Section 2 — Alternatives](#)

[Section 3 — Special Features](#)

Section 1 — Selection Criteria

Procedure

Consider only properties meeting the definition of a comparable as replacement housing. Selected comparables shall be within the neighborhood of the displacement dwelling or, if not possible, in nearby or similar neighborhoods where housing costs are the same or higher.

For replacement housing or rent calculations, it is preferred that three available comparables representative of the displacement dwelling be analyzed. Base a supplement on the comparable considered most representative of the displacement dwelling. ROW PD selects the comparables based on the principal selection factor, rather than total index, listed price, assumed displacee needs, or stated displacee intentions. While innovative means of providing housing are allowed, they must be reasonable and cost-effective. When there is little difference between the quality, condition, or functional characteristics of available replacement dwellings, base selection on price.

If no DSS dwellings that meet comparability requirements exist, use housing in the next higher category of the RCI until a DSS comparable dwelling is found. Use sound judgment regarding the level at which to stop. When an available replacement dwelling is obviously mispriced relative to other comparables, do not use it in supplement calculations.

Do not include dwellings that are obviously not comparable to the displacement dwelling merely to list three replacement properties. When three comparables are not available, less than three may be used for Alternatives A, B, C, and E (see discussion in next section). This is only allowed on an individual basis. Include documentation explaining the reasons for using less than three comparables on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#). Only one comparable is required for Alternative D (see next section).

In the case of providing a replacement residential site, it is intended that normal site preparation costs should be included in the replacement site supplement.

If a comparable lacks a major exterior attribute of the displacement dwelling (e.g., significantly smaller site, swimming pool, comparable storage building or facility, storm cellar), subtract (“carve out”) the attribute value from the displacement dwelling acquisition cost when calculating the supplement.

Comparable replacement housing shall be functionally similar to a displacement dwelling with particular attention to the number and type of rooms and amount of living space. While the replacement and displacement dwellings must perform the same functions, they need not be identical. For example, if a displacement dwelling contains a garage used as a laundry room, a replacement dwelling may use another space (e.g., a basement) to perform the same function.

A replacement dwelling need not duplicate specialized furnishings, such as custom kitchen cabinets, to be comparable. When evaluating comparability, give attention to the number of rooms and the amount of living space because these are major factors in determining if the comparable dwelling is functionally equivalent to the displacement dwelling.

Section 2 — Alternatives

Overview

To be considered comparable, an available replacement dwelling shall be the same type structure as the displacement dwelling (e.g., single family, apartment, duplex). When possible, select comparables from properties available in areas similar to the displacement dwelling (e.g., urban or rural). A multi-use property may require a residential carve-out to establish the displacement dwelling value. Consider the following alternatives, in the order listed, when selecting comparables.

Alternative A

DSS housing functionally equivalent to, or better than, the displacement dwelling and available on the open market.

Alternative B

DSS housing that can be made comparable to the displacement dwelling. The construction costs to add features (e.g., a garage, central heating and air conditioning, improvements needed to accommodate the handicapped) to make the dwelling functionally similar to the displacement dwelling will be added to the probable sales price of the comparable before calculating the supplement. In unusual circumstances, costs to add one or two rooms to an existing house may be used. Such additions must be carefully analyzed to assure that the work will produce a dwelling architecturally and functionally compatible with the area.

Alternative C

Available non-DSS housing may be rehabilitated to make it DSS, thereby making it comparable. This alternative will require explanation, on forms [ROW-R-106 Residential Property Evaluation](#) and [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#), of the reasons (e.g., physical condition, number of rooms, available square footage) why the replacement dwelling is not considered to be a DSS dwelling. An itemized cost of rehabilitation to make it comparable must be included. This alternative should not be used when the total rehabilitation cost exceeds the cost of new construction or if a dwelling not architecturally and functionally compatible with the area would be produced.

Alternative D

New construction that would produce a functionally equivalent dwelling with respect to total rooms, square footage, and auxiliary features may be required. The cost for new construction

should be the lesser of the cost to reproduce the displacement dwelling, or to use modern construction standards and materials currently used in the area. Calculations based on new construction must include the cost of an available replacement building site.

