



LOUISIANA DEPARTMENT OF  
TRANSPORTATION & DEVELOPMENT

**RIGHT OF WAY  
OPERATIONS  
MANUAL**



**TABLE OF CONTENTS**

**INTRODUCTION..... 1**

**RULES AND LAWS GOVERNING RIGHT OF WAY ACTIVITIES: ..... 2**

**OVERVIEW OF RIGHT OF WAY SECTION..... 3**

**ORGANIZATIONAL STRUCTURE..... 3**

**SECTION 1: APPRAISAL ..... 4**

1.1. PURPOSE .....4

1.2. OVERVIEW OF THE PURPOSE OF THE APPRAISAL AND APPRAISAL REQUIREMENTS .....6

1.3. SCOPE OF WORK.....7

1.4. CONDUCT OF APPRAISER.....8

1.5. AGREEMENT FOR APPRAISAL SERVICES .....9

1.6. CONTRACT / TASK ORDER FOR APPRAISAL SERVICES .....9

1.7. CONTRACT / TASK ORDER EXTENSIONS.....9

1.8. APPRAISAL FORMATS .....9

1.9. INTEREST BEING APPRAISED .....10

1.10. HIGHEST AND BEST USE.....10

1.11. LAND VALUATION .....11

1.12. VALUATION OF THE ENTIRE TRACT (LARGER PARCEL).....12

1.13. VALUATION OF THE REMAINDER.....13

1.14. VALUATION OF THE IMPROVEMENTS .....13

1.15. COMPLETENESS OF APPRAISAL AND APPRAISAL REPORTS.....15

1.16. ROLE OF THE COST AND OTHER SPECIALTY VALUATION CONSULTANTS .....16

1.17. THE ROLE OF THE REVIEW APPRAISER.....17

1.18. ESTABLISHMENT AND PAYMENT OF FEES.....19

1.19. TYPES OF APPRAISAL FORMATS .....20

1.20. FORM A .....21

1.21. FORM B.....23

1.22. FORM C.....24

1.23. ESTIMATE OF COMPENSATION.....25

1.24. PERSONAL PROPERTY .....25

1.25. SIGNS .....26

1.26. ITEMS EXCLUDED FROM APPRAISALS .....26

1.27. CONTROL OF ACCESS & ACCESS RIGHTS ONLY .....26

1.28. MINERAL RIGHTS .....27

1.29. TIMBER VALUE .....27

1.30. CROP VALUE.....27

1.31. LEASE INTERESTS .....27

1.32. FENCING VALUE.....28

1.33. CONSTRUCTION AND DRAINAGE SERVITUDES .....28

1.34. RAILROAD PARCEL ACQUISITION .....29

1.35. PROPERTY INSPECTION WITH THE OWNER(S).....30

1.36. OWNERS REFUSAL TO PERMIT ENTRY .....31

1.37. UPDATE OF APPRAISALS.....32

<b>SECTION 2: ACQUISITION.....</b>	<b>33</b>
2.1 GENERAL PROJECT PRE-ACQUISITION ACTIVITIES.....	33
2.1.1. REQUESTS FOR RIGHT OF WAY CONCEPTUAL STAGE RELOCATION PLAN AND RIGHT OF WAY AND RELOCATION ASSISTANCE COST ESTIMATE.....	33
2.1.2. INITIAL REQUEST FOR TITLE RESEARCH REPORT .....	33
2.1.3. TITLE RESEARCH REPORT UPDATE.....	33
2.1.4. ASSIGNMENT OF LEAD RIGHT OF WAY AGENT .....	34
2.1.5. RECEIPT OF PLAN-IN-HAND PRINTS AND NOTIFICATION OF PLAN-IN-HAND MEETING.....	34
2.1.6. RECEIPT OF TAKING LINES.....	35
2.1.7. RECEIPT OF PRELIMINARY RIGHT OF WAY MAPS.....	35
2.1.8. RECEIPT OF FINAL RIGHT OF WAY MAPS .....	36
2.1.9. CHANGE IN OWNERSHIP.....	37
2.1.10. DECEASED OWNER AND SUCCESSION .....	38
2.2 GENERAL PROJECT ACQUISITION ACTIVITIES .....	39
2.2.1. RECEIPT OF APPRAISAL REPORTS OR COST ESTIMATE DATA.....	39
2.2.2. JUST COMPENSATION OFFER LETTERS.....	40
2.2.3. NEGOTIATION TIME TABLE.....	41
2.2.4. COUNTER-OFFER AND ADMINISTRATIVE SETTLEMENT .....	41
2.2.5. ACQUISITION CHECK .....	42
2.2.6. DEED, SALE, SERVITUDE AND AGREEMENT DOCUMENTS .....	43
2.2.7. EXPROPRIATION.....	43
2.2.8. OWNERSHIP LOG OF CONTACTS .....	44
2.2.9. SPECIAL AGREEMENTS.....	44
2.2.10. DISPOSAL OF IMPROVEMENTS .....	45
2.2.11. PROJECT CERTIFICATION.....	45
2.2.12. RIGHT OF WAY MAP RECORDATION.....	45
2.2.13. FILE MANAGEMENT .....	45
2.2 UNECONOMIC REMAINDER (UR) .....	46
2.3 ADVERSELY IMPACTED (AI) IMPROVEMENT .....	48
2.4 PROCEDURES FOR A FEDERAL LAND TRANSFER OF UNITED STATES FOREST SERVICE LANDS .....	52
2.5 PERMIT PROJECTS.....	52
2.6 EARLY ACQUISITION .....	52
2.7 CONDITIONAL ROW CERTIFICATIONS .....	53
2.8 DESIGN BUILD PROJECTS .....	54
 <b>SECTION 3: IMPROVEMENT CONTROL.....</b>	 <b>56</b>
3.1 IMPROVEMENT CONTROL - GENERAL .....	56
3.2 INVENTORIES.....	56
3.3 UNDERGROUND STORAGE TANK AND CONTAMINATION POLICY .....	57
3.4 OWNER RETENTION – POLICY .....	58
3.5 LEASE POLICIES .....	58
3.5.1. TIME FRAMES FOR INITIATION AND TERMINATION OF LEASES.....	59
3.5.2. SETTING AMOUNT OF RENT .....	60
3.5.3. LEASE ACTIVITIES AFTER SIGNING .....	60
3.6 EVICTIONS .....	61
3.7 GENERAL DISPOSAL POLICIES .....	62
3.8 IMPROVEMENT OBLIGATIONS FOLLOWING ACQUISITION .....	63
3.9 DISPOSAL OF IMPROVEMENTS.....	66
3.10 ASBESTOS INSPECTION PROCEDURES.....	67

3.11 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS (FOR APPRAISAL AND ACQUISITION PURPOSES ONLY) .....69

**SECTION 4: RELOCATION AND ASSISTANCE ..... 70**

4.1 PURPOSE AND AUTHORIZATION .....70  
 4.2 DEFINITIONS .....72  
 4.3 RECORDS AND REPORTS .....82  
 4.4 CONCEPTUAL STAGE RELOCATION PLAN .....83  
 4.5 RIGHT OF WAY STAGE RELOCATION PLAN .....85  
 4.6 RELOCATION SERVICES .....87  
 4.7 GENERAL PROVISIONS .....91  
 4.8 WRITTEN NOTICES .....93  
 4.9 REPLACEMENT HOUSING ELIGIBILITY REQUIREMENTS .....98  
 4.10 COMPUTATIONS FOR REPLACEMENT HOUSING OFFER.....101  
 4.11 COMPUTATIONS FOR REPLACEMENT HOUSING PAYMENT.....115  
 4.12 INTEREST DIFFERENTIAL AND INCIDENTAL EXPENSE PAYMENTS .....119  
 4.13 MOBILE HOMES .....123  
 4.14 RETAINED REPLACEMENT DWELLING .....129  
 4.15 PURCHASE SUPPLEMENTS ON EXPROPRIATED PARCELS .....130  
 4.16 LAST RESORT HOUSING .....131  
 4.17 APPEALS PROCESS .....134  
 4.18 CLAIMS FOR REPLACEMENT HOUSING PAYMENTS.....136  
 4.19 RESIDENTIAL MOVING PAYMENTS .....140  
 4.20 BUSINESS MOVING EXPENSES .....145  
 4.21 CLAIMS FOR MOVING EXPENSES .....158

**SECTION 5: PROPERTY MANGEMENT ..... 162**

5.1 PROPERTY MANAGEMENT – POLICY .....162  
 5.2 DISPOSAL OF RESIDUALS, EXCESS RIGHT OF WAY, AND EXCESS PROPERTY .....164  
     5.2.1 PROCESSING REQUESTS FOR DISPOSAL .....164  
     5.2.2 OBTAINING A DISPOSAL DETERMINATION.....165  
     5.2.3 DETERMINATION OBTAINED – RETAIN OR DISPOSE .....166  
     5.2.4 LAWS GOVERNING HOW TO OFFER PROPERTY FOR SALE.....167  
     5.2.5 DISPOSAL BY PRIVATE SALE .....167  
     5.2.6 DISPOSAL BY PUBLIC BID .....168  
     5.2.7 ABANDONMENT - EXCESS PROPERTY .....170  
     5.2.8 DISPOSAL TO GOVERNING AUTHORITIES .....171  
 5.3 TRANSFERS, EXCHANGES, AND ABANDONMENTS.....171  
 5.4 MISCELLANEOUS .....174  
     5.4.1 LAND LEASES.....174  
     5.4.2 MINERAL LEASES.....176  
     5.4.3 DISPOSAL OF IMPROVEMENT ON UR PARCEL.....177  
     5.4.4 INSURING DOTD OFFICE BUILDINGS .....177

**SECTION 6: TITLE VI..... 178**

6.1 OVERVIEW .....178  
 6.2 TITLE VI REQUIREMENTS AND RESPONSIBILITIES.....179  
 6.3 DISCRIMINATION COMPLAINTS.....183



## **INTRODUCTION**

This manual is a compilation of the procedures used by the Louisiana Department of Transportation and Development (DOTD) Right of Way Section for right of way activities on State and Federally funded roadway projects. The procedures are in compliance with the Federal and State regulations and laws governing eminent domain.

The DOTD Right of Way Section is the oversight agency for acquisition activities in Louisiana on all right of way projects receiving State and/or Federal funds. All local public agencies (LPAs) including public works projects where DOTD has oversight of State or Federal funds. Any consultants involved in such activities must provide services in compliance with applicable laws or risk non-certification of the project by the department. Adherence to these procedures will assure that rights of way are acquired in a manner consistent with State and Federal law.

The forms and procedures contained within this manual were developed in accordance with, and under guidance provided by, statutes and regulations in effect as of the manual's publication date. Forms and procedures outlined in this manual will be revised in the event of a change in any applicable statute or regulation. Users of this manual are responsible to ensure they have the latest version of the form or procedure applicable to their needs. The DOTD shall not be responsible for any error or loss occasioned to a user who relies on an outdated form or procedure.

### **NOTICE**

**All users of this manual are hereby made aware that all Federal and State laws and regulations, whether mentioned herein or not, must be observed and followed to be in compliance with DOTD requirements.**

**RULES AND LAWS GOVERNING RIGHT OF WAY ACTIVITIES:**

**Federal laws governing DOTD's right of way activities appear in:**

**Title 23 United States Code (Highways)**

**<https://www.ecfr.gov/current/title-23/part-710>**

**Title 49 United States Code (Transportation) Part 24 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended**

**<https://www.ecfr.gov/current/title-49/part-24>**

**Louisiana Laws governing DOTD's right of way acquisition activities appear in:**

*Title 9*

*Title 19*

*Title 38*

*Title 48*

*Louisiana Civil Code*

*Louisiana Constitution Article I, Section 4*

*Louisiana Constitution Article VI, Section 21*

*Louisiana Constitution Article VII, Section 14*

*Louisiana Administrative Code Chapter 70*

*Promulgated Policies and Procedures*

Louisiana laws governing appraisal procedures are noted in the Appraisal Section of this manual. Louisiana laws governing acquisition and relocation assistance are fashioned after the Uniform Relocation and Real Property Acquisition Act of 1970 as amended, which have been promulgated unchanged except for references to the oversight agency, which under Louisiana law is the Louisiana Department of Transportation and Development.

## **OVERVIEW OF RIGHT OF WAY SECTION**

The Right of Way Section is part of the Planning Division of the Louisiana Department of Transportation and Development. It is the mission of the Right of Way Section to acquire and clear rights of way on projects being developed to construct and improve the transportation and public works infrastructure of Louisiana.

The Right of Way Section is divided into four main areas of responsibility, (1) the Administrative Unit (2) Appraisal Division (3) the Production Unit and (4) the Support Services Unit.

The Right of Way Section's activities are carried out by the headquarters office, the regional offices, and consultants. The Headquarters staff and regional right of way staff work closely together to handle the many details of right of way acquisition.

## **ORGANIZATIONAL STRUCTURE**

**The Administrative Unit** is overseen by the Right of Way Administrator, who establishes and administers the policies of the Right of Way Section and oversees the Right of Way Section's activities.

**The Appraisal Division** is overseen by a Chief Appraiser. The Appraisal Division is responsible for the appraisal function of the Department. They appraise property and review appraisals to establish fair market value. The Appraisal Division oversees the appraisal activities of local public agencies on state and federally funded projects to ensure full compliance with applicable laws and policies.

**The Production Unit** is overseen by the Right of Way Manager of Production. The Production staff is responsible for all acquisition and relocation activities. In addition, they oversee local public agencies handling acquisition activities on state and federally funded projects to ensure full compliance with applicable laws and policies.

**The Support Services Unit** is overseen by Right of Way Manager of Support Services. The Support Services staff is responsible for overseeing consultant contracts and property management activities of the section.

## **SECTION 1: APPRAISAL**

### **1.1. PURPOSE**

The purpose of this section is to provide the fee appraisers, fee Review Appraisers, and other valuation specialists with a reference for information on procedures, available materials and Department requirements for real estate appraisal reports for right of way purposes and other specialty valuation reports. The intention is to standardize procedures and ensure uniform practices.

The following section summarizes the appraisal requirements for Federal and State Projects in the State of Louisiana under Title 49, Part 24 Subpart B - Real Property Acquisition.

1. Appraisals for both federal projects, state projects and state agencies, shall comply with the Federal Uniform Act. The basic requirements under Title 49 Part 24 Subpart B – “Real Property Acquisition for Federal and Federally Assisted Programs” include:
  - a. Before the initiation of negotiations, the Agency shall appraise and establish an amount, which it believes to be just compensation for the real property required.
  - b. The owner or the owner’s designated representative shall be given the opportunity to accompany the appraiser during the appraiser’s inspection of the property.
  - c. Appraisal Requirements
    - 1) The appraisals are to be prepared in conformance with the Uniform Standards of Appraisal Practice (USPAP); Louisiana State Law and the guidelines of the Department of Transportation and Development and the Uniform Appraisal Standards For Federal Land Acquisitions (UASFLA - where applicable).
    - 2) The State Agency has a legitimate role in the appraisal process, especially in determining the “scope of work” necessary to complete the appraisal process and in “defining the appraisal problem”. CFR 24.103(a)(1). Note the State Agency may have appraisal requirements that supplement this Section.
    - 3) The appraisals must comply with the following minimum requirements.
      - a) Adequate description of the physical characteristics of the real property including any personal property (and in the case of partial acquisitions, an adequate description of the remaining property).
      - b) Title data, location data, zoning (if zoned, a map shall be provided), present use, analysis of the highest and best use, and a 5-year sales history of the property. If the real property is improved, a discussion of the highest and best use “as though vacant” and “as improved” must be provided.

- c) Any known or observed encumbrances shall be documented and considered.
- d) The appraiser must consider the three traditional approaches to value (Cost, Sales Comparison, and Income Capitalization) with application of any relevant and reliable approaches to value. Any omission of one of the traditional appraisal approaches shall be justified and is the exception to the requirements. The appraiser must include an analysis of the approaches developed with a correlation to value that is sufficient to support the conclusion to value.
- e) The description of each comparable sale shall include all relevant physical, legal and economic factors, including Location (identifying parish), parties to the transaction, the type and method of financing, verification with a party involved in the transaction and the date of verification. The personal analysis portion of the sales form shall be the appraiser's independent determination. A photograph of each comparable sale is required along with the date the photograph was taken, who took the photograph and the date the comparable sale was inspected by the appraiser. Google photographs may be used as an **additional** visual depiction.
- f) The appraisal shall include a statement of the appraised value of the property to be acquired and for a partial acquisition, the value of any damages or benefits, if any, to the remaining real property, where appropriate along with any additional compensation that may accrue based on the acquisition.
- g) The appraisal shall state the effective date of the valuation, date of the appraisal report, signature and certification of the appraiser.
- h) In the before valuation, the appraiser shall include a statement that no consideration was given to any increase or decrease in determining the fair market value of the real property caused by the project for which the property is being acquired or that would be acquired for the project. This shall be disclosed as a DOTD Assignment Condition in the appraisal.

A licensed appraiser shall prepare real estate appraisals which meet the above requirements and are complete and well documented.

2. Appraisal reviews must comply with the Federal Uniform Act (49 CFR 24.104). The Review Appraiser shall examine the presentation and analysis of market information in all appraisals to ensure that they meet the guidelines of the State of Louisiana, the Federal Highway Administration, and the Louisiana Department of Transportation and Development. The complexity of the Appraisal Problem will determine the level of the Review Analysis. The Review Appraiser shall obtain any corrections or revisions prior to acceptance of the appraisal as recommended for the basis of compensation. The Review Appraiser shall identify each appraisal report as "Recommended" (as the basis for the amount believed to be just compensation), "Accepted" (meets all requirements, but not selected as recommended or approved), or "Not Accepted". The Review Appraiser shall also approve the appraisal as the

basis for the establishment of the amount believed to be just compensation and prepare a report reflecting the amount believed to be just compensation.

If the Review Appraiser is unable to recommend or approve an appraisal as an adequate basis for the establishment of the offer of just compensation, the reviewer shall prepare a separate written appraisal report that identifies the appraisal reports reviewed and outlines the Review Appraiser's findings, support and conclusions to the value of the property being acquired and any damages or benefits to the remainder property. The appraiser shall prepare a certification that states the parameters of the review. The certification shall state the approved value which is believed to be just compensation for acquisition.

The Review Appraiser will reflect the dates that the subject property and comparable sales included in the appraisal report(s) were personally inspected. If the appraisal report(s) require updating due to time or changes in the right of way maps or construction plans, the Review Appraiser will be required to re-inspect the subject property and provide an updated appraisal review report. The appraisal review report shall reflect the original date of value for the appraiser(s) along with the original report date for the appraiser(s) under the comment section.

## **1.2. OVERVIEW OF THE PURPOSE OF THE APPRAISAL AND APPRAISAL REQUIREMENTS**

1. The laws of Louisiana provide that compensation must be paid for the value of real property or property rights acquired.

The appraiser shall perform an analysis of the market demand giving consideration to the property's highest and best use. When a property is comprised of more than a single highest and best use, the appraiser must determine the highest and best use for each larger parcel being appraised and support each portion separately.

2. All market data, comparable sales, forms, etc., are required items in DOTD appraisal reports. Any information or specialty valuation report that is proprietary in nature shall not be included in the appraisal report. An explanation for their exclusion is required in the scope of services. The appraisal must meet Uniform Standards of Professional Appraisal Practice (USPAP), State and Federal Laws, DOTD policies and procedures and the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA – where applicable).
3. All recognized appraisal procedures and approaches to value: the cost approach, the sales comparison approach, and the income capitalization approach, which apply to the property under appraisal, must be considered by the appraiser and utilized if found to be applicable. Analysis and reconciliation of approaches to value used must be sufficient to support the appraiser's opinion of value. Omission of an approach must be explained and is the exception to the requirements.