Alternative E

A mobile home may be used as a comparable when the displacement dwelling is a mobile home, or when the displacement dwelling is not DSS. Mobile homes must not be used as a comparable for a conventional DSS dwelling without prior approval by TxDOT.

The cost of new construction, additions, and rehabilitation discussed in preceding Alternatives must be fully explained on form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#) and supported by a written estimate from a contractor willing to perform the work. Cost of adding special energy conservation features, or for including such features in new or rehabilitated housing, shall not be considered an eligible expense unless required by law or necessary to make a dwelling comparable. The cost of built-in appliances, air conditioners, and extra interior attributes are not be considered eligible if these features are not in the displacement dwelling nor required by prevailing building codes.

Section 3 — Special Features

Procedure

In “last resort housing” situations when replacement housing is provided by new construction or rehabilitation, passive energy conservation features may be included in the new dwellings if their use agrees with prevailing construction standards and climate in the area. Expensive advanced energy systems and experimental “state-of-the-art” measures are not eligible.

All attachments to a contractor estimate, to include floor plan sketches, specification sheets, and appraisal checklists, whether on his/her own forms or those furnished by ROW PD, shall be acknowledged by the contractor as the basis of his/her estimate. Submit a copy of the estimate, including attachments, with form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#). The estimate shall include a contractor statement indicating how long his/her estimate is valid and the probable construction time required. If a reasonable fee, not to exceed that normally charged for construction estimates in the area, is submitted by the contractor, forward it to ROW Program Office in agreement with Payment of Cost Estimates.

When available replacement housing lacks specific facilities (e.g., wheelchair ramps, extra wide doorways) needed by a disabled displacee for ingress, egress, or functional use, add the cost of providing such facilities to the replacement housing or rent supplement. Explain the need for added facilities in the remarks section of form *ROW-R-107 Supplemental Payment Estimate, Replacement Housing*, and support the costs by a written estimate from a contractor willing to perform the work. The facilities must be in place before the property is approved as a DSS dwelling and before a replacement housing payment is made. Support payment for such facilities by receipted bills or similar evidence of costs.

When payment is required to obtain a cost estimate for construction or other work referred to in the preceding section Alternatives, ROW PD may contact several local contractors to determine who would provide the estimate and how much the estimate would cost. These estimate preparation fees may be obtained orally or in writing. Furnish each contractor with specifications and requirements on which to base his/her fee for preparing an estimate. ROW PD files must contain the contractor’s name, the date, and the fee charged for preparing his/her estimate. ROW PD files shall also contain documentation justifying the contractor used and verifying that construction charges or services are known to be reasonable and reliable.

Chapter 23 — Appeals Process

Contents:

[Section 1 — Appeal Provisions](#)

[Section 2 — Review Procedure for Appeals](#)

[Section 3 — Relocation Assistance Review Committee](#)

Section 1 — Appeal Provisions

Overview

The Relocation Assistance Review Committee (Committee) will be appointed by TxDOT's Executive Director from staff **not** directly involved in actions being appealed.

Applications for review must be submitted in writing to the appropriate ROW PD office within 90 days after the applicant receives notice of relocation entitlements. Each application for review must state the specific relocation benefit or payment amount to which the claimant believes he/she is entitled.

An applicant who files a written review request with TxDOT has a right to be represented, at his/her own expense, by legal counsel or other representative in connection with his/her appeal.

An applicant who has filed a written review request with TxDOT will be permitted to inspect and copy all non-confidential materials pertinent to his/her request. TxDOT may impose reasonable conditions on the applicant's right to inspect, if consistent with applicable laws.

An applicant desiring to have his/her grievance reviewed by the Committee will be furnished form [ROW-R-109 Request for Review of Relocation Assistance Payment](#). However, TxDOT will consider any written review request regardless of the form used.

Section 2 — Review Procedure for Appeals

Handling Reviews

Reviews are handled in the following manner.

If an applicant is denied the full payment applicant believes he/she should receive, applicant may file a written application for review with ROW PD. The application must identify the type and amount of relocation payment denied and state the reasons for the applicant's review request.