### 1.3. SCOPE OF WORK

1. When acquiring real property or property rights, DOTD has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.
2. The scope of work and development of the appraisal under these requirements depends on the complexity of the appraisal problem. Specialty Valuation Reports may be required to complete the appraisal report. Immediately contact the Review Appraiser, if during the appraisal process the appraiser determines the scope of work for an appraisal report requires revision.
3. DOTD has the responsibility to ensure that the appraisals it obtains are in compliance with the definitions of “appraisal” in 49 CFR 24.2(a) “APPRAISAL” and uses federal and federally assisted appraisal practice relevant to its’ program needs.
4. Appraisals must also meet the following requirements:
  - a. Provide an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including:
    - 1) Items identified as personal property
    - 2) A statement of the known and observed encumbrances, if any
    - 3) Title information
    - 4) Intended Use
    - 5) Intended User
    - 6) Location
    - 7) Zoning
    - 8) Present use
    - 9) At least a five-year sales history of the property
    - 10) Analysis of highest and best use (vacant and improved, if applicable). If more than one (1) larger parcel is affected by the acquisition, analysis of each larger parcel is required
  - b. Analysis of comparable sales with justification of adjustments
  - c. An analysis and reconciliation of approaches to value used must be sufficient to support the appraiser’s opinion of value
  - d. A description of comparable sales, including description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction
  - e. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the property being acquired, damages and/or benefits, if any, to

- the remaining real property along with any additional compensation that may accrue based on the acquisition
- f. The effective date of valuation is the last date of inspection unless otherwise instructed by the Review Appraiser
  - g. Date of inspection shall include all dates the subject property was inspected
  - h. Date of the report – when corrections are required, the report date shall reflect the date of the corrections
  - i. Signature
  - j. Certification of the appraiser
5. The scope of work statement shall include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its applicable definition and the source of the definition), and the assumptions and limiting conditions affecting the appraisal. It shall reflect the needs of DOTD and the requirements of federal and federally assisted programs. It is based on the parcel list included in the contract/task order. If a revision is required to the parcel list based on the site inspection and/or additional information furnished to the appraiser(s), immediately notify the Review Appraiser. The scope of work shall consider the specific requirements in 49 CFR 24.103(a) “Appraisal Requirements and address them as appropriate. The appraisal report shall identify the items considered in the appraisal to be real property as well as those identified as personal property. 49 CFR 23.103(a) (2)(i).
  6. If the property was previously appraised by the appraiser, it must be disclosed stating the date of value and the report date of the previous appraisal report.
  7. The fees for appraisal services must be disclosed in the appraisal report.

#### 1.4. CONDUCT OF APPRAISER

1. Each fee appraiser is a representative of the Louisiana Department of Transportation and Development. It is important that the appraiser be courteous and considerate in dealing with the property owners or their representatives. This is particularly important since the appraiser may be the first DOTD representative to make contact with the property owners.
2. The appraiser shall include documentation to indicate the date and extent of contact with the property owners (Property Inspection Report). Should the appraiser fail to contact the owners, document the efforts to locate the owners. It is recommended that initial contact be made by certified letter as a method of documentation. **\*\*Must contact all owners with an interest in the property. If a property sold at tax sale and the prescriptive period has not expired, both the tax owner and land owner shall be contacted. The appraiser shall not express to the owner,**

**owner’s representatives or any occupants an opinion relating to the value that might be established for this or any other properties upon the project.**

### **1.5. AGREEMENT FOR APPRAISAL SERVICES**

The agreement sets out the parameters within which the Department and the appraiser will cooperate as well as setting forth the details and requirements that shall be met within the appraisal report. The appraiser shall be very familiar with all of the requirements contained within this agreement.

### **1.6. CONTRACT / TASK ORDER FOR APPRAISAL SERVICES**

1. The contract / task order for Appraisal Services is the form utilized by DOTD in obtaining the services of fee appraisers on a given project. The task order sets forth the requirements for each appraisal report requested and sets a completion date by which the assignment must be submitted. It is noted that parcels involving relocation shall be completed first when practical and appropriate. The contract / task order binds DOTD and the fee appraiser until such time as the assignment is complete or the contract / task order has been terminated. However, work on a contract / task order shall not begin until a “Notice to Proceed” is received instructing the appraiser to begin. When a company has more than one (1) approved appraiser, the query shall list the name of the appraiser who will complete the assignment along with their qualifications.
2. The appraiser shall examine the agreement in detail and shall be particularly aware of the time element set up within the contract / task order. DOTD operates its construction program through a schedule of contract lettings and the appraiser’s failure to meet the time requirement of the contract / task order can have a damaging effect upon the overall completion of a project. Timeliness is a factor in the evaluation process for contracts / task orders.

### **1.7. CONTRACT / TASK ORDER EXTENSIONS**

It is the policy of DOTD that contract / task order completion dates shall not be extended past the original due date. However, it is sometimes necessary to extend a contract / task order. To receive an extension, a justifiable cause must be documented by DOTD’s Appraisal Division with adequate lead time to process the request through the appropriate channels prior to the contract / task order completion date. An email should be sent to DOTD’s Task Manager (Review Appraiser) requesting a time extension along with the justification for the request. In the event a completion date is not met, and an extension has not been granted, the contract / task order may be rescinded, and payment will not be made for the outstanding appraisals. At the discretion of the Appraisal Division, it may become necessary to contract another Fee Appraiser to complete the project assignment.

### **1.8. APPRAISAL FORMATS**

1. Appraisals are to be reported, in most cases, on Forms A, B or C. Please refer to the outlines of required content in Section 1.20, Section 1.21 and Section 1.22.

2. All formats will include, but are not limited to, the applicable pages listed within the individual formats; a Certificate of the Appraiser, detailed sales forms and maps, improvements, floor plans and/or plot plans, flood maps, zoning maps, provided right-of-way maps (title sheet, parcel sheet and residual sheet; the full right of way map sheets shall be used so that the date of map, captioned box, etc. are reflected), relevant construction plan sheet(s), statement of limiting conditions, any references made in the report, a copy of the owner's notification letter (signed letter if returned), property inspection report with documentation including information provided by the owner, any other items deemed necessary and relevant by the Review Appraiser.
3. When an appraisal review report is executed, the Review Appraiser is to utilize the sample format furnished by the Appraisal Division. The first two pages of the appraisal review must follow the required DOTD sample format furnished.
4. Compensation Estimates maybe used when the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$15,000 or less based on a review of available data. The Appraisal Division staff will determine if compensation estimates will be used on a project.

### **1.9. INTEREST BEING APPRAISED**

The interest being appraised is full ownership, less mineral rights. Each appraisal report will show an estimated value of the total interest held. No breakdown of individual interests, other than lease fee/leasehold interests, held in the ownership shall be made except as specifically instructed by DOTD's Task Manager (Review Appraiser). However, servitudes and/or similar encumbrances on properties being appraised must be investigated and addressed within the appraisal report.

### **1.10. HIGHEST AND BEST USE**

1. The reasonable probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria that the highest and best use must meet are: Legally Permissible; Physically Possible; Financially Feasible and Maximum Productivity.
2. In an assignment, it is required that the appraiser fully analyze the highest and best use of a parcel as to being 1) Legally Permissible, 2) Physically Possible, 3) Financially Feasible and 4) Maximally Productive and include that analysis within the appraisal report as a detailed and concise narrative. There are locations where the highest and best use is obvious and at others evaluation for the highest and best use renders limited possibilities. In these cases, a detailed analysis may not be warranted, and a less detailed written analysis is acceptable. The level of detail mandated is based on the appraisal format.

3. In cases where it is necessary to estimate the highest and best use of an improved parcel, the focus is on the existing use as well as all potential alternate uses. To correctly accomplish the goal, the appraiser must analyze the highest and best use as improved and as though vacant.
4. When the highest and best use is found to be different from the existing use, any existing improvements may or may not contribute value over and above the land value. The appraiser is essentially concluding that the present improvements no longer provide an acceptable return on the investment for that purpose. This typically occurs when the value of land in an area, due to changing conditions, increases to such a degree that it approaches or exceeds the value as improved. In cases such as this, a detailed analysis and discussion of the contributory value (if any) of the misplaced improvement(s), is required utilizing accepted appraisal techniques.
5. The appraiser must substantiate the existence of demand for the proposed use; that the physical features of the property would accommodate that use; that the use is compatible with zoning requirements or a reasonable probability exists for re-zoning and there are no restrictions that would preclude that use.
6. Within the highest and best use evaluation the “Consistent Use Theory” shall be applied. A property in transition to another use cannot be valued on the basis of one use for the land and another for the improvements. This may introduce the possibility of an interim use. Sometimes an existing improvement is not the proper improvement to maximize the value of the whole property. The interim use of the improvement may be utilized until such time as the land can be put to its highest and best use. The improvement may be valued by ascertaining the amount of temporary income derived during the interim period or a value based upon the use of the interim improvement for another highest and best use until a proper improvement can be justified.
7. A detailed explanation of the use determination is required when the subject property has limited utility.

#### **1.11. LAND VALUATION**

1. In determining land values, a careful and thorough investigation of sales of nearby comparable lands is required. The appraisal report is to include a thorough analysis of comparable sales or other accepted valuation methods. It shall contain sufficient information to show that the values of the appraised land are adequate, reasonable, and well supported. Adjustments shall be fully supported and soundly reasoned based upon facts gathered within the local real estate market of the project assignment. In the case of a special purpose property or a limited local market, the appraiser may search for comparable data and utilize any data outside of the actual market area of the subject property. These requirements are applicable to an after value appraisal as well.
2. When an appraiser is assigned to a project, they shall compile and submit all sales data to DOTD’s Appraisal Division. This is referred to as the Sales Binder. The appraiser will provide

the sales data to the Review Appraiser before submission of the appraisal reports. The finalized Sales Binder will be submitted to the Review Appraiser prior to the completion of the project.

3. DOTD's Appraisal Division may furnish market data forms to the appraiser upon request. These forms are to be used in all cases to report the market data information developed by the appraiser. The appraiser may develop their own forms but must include the information required within the DOTD form. Improved Sales forms shall contain a breakdown of the land value, the value of the major and minor improvements; as well as the actual age and effective age of the major improvements, if applicable.
4. Factual information such as vendor, vendee, consideration, recordation, date of sale and legal description may be obtained from another appraiser who has made a personal verification with a party to the transaction. The sales information received from another appraiser should not include any personal analysis of the sales, i.e., breakdown of land and improvements (major and minor), analysis of a time factor or any other adjustment. The appraiser of record, through verification or their own judgment, must determine those items. This verification must be made with a party to the sale, (i.e., seller, buyer, the closing agency, the broker handling the transaction) and verification of the recordation. (49 CFR 14.103(a)(2)(iii)). The verification date and the party verifying the sales shall be noted on each sales data form.
5. If the appraiser suspects that a site may be contaminated, immediately notify the Review Appraiser.

#### **1.12. VALUATION OF THE ENTIRE TRACT (LARGER PARCEL)**

1. The value determined for an entire tract (larger parcel) is to be the value before the acquisition of the required right-of-way absent of any influence of the proposed project construction. The estimate of fair market value shall be as of the date of the appraisal study unless the appraiser is instructed otherwise by the Review Appraiser or within the Contract / Task Order for Appraisal Services. There may be instances where the entire tract/whole property is comprised of more than one (1) larger parcel.
2. Any increase or decrease in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, is to be disregarded in determining the compensation for the required property.
3. Under most circumstances, the estimate of fair market value is to include the entire tract (larger parcel), based upon the highest and best use(s), and is to include all items of real property unless instructed otherwise within the Contract / Task Order for Appraisal Services. The appraiser may include only a portion of the whole property if, in the highest and best use determination, it's concluded that the portion of the ownership affected by the acquisition is a separate larger parcel or "Economic Use Tract". The determination must be supported and clearly understandable; and the Review Appraiser must concur with the determination.

### 1.13. VALUATION OF THE REMAINDER

1. The estimate of fair market value attributed to the remainder is a separate and singular appraisal problem. The appraiser is required to perform a detailed appraisal of the remainder.
2. Reference may be made to factual data contained within the “before” appraisal as it pertains to the after appraisal. However, the appraiser is required to separately analyze the data used and to form conclusions for the “after” appraisal that are independent of the “before” appraisal analysis.
3. The measure of damages:

***Louisiana Revised Statute - Title 48: 453 states:***

*“The measure of damages, if any, to the defendant’s remaining property is determined on a basis of immediately before and immediately after the taking, taking into consideration the effects of the completion of the project in the manner proposed or planned.”*

4. The appraiser must consider all three traditional approaches to value and use all applicable approaches to value. If and when an approach is not considered applicable, justification must be provided. (See paragraph 5 under Scope of Work).
5. The remainder value is not simply a value representing the difference between the value of the entire tract or larger parcel/Economic Use Tract less the value of the required right-of-way. It is a well-supported and carefully analyzed value estimate.

### 1.14. VALUATION OF THE IMPROVEMENTS

1. When buildings or other improvements are located partially or wholly within the proposed right-of-way and are not encroachments, the appraisal is to be made on the basis that DOTD will purchase the improvements. In only a few rare situations will an appraisal be made on the basis of purchasing a portion of a major improvement or the cost to relocate a major improvement on-site. In such situations, the appraisal report is to fully explain the justification for not buying the entire building. The Review Appraiser will specify whether an improvement will be purchased, or a cost-to-cure will be utilized.
2. In the case of a severed building that is not specified as a whole acquisition, the appraiser shall include within the report the cost to restore the remaining improvement to its former utility and usefulness. A cost-to-cure does not necessarily alleviate other damages to an improvement or a remainder. Other damages may include: proximity damages, loss of utility or a change in access.
3. Encroachments will not be considered in the appraisal valuation process but shall be noted.
4. In some instances, an improvement is located substantially outside of the right-of-way with only a minor portion projecting into the required area and removal of the portion within the

right-of-way would leave the major portion of the building reasonably suitable for use on the remaining site. When estimating damages under this scenario, the appraiser will be required to consider the more feasible of the three following possibilities:

- a. Purchase the improvements within the required area with possible damages to the remainder; or
  - b. Cut and reface the improvements with possible damages to the remainder of the improvements due to its close proximity relative to the new right-of-way. Requires a temporary construction servitude; or
  - c. Move the improvements to a more advantageous location on the remaining site. In this case, the damage estimate would be based on the cost of moving the improvements and restoring them to a new location. These costs shall not exceed the cost of acquiring the improvements or the damages which would occur due to re-facing a portion of the improvement(s) located within the required right-of-way.
5. The appraiser is to fully analyze each scenario and follow the path that is the most cost-effective in order to restore the owner to a position equal to that “before” the acquisition. A “cut and re-face” or “move back” cure shall rarely be used. These types of cures will be used in only very specialized cases where better accepted methods could not be utilized.
  6. There may be within the proposed acquisition items that would be classified as part of real estate. These items may include machinery, fixtures, pumps, underground tanks, and water or air lines, pump islands, etc. These items may be the property of a lessor or a lessee. If the appraiser’s assignment is to include these types of items, the items shall be valued based upon their contributory value to the whole property. If these items are determined to be a liability, then the value estimate shall reflect that determination as well. The determination as to which items will be included within the report will be made by the Review Appraiser with input from the appraiser. The appraiser is to indicate the ownership of the improvements in question.
  7. DOTD expects that an appraiser employed by the department will be qualified to estimate the cost of improvements generally encountered such as residences and appurtenant improvements. The issuance of a contract by DOTD is sufficient evidence of the department’s approval of the appraiser’s expertise in such circumstances. When high value improvements are to be acquired or affected, DOTD may obtain and furnish to the appraiser reproduction and/or replacement costs and/or cost-to-cure estimates by special agreement with a building contractor, professional engineer, registered surveyor, cost estimator or other specialist. In such cases, the use of specialty valuation consultants will be provided for in a separate employment agreement in which the consultant is identified and provisions made for the consultant to be available for testimony in the event of condemnation proceedings. All required materials shall be furnished to the appraiser for use within the appraisal report. It is important that the appraiser analyze the specialty valuation report and understand that incorporation within the appraisal report means the appraiser is taking responsibility for the contents and conclusions of the

specialty valuation report. If questions and/or concerns are found with the specialty valuation report once received from the Task Manager (Review Appraiser), these concerns shall be conveyed to the Review Appraiser. The Review Appraiser will contact the valuation specialist and request revisions if necessary. If the findings of the consultant are still not acceptable to the appraiser, the appraiser will include their own supported estimate and the justification for not using the provided cost items.

8. Unless specifically provided for in the Contract / Task Order for Appraisal Services, DOTD will not pay additional amounts above the fee per parcel established for services to compensate for quotes or services of contractors or other specialists obtained by the appraiser. The fee of the appraiser is to compensate for providing a complete appraisal satisfactory to the purpose of DOTD. The appraisal report shall comply with the Agreement for Appraisal Services and the Contract / Task Order for Appraisal Services as stated. Any findings of a consultant employed to aid in completion of an appraisal must be included and clearly identified within the appraisal report if accepted by the appraiser. The appraiser shall include their own supported estimate and the justification for providing items that are not used.
9. A partial acquisition may result in damages to a remainder property. The damages may be reduced or eliminated by construction of access roads, relocation of driveways or some other design modification. When the appraiser feels justified in requesting a study to determine the feasibility of such modifications, a request shall be made to the Review Appraiser for such modification. When merited, DOTD will provide the appraiser with the engineering and construction costs to be weighed against damage items that may be mitigated. This procedure is intended to ensure a realistic estimate of damages based upon cost-to-cure estimates which may or may not be practical from an engineering standpoint.
10. The specialty valuation reports shall reflect the date the subject property was inspected, if applicable and include a copy of the property owner notification letter and the property inspection report. The appraiser shall include the specialty valuation consultant's property owner notification letter and property owner inspection report in the appraisal report.

#### **1.15. COMPLETENESS OF APPRAISAL AND APPRAISAL REPORTS**

1. The property visit and market data investigation is to be thorough, and the appraisal report is to furnish adequate and reasonable information that fully explains and justifies determinations contained within the appraisal report.
2. The appraiser must complete all applicable appraisal criteria in accordance with DOTD requirements and USPAP as set forth in the Agreement for Appraisal Services and UASFLA (where applicable). Any departure shall require full justification.
3. The fee appraisal work required by DOTD involves properties required for projects in which Federal or State funds are utilized. Therefore, all reports must meet FHWA requirements for each project assigned.

**1.16. ROLE OF THE COST AND OTHER SPECIALTY VALUATION CONSULTANTS**

1. The Appraisal Division contracts the services of individuals other than the appraisal experts. The cost consultant may be asked to provide such items as reproduction and replacement costs, cost-to-cure items damaged by the required acquisition or costs for comparison purposes which would not be included within an appraisal report. The consultants are there to provide a service to the appraiser(s) and DOTD and shall provide reports as requested. The cost consultants and other specialty valuation consultants are responsible to the Review Appraiser as well as the appraiser(s) of record.
2. The cost consultants and other specialty valuation consultants are to work hand in hand with the appraiser(s) and Review Appraiser. Although they are the most qualified to judge construction and other valuation costs, the appraiser(s) is (are) the person responsible for all values used within the appraisal report.
3. The cost consultants and other specialty valuation consultants are required to contact all property owners (via letter) and allow them the opportunity to accompany the consultant during the property inspection. In the case of the cost consultant, it is absolutely necessary to inspect all improvements due to the nature of the assignment. Only in very rare situations would it be possible to complete a consultant assignment without, at least, a rudimentary inspection of improvements. This would only be acceptable when an owner refuses entrance upon the subject site or within the subject improvements.
4. The cost consultant is responsible for the estimated reproduction and replacement costs. The responsibility for the use of a cost estimate, whether replacement cost, reproduction cost, cost-to-cure or other cost assignment belongs to the appraiser(s). Therefore, the appraiser(s) and the cost consultant must work together to arrive at a cure that meets the appraisal assignment scope.
5. The specialty valuation consultant and the appraiser(s) must agree on the factual data such as the size of the improvement, location upon the site, minor improvements, etc. When a cost-to-cure is required, the cost consultant must provide a method of cure that is agreeable to both the appraiser(s) and Review Appraiser with input from the owner in order for the assignment to be considered as acceptable and payment made. The cost consultant and the appraiser(s) shall inspect the subject property together, if possible, and at the least confer and compare factual data and proposed cures prior to submission of the contracted cost estimate report for review. The reports provided shall contain a breakdown of the components required in a reproduction, replacement or cost-to-cure estimate and will quote a source of justification for said costs. When the costs provided by the specialty valuation consultants are utilized by the appraiser, it becomes part of the appraisal, and it is required that the specialty valuation consultant's report be included within the appraisal report.
6. The cost consultant report must include: 1) discussion of scope of work and explanation of any proposed curative measures 2) description of the improvements 3) itemized breakdown of the components required for the reproduction and/or replacement cost new and cost-to-cure

estimate(s) 4) the quantity per component and unit cost per component 5) documentation/source for the cost figures 6) sketch depicting before acquisition, after acquisition and proposed cure(s) – if applicable 7) interior and exterior photographs of major improvements 8) all improvements located within the required area and/or impacted by the acquisition shall be included in the photographs 9) if the subject property is inspected on multiple occasions, photographs of the most recent inspection must be included along with some photographs from the prior inspection). If an update to a cost report or revisions are required due to a map or plan change a new inspection and photographs are required. 10) Any other items as deemed necessary by the Review Appraiser.

7. The appraiser is ultimately responsible for the costs quoted within the appraisal report. The Review Appraiser shall have made a determination prior to receipt of said reports by the appraiser(s) that the specialty valuation reports meet minimum standards. If the appraiser(s) find the specialty valuation reports to be unacceptable, the Review Appraiser will then contact the consultant(s) and discuss the situation and the appraiser(s) concerns. Shall it be found that revisions are warranted, the specialty valuation consultant(s) will be responsible for the revisions. Payment for services rendered may be withheld until such time as acceptable revisions or corrections are submitted.
8. Cost and other specialty valuation consultants are representatives of the Louisiana Department of Transportation and Development. It is important that they be courteous and considerate in dealing with the property owners and their representatives.

#### **1.17. THE ROLE OF THE REVIEW APPRAISER**

1. The Review Appraiser, whether staff or fee consultant, has an important function and duty to DOTD and is an essential element in the overall valuation procedure. The duties involved in the acceptable performance of the job include but are not limited to the following:
  - a. Outlines the scope of work for all fee consultants and/or staff utilized in the appraisal process. This includes appraisers, cost consultants, foresters, hydrologists, geologists, accountants, etc.;
  - b. Drafts contracts / tasking orders for all consultants based upon the determination of the scope of work;
  - c. Supervises the appraiser(s) and all other fee consultants employed for the duration of the appraisal process;
  - d. Ensures that all reports utilized meet all applicable standards, policies, laws and regulations at both the State and Federal levels;
  - e. Verifies all data used in the appraisal reports with the appraiser(s) providing the reports. This is to include inspecting subject properties and comparable sales;

- f. Substantiates that all factual data submitted by the appraiser(s) is consistent. If not, the Review Appraiser is to determine the correct data and have the discrepancies revised;
  - g. Ensures that all appraisal reports and/or specialty valuation reports required for the appraisal process are approved only when it is determined the reports meet all laws, regulations, policies, procedures, etc. The Review Appraiser shall have all discrepancies or problems rectified prior to approving appraisal reports for negotiations. Reports that do not meet the qualifications shall not be approved and payment will not be forthcoming;
  - h. The Review Appraiser ensures that value determinations are consistent based upon the criteria set forth to determine the fair market value of the properties being appraised;
  - i. Maintains documentation of the review process within the Review Appraiser's file;
  - j. The Review Appraiser recommends the compensation due the property owner based upon the conforming reports provided. In the event the Department utilizes a contract Review Appraiser, it will be understood that the Department shall approve the Estimate of Compensation;
  - k. Also, Staff Review Appraisers are responsible for the inspection and approval of the review assignments contracted to the fee Review Appraisers. This duty involves but is not limited to ensuring the review is conducted in the manner enumerated above.
2. The Review Appraiser shall examine the presentation and analysis of market information in all appraisals to ensure that they meet the definition of appraisal 49 CFR 24.2(a) "APPRAISAL", appraisal requirements found in 49 CFR 24.103(a) and other applicable requirements and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the Review Appraiser shall, prior to the acceptance of an appraisal report, seek the necessary corrections or revisions. The Review Appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. DOTD's Review Appraiser shall also approve the appraisal as the basis for the establishment of the amount believed to be just compensation, and develop and report the amount determined to be just compensation.
  3. If the Review Appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of compensation, and it is determined by the acquiring DOTD that it is not practical to obtain an additional appraisal, the Review Appraiser may, as part of the review, present and analyze market information in conformance with 24.103 to support a recommended (or approved) value.
  4. The Review Appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the Review Appraiser's report. If additional compensation is determined by the appraiser, a

detailed itemization and explanation shall be provided in the appraisal review report. The Review Appraiser shall prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the Review Appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. In summary, the Review Appraiser reviews the appraisals and other specialty valuation reports, clarifies and corrects appraisal and other specialty valuation reports deficiencies, supervises the work of the appraiser(s) and other specialty valuation consultants, provides technical assistance, and recommends the amount of compensation. The Review Appraiser acts autonomously, but may confer with appraisal management on valuation matters.

5. Fee Review Appraisers are representatives of the Louisiana Department of Transportation and Development. It is important that they be courteous and considerate in dealing with the property owners, or their representatives.

#### **1.18. ESTABLISHMENT AND PAYMENT OF FEES**

1. Appraisal fees and other specialty valuation fees shall be established by DOTD based upon the Department's fee schedule for the type of appraisal assignment and the type of property being appraised. If an appraiser determines that an appraisal format or specialty valuation service scope requires revision based on additional data discovered, contact the Review Appraiser. The fee schedule will be contained within the Contract / Task Order for Appraisal Services and other Specialty Valuation Services and will delineate between the fee for individual reports and the total contracted fee established for the subject project.
2. Invoices submitted by the appraisers and other specialty valuation consultants shall be submitted electronically.
  - a. A separate invoice shall be submitted for each contract / task order.
  - b. Each shall include:
    - 1) Date Invoiced
    - 2) State Project Number
    - 3) Federal Aid Project Number (if applicable)
    - 4) Project Name
    - 5) Route Number
    - 6) Parish
    - 7) Contract / Task Order Number (where applicable)
  - c. Please note that the invoice must delineate between projects and parcels assigned to that particular project.
  - d. The invoice will include the contracted fee for each report submitted for disposition, a statement that payment has not been received for the submitted invoice and the appraiser's signature. A digital signature may be used for all forms submitted.

3. DOTD's Appraisal Division will not process any invoice submitted by an appraiser or other specialty valuation consultant for professional services rendered to DOTD unless the fee has been previously established by a written Contract / Task Order, approved by all necessary parties and a Notice to Proceed has been forwarded to the consultant. Invoices may not be dated or forwarded to DOTD prior to the authorization date established within the Notice to Proceed signed by DOTD's Right of Way Administrator.
4. In addition, invoices will be paid once the Review Appraiser approves the individual reports submitted, having found them to be satisfactory to the requirements of DOTD as stated within the Contract / Task Order for Appraisal and other Specialty Valuation Services and the Agreement for Appraisal and other Specialty Valuation Services. Any individual report found not to meet the necessary requirements as set forth shall be corrected by the appraiser or other specialty valuation consultant to the satisfaction of the Review Appraiser prior to payment of the agreed upon fee for that particular ownership. No payment will be made for reports submitted following the contracted deliverables due date. At that point, the contract is voided and a new contract must be approved and authorization received through the established channels prior to payment.

#### **1.19. TYPES OF APPRAISAL FORMATS**

1. Upon the receipt of approved right-of-way maps and construction plans, the assigned Review Appraiser will make an on-site inspection and examination of each parcel on the project. Based upon that inspection, the Review Appraiser will determine which appraisal format shall be necessary for each parcel or parcels based upon the complexity of the appraisal problem. That determination will include:
  - a. The number of appraisals
  - b. The format of appraisals
  - c. The estimated fees
  - d. The estimated appraisal contract completion date
  - e. Other specialty valuation services required: include the number and type of reports with description of service to be provided, estimated fees and contract completion date.
2. The Contract / Task Order for Appraisal Services will set out the parcel number(s), fee and the format for each appraisal to be made.
3. As a general rule, the "as of" date of appraisals shall be no more than sixty (60) days from the date that the appraisal is accepted by the assigned DOTD Review Appraiser. If corrections are required to the report such that the "as of" date is greater than sixty (60) days from date of DOTD's final approval, the assigned fee appraiser will revisit the property and provide a report that is no more than thirty (30) days old at no additional cost to DOTD.

4. Typically, appraisal reports are considered valid for one (1) year from the “as of” date. Negotiations can be conducted with appraisals that meet these criteria. Appraisal updates for reports that are less than one (1) year old must be approved by the Chief Appraiser.
5. Contents of the appraisals shall be limited to those items that are relevant to the subject property. Demographic and historical data can be included in the sales binder.
6. When submitting appraisal reports, the file name shall have the project number, appraiser’s last name, type of service (Appraisal or Appraisal Review), parcel numbers, and date (i.e.: H.000000 Smith Appraisal Parcel nos. 1-1 & 1-2 YY.MM.DD). If revisions are required to the appraisal report, then the file name must reflect the date of the revision after the parcel number(s) (I.e.: H.000000 Smith Appraisal Parcel nos. 1-1 & 1-2 YY.MM.DD)

### **1.20. FORM A**

1. The form is designed as a detailed appraisal of an ownership, including all land and improvements, using all applicable approaches. In effect, this is two separate appraisals, “before” the acquisition and “after” the acquisition, pertaining to partial acquisition only. Each segment, before and after, is to be completed in detail and separate from the other. All approaches to value are to be utilized in detail when applicable. Any feasibility study shall be included within the report. The appraiser must indicate the fee for each report within the appraisal report.
2. The following pages are required:
  - a. Before Acquisition Analysis:
    - 1) Title Page
    - 2) Table of Contents
    - 3) Letter of Transmittal
    - 4) Summary of Salient Facts and Conclusion (Include Type of Occupancy - Owner, Tenant, Vacant)
    - 5) Basis for Summary of Fair Market Value
    - 6) Title Data
    - 7) Discussion of the Appraisal Problem
    - 8) Scope of Services
    - 9) Photos of the Subject Property (Interior photographs are required when appraising the major improvements)
    - 10) City, Area and Neighborhood Data
    - 11) Site Data (If the larger parcel is not the entire ownership shall reflect both the size of the entire ownership and the larger parcel(s))
    - 12) Discussion and Statement of Highest and Best Use (Both as though Vacant and improved, if applicable)
    - 13) Comparable Land Sales and Listings Analysis
    - 14) Correlation and Indication of Land Value
    - 15) Improvements

- 16) Floor Plan (Rooms shall be labeled and walls shown)
  - 17) Cost Approach to Value
  - 18) Source and Justification of the Cost Approach
  - 19) Sales Comparison Approach to Value
  - 20) Income Capitalization Approach to Value
  - 21) Correlation of the Whole Property Value and Allocation of Value (Itemized breakdown of land and major and minor improvements)
  - 22) Required Right-of-way (Itemized breakdown of land and major and minor improvements)
- b. After Acquisition Analysis: shall contain discussion of after condition
- 1) Site Data (If the larger parcel is not the entire ownership shall reflect both the size of the entire ownership and the larger parcel(s))
  - 2) Discussion and Statement of Highest and Best Use (Both as though Vacant and improved, if applicable)
  - 3) Comparable Land Sales and Listing Analysis
  - 4) Correlation and Indication of Land Value
  - 5) Improvements
  - 6) Floor Plan (Rooms shall be labeled and walls shown)
  - 7) Cost Approach to Value
  - 8) Source and Justification of the Cost Approach
  - 9) Sales Comparison Approach to Value
  - 10) Income Capitalization Approach to Value
  - 11) Correlation of the After Value and Allocation of Value (Itemized breakdown of land and major and minor improvements)
  - 12) Additional Compensation (Itemized)
  - 13) Final Estimate of Value (Itemized)
  - 14) Certificate of the Appraiser
  - 15) Addenda
    - a) Assumptions and Limiting Conditions
    - b) Vicinity, Strip and Remainder Maps
    - c) Relevant Construction Plans
    - d) Property Inspection Report
    - e) Owner Notification Letter
    - f) FIRM Maps
    - g) Comparable Sales and Maps
    - h) Zoning Maps (if applicable)
    - i) Cost Reports and Other Specialty Valuation Reports (if referenced in the appraisal report and not proprietary)
    - j) Others at the discretion of the appraiser and/or Review Appraiser

Proprietary Data and reports shall not be included in the appraisal report. An explanation for their exclusion is required in the scope of services.

**1.21. FORM B**

1. The form is designed as a detailed appraisal of an entire ownership, including all land and improvements using all applicable approaches unless instructed to do otherwise by the Review Appraiser. This format is utilized most often to value an ownership that will be totally within the required area. The appraiser must indicate the fee for each report within the appraisal report.
2. The following pages are required:
  - 1) Title Page
  - 2) Table of Contents
  - 3) Letter of Transmittal
  - 4) Summary of Salient Facts and Conclusions(Include Type of Occupancy - Owner, Tenant, Vacant)
  - 5) Basis for Summary of Fair Market Value
  - 6) Title Data
  - 7) Discussion of the Appraisal Problem
  - 8) Scope of Services
  - 9) Photos of the Subject Property (Interior photographs are required when appraising the major improvements)
  - 10) City, Area, and Neighborhood Data
  - 11) Site Data (If the larger parcel is not the entire ownership shall reflect both the size of the entire ownership and the larger parcel(s))
  - 12) Discussion and Statement of Highest and Best Use (Both as though Vacant and improved, if applicable)
  - 13) Comparable Land Sales and Listing Analysis
  - 14) Correlation and Indication of Land Value
  - 15) Improvements
  - 16) Floor Plan (Rooms shall be labeled and walls shown)
  - 17) Cost Approach to Value
  - 18) Source and Justification of the Cost Approach
  - 19) Sales Comparison Approach to Value
  - 20) Income Capitalization Approach to Value
  - 21) Correlation of the Whole Property Value and Allocation of Value (Itemized breakdown of land and major and minor improvements)
  - 22) Required Right-of-way (Itemized breakdown of land and major and minor improvements)
  - 23) Additional Compensation (Itemized)
  - 24) Final Estimate of Value (Itemized)
  - 25) Certificate of Appraiser
  - 26) Addenda:
    - a) Assumptions and Limiting Conditions
    - b) Vicinity, Strip and Remainder Maps
    - c) Relevant Construction Plans

- d) Property Inspection Report
- e) Owner Notification Letter
- f) FIRM Maps
- g) Comparable Sales and Maps
- h) Zoning Maps (if applicable)
- i) Cost Reports and Other Specialty Valuation Reports (if referenced in the appraisal report and not proprietary)
- j) Others at the discretion of the appraiser and/or Review Appraiser

Proprietary Data and reports shall not be included in the appraisal report. An explanation for their exclusion is required in the scope of services.

### 1.22. FORM C

1. The form is designed to be used only on simple acquisitions. The form does not require detailed discussions of the items listed, but the determinations made by the appraiser must be conclusive and based upon market support. The appraiser must indicate the fee for each report within the appraisal report.
2. If during the appraisal assignment the appraiser finds that there are damages, other than a minor cost-to-cure, or benefits to the ownership by reason of the project, the appraiser is not to proceed with the Form C but is to notify the Review Appraiser. The Review Appraiser will then decide which form to utilize and will amend the appraisal contract / task order to reflect those changes by format and fee schedule. Furthermore, when utilizing this form, it will be necessary for the appraiser to include the following statement within the body of the certificate:
  - a. “No damages or loss to the remainder of the owner’s property resulted from this partial acquisition, therefore, pursuant to LA R.S. 48:453 B, no after appraisal is required.”
  - b. The following pages are required:
    - 1) Title Page
    - 2) Table of Contents
    - 3) Letter of Transmittal
    - 4) Summary of Salient Facts and Conclusions (Include Type of Occupancy - Owner, Tenant, Vacant)
    - 5) Basis for Summary of Fair Market Value
    - 6) Title Data
    - 7) Discussion of the Appraisal Problem
    - 8) Scope of Services
    - 9) Photos of the Subject Property (Include improvements in the required right of way)
    - 10) City, Area, and Neighborhood Data
    - 11) Site Data (If the larger parcel is not the entire ownership shall reflect both the size of the entire ownership and the larger parcel(s))
    - 12) Discussion and Statement of Highest and Best Use (Both as though Vacant and improved, if applicable)

- 13) Comparable Land Sales and Analysis
- 14) Correlation of Land Value
- 15) Required Right-of-way (Itemized)
- 16) Certificate of the Appraiser
- 17) Addenda:
  - a) Assumptions and Limiting Conditions
  - b) Vicinity, Strip and Remainder Maps
  - c) Relevant Construction Plans
  - d) Property Inspection Report
  - e) Owner Notification Letter
  - f) FIRM Maps
  - g) Comparable Sales and Maps
  - h) Zoning Maps (if applicable)
  - i) Cost Reports and other Specialty Valuation Reports (if referenced in the appraisal report and not proprietary)
  - j) Others at the discretion of the appraiser and/or Review Appraiser

3. All of the above-described forms are guides for submittal of acceptable reports. The appraiser may develop their own form, within reason. However, the form developed must include the information and detail required above and shall be of the same basic format. **Due to the special nature of some property types additional requirements may apply.**

Proprietary Data and reports shall not be included in the appraisal report. An explanation for their exclusion is required in the scope of services.

### 1.23. ESTIMATE OF COMPENSATION

The appraiser is to submit a Certificate of Estimate of Compensation as denoted by DOTD. The certificate will state the estimated compensation due to the owner for a particular acquisition. These certificates in pdf format shall be emailed to the Review Appraiser once the appraisal reports have been approved. The certificates will be used by DOTD's Legal Division when filing suits, when necessary. The estimate of compensation certificate signature shall be in blue ink.

### 1.24. PERSONAL PROPERTY

1. The appraisal report shall identify the items considered in the appraisal to be real property, as well as those identified as personal property. If the owner of record does not own the real property or personal property to be acquired, a notation shall be made in the appraisal report including the identification of the owner of the real estate and/or personal property.
2. **Contact relocation personnel on parcels that may involve relocation prior to site inspection.**

**1.25. SIGNS**

1. When estimating the fair market value of on-site advertising signs for businesses, whether owner occupied or not, the fair market value of the sign will be determined by the appraiser (ex.:  $RCN - DEPR. = MV$ ). Verify the signs are legally permitted. If both DOTD and the municipality require permits, verification with both is necessary.
2. Off-site advertising signs (billboards) values are determined by the appraiser based upon the fair market value (ex.:  $RCN - DEPR. = MV$ ). The Review Appraiser will then provide, with the help of a construction cost consultant, the replacement cost new of this type of sign to be included within the recommended offer as per DOTD policy. If the sign cannot be replaced; then, other means of valuation may be utilized. Verify the signs are legally permitted. If both DOTD and the municipality require permits, verification with both is necessary.
3. For Sale signs are considered personal property and will not be valued as part of the appraisal process.

**1.26. ITEMS EXCLUDED FROM APPRAISALS**

The following items shall be excluded from the appraisal report:

- a. Moving expenses for personal property unless part of a cost-to-cure
- b. Estimated costs of relocations
- c. Adjustments or repairs of such items as public utilities, service connections for water, sewer, manufactured housing, additions, etc., which will be caused by the required acquisitions unless those costs are included within the Contract / Task Orders for Appraisal Services as “cost-to-cure” items.

**1.27. CONTROL OF ACCESS & ACCESS RIGHTS ONLY**

1. Within the Contract / Task Order for Appraisal Services, the Review Appraiser will instruct the appraiser which appraisal format to use in the valuation of ownership's affected by control of access or access rights only. The appraiser, in most circumstances will analyze the effects of control of access or access rights only after the acquisition in much the same way as any “before and after” appraisal problem. A full analysis with all due documentation as to findings shall be included within the report.
2. All due diligence will be taken into consideration of the possible or probable uses of a remainder that is influenced by control of access or access rights only. The appraisers shall acquaint themselves fully with DOTD's rights and the owner's rights concerning access control and access rights only based on the legal determination as to the compensability or non-compensability for instances where DOTD exercises this control. The appraiser shall

consult with DOTD through DOTD's Review Appraiser, Chief Appraiser and/or the legal division.