The District Engineer (DE), or designee, will promptly evaluate the review request and facts regarding the applicant's grievance, and should personally meet the applicant. If the grievance is justified, promptly offer the claimed relocation assistance or benefit payment to the applicant. If the claim is disallowed, promptly notify the applicant in writing of the determination and of the applicant's right to have his/her grievance reviewed by the Committee. In this notification, include a full explanation of any disallowed claim and the basis for the decision.

If the applicant is still dissatisfied, he/she may request, within 14 days, a review by the Committee. An applicant who chooses this action will be furnished form [ROW-R-109 Request for Review of Relocation Assistance Payment](#). If he/she chooses not to use form ROW-R-109, the Committee will consider his/her grievance if submitted in writing.

The Request for Review of Relocation Payment will be submitted to ROW PD along with any supporting documents provided by the applicant.

ROW PD will promptly forward to the ROW Program Office a portfolio containing the following: the claimant's review request, the DE's review findings and recommendation, as well as all information relevant to the claimant's application. The ROW Program Office will coordinate a meeting between the Committee and the applicant. If the applicant is not available to attend in person, a conference call may be scheduled in lieu of attendance at the meeting.

Section 3 — Relocation Assistance Review Committee

Procedure

Upon receipt of all documentation supporting an applicant's review request, a meeting will be scheduled between the Committee and the applicant. The Committee will review all facts presented, render a prompt written determination on the request (including an explanation of the basis upon which the decision was made), and furnish the applicant a copy of its determination.

In formulating its decisions, the Committee will consider all pertinent justification and other material submitted by the applicant, and all available information needed to ensure a fair and full review. The Committee will have the right to counsel with the Executive Director on any application. The Executive Director will retain the right to make a final ruling alone, or with the Commission's counsel, if circumstances warrant.

If the full relief requested is not granted, the Committee will advise the applicant of his/her right to seek judicial review.

Chapter 24 — Payment Policies and Procedures

Contents:

[Section 1 — Payment Application](#)

[Section 2 — Claims](#)

[Section 3 — Advance Payment Processing](#)

[Section 4 — Payments in Condemnation Cases](#)

[Section 5 — To Whom Payment Made](#)

Section 1 — Payment Application

General

Eligible displacees shall use unaltered TxDOT claim forms when applying for relocation payments. Each claim shall include information and documentation as required by this chapter.

TxDOT will enforce eligibility dates, as required by this chapter, and will not accept applications for payment received past the specified time, unless a waiver request was approved in advance by ROW PD.

TxDOT will not process applications for payment until eligibility requirements are met, except as provided in Advance Payment Processing below. The ROW PD Manager, or an authorized designee, will sign each recommendation for payment.

Section 2 — Claims

Documentation

Claims for a relocation assistance payments shall include documentation supporting expenses that have been incurred as a result of the move, including but not limited to bills, certified prices, appraisals or other evidence of such expenses. A displacee shall be provided reasonable assistance necessary to complete and file any required claim for payment. A detailed list of TxDOT required documentation for each type of relocation payment can be found in Chapter 25, Section 2.

NOTE: When government employees or active military personnel are displaced from residential dwellings, notarized affidavits shall be obtained for moving expense allowances immediately before computing the relocation payment(s).

If an affidavit reveals receipt of a duplicate payment, include the payment amount in the relocation payment computation so that the payment is based on the actual cost of replacement housing and moving.

Retain the original affidavit in ROW PD's file and submit a copy with the relocation payment package to the ROW Program Office.

Time for Filing

Displacees must file claims for relocation payments, with required documentation, no later than 18 months from the applicable following date:

- ◆ For tenants, the date of displacement from the property. The 30-day notice to vacate or the actual date of the move, whichever is earlier, shall determine the date of displacement.
- ◆ For landowners, the date of displacement or the date of final payment for acquisition of the real property, **whichever is later**.