### **1.28. MINERAL RIGHTS**

DOTD and the State of Louisiana do not generally acquire mineral rights. The property owner will retain the mineral rights beneath the area conveyed to the State. While the owner will be prohibited from exploring or drilling for or mining for oil, gas or other minerals of any kind within the area acquired, the owner may employ directional drilling from adjacent lands to extract such minerals, if possible. If necessary, a petroleum specialist will be hired by DOTD to determine the value of the oil/gas. In cases where solid minerals are affected, i.e., those other than oil and gas, a mineral specialist will be hired to provide values for the affected minerals. In some situations or markets, it may be typical to transfer mineral rights. In those instances, with concurrence from the Review Appraiser, the appraiser is required to analyze the value of the rights transferred through the use of market sales and make adjustments, if warranted.

### **1.29. TIMBER VALUE**

For assignments in which timber-producing lands are involved, particularly in areas where timber is grown for commercial purposes, it will generally be necessary to value the land and the timber separately. In some instances, it may become the responsibility of the appraiser to abstract the timber and land value from market sales of whole property timberland tracts. However, due to the specialized nature of timber appraisals, DOTD will secure the services of a forester to supply the value of timber on a project or a particular site. In those instances, the appraiser will provide the value of the raw land and include the value of the timber, as provided by the forester, within the report. The timber appraisal shall be included in the addenda of the appraiser's report.

### **1.30. CROP VALUE**

Prior to appraisal assignments, a determination shall be made by DOTD Right of Way stating whether there is sufficient time prior to the right-of-way acquisition to harvest all crops planted within the required area. If there is adequate time to harvest crops, the appraiser will not be required to consider the compensation for crops. For certain types of crops, the services of an agriculture valuation specialist may be required. Typically, the appraiser will not be involved in estimating the value of crops.

### **1.31. LEASE INTERESTS**

1. The appraiser is to inquire into the leases of subject properties whenever that possibility exists. That inquiry most particularly applies to improvements owned by a lessee. The appraiser shall be familiar with the terms and conditions of the lease. Any findings or conclusions shall be included within the appraisal report.
2. The appraiser is to value the whole property and is to establish the value to be assigned to each interest in that ownership. The appraiser is to value all leased fee and leasehold interests and

is to provide a breakdown of those values within the appraisal report to include the portion acquired and estimated damages, should they apply.

3. In situations where a lease is recorded, that information will be supplied to the appraiser within the provided title research report. Discovery of unrecorded leases are the responsibility of the appraiser. The appraiser shall inquire as to the existence of such leases within the required owner notification letter.

### **1.32. FENCING VALUE**

1. Whether the front fencing owned by the property owner is to be purchased or replaced, its contributory value to the land is based on the type of fencing within the required area. Front farm/ranch fencing and gates will normally be replaced or rebuilt by the project construction contractor on the owner's property in order to restore the enclosure.
2. Side (cross) fencing will be removed and will not be replaced. Compensation will be paid for side fencing. All fencing, whether front or side, is to be valued within the report and delineated by parcel and orientation.
3. For special purpose/ornament fencing, the appraiser is to determine the depreciated cost or fair market value within the compensation estimated by the appraiser. Special purpose/ornamental front fencing and gates will be compensated at cost new or replacement cost when it is feasible to replace as determined by the Review Appraiser. However, if the front fence will not be replaced by the owner or cannot be replaced due to the acquisition, the depreciated cost or fair market value is to be utilized by the Review Appraiser. This will apply to side fencing which, by its nature, cannot be replaced. If the right-of-way is acquired by expropriation, the value is deposited in the registry of the court. In either instance, the existing fence will be removed by the project construction contractor.
4. All fences constructed on controlled access highways for the purpose of controlling access will be built and maintained by DOTD. Fences built along frontage roads or cross roads on controlled access facilities for the benefit of the property owner will be built off the highway right-of-way and will be maintained by the property owner.

### **1.33. CONSTRUCTION AND DRAINAGE SERVITUDES**

1. There are two types of servitudes commonly encountered by the appraiser that must be included in the valuation process of the appraisal. They are the "construction" servitude and the "drainage" servitude.
2. The construction servitude is a temporary servitude providing access for construction purposes to areas outside the required right-of-way. The compensation for this servitude is based upon the estimated unit land value multiplied by a rate set by the appraiser. That figure is then multiplied by the area within the servitude. The rate utilized is a rate of return that is consistent with investment return rates commonly accepted within the current local market. The number

of years used to calculate the rental amount is based on the projected construction term of the project which is 4 years unless otherwise specified by the Review Appraiser. The appraiser is to apply the calculated estimate for the time frame projected for the project based upon an annual rental. The total rental shall be included within the estimate of compensation.

3. The drainage servitude is a permanent servitude acquiring a number of rights. The acquisition partially includes right of entry and subsurface rights other than mineral rights. The ownership is greatly limited by the nature of the usage and compensation will be greater than that estimated for the construction servitude. The process of calculation is identical to that of the construction servitude; however, the rate utilized will be based on the permanent loss of rights. Generally, 80 percent to 90 percent rates will be used. Ultimately, the appraiser will decide upon the value of the rights acquired and to what extent they will be permanently lost. This value will be included within the estimate of the compensation. In circumstances where a remaining area of an ownership is damaged due to a partial acquisition, the estimated damages to any permanent servitude will apply only to that portion of the bundle of rights that remain after the acquisition of the rights required for the servitude.

#### **1.34. RAILROAD PARCEL ACQUISITION**

1. DOTD will pay the appraised fair market value of interest acquired from railroad (RR) companies for any additional right-of-way required from their right-of-way property.
2. Railroad parcels will be divided into two categories. One will be designated an RR parcel at railroad crossings. Any other acquisitions from railroad properties will have a normal parcel identification of which the offer will be the estimated fair market value for interest acquired. DOTD will acquire the RR parcels as a right-of-way servitude with the railroad company retaining their rights for railroad passage at our proposed joint crossings. Designation and appraisal of the railroad acquisition at crossings as servitudes is to allow the compensation for only those rights acquired. Only those rights acquired shall be compensated for within the appraisal.
3. DOTD's Appraisal Division is responsible for establishing the value of the various types of railroad acquisitions. The appraisal of railroad properties is based on fair market value and the interest acquired from the railroad companies. The appraiser shall take into consideration the following:
  - a. Size and shape of the railroad ownership
  - b. Topography
  - c. Location
  - d. Adjoining usage
  - e. Value of the required area before construction versus value after construction
  - f. Any adverse effect that the acquisition will have on the utility of the property
4. At crossings, DOTD will obtain a bundle of rights similar to the rights which the railroad company will be retaining. In most cases, the appraisal of right-of-way crossings shall reflect

a value range of zero to a maximum of 50 percent of fair market value. However, the actual percentage of value will be estimated by the appraiser. The type of construction at crossings could have a varying effect upon the percentage utilized. The different types of construction at crossings are as follows:

- a. Grade crossings are those where railroad tracks and proposed roadways are at the same level. This type of construction could have the greatest effect upon the utility of the property.
  - b. Above grade construction or an overpass should have little effect on the utility. However, consideration shall be given to pier placement and its adverse effects, if any, on the railroad property.
  - c. Below grade construction or an underpass is the third type of possible construction at crossings.
5. All other acquisitions from railroad right-of-way in excess of crossings shall be appraised and the estimated fair market value will be offered in relation to the interest that DOTD acquires. In most cases, DOTD will appraise and offer 100 percent of fair market value. However, in the case of servitude acquisitions, DOTD will offer compensation in accordance with the interest estimated to be acquired by the appraiser.

### **1.35. PROPERTY INSPECTION WITH THE OWNER(S)**

1. A reasonable effort shall be made to contact and meet with the owners or their designated representatives in order to afford them the opportunity to accompany the appraiser on inspection of the property being appraised. The appraiser and/or other valuation specialist are not obligated to meet the owner at any place other than the property being appraised or the nearest point of public access to the property being appraised. Property owner accompaniment is to be documented (Property Inspection Report – shall document any concerns conveyed by the owner) in the appraisal report. **The appraiser is to notify DOTD’s Review Appraiser if there are any potential environmental issues.**
2. Tasks for the appraiser and other valuation specialist to perform in making contact with the owner(s):
  - a. Mail an original and a copy of the letter along with a stamped, addressed return envelope. The copy of the notification letter is for the owner(s) files. All owners listed on the provided title research report are to be afforded an opportunity to meet. A copy will be forwarded to the Review Appraiser, the Real Estate Regional Manager and included within the appraisal report. It is recommended that the letter to the owners be transmitted by certified mail. Immediately notify the Review Appraiser if a notification letter is returned by the Post Office.
  - b. Telephone contact is acceptable and noted on the Property Owner Inspection Report detailing the owner contact which includes the name of the person(s) contacted, time of meeting, date and telephone number of the person contacted and any relevant information

provided by the owner. Copies must be sent to the Review Appraiser, and included within the appraisal report.

3. The site inspection shall not be made until one of the following criteria is met:
  - a. A meeting is scheduled with the owner(s).
  - b. The owner(s) replies that they do not wish to accompany the appraiser on the site inspection and/or they wish to be contacted by the appraiser.
  - c. Ten (10) working days have passed since the date of the notification letter mailing to the owner(s), there is no reply and the letter is not returned “undeliverable”. If a letter is received after the 10 working days have passed, the appraiser is required to contact the property.
4. **Contact relocation personnel on parcels that may involve relocation prior to site inspection (specific to the appraiser and cost consultant only).**

### **1.36. OWNERS REFUSAL TO PERMIT ENTRY**

1. There may be times when a property owner refuses to permit the appraiser and/or other valuation specialist employed by DOTD to enter the property for an on-site inspection, measurement, photography or interview. There is a standard procedure to follow if this should happen.
2. The appraiser and/or other valuation specialists should stay off the property but shall make every effort to examine the property from as many vantage points as possible. The appraiser and/or other valuation specialists shall make a careful inspection of all available records including USDA maps and aerial photographs, U.S. Geodetic Survey contour maps, tax records, building inspector records, etc. As many and varied photographs shall be taken as deemed prudent.
3. As a matter of procedure, the appraiser and/or other valuation specialists will notify the Review Appraiser of the situation and clearly set forth that they were not permitted to enter upon the property (note on the Property Inspection Report) and that the report is predicated upon certain assumptions. Those assumptions will be noted in detail. Also, the sources of information used as a basis for those assumptions must be listed.
4. When the appraisal report and other specialty valuation reports are forwarded to the Appraisal Division for review, a determination will be made by the Review Appraiser whether or not to pursue legal action to obtain access to the property. The Review Appraiser will make every effort to inspect the property from any vantage point possible prior to forwarding a recommendation of action.
5. When the appraisal and other specialty valuation reports are approved and the recommended offer is furnished for processing, negotiation will be initiated on that basis. The right of way

agent conducting the negotiations will make every reasonable effort to observe the property in question for the purpose of further verification of the appraiser's assumptions. If radical variation appears to exist, the Appraisal Division will be advised before continuing the negotiations. If the recommended offer is not accepted, eminent domain proceedings will be resorted to and entry by court order will be obtained at that time.

### **1.37. UPDATE OF APPRAISALS**

1. Occasionally, it may become necessary for the appraiser to update appraisals from the original date of valuation to the current date or to a specified date of acquisition. If this should become necessary, the Appraisal Division will initiate a contract / task order specifying the required date of valuation, the fee schedule and the completion date for the assignment. All contracts to update shall be as per a specific completion date so as to give ample time for the appraisals to be reviewed by the Review Appraiser prior to negotiations.
2. All updated appraisals, where there are value changes by reason of time lapse, shall be supported by updated comparable sales data gathered within the project neighborhood. If sufficient sales data is not available within the subject neighborhood, the appraiser shall investigate similar type properties in more removed areas as support for updated values.
3. In some instances, changes are made to the right of way maps and/or construction plans that are substantive in nature and require significant changes to the appraisal report. (i.e.: change in the scope of work). In those instances, the appraiser's report must provide a detailed accounting of the changes and proper documentation.
4. Updated appraisals shall be submitted to the Appraisal Division for review and a revised Estimate of Compensation will be issued by DOTD for the purpose of negotiation and acquisition. When the appraiser is required to revise, supplement or otherwise update the appraisal report, no matter the format employed, a revised or updated "certificate of appraiser" and "estimate of compensation" shall be submitted with the revisions or updates.

When updated appraisals are required, the properties must be revisited and new photographs taken. The appraiser will contract the owner(s) to ask for permission to make an on-site inspection. The Property Inspection Report will be updated to incorporate the latest correspondence with the property owner and the latest property inspection date. Additionally, the updated appraisal report shall reflect both the original date of inspection and original photographs.

**SECTION 2: ACQUISITION****2.1 GENERAL PROJECT PRE-ACQUISITION ACTIVITIES**

The Right of Way Appraisal Division and the Right of Way Regional Offices are responsible for conducting project right of way activities prior to the initiation of negotiations. These activities include preparation of title research reports and title research report updates; preparation of the cost estimate; identifying and resolving potential right of way problems; providing the Design Section with recommendations to minimize right of way acquisition cost and problems; and setting up project information on the Department's electronic project tracking system.

**2.1.1. REQUESTS FOR RIGHT OF WAY CONCEPTUAL STAGE RELOCATION PLAN AND RIGHT OF WAY AND RELOCATION ASSISTANCE COST ESTIMATE**

- a. The Environmental Section requests a Right of Way Conceptual Stage Relocation Plan early (stage one) in the development of a federally funded project. The Relocation Assistance Officer will coordinate such a request with the assigned Review Appraiser and the assigned Right of Way Regional Supervisor.
- b. The Design Section may occasionally request a right of way and relocation assistance cost estimate on a future project. The assigned Review Appraiser will coordinate such a request with the Right of Way Manager of Production and officially respond to such a request.

**2.1.2. INITIAL REQUEST FOR TITLE RESEARCH REPORT**

- a. The Location and Survey Section will request full title research reports when they are preparing the survey title contract on a project in order to prepare preliminary maps.
- b. The Right of Way Regional Supervisor will then determine if staff will be used or a consultant. Staff/consultant shall begin work on the request as expeditiously as possible. All title research reports and title research report updates shall be prepared in strict accordance with the Right of Way Section Title Research Manual.
- c. The final product will be evaluated by the Right of Way Section. The examiner shall complete a title work check list on each report and a title work evaluation form on each consultant.

**2.1.3. TITLE RESEARCH REPORT UPDATE**

- a. Any title research report that is older than 6 months at the receipt of final right of way maps shall be updated.

- b. If there has been a change, a supplemental title research report will be prepared and sent to Location & Survey for map revisions. If the review of the Parish Conveyance Records indicates that the title to a parcel is unchanged, a title update letter will be placed in the file advising that there has been no change in the ownership.
- c. When appraisal reports are requested, the lead agent will send a link to the current title research reports. One (1) copy will be retained in the parcel file.
- d. Supplemental title research reports will be forwarded to the Location and Survey Section only if the right of way maps are to be revised.
- e. The Right of Way Regional Supervisor will track title work activities throughout the pre-acquisition process to ensure all Title Research Reports are prepared and updated in a timely manner.
- f. Any title research report containing information which indicates the possibility of contamination on the required right of way shall be referred to the Right of Way Regional Supervisor who shall initiate the procedure to have the site investigated. If contamination is found or suspected, follow the steps found in Section 3.8 of the Improvement Control Procedures.

**2.1.4. ASSIGNMENT OF LEAD RIGHT OF WAY AGENT**

- a. The Right of Way Regional Supervisor is responsible for assigning a project to a lead agent. Prior to requesting appraisal reports on a project, the lead right of way agent has certain responsibilities. At a minimum these include:
  - 1. Requesting land numbers for each parcel in LaGov
  - 2. Setting up the project on the Department’s electronic project tracking system.
- b. For continuity whenever possible the Right of Way Regional Supervisor will assign the same lead agent to complete all aspects of the right of way process. Because the time frame between the initial activities on a project to the receipt of appraisal reports may take some time this may not be possible. If it is necessary to reassign the project the Right of Way Regional Supervisor shall ensure that record keeping is up to date and the project files are maintained in proper order.

**2.1.5. RECEIPT OF PLAN-IN-HAND PRINTS AND NOTIFICATION OF PLAN-IN-HAND MEETING**

- a. The Design Section will forward the Plan-in-Hand prints to the Right of Way Section, along with notification of the Plan-in-Hand meeting. Representatives of the assigned Appraisal Division and the Right of Way Regional Office shall attend the Plan-in-Hand meeting. They will provide input on the right of way impacts of the proposed design.

**2.1.6. RECEIPT OF TAKING LINES**

- a. The Design Section will forward copies of the final taking lines (construction plans) to the Right of Way Section. The plans will be given to the Right of Way Manager of Production, who will distribute to the Chief Appraiser and Right of Way Regional Supervisor.
- b. The lead agent is responsible for interfiling any and all changes to the construction plans as they are received and maintaining plans current.

**2.1.7. RECEIPT OF PRELIMINARY RIGHT OF WAY MAPS**

The responsibility for the Joint Plan Review (JPR) meeting is delegated to the engineering project manager. The decision to hold the meeting to review the right of way maps and construction plans is also delegated to the engineering project manager.

The engineering project manager will notify the Chief Appraiser and the Right of Way Regional Supervisor of the scheduled JPR meeting and will send to each of them a set of the 60% right of way maps and a set of the preliminary construction plans.

The Chief Appraiser or their designated representative and the appropriate Right of Way Regional Supervisor or their designated representative shall attend the scheduled JPR meeting. No other Right of Way Section employee is required to attend the JPR meeting.

Once the Chief Appraiser receives the 60% right of way maps and the notice of the scheduled JPR meeting:

- The assigned Review Appraiser will initiate the right of way cost estimate process and will send the total estimated costs (including adjustments) to the Right of Way Manager of Production, engineering project manager, and Right of Way Regional Supervisor.
- The Review Appraiser will (1) have the project examined for contamination issues; (2) prepare and process the necessary contamination reports; and (3) have the inventory of all major improvements and structures developed.

The Right of Way Regional Office will determine the presence of underground storage tanks (UST's) and any other possibly hazardous materials on the project. The assigned appraiser is also responsible to make note of any possible hazardous materials or UST's, etc. on the cost estimate. If any are found or suspected, a UST/Contaminated Site Information Form will be prepared for each suspect site and sent to the DOTD Materials and Testing Section test the suspect site for contamination.

Before or during the scheduled JPR meeting, the Review Appraiser will comment to the engineering project manager. These comments will detail any discrepancy or question the Appraisal Division may have discovered in reviewing the preliminary construction plans and the 60% right of way maps.

The Chief Appraiser will also send the total estimated cost to the Project Engineer, Right of Way Manager, and Right of Way Regional Supervisor. The Right of Way Regional Supervisor will request right of way funding. To the greatest extent possible, the Appraisal Division and the Production Unit shall coordinate their efforts in a team approach to ensure that these procedures are followed and completed in a timely and efficient manner. For on-site project meetings, both offices are to be represented whenever possible. In all instances the assigned appraiser is required to perform an on-site inspection of the project prior to completion of the cost estimate.

If title work is older than 6 months, the Right of Way Regional Supervisor will request that it is updated. The lead agent shall send the required project notification letter to each owner on the project notifying each of the project and the proposed acquisition. Any subsequent changes in ownership will be handled according to Part 9 of this Section.

The Right of Way Regional Supervisor will assign one or more agents to prepare a relocation assistance cost estimate within two weeks of receipt of the preliminary right of way maps. This relocation assistance cost estimate will be prepared without formally contacting potential displaced persons.

The Right of Way Regional Supervisor will assign an agent to ride the project and inventory improvements and structures located on the project. A list of the improvements and structures will be sent to the engineering project manager and the Review Appraiser before the date of the Joint Plan Review meeting.

#### **2.1.8. RECEIPT OF FINAL RIGHT OF WAY MAPS**

- a. Upon receiving final right of way maps on a project, the lead agent will:
  1. Set up the ownerships in the Department's electronic project tracking system and prepare individual Parcel files. Parcels with suspected contamination or UST's will be indicated as such on the Department's electronic project tracking system.
  2. Verify budget is available in phase 3.
  3. Provide a link to the maps and title reports in ProjectWise, along with a request for appraisals.
  4. Request a mortgage certificate for any ownership (1) when damages to the remainder are found; (2) when there is a major improvement on the parcel; and (3) when there is a total acquisition of the ownership. Mortgage Certificates will be requested in the name of the current owner only, and will not be requested when (1) there are no damages found to the remainder; (2) when there is no major improvement on the parcel; and (3) when there is no total acquisition of the ownership.

5. Check the title research reports against the right of way maps to ensure parcel ownerships are correct.
  6. Verify that all improvements on the project have been entered into the Department's electronic project tracking system, and provide a list of all improvements to the Road Design Section.
  7. Ensure that each owner has been issued the mandatory project notification letter.
  8. Verify all parcel descriptions are correct.
- b. Upon receiving right of way maps and taking lines, the Right of Way Regional Supervisor or consultant will:
1. Have the relocation assistance cost estimate and title research reports updated as necessary;
  2. Have improvements located on the project entered into the Department's electronic project tracking System within three weeks from receipt of final maps; and
  3. Assign agents to begin occupant interviews and inventories on all displaced persons and businesses on the project.

#### **2.1.9. CHANGE IN OWNERSHIP**

A change in ownership of a required property shall be handled as follows:

- a. If the project notification letters have already been sent but appraisal reports have not been ordered, a new project notification letter will be issued to the current owner.
- b. If appraisal reports have been ordered, a new project notification letter will be sent to the current owner and the Appraisal Division will be given written notification of the change.
- c. If the appraisal report has been completed and/or negotiations have begun, the agent shall furnish the Appraisal Division with the updated title work. The Review Appraiser will determine if the change in ownership affects compensation. A new just compensation letter will be issued to the current owner, if there is no change in compensation. If the property owner has indicated to the negotiating agent that they would like to meet with the appraiser, the contact information will be forwarded to the Appraisal Division and negotiations will be discontinued. The negotiating agent shall make a note of the owner's request to meet with the appraiser in the Departments electronic project tracking system ownership log of contacts. If compensation is affected, the Review Appraiser will determine if an updated appraisal report or new appraisal report will be required. Once the appraisal report has been completed and reviewed, a new just compensation letter will be issued.

**2.1.10. DECEASED OWNER AND SUCCESSION**

In the case of the death of a property owner, the negotiating agent will visit the Parish Clerk of Court to see if a succession has been opened.

- a. If a succession has been completed with a judgment of possession rendered a title research report update will be prepared and submitted for preparation of a revised negotiation package.
- b. If a succession has been opened but is not complete, the negotiating agent will determine if an administrator has been appointed to represent the estate. If an administrator has been named negotiations will be conducted through the administrator. At this time the option of a court ordered sale should be considered.
- c. If no Succession has been opened, the negotiating agent will discuss with all heirs the benefit of having a succession opened. The Department will reimburse to owners reasonable, necessary and pre-approved costs thereof, under the following conditions:
  1. The succession will be uncomplicated;
  2. The letting date or project delivery date is more than 90 days in the future;
  3. All of the heirs agree to amicable acquisition;
  4. The heirs, not DOTD, will hire an attorney to prepare the succession and advise the negotiating agent of the costs in advance of the work being done;
  5. The Right of Way Regional Supervisor has authority to pre-approve the reasonable costs of the succession. If the amount is considered excessive, reimbursement will be limited to what is considered reasonable.
  6. Reimbursement will be paid directly to the owner(s), not to the attorney.
- d. In the absence of a succession or if it is apparent a succession will be complex or lengthy, the ownership will be acquired by expropriation.

## 2.2 GENERAL PROJECT ACQUISITION ACTIVITIES

When preliminary acquisition activities on a project are complete, acquisition activities can begin.

### PROCEDURES:

#### 2.2.1. RECEIPT OF APPRAISAL REPORTS OR COST ESTIMATE DATA

##### a. Receipt of Appraisal Reports

1. Upon receipt of the appraisal report with appraisal review report, the negotiating agent will look through the appraisal report with appraisal review report to familiarize themselves with the acquisition facts, including whether there is an uneconomic remainder, or whether the parcel is improved and involves relocation. Any appraisal report which is more than one (1) year old is considered stale dated. The just compensation offer shall be the dollar amount shown on the appraisal review report. If any adjustments or corrections are required, they must be made by the Review Appraiser. Any questions the negotiating agent has concerning the appraisal report or appraisal review report shall be directed to the Right of Way Regional Supervisor, who will resolve any question with the Review Appraiser.
2. The negotiating agent will refer any appraisal report with appraisal review report indicating the need for setting retention values to the Right of Way Regional Supervisor, who will set the retention value. Retention values shall be entered in the Department's electronic project tracking system so that the Right of Way Section can maintain a database of retention values for use in developing a consistent and uniform retention value policy.
3. Mortgage Certificates were ordered in the names of the current owners for ownerships having major improvements upon receipt of right of way maps. Upon receipt of appraisal reports with appraisal review report, the negotiating agent will proceed to order a mortgage certificate for any ownership where the appraisal report with appraisal review report indicates (1) damages to the remainder; (2) when the appraisal report with appraisal review report includes an offer to purchase the uneconomic remainder or where the acquisition involves the total acquisition of an ownership; and (3) when the appraisal report with appraisal review report indicates that there is a major improvement on the parcel which may not have been known at the time of receipt of final right of way maps.

##### b. Receipt of Cost Estimate Data for Compensation Estimates

1. The Chief Appraiser will forward cost estimate data to the Right of Way Regional Supervisor for use by the Right of Way Agent to draft compensation estimates.

2. The Right of Way Agent must complete the following task prior to an offer being made to property owner(s).
  - (a) Make an inspection of the project to verify that data contained in cost estimate is still applicable and there are no changes within the confines of the parcel(s) to be acquired.
  - (b) A photograph(s) of each parcel will be taken and maintained in the agent's work file.
  - (c) Once site inspection is complete, agent will complete the compensation estimate(s) and forward to Regional Supervisor for approval. Based on DOTD Policies and Procedures there are items noted in the cost estimate that may require conveyance at a different value consideration
  
3. The Right of Way Agent will make the offer to the property owner(s) as below with the following exceptions:
  - (a) Property owners(s) will have 10 working days to consider the offer.
  - (b) If owner(s) decline the offer based on a compensation estimate:
    - (i) Owner(s) will be notified that a counter offer can be made. Justification for a counter offer must be received within 5 working days of notifying the agent that the offer is not acceptable.
    - (ii) If an administrative settlement cannot be reached, an appraisal request will be made to the Appraisal Division.

### **2.2.2. JUST COMPENSATION OFFER LETTERS**

- a. The agent will prioritize ownerships according to complexity, and prepare just compensation offer packages for the most difficult first.
- b. The assigned negotiating agent, will make contact with each property owner, generally first by telephone. The negotiating agent shall make an in-person visit with every property owner residing within the State of Louisiana to initiate negotiations and present the Department's just compensation offer.
- c. The just compensation offer package will be given to each property owner. The negotiation package shall include the following documents:
  1. The just compensation offer letter
  2. The summary of just compensation
  3. The retention value of any improvement

4. Four (4) copies of the acquisition deed
5. One (1) full size or half size print of each right of way map sheet indicating property which they own and which the Department intends to acquire
6. One (1) full size or half size print of the construction plan sheet indicating property which they own and which the Department intends to acquire
7. One (1) copy of the Department's brochure entitled Acquisition of Right of Way and Relocation Assistance
8. The pro-forma lease agreement if the property is occupied

### **2.2.3. NEGOTIATION TIME TABLE**

- a. If the negotiating agent has not received a response from a property owner within two weeks of the initial personal contact, they shall contact the property owner to discuss the offer.
- b. Negotiations that have lasted twenty-one (21) days shall be reported to the Right of Way Regional Supervisor who will assist the negotiator in attempting to reach an amicable settlement with the owner.
- c. Any package that has been in the negotiation stage for thirty (30) days shall be turned in and recommended for expropriation unless the Right of Way Manager of Production approves an extension.

### **2.2.4. COUNTER-OFFER AND ADMINISTRATIVE SETTLEMENT**

- a. A counter-offer from a property owner, whether oral or written, shall be given consideration. An administrative settlement form will be prepared by the negotiating agent for every counter-offer.
- b. The negotiating agent has no authority to approve any counter-offer; the Right of Way Regional Supervisor has authority to approve an administrative settlement up to \$25,000 over just compensation; the Right of Way Manager of Production has authority to approve an administrative settlement up to \$50,000 over just compensation; and the Right of Way Administrator has authority to approve an administrative settlement with no upper dollar limit over just compensation.
- c. An administrative settlement is forwarded up to each level until approved or disapproved, with the Right of Way Administrator having final authority to disapprove any administrative settlement. There shall be written verifiable justification for approval of any administrative settlement and same shall be attached and made part of any administrative settlement.

**2.2.5. ACQUISITION CHECK**

- a. After acceptance of the Department's offer the property owner signs the acquisition deed in triplicate originals and completes and submits a DOTD Modified Form W-9.
- b. Before the agent orders the acquisition check, the negotiating agent will ensure that the property is free of encumbrances or that the Department has (or will be able to obtain) the necessary partial release(s). This requirement applies only to properties with (1) major improvements on the Parcel, (2) damages to remainder, and (3) when the remainder is not an economic unit and acquired by the Department.
- c. The acquisition voucher for payment of compensation and completed DOTD Modified Form W-9 will be sent to Headquarters for processing.
- d. When the acquisition check is received, it will be forwarded to the negotiating agent for hand delivery or mail delivery to the vendor. Immediately prior to the hand delivery or mail delivery of the acquisition check, the negotiating agent will update the mortgage certificate (if applicable) at the Parish Clerk of Court and update the title research report at the Parish Clerk of Court to ensure that the Department will receive clear, unencumbered full title from the Property Owner. The agent shall also check the property tax records at the Parish Sheriff's Office and verify that the Property Owner has paid all taxes due.
- e. Concurrently, the agent will mail/deliver the acquisition deed to the Parish Clerk of Court for recordation and request a Certificate of Recordation.
- f. Once all due diligence is completed per item e, the acquisition check can be hand delivered or mailed to the property owner.
- g. If mailing an acquisition check to a property owner, the ownership will be considered acquired for purposes of project clearance. However for purpose of closing the file a signed check receipt and completed check delivery report is necessary.
- h. If an acquisition check is not mailed "return receipt requested" and a check receipt is not returned by the Vendor in a reasonable period of time, the agent will check with Financial Services Section to see if the check has cleared. If it has, the file will be documented and the file closed; if not, the negotiating agent will contact the vendor to resolve any problem.

**2.2.6. DEED, SALE, SERVITUDE AND AGREEMENT DOCUMENTS**

Louisiana law and the Department require the following for all parties to a property transfer deed:

- a. The full name of each party to the deed.
- b. The marital status of each party including the full name of each party's spouse.
- c. The last four (4) digits of each party's Social Security Number (SSN) or the employer identification number (EIN) for corporations.
- d. Each party's domicile including the city, the county or parish, the State and the ZIP Code.
- e. Each party's permanent mailing address including either the street address or post office box number with ZIP Code.
- f. Whether each party is of the full age of majority or a minor.
- g. The percentage interest being transferred.
- h. Whether the property being transferred is owned in community or is separate property.

**2.2.7. EXPROPRIATION**

- a. When the negotiating agent determines that amicable acquisition is not possible, either because of title issues or rejection of the offer or another issue, they will advise the Right of Way Regional Supervisor who will make a recommendation to expropriate the ownership.
- b. Upon receiving approval to expropriate, the negotiating agent will review the date of the appraisal report upon which the just compensation was based.

1. Appraisal Reports are still current:

The negotiating agent will send the property owner a final notice letter. Appraisals are over a one (1) year old and project letting date more than three months in future:

- (a) The agent assigned to the parcel will request updated appraisal reports through the Chief Appraiser.
- (b) The Appraisal Division will immediately request/contract with the appraiser for updated appraisal reports indicating any change in value. An updated appraisal report requires a new site inspection.
- (c) The assigned appraiser will also provide an updated appraisal certificate.

- (d) The Review Appraiser will prepare a revised appraisal review report with the appraisal certificate to the Right of Way Regional Supervisor. The agent will then prepare the final notice letter with updated just compensation offer, including a new summary just compensation.
  - (e) If the owner does not accept the updated just compensation offer, the agent will then prepare the file for Legal to file the suit.
  - (f) If the owner decides to accept the updated just compensation offer prior to suit being filed negotiating agent will resume amicable negotiation procedures.
- c. After sending the final notice letter, a copy of the entire ownership file will be sent to the Right of Way Manager of Production. The appraisers' certificates of compensation should be included. Legal will notify the Right of Way Section when the suit is filed.

#### **2.2.8. OWNERSHIP LOG OF CONTACTS**

The ownership log of contacts should provide a complete overview of all acquisition activities on a parcel. The negotiating agent shall update the Department's electronic project tracking system immediately after each contact. It is required that ALL contacts, activities, discussions, etc. regarding acquisition of the subject property be memorialized in the ownership log of contacts such that anyone reading the ownership log of contacts will be fully informed of the same. Entries should address the "who, what, where, when, why and how" of any and all activities related to the acquisition of the property.

#### **2.2.9. SPECIAL AGREEMENTS**

Special agreements such as those required for changing driveway locations, shall be handled in an expeditious manner and must be completed by the Project Plans, Specifications & Estimates (PS&E) Date. To assist in getting the Project Engineer's approval of special agreements, the notice of right of way agreement may be used.

At the conclusion of acquisition activities on a project, the agent will prepare memo to the project manager, copy to the Right of Way Regional Supervisor, itemizing all of the agreements on the project and what they entail. This will ensure that agreements are communicated to proper parties.

**2.2.10. DISPOSAL OF IMPROVEMENTS**

Disposal of improvements by the Right of Way Section shall be handled according to procedures outlined in Section 3 of the Right of Way Operations Manual. Improvements not disposed of by the Right of Way Section will be included in the clearing and grubbing contract or roadway contract. So that the Road Design Section and the Contracts and Specifications Section are aware of which improvements are to be included in the plans and contract, the lead agent will amend lists of remaining improvements as follows:

**a. Receipt of Final Right of Way Maps**

A list of improvements within the right of way shall be furnished to the Road Design Section Project Manager as soon as possible after receiving the final right of way plans. (Department's electronic project tracking system project improvements report).

**b. Four months prior to letting date:**

A list of the improvements which remain in the right of way will be submitted to the Road Design Section and the Contracts and Specifications Section so those items can be included in the plans and contract. (Department's electronic project tracking system project improvements report).

**c. At Plans, Specifications and Estimates Date:**

A final list of the improvements which are to be included in the clearing and grubbing or roadway contract will be submitted to the Road Design Section and the Contracts and Specifications Section. (Department's electronic project tracking system improvement report – improvements with disposition "roadway contract" only.)

**2.2.11. PROJECT CERTIFICATION**

The lead agent will prepare the right of way project certification letter for signature of the Right of Way Regional Supervisor and Right of Way Administrator. Once they have signed the certification letter, it will be forwarded to the FHWA Division Administrator, the Budget Administrator, and project manager. A copy of the letter will be placed in the project file.

**2.2.12. RIGHT OF WAY MAP RECORDATION**

The lead agent will record a final set of right of way maps in the Parish Clerk of Court.

**2.2.13. FILE MANAGEMENT**

- a. When the project acquisition is complete the agent will remove duplicate documents from the project parcel files and retain all original documents within project parcel files. Files will be maintained in the file room for three years from the date of completion of

the construction project and project acceptance by the Department. After the three (3) year period has lapsed the files will be sent to the microfilm contractor.

- b. The Right of Way Section shall maintain a parcel file for expropriated parcels containing (1) the title research report; (2) the appraisal review report; (3) the just compensation offer letter with summary of just compensation; and (4) the negotiator's summary report along with the project parcel files. A copy of this file will be sent to Legal.

## 2.2 UNECONOMIC REMAINDER (UR)

The uneconomic remainder is that portion of an ownership remaining after a partial acquisition by the Department which is of little or no utility or value to the owner as determined by or agreed to by the Department. The decision to declare a remainder uneconomic is normally made by the Review Appraiser at the time of appraisal review. However, the Right of Way Administrator can determine a remainder to be uneconomic when there is adequate support and justification.

In many cases it will be obvious that a remainder is uneconomic. Other cases will be more complicated and it will be necessary that an analysis be made of the before and after condition of the parcel. This analysis will look at all aspects of the acquisition.

### **PROCEDURE:**

The following guidelines should be followed in the determination of an uneconomic remainder and the acquisition of same.

1. A remainder may be determined to be uneconomic if the use of the property will be substantially diminished by the acquisition of the required parcel through loss of parking, change in shape or other causes. The reduction in utility of the property from the before state should be viewed in relation to the current ownership keeping in mind that the remainder may be declared uneconomic while still retaining a substantial market value.
  - a. A landlocked remainder will generally be classified as uneconomic.
  - b. If the partial acquisition of a particular ownership destroys the present utility of the remainder but creates another utility of equal or greater value to the owner the remainder should not normally be classified as uneconomic.
2. If in the appraisal process the Department does not make the determination of an uneconomic remainder and the property owner disagrees, the owner may provide written verifiable justification by way of an administrative settlement as to why the Department should acquire the remainder. If the owner does furnish verifiable justification indicating the remainder to be uneconomic, the Right of Way Administrator may declare the remainder to be uneconomic. If this occurs the agent will immediately request a mortgage

certificate if none was ordered at the time of receipt of final right of way maps or when appraisal reports were requested.

3. After the Department has declared the remainder uneconomic, the Department will offer to purchase said remainder from the property owner. If the offer to purchase the uneconomic remainder is unacceptable to the owner because of value, but the property owner agrees with the uneconomic remainder determination, the Department may expropriate said UR together with the required property.
4. When the Department will purchase an uneconomic remainder, the Negotiating agent will prepare a conveyance deed providing for the Department's purchase of the required parcel and the UR. The remainder tract will be designated by the number assigned to the required parcel preceded by the letters UR (for example, the uneconomic remainder of parcel no. 2-2 will be designated as parcel no. UR 2-2).
5. One (1) half size print of the right of way map sheet showing the uneconomic remainder and the full size print of the right of way map sheet referred to in Paragraph 6.e. below, will be stamped with the UR Parcel Number to designate said remainder as uneconomic. This print will be attached to the original act of sale filed of record with the Parish Clerk of Court.
6. The Property Management Office shall be notified of each purchase of an Uneconomic Remainder that notification will include the following items:
  - a. A copy of Voucher
  - b. A copy of the Certificate of Recordation
  - c. A copy of Act of Sale
  - d. A copy of Appraisal Report with Appraisal Review Report
  - e. A copy of the full print Right of Way Map Sheet(s) showing the referenced property stamped with the UR Parcel Number designation.
  - f. Land acquired under this policy will be handled in accordance with the Property Management procedures.

### 2.3 ADVERSELY IMPACTED (AI) IMPROVEMENT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, allows the Department to offer to acquire those improvements situated totally or partially outside the required parcel (and on the owner's remainder) which the Department determines to be adversely impacted by the project. The Right of Way Administrator has the sole authority to declare an improvement adversely impacted. Adversely impacted properties are to be offered for sale to the public immediately after their acquisition.

For the purpose of this policy, adversely impacted means structures that are economically impacted, unsafe, lose their utility in relation to the remainder property, or are otherwise damaged. The decision to declare an improvement adversely impacted is made by the Right of Way Administrator either prior to negotiations or as an administrative settlement resulting from a counter-offer and must be documented by an adversely impacted form.