When a person is not physically displaced, but TxDOT has authorized relocation benefits due to the result of a partial acquisition, a claim must be filed within 18 months of the applicable following date:

- ◆ For tenants, all claims must be submitted to TxDOT, with required supporting documentation, on or before the expiration of the 18- month time frame. Any claims filed after this date will be ineligible for reimbursement.
- ◆ For owners, the date of written notification of relocation benefits or the date of final payment for acquisition of the real property, whichever is later.

Displacees shall adhere to the 18-month deadline in which to incur expenses and file claims unless TxDOT determines an extension is reasonable, necessary, and does not adversely affect the project schedule. This determination is not eligible for appeal.

Expeditious Payments

TxDOT shall review claims in an expeditious manner, and shall promptly notify the displacee regarding any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible upon receipt of the requested supporting documentation.

Section 3 — Advance Payment Processing

Procedure

A displacee who demonstrates that an advance relocation payment processing is justified to avoid or reduce hardship can apply for assistance in advance, by completing and submitting a modified claim form to ROW PD. The modified form will not contain all necessary information (e.g., move date, closing date). Once all information is obtained, ROW PD will submit this information to the ROW Program Office to complete documentation requirements. Application and processing procedures for all residential and non-residential displacees are as follows:

Applications for housing supplements, rent supplements, incidental expense payments, increased interest payments and moving expense payments shall be processed **after** the initiation of negotiations for the parcel, and **before** the displacee moves from the acquired dwelling.

Applications shall be forwarded to ROW PD on an individual basis and supported by a letter from the displacee indicating the **specific** need for advance payment.

Applications with the ROW PD Manager's, or its authorized designee's, written recommendation shall be forwarded to the ROW Program Office.

If displacee's application is approved, ROW PD shall hold in escrow the state warrant and assure all parties that payment will be made upon completion of eligibility requirements.

The displacee shall submit **paid** receipts for all actual cost moving claims, with the exception of previously approved negotiated self-move payments.

NOTE: Advance payment processing is not available for a late residential occupant until TxDOT has acquired the parcel.

Section 4 — Payments in Condemnation Cases

Payments in Advance of Final Judgment

For a condemned property, the supplemental housing payment shall not be made to the owner until the acquisition date and/or price of the property is known. In certain cases, the final determination cannot be made before the displacee is required to move. In such cases, a preliminary replacement housing payment may be made to a qualified displacee with the following conditions:

- ◆ Before any payment can be made to an owner-occupant, form [ROW-R-150 Contract and Assignment of Relocation Benefits](#) shall be executed. By executing this form, the displacee agrees to repay any overpayment of the supplement from the amount awarded for acquisition in the final judgment. If form ROW-R-150 does not cover all contingencies due to partial ownership, carve-outs, or nonconforming use, contact the ROW Program Office for assistance.
 - If the displacee applies for the replacement housing supplement **before** the Special Commissioners' Hearing, compute the supplement in the normal manner.
 - If the displacee applies to receive a replacement housing supplement **after** the Special Commissioners' Hearing, compute it by adjusting the subject's value in the same proportion as the Special Commissioners' Award is to the approved value. For example, if the Award increases the value of the parcel by 10 percent, the value of the dwelling and lot shall be increased by 10 percent. The value of the adjusted dwelling and lot shall be subtracted from the cost of replacement housing. If there is no change in the cost of comparable housing, as shown on the original form [ROW-R-107 Supplemental Payment Estimate, Replacement Housing](#), no revisions need to be submitted for this computation. Present the computations in the letter of transmittal at the time payment is submitted. An adjustment may be necessary to arrive at the final supplement figure on entry of final judgment. Show this adjustment at the time of request for final payment. Be aware that there can be no eligibility until after a replacement dwelling is obtained, either by purchase or rental, and occupied within one year of the final judgment.

Payments after Final Judgment

After final judgment has been rendered, adjust the approved housing supplement as in the preceding subsection. However, if the displacee was given a date to vacate and a comparable dwelling was not available on that date, at or below the replacement sale price on which the current supplement was computed, a revised supplement will be necessary.

Section 5 — To Whom Payment Made

Procedure

Relocation assistance payments shall be made directly to the eligible displaced individual(s) on residential displacements, and whenever possible, the name of the business, farm or NPO on non-residential displacements.