#### **PROCEDURE:**

The following guideline will be used in the determination of and the acquisition of adversely impacted improvements:

1. All Right of Way Section personnel, will look for possibly adversely impacted improvements at the time of Plan-in-Hand inspections, relocation assistance cost estimate preparation, appraisal cost estimate preparation, Joint Plan Review meetings, and other property inspections.
2. The Right of Way Regional Supervisor will report to the Production Right of Way Manager and the Appraisal Division at the time of preparation of the relocation assistance cost estimate any improvements on a project which could be adversely impacted. Additionally, the appraiser is required to make recommendations at the cost estimating phase as to which improvements on a project could be adversely impacted. These referrals as well as recommendations from other Right of Way Section personnel for adversely impacted determinations will be analyzed by the Right of Way Regional Supervisor and Review Appraiser, who will make recommendations for approval or rejection to the Right of Way Administrator prior to the preparation of appraisal contracts. Those improvements that the Right of Way Administrator determines to be adversely impacted will be identified as being adversely impacted in the appraisal contract.
3. A remainder improvement may be recommended as being adversely impacted by the Review Appraiser, if in the appraisal process, a cost-to-cure estimate of damages is based on moving the improvement back on the remainder.

4. The following items shall also be considered when making recommendations regarding adversely impacted improvements:
  - a. A remainder improvement may be recommended as adversely impacted if the acquisition by the Department creates a situation in the after state whereby ingress and/or egress to the remainder may be unsafe or nonexistent.
  - b. A remainder improvement may be recommended as adversely impacted if the acquisition affects said improvement to such an extent that it no longer meets local zoning and/or fire codes and/or utility overhang regulations; however, the adversely impacted determination will not be made if the violations can be cured with reasonable and minimal alterations.
  - c. A remainder improvement may be recommended as adversely impacted based upon pertinent information and justification provided by the owner.
5. The Right of Way Administrator will make the final decision to declare an improvement as adversely impacted. All such determinations shall be made on the adversely impacted form.
6. When the adversely impacted determination is made prior to negotiations, the appraiser and Review Appraiser will provide two separate and distinct offers:
  - a. Offer for the required land, improvements in the required parcel, and damages including damages to the adversely impacted improvement.
  - b. Offer for the required land and improvements in the required parcel and for the adversely impacted improvement and associated land (if the decision has been made to acquire associated land) indicated on the adversely impacted form.
7. When the improvement is owner-occupied the relocation assistance offer should be made at the same time the acquisition offer is made, with the understanding that the owner-occupant will only be eligible for relocation benefits if the occupied improvement is purchased by the Department. If the improvement is tenant occupied, the relocation offer will not be made until the Department has purchased the improvement.
8. The negotiating agent will include both offers in the Just compensation offer Letter to the owner. The owner has the option of accepting either offer.
9. When no recommendation and/or decision of Adversely Impacted is made prior to negotiations, and the property owner disagrees, the owner may provide written verifiable justification as to why the Department should acquire the improvement. If the owner does furnish verifiable justification indicating the improvement to be adversely impacted, the Right of Way Administrator may declare the improvement to be Adversely Impacted.

10. When the Right of Way Administrator declares an improvement to be adversely impacted after negotiations have begun, it will be handled similar to an administrative settlement (no additional offer of just compensation is made). However the adversely impacted improvement will be coded 112 on the acquisition voucher and any remainder land acquired will be coded 148 on the acquisition voucher, and an Adversely Impacted Form must be completed.
  
11. When it is determined that an improvement is adversely impacted the following will apply:
  - a. The occupants of the improvement will be considered adversely affected and shall be offered full relocation assistance benefits, provided the owner actually sells the improvement to the Department. The negotiating agent will designate the improvement as adversely impacted on the Department's electronic project tracking system relocation screen, and the agent will designate the parcel as having a remainder – other type, if remainder land will be included in the offer, on the Department's electronic project tracking system ownership screen.
    1. If the occupants wish to lease-back the improvement after acquisition, they must agree to allow the Department to show the improvement to interested buyers, as specified in the adversely impacted lease agreement.
    2. If the Department is acquiring the improvement only, the act of sale must include a clause permitting the Department the right of entry upon Vendor's remainder for the purpose of removing the adversely impacted improvement as well as the adversely impacted lease agreement.
  - b. If the adversely impacted determination was made prior to the appraisal process, the alternate offers will be available on the appraisal review report. If the determination is made by the Right of Way Administrator subsequent to the appraisal process, the amount to be included in the act of sale will be determined by the following:
    1. The remaining land and adversely impacted improvement are acquired:  
 The consideration in the act of sale will be the before value of the entire parcel.
    2. The adversely impacted improvement is acquired, but not the remaining land.
    3. The consideration in the act of sale will be determined as follows:
      - (a) Extracting the appraised value of the improvement from the appraisal report, then
      - (b) Deducting from the original offer, the amount of damages attributable to the adversely impacted improvement, and

- (c) Adding the amount established in 1) above to the amount established in 2) above.

If the agent is unsure or questions how to arrive at this amount, contact the Review Appraiser for assistance.

- c. If the adversely impacted improvement is purchased by the Department, the retention option will not be automatic. Retention of an adversely impacted improvement requires the approval of the Right of Way Administrator, who will make a decision on a case by case basis, taking into account such information as size of remainder, owner's intentions (where the improvement is to be moved), local zoning, terrain, etc.) The option to retain will be specified in the adversely impacted form.
  - d. Unless the improvement is being retained by the owner in accordance with the above, or the land on which the adversely impacted improvement is located is being acquired, the acquisition deed will include a clause granting the Department the right to enter upon the vendor's remainder to remove or demolish the improvement.
12. Disposition of adversely impacted improvements will be handled by the Property Management Office, which will begin marketing them immediately following their acquisition. The agent will send a copy of the adversely impacted form to the Property Management Office as soon as the improvement has been declared AI, prior to acquisition. Within three working days of the acquisition of the property, the agent will forward the following documents to the Property Management Office:
- a. A copy of the adversely impacted form.
  - b. A copy of acquisition Voucher.
  - c. A copy of recordation data (if not available within 3 days, send as soon as possible).
  - d. A copy of act of sale.
  - e. A copy of appraisal report and appraisal review report.
  - f. A full size print of the right of way map sheet(s) indicating the referenced AI improvement and any of the remaining ownership.
  - g. A copy of the before inspection report and a copy of the after inspection report. If the after inspection is not yet available when the file is transmitted to Property Management, it must be sent as soon as it is.
13. If the land on which the adversely impacted improvement is located is acquired, the disposition recommendation will be documented on the Adversely Impacted form, and will include whether or not to sell the house and land as a unit, or demolish or sell the improvement and sell the land separately.

14. Adversely impacted properties can be processed for disposal by the Property Management Office immediately, and do not have to be held by the Department for a specified time, as do uneconomic remainders. For this reason, remainder land associated with an adversely impacted improvement should never be coded as a UR. The improvement and any associated land should carry the designation AI.

## 2.4 PROCEDURES FOR A FEDERAL LAND TRANSFER OF UNITED STATES FOREST SERVICE LANDS

When the Department requires the acquisition of right of way from United States Forest Service lands, the Right of Way Regional Supervisor or designee shall contact the Realty Officer at the LA Division of FHWA.

The Right of Way Regional Supervisor and the Realty Officer will follow the Federal Land Transfer process described in the “Manual for Federal Land Transfers for Federal – Aid Projects”, United States Department of Transportation.

## 2.5 PERMIT PROJECTS

These are projects whereby the property owner obtains a permit from DOTD to construct something for public use on their property. Once the permit is satisfied and the Department has accepted the work, the Right of Way Section will provide the needed Act of Donation to take the real property into DOTD’s system. The property owner is responsible for providing maps and a parcel description of the property being donated. The agent assigned to the project is responsible for providing title research and obtaining any partial releases needed for the donation.

## 2.6 EARLY ACQUISITION

Below are brief descriptions of the basic conditions that apply to Early Acquisition. The ROW must be acquired following the requirements of the Uniform Act.

**Option 1:** The State can acquire any of the ROW they might need for a project using their own funds. This can be done any time prior to the completion of the NEPA process. Under Option 1, the State will not come back to claim either reimbursement or matching credit from FHWA. The additional conditions that apply here are the acquisitions cannot result in a significant environmental impact and cannot prejudice the ultimate decision on the alignments to be considered for the projects or the ultimate alignment selected for construction. The acquisitions must comply with Title VI of the Civil Rights Act of 1964, and the property acquired cannot be property that is subject to Section 4(f). The current regulatory reference for this option is 23 CFR 710.501(a).

**Option 2:** The State can acquire any of the ROW they might need for a project using their own funds. This can be done any time prior to the completion of the NEPA process. Under Option 2, the State can come back later and claim matching credit for the value of the ROW acquired. The same conditions apply as in Option 1, but the State must make a

determination that is concurred in by FHWA that the acquisitions did not influence the project environmental decision. The regulatory reference for this option is 23 CFR 710.501(b).

**Option 3:** The State can acquire property using their own funds, but come back to FHWA and seek reimbursement of those costs subsequent to the environmental clearance of the project. In addition to the conditions listed above, the State must get certification from the Governor that the State has a mandatory comprehensive land use, environmental and transportation planning process and that the proposed acquisitions comply with that planning process. The primary reference for this is 23 USC 108(c); the regulatory reference is 23 CFR 710.501(c), but it is important to understand that (c)(2) no longer applies as a result of MAP-21.

**Option 4:** This option was provided by the MAP-21 legislation and is a new option that is currently available for use. Under this Option 4, the State creates an “early acquisition” project and programs it in the STIP. Once it is programmed in the STIP, the State must do a NEPA analysis of the proposed acquisitions (usually, a Categorical Exclusion will work) and obtain FHWA approval. Once approved, the State can get authorization from FHWA to use federal funds in those acquisitions. Some other important conditions apply here:

1. The State cannot use condemnation for any of these acquisitions.
2. Once acquired, demolition of structures must wait until a transportation project has been programmed and advanced beyond the NEPA analysis into the ROW phase.
  - a. In rare circumstances, if public health and safety might be impacted by vacated structures still on the property, the State may seek FHWA approval to do some demolition. This is strictly a decision to be made by FHWA.

Option 4 is designed for corridor preservation, though it might be appropriate in other situations. The statutory guidance is at 23 USC 108(d).

## 2.7 CONDITIONAL ROW CERTIFICATIONS

Per 23 CFR 635.309 (c) (2) Authorization

The acquisition or right of occupancy and use of a few remaining parcels is not complete, but all occupants of the residences on such parcels have had replacement housing made available to them in accordance with 49 CFR 24.204. Under these circumstances, the State may request the Federal Highway Administration (FHWA) to authorize actions based on a conditional certification as provided in this paragraph.

## 2.8 DESIGN BUILD PROJECTS

Per 23 CFR 710.309 (a) Design-build projects

In the case of a design-build project, ROW must be acquired and cleared in accordance with the Uniform Act and the FHWA-approved ROW manual or RAMP, as provided in §§ 710.201(c) and (d) of this part. The grantee shall submit a ROW certification in accordance with 23 CFR 635.309(p) when requesting FHWA's authorization. The grantee shall ensure that ROW is available prior to the start of physical construction on individual properties.

**Option 5:** The alternatives for hardship acquisition and protective buying are still available. Please note, however, that these options have very specific conditions that apply—for example, hardship acquisitions are initiated by property owners, while the state may initiate protective buying IF a property is subject to imminent development. The regulatory guidance on this is in 23 CFR 710.503.

## **SECTION 3: IMPROVEMENT CONTROL**

### **3.1 IMPROVEMENT CONTROL - GENERAL**

Improvement control, as discussed in this section, refers to the procedures governing the disposal of immovable improvements located on the parcels of land acquired for the construction of Department of Transportation and Development projects. The disposition includes the inspection, maintenance, retention, leasing, vacating, selling, demolition, and final disposal of all acquired improvements prior to the beginning of activities by the Department's project construction contractor.

#### **PROCEDURES:**

1. Regional personnel and/or consultant agents will be responsible for the following:
  - a. Preparing and maintaining improvement inventory for project on the Department's electronic project tracking system
  - b. Identifying the legal status of all signs in the right of way
  - c. Making before and after inspections of improvements
  - d. Having leases executed and collecting rent
  - e. Making recommendations for disposal by demolition, sale, or removal in highway construction contract
  - f. Providing for reasonable safety precautions to protect improvements prior to final disposition
2. Regional agents will be responsible for the following:
  - a. Preparing bid proposals, advertisements, and acceptance of bids for those improvements being sold or demolished
  - b. Insuring that all improvements not sold or demolished prior to project letting are included in the contract and construction plans.

### **3.2 INVENTORIES**

It is the responsibility of the Right of Way Regional Supervisor and lead agent to initiate and maintain inventory control over all improvements acquired in connection with Department of Transportation and Development projects. The inventory data must be constantly updated so that anyone involved in the improvement control function can assume the disposal activities for improvements on a project at any stage of the disposal process.

**PROCEDURES:**

1. Upon receipt of preliminary right of way maps, the Right of Way Regional Supervisor or consultant will have an improvement inventory prepared and will assure that information on all improvements on the project is entered into the Department's electronic project tracking system. This information shall be entered within three (3) weeks of receipt of preliminary right of way maps in the district. Only the Right of Way Manager of Production and the Chief Appraiser can authorize waiver of this time frame. Improvement inventory information shall be available at the time of the Joint Plan Review Meeting.
2. During the course of acquisition, the lead agent or consultant will ensure that the Department's electronic project tracking system's project improvement information is updated to always reflect the status of each improvement on the project. This will allow the agent to advise Road Design and Contracts and Specifications of the disposition of improvements at the proper times (Section 2.2., Paragraph 10.)
3. The Right of Way Section will advise the District Administrator in writing as soon as possible about the location of any encroachments in the existing right of way discovered during development of the improvement information. A copy of this notification will be forwarded to the Right of Way Manager of Production and the Chief Appraiser.

**3.3 UNDERGROUND STORAGE TANK AND CONTAMINATION POLICY**

Every effort will be made by Department personnel to identify underground storage tanks and other possibly contaminated sites as early as possible in project planning. Any sites known to be contaminated will be handled in accordance with Secretary's PPM No. 48.

**PROCEDURES:**

1. When title reports are being prepared, abstractors will look for ownerships in the chain of title to the property that might possibly have left the property contaminated, such as oil companies, gas stations, cleaners, etc. If such an ownership is found, on-site inspections should be made and testing requested if on-the-ground indications warrant.

During preparation of improvement inventories, the agents will look for any sites along the project which may be contaminated. If contamination is suspected, a UST/Contamination Site Information Form will be completed and furnished to the Right of Way Regional Supervisor, for transmittal to the Materials and Testing Section.

2. If contamination is found, a clean-up cost will be determined by the Materials and Testing Section and/or the Contracts and Specifications Section.

3. During negotiations on contaminated parcels, the owner will generally be offered the following options:
  - a. Receiving the amount of just compensation minus the cleanup-cost, cleaning up the site, obtaining a closure order from DEQ, and then being paid the remainder of the just compensation.
  - b. Having the amount of the clean-up deducted from the amount of just compensation and the Department will clean up the site.
4. If the Department will clean up the contamination, it may be included in the contract for the project, or contracted for separately, all as prescribed in Secretary's PPM No. 48.
5. When an underground storage tank is acquired by the Department, the Right of Way Regional Supervisor will ensure that the Emergency Services Coordinator is notified of such acquisition, in order to provide for timely registration with DEQ of tanks owned by the Department.

### **3.4 OWNER RETENTION – POLICY**

Retention is the option offered to owners of acquired improvements to buy back the improvements for the price the improvements might be expected to bring at public bid. Retention of improvements acquired by expropriation or acquired as adversely impacted is allowed only in unusual circumstances and upon approval by the Right of Way Administrator.

#### **PROCEDURES:**

1. Retention value, which is the amount of money the owner must pay the Department for the improvement, is set by the Right of Way Regional Supervisor. The retention value should be discussed concurrently with the just compensation offer.
2. If the owner chooses to retain, payment is accomplished by deducting the retention amount from just compensation.
3. Retention value of signs will generally be set at 25% of the amount of just compensation for the sign.
4. The Right of Way Regional Supervisors shall each maintain a master file of retention values on improvements, as well as prices for improvements sold or demolished by public bid. This file shall include photographs taken from the appraisal reports. This master file will be used as a resource for setting future retention values.

### **3.5 LEASE POLICIES**

All occupied improvements are subject to being leased back to the occupants once the Department acquires title to the property. This includes improvements located within the right of way as well as outside the right of way, such as acquired improvements on uneconomic remainders.

Normally, leases of improvements within the right of way are short term, while those outside may be short term or long term. Leases shall not be executed unless the continued occupancy of the improvement will not interfere with clearance of the right of way for the project letting.

#### **PROCEDURES:**

##### **3.5.1. TIME FRAMES FOR INITIATION AND TERMINATION OF LEASES**

- a. The negotiating agent will discuss the Department's lease policy with the affected occupant during the first negotiating contact, or in the case of tenants, at the first contact for relocation assistance after the initiation of negotiations on the parcel.
- b. The lease period will begin on the first day of the second month following the date of closing on a property acquired by purchase, or date of deposit of the just compensation into the court on parcels acquired by expropriation. For example, if the closing or deposit date is any day in January, the lease period shall begin on March 1. Normally leases shall be for a fixed term of thirty (30) days. Any deviation from this policy will require the written approval of the Right of Way Administrator on a case by case basis, and must be adequately supported and documented. However, lessees whose rent is waived must still obtain and provide proof of insurance as described in Paragraph 3 c. of this section.
- c. Leases for improvements with occupants eligible for relocation assistance shall not be required prior to the 90-Day Vacate Date, since the displaced person cannot be legally required to move before that date.
- d. Leases on retained improvements
  - i. Leases will not be required during the period specified in the act of sale for removal of the retained improvement. If the improvement is tenant-occupied, the tenant is subject to lease requirements imposed by the owner.
  - ii. If the owner(s) fail to remove the improvements within the period allowed in the Act of Sale, they will forfeit the improvements to the Department in accordance with the terms of the act of sale. Any occupant shall then be required to pay rent to the Department as described in this Section.
- e. The original and one (1) copy of the lease agreement should be a part of the close-out package and should be executed by the occupant at the time the just compensation payment is delivered to the owner, or in the case of expropriation, when Service of Process has been made. The agent negotiating the parcel shall have the responsibility for securing from owner/occupants the needed signature(s) on the lease agreement.
- f. If the occupant refuses to sign the lease agreement, appropriate notations will be entered on the closeout memorandum and a copy thereof given to the Right of Way

Regional Supervisor. Refusal to sign the lease agreement will be treated as a delinquent lease payment. (See Paragraph 3.c. below.)

- g. Lessees must obtain renter's insurance and liability insurance and provide proof of such to the negotiating agent at the start of the lease period.
- h. Written notification of the termination of the lease agreement can be given by either party at least ten (10) days prior to the end of each thirty (30) day lease period.
- i. Generally, leases will be terminated approximately 160 days prior to the project letting date.

### **3.5.2. SETTING AMOUNT OF RENT**

- a. The lease rate for owner-occupants shall be 3/4ths of 1% per month of the value set forth in the act of sale for the actual land and improvements being leased. This may require a "carve-out" from the total appraised value.
- b. Lease amounts will be rounded down to the nearest dollar and will be paid by check or money order to "Louisiana Department of Transportation and Development". All lease payments are due in advance.
- c. The lease rate for tenant-occupants shall generally be the amount determined above unless it exceeds the contract lease paid to the previous owner. If it does, the lease rate shall be the lesser of the previous contract rent or 30% of the tenant's gross monthly income.
- d. The Department will not pay the utility costs. In cases where several units share a common meter, arrangements concerning responsibilities for utility costs shall be made prior to acquisition. In other cases, the lease rate for each unit shall be adjusted to include a pro-rata amount of utility costs.