Moving Expenses - Direct Payment to Vendor

By written agreement between TxDOT, the displacee and the vendor, the displacee may present an unpaid moving invoice to the agency for direct payment to the vendor. All parties shall complete, date, and fully execute form [ROW-R-DPV Agreement for Direct Payment to Vendor](#). For purposes of this agreement, the **displacee** is the claimant as shown on form [ROW-R-99 Claim for Actual Moving Expenses](#). Payment shall be made to the vendor as shown in block 7 on form *ROW-R-99 Claim for Actual Moving Expenses*.

Replacement Housing Payments

Before the displacee can receive a supplement payment, ROW PD must certify that he/she has occupied DSS replacement housing. No supplemental payment shall be denied until the displacee has been notified of the possible disallowance, and ample time has been given (at least 90 days) to occupy a DSS dwelling.

Upon receipt of the displacee's written request, TxDOT may make a housing payment directly to the lessor for rent or to the seller for purchase of a DSS dwelling. When a qualified displacee submits a written request for a replacement housing payment prior to the move, the claim shall be processed in the usual manner. However, the warrant shall be held at the ROW PD office, and not delivered until he/she purchases or rents and occupies a DSS replacement dwelling.

When the displaced owner-occupant owns only a fractional interest in the acquired dwelling, refer to [Multiple Ownership of Subject Dwelling](#) for the procedure to use in preparing the payment request for a replacement housing supplement.

Computation of a rent supplement establishes only the upper limits of the supplement. If the displacee rents a DSS replacement dwelling for an amount less than that used in computing the supplement, base the payment submission on the lesser amount. The payment submission shall be documented with the amount of rent paid for the replacement dwelling.

Actual down payment, and related eligible incidental expenses, may be fully reimbursed if they total no more than the approved rent supplement.

The following are examples.

EXAMPLE: Actual down payment: \$5,000
Incidental expenses: \$250
Total Cost: \$5,250
Approved Rent Supplement: \$4,000
State Reimbursement: \$4,000

EXAMPLE: Actual down payment: \$2,000
Incidental expenses: \$300
Total Cost: \$2,300
Approved Rent Supplement: \$4,000
State Reimbursement: \$2,300

EXAMPLE: Actual down payment: \$8,000
Incidental expenses: \$200
Total Cost: 8,200
Approved Rent Supplement: \$4,000
State Reimbursement: \$4,000

The displacee may put down any amount he/she desires above the required down payment plus incidental expenses. The total payment cannot be more than the approved rental supplement. All eligible costs to the displacee must be documented on the fully executed settlement statement or with paid receipts.

When a last resort rent supplement is used for purchasing a replacement dwelling, the payment amount is governed by provisions described in [Computation of Payments](#) on last resort rental payments for 90-day tenant-occupants, less than 90-day owner-occupants, and late residential occupants.

Increased Interest Payments

Make an increased interest payment directly to the mortgagee of the replacement dwelling on receipt of written instructions from the displacee. When a displacee qualifies for an increased interest payment, and upon his/her specific request, make an advance payment into escrow before the displacee moves. However, do not deliver payment to the displacee until he/she purchases and occupies a DSS replacement dwelling.

Expense Verifications

Before processing an application for payment, verify the following, as applicable:

- ◆ On actual cost moves, review the paid receipts to ensure such costs are attributable to, and under the financial limits of eligible moving expenses. If there is any question as to the actual amount or authenticity of a paid receipt, verify the receipt with the person or firm that executed the receipt.
- ◆ On self-moves, confirm that the relocatee performed all work on which the approved payment amount was based.

Chapter 25 — Payment Submissions

Contents:

[Section 1 — Guidelines for Electronic Submissions](#)

[Section 2 — Documentation for Claims](#)

[Section 3 — Tax Identification Number \(TIN\) Setup](#)

Section 1 — Guidelines for Electronic Submissions

Electronic Approval Submissions

Relocation program materials shall be submitted for approval to the dedicated email address: Relocation_Helpdesk@txdot.gov. Upon approval, ROW PD shall upload the program materials onto OnBase under Relocation Approvals.

Standard processing time by the ROW Program Office is within 48 hours from receipt, assuming no deficiencies.

Electronic Payment Submissions

Use TxC to process payments involving right of way acquisition, relocation assistance or utility adjustments. See the [TxC Processing Payments Job Aid](#). Once submitted, the TxC Payment ID is routed to the appropriate reviewer group in the ROW Program Office for final review. ROW PD shall upload the supporting documentation for the payment onto OnBase under Relocation-Claims.

Standard processing time by the ROW Program Office is within 48 hours from receipt, assuming no deficiencies.

Section 2 — Documentation for Claims

Documentation

The required documents for Personal Property Only Moves can be found at the following link: [Personal Property Only Moves Supporting Documents](#).

The required documents for Residential Moves can be found at the following link: [Residential Moves Supporting Documents](#).

The required documents for Non-Residential Moves can be found at the following link: [Non-Residential Moves Supporting Documents](#).

A residential or non-residential displacee's request for advanced payment of a claim shall be in writing and shall describe the financial hardship requiring advance payment. The displacee's request shall be submitted with ROW PD's written recommendation for advance payment to relieve or avoid financial hardship. The recommendation shall provide assurances to all parties that the warrant will be held in escrow at ROW PD until eligibility requirements are met. Refer to the Residential Moves Supporting Documents and Non-Residential Moves Supporting Documents charts for additional required documentation.

Section 3 — Tax Identification Number (TIN) Setup

Procedure

State payees will need a Texas Identification Number (TIN). ROW PD can refer to the [OnBase TINS Portal Instructions](#) provided by TxDOT's Financial Management Division for TIN setup.

Chapter 26 — Records

Contents:

[Section 1 — Documentation Provisions](#)

Section 1 — Documentation Provisions

General

Proper management of relocation records is important, and steps must be taken to ensure that any applicable retention requirements for each record is met per the Texas State Library and Archives Commission as referenced in the below link for Transportation:

<https://www.tsl.texas.gov/sites/default/files/public/tslac/slrn/state/schedules/601.PDF>

Records present a chronological account of official events that must be made available at reasonable hours for review and audit by representatives of State and Federal agencies. Maintain records on all displacements, relocation services and payments using the available standard forms for documenting necessary information.

Handle records of relocation services and payments according to instructions in [Chapter 2 Laws, Regulations and TxDOT Policy](#). If a governmental agency other than TxDOT administers the relocation program, the same instructions apply. TxDOT will oversee record management activities of other governmental agencies.

Information maintained on the availability and prices of comparable DSS replacement housing and commercial facilities under provisions of [Material Maintained](#) in the ROW PD parcel files may be discarded after the properties have sold or rented, and the data is of no further value to any displacee. This is not applicable to information concerning comparable properties used in support of replacement housing payment computations. Handle this payment support data similar to other required project information.

Support requests to the ROW Program Office for determination of entitlement or relocation payment authorization, with an electronic copy, as required for that section.

Replacement Housing Documentation

ROW PD records shall contain a document stating that the displacee was relocated into comparable and/or DSS replacement housing, as applicable. If the displacee, by his/her own choice, does not move into comparable replacement housing, document records to show:

- ◆ that the comparable replacement housing required by these instructions was available on the market;
- ◆ that the displacee was informed of the availability of the comparable replacement housing;
- ◆ that the displacee was advised of the financial assistance available for moving into the comparable and/or DSS replacement housing;

- ◆ that the displacee chose not to use these services; and
- ◆ the basis and supporting calculations for any adjustments made in the displacee's comparable and/or DSS replacement housing or moving expense entitlement.

Displacement Records

Maintain a record of all displacees and all contacts with displacees in which relocation assistance or payments was discussed. Use form [ROW-R-96 Relocation Advisory Assistance Parcel Record](#), to document required basic information and to record the date and substance of the first personal contact with displacee. The ethnic code must be entered on form *ROW-R-96 Relocation Advisory Assistance Parcel Record*, and if refused by displacee, a brief explanation is required at the bottom of the form, which the displacee signs to certify as being correct. Handle reports of follow-up contacts with displacees in the same manner as parcel negotiation reports.