### **3.5.3. LEASE ACTIVITIES AFTER SIGNING**

- a. Upon receipt of the executed lease agreement, the negotiating agent shall forward all copies to the Right of Way Administrator for acceptance. The agent shall retain one (1) copy and return the signed agreement to the District.
- b. At the beginning of the lease, the negotiating agent will contact the lessees to obtain proof of liability and renter's insurance. Failure to provide such proof will be treated as a delinquent lease payment. (See Paragraph 3.c. below.)
- c. Timely collection of the lease payment is the responsibility of the Right of Way Regional Supervisor. The lease payment will be transmitted to the Financial Services Administrator to credit the amount to the project.

- d. When an occupant becomes ten (10) days delinquent in the lease payment (or refuses to sign a lease agreement), they will be notified by certified mail, return receipt requested, of the violation and requested to rectify the situation within ten (10) days (letter requesting execution of lease agreement or letter requesting last rent payment). If the occupant again fails to take appropriate action within ten (10) days, a second certified letter will be issued advising the occupant that failure to take corrective action within five (5) days will result in the initiation of eviction (pre-eviction letter).
- e. If eviction becomes necessary, the Right of Way Regional Supervisor shall assure that such proceedings are initiated. For details on handling evictions, see Section 3.6.

**SPECIAL NOTE:**

When the occupant of a Department-owned improvement becomes delinquent under this Lease Policy, the delinquent amount is subject to being deducted from any relocation assistance payment due the occupant. However, this action shall not be taken if doing so would jeopardize the displaced person’s ability to complete relocation. Permission to invoke this policy must be obtained from the Right of Way Manager of Production. Occupants should be advised at the signing of the lease, of the possibility of delinquent lease payments being deducted from relocation assistance payments.

**3.6 EVICTIONS**

Whenever an occupant of a Department-owned improvement fails to execute a proper lease agreement, make timely lease payments, or vacate the premises when ordered to do so, the Right of Way Regional Supervisor will initiate eviction proceedings. Such proceedings shall not begin until all required certified notices as described in Section 3.5., Paragraph 3.c. have been sent to the occupant.

**PROCEDURES:**

1. Upon receipt of a request to initiate eviction from an improvement, the Right of Way Regional Supervisor will review the applicable files and make a determination as to whether or not to proceed with eviction. If the matter is to be pursued towards eviction, a final notice is sent to the occupant advising of the impending eviction proceedings.
2. The Right of Way Regional Supervisor will confer with the Right of Way Manager of Production of the concerning a possible deduction of lease payments due from whatever relocation assistance payments may be due the occupant. Should such a deduction be authorized, the Right of Way Regional Supervisor shall notify the relocation assistance officer or consultant project manager and request that appropriate action be taken regarding this matter.
3. Eviction proceedings in areas under the jurisdiction of the Justice of the Peace shall be filed with the Justice of the Peace. Evictions in areas under the jurisdiction of the City Court will be filed with the City Court. Evictions in these cases will be handled by the Right of

Way Regional Supervisor or consultant project manager. The Right of Way Regional Supervisor will assure that the appropriate check for court costs has been secured and transmitted to file the necessary papers for eviction.

4. If the area is not under the jurisdiction of a Justice of the Peace or City court, the Department's Legal Division will file evictions in District Court. The Right of Way Regional Supervisor will assure that the Legal Division is furnished with all pertinent information required for an Order of Eviction to be secured.
5. Both Headquarters and field (either staff or consultant) personnel should monitor the proceedings closely to ensure that the order of the court is carried out in a timely fashion.

### **3.7 GENERAL DISPOSAL POLICIES**

The goal of the improvement control function is the disposal of acquired improvements after they are vacated to allow construction of the project. This disposal may be by public sale, separate demolition contract or included in the project construction plans and general contract for demolition or removal by the project contractor. The actual method of disposal used in each case will be determined by the nature of the improvements and by time constraints.

#### **PROCEDURES:**

1. All acquired improvements considered to have resale value and which have been vacated at least 120 days prior to the project letting date will be sold by competitive bid in accordance with applicable statutes.
2. If circumstances warrant, improvements may be disposed under a separate demolition contract. Demolition may be ordered as a matter of expediency or in the public interest because the building has no market value or cannot be disposed of in any other way. Demolition contracts will be limited to five or fewer structures and will be awarded after advertisement in accordance with normal Department procedures. (See Public Bid Procedures.)
3. Improvements not sold or demolished 120 days prior to the letting of the project shall be included in the construction plans and general contract for the project. This includes improvements vacated within 120 days of the letting date.
4. Slabs and other foundation materials located below natural ground level, and which are situated totally within the required taking area shall be disposed of in the project construction contract, rather than being removed as a part of retention, sale or demolition contract. This does not include piers above natural ground level.
5. If the acquired improvement is situated wholly or partially on the remainder, the retention page or the proposal and contract for sale or demolition will include removal of all slabs, piers and other foundation materials.

6. While Nos. 4 and 5 above will be the basic policy governing improvement foundations, there may be cases or circumstances requiring a different disposition. For this reason, the Right of Way Regional Supervisor or consultant project manager shall routinely recommend the disposition of the slab or other foundation material, separate from, but at the same time as, the recommendation is made for disposition of the improvement.
7. Disposition of improvements located wholly or partially within the required right of way will be handled by the lead agent. Disposition of improvements situated wholly outside the right of way will be handled by the Property Management Office.
8. When an underground storage tank is acquired by the Department, the Right of Way Regional Supervisor will ensure that the Emergency Services Coordinator is notified of such acquisition, in order to provide for timely registration with DEQ of tanks owned by the Department.

### **3.8 IMPROVEMENT OBLIGATIONS FOLLOWING ACQUISITION**

In connection with the overall improvement control function, the Department has certain obligations to facilitate the maintenance of the right of way in a reasonable manner prior to the beginning of construction operations. After making recommendations regarding disposition, the regional or consultant personnel must provide for reasonable safety precautions aimed at the preservation and protection of improvements from damage by theft and/or vandalism pending their disposition, and must also provide for rodent control of acquired properties. The Right of Way Regional Supervisor or consultant project manager will be responsible for various on-site activities in connection with the sale or demolition and will verify that the terms of the sale or demolition contract have been met. The lead agent will be responsible for preparation of bid proposals, advertisement, and acceptance of bids for those improvements being sold or demolished.

#### **PROCEDURES:**

1. Following acquisition of the improvement, the following activities will take place:
  - a. The Right of Way Regional Supervisor or consultant project manager will provide for an inspection, including photographs, prior to and immediately after the improvement has been acquired by the Department.
  - b. The Right of Way Regional Supervisor or consultant project manager will ensure that keys to a purchased building are obtained from the occupant at the time it is vacated.
  - c. The building inspection report will be completed by the agent, who will also make a recommendation regarding the manner of disposition of the improvement and the amount of the performance guaranty (disposal recommendation memo). The performance guaranty is generally set at \$1.00 per square foot of improvement. If there is a slab or other foundation materials involved, the recommendation will include their disposition.

- d. The Right of Way Regional Supervisor or consultant project manager will approve or disapprove the agent's recommendation
2. The Right of Way Regional Supervisor will advise if the occupant has failed to vacate the improvement when the agreed occupancy period has expired.
3. When the agent completes the building inspection report, photograph and disposition recommendation, verify that the owner of the improvement has received payment, and then prepare the bid proposal. (See Public Bid Procedures.)
4. Prior to the advertisement for bids, the Right of Way Regional Supervisor or consultant project manager will have the "item number" posted on each improvement to be sold by the Department or demolished under separate contract.
5. Upon request of prospective bidders, the Right of Way Regional Supervisor or consultant project manager will make appointments for opening the advertised buildings for inspection between the hours of 7:45 A.M. and 4:15 P.M., Monday through Friday.
6. The Right of Way Regional Supervisor or consultant project manager will provide for frequent inspections of vacated improvements to determine possible vandalism and/or theft prior to its sale or demolition.
7. After a contract for sale or demolition has been awarded, the Right of Way Regional Supervisor or consultant project manager will monitor the progress of the work to ensure the work is completed in the manner specified in the bid.
8. If necessary, the Right of Way Regional Supervisor or consultant project manager will have "No Trespassing" signs posted on vacated improvements and have the windows and doors boarded up to deter vandalism and/or theft pending disposition.
9. The Right of Way Regional Supervisor or consultant project manager will determine the need for rodent control measures and will provide for the eradication of all rodents found within acquired improvements. The specific procedures to be followed in this connection are as follows:
  - a. The Right of Way Regional Supervisor or consultant project manager will assure that the Health Unit having jurisdiction over the area in which the project is located is notified prior to vacation of improvements. If the Health Unit determines that rodent control is not necessary, the project right of way files will be so documented.
  - b. If the project is in a rural area where no Health Unit has jurisdiction over the area, or if the Health Unit having jurisdiction is unable to make the determination that the project is free of rodent infestation, the Right of Way Regional Supervisor or consultant project manager will ensure that a determination is made as to the need for rodent control. It is anticipated that such control will be unnecessary unless the project contains a

- substantial number of buildings, garbage dumps, landfills or other habitation areas for rodents.
- c. If the project is in an urban area and there is no Health Unit with jurisdiction over the area of the project, or if the Health Unit with jurisdiction is unable to make the determination that the project is free of rodent infestation, each building will be inspected during the "after inspection" (the routine inspection provided for by the Right of Way Regional Supervisor or consultant project manager after an improvement has been acquired) to assess rodent infestation. The results of this inspection will be noted on the building inspection report.
  - d. If rodent control measures are determined to be necessary, or in the event the project is located in an urban area and the Right of Way Regional Supervisor or consultant project manager has been unable to determine that rodent control is not necessary, request the Procurement and Warehousing Section to advertise for receipt of bids for the extermination of rodents on a project basis, based on actual costs, and a contract will be awarded the company offering the lowest price.
  - e. Where rodent control is necessary, the Right of Way Regional Supervisor or consultant project manager will assure that at the time improvements are vacated, the exterminating company is notified to take necessary control measures in accordance with the contract.
  - f. Invoices approved by the Right of Way Regional Supervisor or consultant project manager will be forwarded to the Headquarters for payment.
  - g. Buildings retained and removed by the owner will not be inspected for rodent infestation nor will rodent control measures be taken.
  - h. The Right of Way Regional Supervisor or consultant project manager will assure that rodent infestation of properties adjacent to the right of way is deterred by ensuring that the grass is regularly cut. This shall be accomplished either through a grass cutting/mowing contract issued with the approval of the Right of Way Administrator, or by advising the District Administrator of the need for grass cutting on acquired properties.
  - i. The Right of Way Regional Supervisor or consultant project manager is responsible for maintaining the integrity of improvements purchased within the right of way until they are removed. At a minimum the following standard measures will be taken to insure the security of the right of way:
    - i. Disconnect utilities at service main.
    - ii. Post notices of State ownership and "No Trespassing" signs.

- iii. Board up or otherwise secure the improvements.
  - iv. Remove trash and keep the grass cut.
10. In some cases, the above standard measures of control may be ineffective and special measures such as alerting local Police/Sheriff Agencies, private security patrols, night watchmen, accelerated sales or demolitions, etc., may have to be used.
11. Any Department employee or consultant having factual information or personal knowledge of theft or vandalism involving Department-owned improvements has a responsibility to immediately report it, in writing, to their supervisor for transmittal through the chain of command to the Right of Way Administrator. The Right of Way Administrator will then refer the information with such additional data as may be appropriate, to the General Counsel for investigation and remedial action as the findings warrant, including the legal prosecution of offenders. Failure to comply with this provision may result in disciplinary action against the employee and the employee's supervisor.

### **3.9 DISPOSAL OF IMPROVEMENTS**

Time permitting, DOTD will attempt to dispose of all acquired and vacated improvements by public sale or separate demolition contract. Such disposal will address asbestos issues as described in Section 3.10 of this manual.

Upon receipt from the Right of Way Regional Supervisor or consultant project manager of the recommendation regarding disposition (sale or demolition), the agent will handle advertisement for and acceptance of bids, and will award the sale or demolition contract. The Right of Way Regional Supervisor or consultant project manager will be responsible for various on-site activities in connection with the sale or demolition and will verify that the terms of the sale or demolition contract have been met.

#### **PROCEDURES:**

1. When the agent completes the building inspection report, photograph and disposition recommendation, verify that the owner of the improvement has received payment, and then prepare the bid proposal and provide for advertisement. (See Public Bid Procedures.)
  - a. The agent is responsible for providing prospective bidders with bid forms.
  - b. The successful bidder for the sale of buildings is called the "purchaser". The successful bidder for the demolition of buildings is called the "contractor".
2. The purchaser or the contractor is required to remove to ground level each item purchased or included in the contract for demolition within the period of time stipulated in the bid proposal, and leave the property in a condition free from all construction materials and debris. The purchaser or the contractor must comply with all other conditions contained in the bid proposal.

3. To ensure the satisfactory performance of these conditions, the purchaser or contractor is required to include a performance guaranty for each item in the amount set forth in the bid proposal. Bid proposals for sales contain a draft of Act of Sale for each item, while bid proposals for demolition contain a draft contract for each item. The bidder must sign and return the draft sale(s) or draft contract(s) as a part of the bid.
4. After tabulation of bids, the results are furnished to the Property Management Agent who then secures the signature of the Right of Way Administrator on each successful bidder's draft. Normally, if the bid was on the sale of buildings, the high bid is accepted, and if the bid was for demolition of buildings, the low bid is accepted.
5. The Right of Way Regional Supervisor or consultant project manager will monitor the progress of the work.
6. In some instances, when it is in the best interest of the Department, and upon approval by the Right of Way Administrator, the Right of Way Regional Supervisor or consultant project manager may perform the task of advertising for the sale/demolition of improvements, the receipt of letter bids, and the awarding of a contract.
7. When an underground storage tank is acquired by the Department, the Right of Way Regional Supervisor will ensure that the Emergency Services Coordinator is notified of such acquisition, in order to provide for timely registration with DEQ of tanks owned by the Department.

### **3.10 ASBESTOS INSPECTION PROCEDURES**

Inspection reports by accredited asbestos inspectors on ALL structures to be demolished by DOTD or its contractors. The Right of Way Section has been charged with providing these reports. The following procedures address the actions the Right of Way Section will take to provide these reports.

#### **IDENTIFICATION OF IMPROVEMENTS:**

1. Upon receipt of the final right of way plans, the Right of Way Regional Supervisor or consultant project manager will assign an agent to ride the project and develop an inventory of all improvements within the project right of way, specifically noting all which will need to be inspected for asbestos. All major improvements and buildings must be marked for inspection, along with any other improvements which may possibly have asbestos. The inventory will be entered into the Department's electronic project tracking system within three weeks of the receipt of the final maps. Any improvements that will require an asbestos inspection will be indicated on the Department's electronic project tracking system's Improvement entry form by a check in the "Asbestos Inspection Required" field. NOTE: The Right of Way Regional Supervisor or consultant project manager is responsible for ensuring that improvements are entered into the Department's electronic project tracking

system for all projects. It is critical that the database have the complete listing of all improvements to be acquired, including those outside of the right of way.

2. Immediately following acquisition of an ownership, the negotiating agent will make the necessary entries into the Department's electronic project tracking system and prepare a Recommended Disposal memo on any improvements on the ownership, with copies to the Right of Way Regional Supervisor.
3. When an ownership with improvements needing asbestos inspections is acquired and the payment or suit filed dates are entered into the Department's electronic project tracking system. The Right of Way Regional Supervisor will convene the IDIQ Contracts to select a licensed asbestos inspector, and then have a services contract prepared and executed. The agent will update the Department's electronic project tracking system Asbestos Inspection Screen to show the date the contract is awarded.
4. The inspector will contact the Right of Way Regional Supervisor or consultant project manager to make arrangements to get the keys to any improvements needing inspections.
  - a. The improvement is clear of asbestos: If there is no evidence of asbestos in the improvement, the inspector will complete an asbestos inspection form and mail it to the Right of Way Regional Supervisor and the project lead.
  - b. The improvement has asbestos or requires testing: The inspector will take samples and arrange with a licensed laboratory to have them inspected. Upon receipt of the results, the inspector will complete the asbestos inspection form and mail to the Right of Way Regional Supervisor.

### **PROJECT RECORDS ON ASBESTOS**

The agent will enter the date of the inspection report into the Department's electronic project tracking system, as well as the determination that asbestos abatement is required or not.

### **IMPROVEMENTS TO BE DISPOSED IN ROADWAY CONTRACT**

When right of way activities on a project are complete, the agent will run a report of improvements that will be disposed of by the roadway contract. If any of the improvements required an asbestos inspection, the agent will attach a copy of the inspection reports. Copies of this report will be sent to the project engineer, the road or bridge design project manager, the district construction engineer and the DOTD section that will be preparing the construction contract.

### **IMPROVEMENTS TO BE DISPOSED OF BY DEMOLITION**

Before an agent puts up any improvement for demolition, obtain a copy of the asbestos inspection report. If the report indicates no asbestos, the bid booklet will be prepared as normal. If there is evidence of asbestos, the agent will include asbestos abatement to the bid booklet specifications.

**3.11 OUTDOOR ADVERTISING SIGNS AND BILLBOARDS (For Appraisal and Acquisition Purposes Only)**

1. The legal status of all signs must be determined by the Right of Way Section before the signs are entered in the Department's electronic project tracking system. On Interstate and NHS Primary routes as well as any associated toll sections (to be designated (I/NHS-P) in the Department's electronic project tracking system pick list), the information.
2. A sign is legal if it has all the necessary permits and does not encroach on the exiting right of way.
3. Permits for Interstate and NHS Primary routes can be obtained by contacting the District Outdoor Advertising Office. The municipality may require a permit for Interstate and NHS Primary routes as well. On all other routes, the municipality may require a permit. Contact the municipality to determine if a permit is required.
4. The five legal statuses are as follows:
  - a. Sign-Legal Conforming (I/NHS-P)
  - b. Sign-Legal Nonconforming (I/NHS-P)
  - c. Sign-Illegal (I/NHS-P)
  - d. Sign-Legal (non-I/NHS-P)
  - e. Sign-Illegal (non-I/NHS-P)

## **SECTION 4: RELOCATION AND ASSISTANCE**

### **4.1 PURPOSE AND AUTHORIZATION**

The purpose hereof is to set forth the basic policies and procedural practices of the Right of Way Section of the DOTD in the statewide implementation and administration of the relocation assistance program. The relocation assistance program is administered under the provision of Louisiana Revised Statutes 38:3101 - 3110, effective March 2, 1972 and July 15, 1982, allowing compliance with Public Law 91-646, dated January 2, 1971, and entitled "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" as amended. The purpose of the relocation assistance program is to provide an orderly, timely, and efficient relocation of persons and businesses, and to supply information about services and payments available through the Department and other agencies. The Department's relocation assistance program, including statewide compliance with all State and Federal regulations governing relocation services and payments, shall be administered by the Relocation Assistance Officer. The purpose of administering the relocation assistance program is to ensure full entitlement and equitable treatment for all persons, businesses, farms and non-profit organizations displaced by DOTD projects. The relocation assistance function is accomplished by various activities including, but not limited to:

1. Establishing relocation assistance policies and procedures compatible with Federal, State, Local and DOTD laws and regulations;
2. Preparing, analyzing and evaluating relocation assistance data;
3. Training and directing sufficient staff.

### **ORGANIZATION:**

1. The Right of Way Section of the DOTD is under the administrative supervision of the Right of Way Administrator. The Right of Way Administrator can waive any policy or procedure within the Right of Way Section that is not explicitly mandated by federal or state law or the Code of Federal Regulations. This waiver must be made in writing with a copy to the file to which it pertains. The Right of Way Manager for Production assists the Right of Way Administrator in this administrative function.
2. Reporting directly to the Right of Way Manager of Production is the Relocation Assistance Officer whose primary responsibility is the administration of the Department's statewide relocation assistance program, as well as the technical relocation assistance supervision and quality control over all individuals involved in relocation assistance activities.
3. Reporting to the Relocation Assistance Officer is an adequate staff properly trained in relocation assistance procedures, consisting of at least one relocation agent. The relocation agent shall be adequately trained in relocation assistance procedures.
4. Under the technical supervision of the Right of Way Manager of Production are five Right of Way Regional Supervisors and an adequate staff properly trained in the implementation

of the Department's relocation assistance program. On each DOTD project with relocation assistance, the Right of Way Section will assign one or more regional agents the responsibility of providing relocation assistance to displaced persons on the project.