Maintain a record of persons occupying parcel remainders who are not displaced by ROW acquisitions, showing at least the date and substance of all contacts with those individuals and the date and place each is informed of:

- ◆ his/her displacement status;
- ◆ his/her right to review of TxDOT's decision regarding his/her entitlement to relocation benefits; and
- ◆ where and how an application requesting a review may be submitted.

File written personal contact reports (form *ROW-R-96 Relocation Advisory Assistance Parcel Record*) showing the date, place and substance of the meeting; who was contacted; and the name of the contacting agent. If applicable, also show the names of others attending the meeting.

Reports

TxDOT shall submit an annual statistical report to FHWA on its real property acquisition and relocation activities. The data shall include the number of acquisitions, condemnations, residential displacees, and nonresidential displacees, as well as all funds that are paid as a result of acquisition and relocation activities.

The ROW Program Office shall prepare a statistical report for the 12-month period of each fiscal year. TxC shall be updated regularly and in a timely manner by ROW PD to ensure accurate reporting to FHWA. Acquisition activities for LPA-acquired, off-system projects not entered in TxC, shall be tracked and, upon request, reported to the ROW Program Office each fiscal year.

Limited English Proficiency (LEP) encounters shall be tracked in TxC. These individuals need access to the same benefits, programs,

information and services provided to everyone else. Tracking these encounters helps TxDOT stay in compliance with Title VI of the Civil Rights Act of 1964. Refer to the TxC [Tracking LEP Encounters job aid](#).

Chapter 27 — Evictions

Contents:

[Section 1 — Provisions](#)

Section 1 — Provisions

Overview

Property Code, Section 24.005 provides for evicting persons occupying property acquired by the State but who, after being notified, refuse to vacate this property. Submit district requests for eviction proceedings to the ROW Program Office, and coordinate these requests with the Office of the Attorney General (OAG). Follow this procedure only after all other attempts to move the occupants are exhausted. Develop a factual evidence documentary file to send with the submission to the ROW Program Office requesting eviction proceedings. In this file, include copies of prior letters and correspondence (including 90-day and 30-day notices given under the relocation program) to persons occupying the property and a history of personal contacts.

Information to be Included

In the submission, also include specific information about whether the parcel was acquired by negotiated deed or by condemnation. If the parcel is being condemned, include the following information regarding the status of the proceedings:

- ◆ Was the Special Commissioners' Hearing completed?
- ◆ Has the Special Commissioners' Award been deposited?
- ◆ What is the date the Award was deposited?
- ◆ Was each person being evicted also included in the condemnation proceedings?

Specifically identify each party (person or other legal entity) to be evicted by name and service of process address (registered agent and address if a corporation or other legal entity with a registered agent) in the same manner as for condemnation proceedings.

Use caution when parties being evicted (1) occupy the property under a written lease agreement from prior fee owners and, as tenants, (2) were not joined as parties in the condemnation proceedings. Under such a lease agreement the tenant may require more days to vacate in a notice.

Attorney Fees

If attorney's fees will be requested from the party being evicted, include the following in a written demand to vacate:

“This is a formal notice and demand that you vacate the above identified and described property within ten (10) days after this notice was sent by registered or certified mail, return receipt requested. If you do not vacate the premises before the 11th day after the date you receive this notice, the State may institute a forcible-detainer action against you. If such

action is filed, Texas Property Code, Section 24.006 provides that the State of Texas may recover reasonable attorney’s fees from you.”

The demand for attorney's fees shall be sent by registered mail or certified mail, return receipt requested.

If attorney’s fees will not be requested, a shorter time period demand letter may be sent, by registered mail or certified mail, return receipt requested, as follows:

“This is a formal notice and demand that you vacate the above identified and described property within three (3) days after receipt of this notice. If you do not vacate the premises before the 4th day after the date you receive this notice, the State may institute a forcible-detainer action against you.”