**RESPONSIBILITIES:**

1. The Relocation Assistance Officer will ensure the relocation assistance portion of the Department's Brochure entitled Acquisition of Right of Way and Relocation Assistance, is current, adequately presents the Relocation Assistance Program, and is made available to all displaced persons.
2. The Relocation Assistance Officer will assist the Right of Way Regional Supervisors in the preparation of the Public Hearing Information Scripts that are presented at Public Hearings. The Relocation Assistance Officer may attend such Public Hearings, if circumstances warrant.
3. The Relocation Assistance Officer will review and exercise final approval of all right of way stage relocation plans.
4. The Relocation Assistance Officer will keep abreast of the latest laws and regulations affecting relocation assistance and will provide for updating the Relocation Assistance Section of the Right of Way Operations Manual accordingly.
5. The Relocation Assistance Officer will inform the Right of Way Manager of Production of his or her concurrence or disagreement with the recommendation contained in the relocation plan regarding the establishment of a project site office.
6. The Relocation Assistance Officer will make the final determination concerning eligibility of displaced businesses, farms or non-profit organizations for fixed moving cost (In Lieu) payments.
7. The Relocation Assistance Officer will review displaced persons' statements and/or letters of dissatisfaction prior to the institution of the formal appeals process.
8. The Relocation Assistance Officer will effectively train and direct a sufficient number of regional agents to provide for statewide compliance with Federal, State, Local and DOTD laws and regulations in the administration of the relocation assistance program.
9. The staff of the Relocation Assistance Office will visit each of the Regional Offices to manage relocation activities. The frequency of the visits will be on an as needed basis and to the extent necessary to ensure compliance with policies, procedures, laws, and regulations.
10. During the visits to the field, the staff of the Relocation Assistance Office will discuss relocation assistance policies and procedures, specific relocation problems that regional personnel may be experiencing, and suggestions for possible solutions to problems.

11. In accordance with the Title VI Non-Discrimination Policy, statistics on displaced persons' races and ages will be captured by field agents and recorded on the Occupant Interview Forms and in the Relocation database.

## 4.2 DEFINITIONS

1. **AGENCY** - means any entity utilizing Federal funds or Federal financial assistance for a project or program that acquires real property or displaces a person.
  - a. **Federal agency** means any department, agency, or instrumentality in the executive branch of the United States Government, any wholly owned U.S. Government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.
  - b. **State agency** means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.
2. **ALIEN NOT LAWFULLY PRESENT IN THE UNITED STATES** means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:
  - a. An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose stay in the United States has not been authorized by the U.S. Secretary of Homeland Security; and
  - b. An alien who is present in the United States after the expiration of the period of stay authorized by the U.S. Secretary of Homeland Security or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the United States.
3. **APPRAISAL** means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
4. **BUSINESS** - any lawful activity, except a farm operation, that is conducted:
  - a. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;
  - b. Primarily for the sale of services to the public;
  - c. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

- d. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.
5. **CITIZEN** for purposes of this part includes both citizens of the United States and noncitizen nationals.
6. **COMPARABLE REPLACEMENT DWELLING** - a dwelling which is:
- a. Decent, safe and sanitary as described in 49 CFR 24.2(a) “Decent, safe, and sanitary (DSS) dwelling”;
  - b. Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (See appendix A, CFR 49 §24.2(a));
  - c. Adequate in size to accommodate the occupants;
  - d. In an area not subject to unreasonable adverse environmental conditions;
  - e. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
  - f. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also CFR 49 §24.403(a)(2));
  - g. Currently available to the displaced person on the private market except as provided in CFR 49 §24.2(a)(6)(ix) of the Uniform Relocation Assistance Act; (See also appendix A, CFR 49 §24.2(a)(6)(vii)); and
  - h. Within the financial means of the displaced person:
    - i. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in CFR 49 §24.401(c), all increased mortgage interest costs as described at CFR 49 §24.401(d) and all incidental expenses as described at CFR 49 §24.401(f), plus any additional amount required to be paid under CFR 49 §24.404, replacement housing of last resort.

- ii. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described in CFR 49 §24.402(b)(2).
- iii. For a displaced person who is not eligible to receive a replacement housing payment due to failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Department pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in CFR 49 §24.402(b)(2). Such rental assistance must be paid under CFR 49 §24.404, Replacement Housing of Last Resort.
- iv. For a person receiving Government housing assistance before displacement, a dwelling that may reflect similar Government housing assistance. In such cases any requirements of the Government housing assistance program, including fair housing, civil rights, and those relating to the size of the replacement dwelling, shall apply. However, nothing in this part prohibits an agency from offering, or precludes a person from accepting, assistance under a Government housing program, even if the person did not receive similar assistance before displacement, subject to the eligibility requirements of the Government housing assistance program. An agency is obligated to inform the person of his or her options under this part and the implications of accepting a different form of assistance than the assistance that the person may currently be receiving. If a person accepts assistance under a Government housing assistance program, the rules of that program apply, and the rental assistance payment under § 24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing and associated utilities after the applicable Government housing assistance has been applied. In determining comparability of housing under this part:
  - (a) A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit.
  - (b) A privately owned unit with a housing project—based rental program subsidy (e.g., tied to the unit or building) may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing unit.
  - (c) An offer for tenant-based rental assistance, such as a HUD Section 8 Housing Choice Voucher, may be provided along with an offer of a comparable replacement dwelling to a person receiving a similar subsidy assistance or occupying a privately owned subsidized unit or public housing unit before displacement. The displacing agency must confirm that the owner will accept tenant based rental assistance before offering the unit as comparable

replacement housing. (see appendix A to this part, section 24.2(a), definition of comparable replacement dwelling)

7. **CONTRIBUTE MATERIALLY** - means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:
  - a. Had average annual gross receipts of at least \$5,000; or
  - b. Had average annual net earnings of at least \$1,000; or
  - c. Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.
  - d. If the application of the above criteria creates a hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.
8. **DATE OF ACQUISITION** -The date the Department acquires legal possession of real property either through payment of the Just Compensation to the owner or through deposit into the registry of the court for expropriation.
9. **DECENT, SAFE AND SANITARY (DSS) DWELLING** - means a dwelling which meets the following requirements of paragraphs (a) through (g) of this definition or the most stringent of the local housing and occupancy codes, Federal agency regulations, or the agency's regulations or written policy. The DSS dwelling shall:
  - a. Be structurally sound, weather tight, and in good repair;
  - b. Contain a safe electrical wiring system adequate for lighting and other devices;
  - c. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;
  - d. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by the most stringent of the local housing code, Federal agency regulations or requirements, or agency's regulations or written policy. In addition, the Federal funding agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such agencies;
  - e. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. When required by local code standards for residential occupancy, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

- f. Contains unobstructed egress to safe, open space at ground level; and
- g. For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, CFR 49 §24.2(a), definition of DSS)

10. **DISPLACED PERSONS** means:

- a. **Generally.** Except as identified below, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at CFR 49 §24.401(a) and CFR 49 §24.402(a):
  - i. As a direct result of a written notice of intent to acquire, rehabilitate, and/or demolish (see CFR 49 §24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
  - ii. As a direct result of rehabilitation or demolition for a project; or
  - iii. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under CFR 49 §24.205(c), and moving expenses under CFR 49 §24.301, CFR 49 §24.302 or CFR 49 §24.303.
- b. **Persons required to move temporarily.** A person who is required to move or moves his or her personal property from the real property as a direct result of the project but is not required to relocate permanently. Such determination shall be made by the agency in accordance with any requirement, policy, or guidance established by the Federal agency funding the project (see appendix A to this part, section 24.2(a)). All benefits for persons required to move on a temporary basis are described in § 24.202(a).
- c. **Voluntary acquisitions.** A tenant who moves as a direct result of a voluntary acquisition as described in § 24.101(b)(1) through (3) is eligible for relocation assistance when there is a binding written agreement between the agency and the owner that obligates the agency, without further election, to purchase the real property. Federal Funding agencies should develop policies identifying the types of agreements used in its programs or projects which it considers to be binding and which would therefore trigger eligibility for tenants as displaced persons. Agreements such as options to purchase and conditional purchase and sale agreements are not considered a binding agreement within the meaning of this paragraph until all conditions to the agency's obligation to purchase the real property have been satisfied. Provided that, the agency may determine that a tenant who moves before there is a binding agreement is eligible for relocation assistance once a binding agreement exists allowing establishment of eligibility (see appendix A to this part, section 24.2(a)).

- d. **PERSONS NOT DISPLACED** - The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:
- i. A person who moves before the initiation of negotiations (see CFR 49 §24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project;
  - ii. A person who initially enters into occupancy of the property after the date of its acquisition for the project;
  - iii. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;
  - iv. An owner-occupant who moves as a result of an acquisition of real property as described in CFR 49 §24.101(a)(2) or (b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part);
  - v. A person whom the Agency determines is not displaced as a direct result of a partial acquisition;
  - vi. A person who, after receiving a notice of relocation eligibility (described at CFR 49 §24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;
  - vii. An owner-occupant who conveys his or her property, as described in CFR 49 §24.101(a)(2) or (b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;
  - viii. A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;
  - ix. An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Public Law 93–477, Appropriations for National Park System, or Public Law 93–303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;
  - x. A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in CFR 49 §24.206. However, advisory assistance

may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

- xii. Temporary, daily, or emergency shelter occupants are in most cases not considered displaced persons. However, agencies may determine that a person occupying a shelter is a displaced person due to factors which could include reasonable expectation of a prolonged stay, or other extenuating circumstances. At a minimum, agencies shall provide advisory assistance to all occupants at initiation of negotiations. (See appendix A to this part, section 24.2(a), definition of displaced persons.)
11. **DWELLING** means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single-family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a mobile home; or any other residential unit.
  12. **DWELLING SITE** means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, CFR 49 §24.2(a).)
  13. **FARM OPERATION** means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.
  14. **FEDERAL FINANCIAL ASSISTANCE** means a grant, loan, or contribution provided by the United States, except any Federal guarantee, or insurance or tax credits (Low Income Housing Tax Credit) and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.
  15. **HOUSEHOLD INCOME** means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children under 18, or full time students who are students for at least 5 months of the year and are under the age of 24. (See appendix A to this part, section 24.2(a), for examples of exclusions to income.)
  16. **INITIATION OF NEGOTIATIONS** - Unless a different action is specified in applicable Federal program regulations, means the following:
    - a. Whenever the displacement results from the acquisition of the real property by a Federal agency or State agency, the term means the delivery of the initial written offer of just compensation by the agency to the owner or the owner's representative to

- purchase the real property for the project. However, if the Federal agency or State agency issues a notice of its intent to acquire, rehabilitate, or demolish the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the term means the actual move of the person from the property.
- b. Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal agency or a State agency), the term means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.
  - c. In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96–510, or Superfund) the term means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.
  - d. In the case of permanent relocation of a tenant as a result of a voluntary acquisition of real property described in CFR 49 §24.101(b)(1) the tenant is not eligible for relocation assistance under this part, until there is a binding written agreement between the agency and the owner that obligates the agency, without further election, to purchase the real property. (See appendix A to this part, section 24.2(a).) Agreements such as options to purchase and conditional purchase and sale agreements are not considered a binding agreement within the meaning of this part unless such agreements satisfy the requirements of the Federal agency providing the Federal financial assistance or until all conditions to the agency's obligation to purchase the real property have been satisfied.
17. **LEAD AGENCY** means the Department of Transportation acting through the Federal Highway Administration.
18. **MOBILE HOME (MANUFACTURED HOME)**, when used in this part, includes manufactured homes and recreational vehicles used as residences. The term *manufactured home* is defined at 24 CFR part 3280 (see appendix A to this part, section 24.2(a)).
19. **MORTGAGE** means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.
20. **NONPROFIT ORGANIZATION** means an organization that is incorporated under the applicable laws of the State as a nonprofit organization and is exempt from paying Federal Income Taxes under Section 501 of the Internal Revenue Code (26 U.S.C. 501).
21. **NOTICE OF INTENT TO ACQUIRE** means a written notice furnished that establishes eligibility for relocation benefits prior to the initiation of negotiations.

22. **OWNER OF A DWELLING** means a person who purchases or holds any of the following interests in the property:
- a. Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
  - b. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
  - c. A contract to purchase any of the interests or estates described in this section; or
  - d. Any other interest, including a partial interest, which in the judgment of the agency warrants consideration as ownership.
23. **OWNER'S OR TENANT'S DESIGNATED REPRESENTATIVE** means a representative designated by a property owner or tenant to receive all required notifications and documents from the agency. The owner or tenant must provide the agency a written notification which states that they are designating a representative, provide that person's name and contact information and what if any notices or information, the representative is not authorized to receive.
24. **PERSON** means any individual, family, partnership, corporation, or association.
25. **PROGRAM OR PROJECT** means any activity or series of activities undertaken by a Federal agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding agency guidelines.
26. **RECIPIENT** means a non-Federal entity that receives a Federal award directly from a Federal agency to carry out an activity under a Federal program. The recipient is accountable to the Federal funding agency for the use of the funds and for compliance with applicable Federal requirements. The term recipient does not include subrecipients.
27. **REVERSE MORTGAGE** (also known as a Home Equity Conversion Mortgage (HECM)) means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor is authorized to make under any Federal law or State constitution, law, or regulation. See 12 U.S.C. 1715z-20 for additional information. It is a class of lien generally available to persons 62 years of age or older. Reverse mortgages do not require a monthly mortgage payment and can also be used to access a home's equity. The reverse mortgage becomes due when none of the original borrowers lives in the home, if taxes or insurance become delinquent, or if the property falls into disrepair.
28. **SALVAGE VALUE** - The probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

29. **SMALL BUSINESS** means a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of § 24.303 or § 24.304.
30. **SUBSEQUENT OCCUPANT (DISPLACED)** - A person who occupies a parcel after the initiation of negotiations but before the parcel is acquired. Such person qualifies as a displaced person, and as such is eligible for advisory services, moving costs and possibly replacement housing assistance (if replacement housing is not available within the person's financial means).
31. **SUBSEQUENT OCCUPANT (NOT DISPLACED)** - A person who occupies a parcel subsequent to its acquisition by the Department. Such person is considered not displaced, and is eligible only for advisory services and moving costs.
32. **TEMPORARY, DAILY, OR EMERGENCY SHELTER** (shelter) means any facility, the primary purpose of which is to provide a person with a temporary overnight shelter which does not allow prolonged or guaranteed occupancy. A shelter typically requires the occupants to remove their personal property and themselves from the premises on a daily basis, offers no guarantee of reentry in the evening, and in most cases does not meet the definition of dwelling as used in this part.
33. **TENANT** means a person who has the temporary use and occupancy of real property owned by another.
34. **UNECONOMIC REMNANT** means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owners' property, and which the agency has determined has little or no value or utility to the owner.
35. **UNIFORM ACT OR ACT** means 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.
36. **UNLAWFUL OCCUPANT** means a person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. The Department, at its discretion, may consider such person to be in lawful occupancy for the purpose of determining eligibility for assistance under the Uniform Act.
37. **UTILITY COSTS** means expenses for electricity, gas, other heating and cooking fuels, water and sewer.
38. **WAIVER VALUATION** means the valuation process used and the product produced when the agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions. Waiver valuations are not appraisals as defined by the Uniform Act and this part.

### 4.3 RECORDS AND REPORTS

The Right of Way Regional Supervisor or consultant project manager is responsible for maintaining relocation assistance records on each parcel with displaced persons to properly document the relocation services and payments. Agents will ensure that information is entered for each displaced person as soon as it becomes available, or is developed. This computerized data will be used to compile all reports required by the FHWA in a timely manner. The Relocation Assistance Officer is responsible for periodic audits of statewide relocation assistance records to ensure compliance with applicable laws, policies, procedures and regulations. A discussion of the operations of the Relocation Assistance Officer and his or her staff is found in [Section 4.1](#) of this manual.

#### PROCEDURES:

1. Relocation assistance files must be maintained at the regional level and should include notices, offer letters, inventories, interviews, inspections, claim forms with attachments, log of contacts, and all other supporting documentation. All entries must be made on all applicable forms in a timely manner to ensure completeness of the file.
2. The Right of Way Regional Supervisor or consultant project manager is responsible for the setup of relocation information in the Right of Way relocation database as soon as sufficient displaced person information for a given project has been developed, as well as providing for the applicable information being entered on the screen as relocation assistance for each displaced person progresses. The set-up of the screens should be accomplished within three (3) working days of the completion of the Occupant Interview.
3. The Relocation Assistance Officer or his or her assistant is responsible for maintaining accurate records of all payments made to displaced persons on the Department's electronic project tracking system.
4. Relocation assistance records will be available at reasonable hours for inspection by the responsible representatives of the Federal Highway Administration or other authorized persons; these records shall be retained for at least three (3) years after the displaced person receives the final payment.
5. Upon completion of payments and/or appeals on a given parcel, the Right of Way Regional Supervisor or consultant project manager will provide for a review of the complete file to ensure that all proper entries have been made, all outstanding items have been settled, and that all certifications have been signed and dated.
6. From the relocation information maintained on the computer, the Right of Way Administrator will provide for the preparation and submittal of a report to the FHWA within 30 days from the end of the Federal fiscal year every year. This report will be statistically presented using the FHWA Form.
7. Other reports requested by the Federal Highway Administration will be prepared and submitted on an "as needed" basis.

8. The Relocation Office, for any reason, may visit the Regional Office to review the relocation files for completeness and correctness. The Right of Way Regional Supervisor will maintain the official relocation files in their offices for at least three years. After that time, the Relocation Office's relocation files shall be interfiled with the acquisition files and be microfilmed three years post certification.

#### 4.4 CONCEPTUAL STAGE RELOCATION PLAN

A conceptual stage relocation plan must be prepared in accordance with federal policy when required and requested by the Public Hearings and Environmental Impact Section. It is the responsibility of the Right of Way Regional Supervisor to provide for the preparation of the plan, which must receive the approval of the Relocation Assistance Officer, or his or her designee, prior to submittal to the Public Hearings and Environmental Impact Section. The plan will identify the extent, scope and effects of relocations that may be caused by each alternate location or design under consideration for a proposed DOTD project. The plan will also identify the availability of replacement housing as well as possible solutions relative to relocation problems recognized as a result of the studies conducted during preparation of the plan. The information required for preparation of the conceptual stage relocation plan may be obtained by visual inspection of the area of the proposed project and from readily available secondary sources or community sources.

##### **PROCEDURES:**

1. Upon receipt of a request for a conceptual stage relocation plan, the Relocation Assistance Officer will forward the request to the Right of Way Regional Supervisor, who will assign the preparation of the plan to one or more agents. The agent assigned the preparation of the plan will complete a conceptual stage plan for each alternate location or design being considered for the project and one replacement property inventory covering all alternates. Every effort shall be made for the agent to accompany and work in close cooperation with the appraiser assigned to prepare the right of way cost estimate.
2. The relocation inventory form will be prepared on the basis of external inspection of the principal buildings and from other secondary sources. Occupants are not to be disturbed, but the buildings should be identified as accurately as possible. The number of families may be estimated from the apparent usage of residences and the number of individuals may be established by applying the average number of persons per family as determined in the latest U.S. Census. The remaining information required on this inventory is to be in the form of estimates.
3. The replacement property inventory form will be prepared on the basis of a study of the general area in which the proposed project is to be located. The study should include visual observations, listings from local realtors, advertisements in local and area newspapers, and meetings with building contractors, housing agencies, and any other source considered reliable. All available decent, safe and sanitary housing in the vicinity of the proposed project should be listed if such housing is considered suitable as replacements. Housing

that will become available through proposed construction or normal market turnover during the scheduled acquisition of right of way should also be listed.

4. The information obtained will then be analyzed and compiled in the conceptual stage relocation plan, covering all items contained in subparagraph 6 below.
5. The conceptual stage relocation plan must include the following information:
  - a. Estimate of households to be displaced, including the family characteristics (minorities, income levels, tenure, the elderly, large families, handicaps, etc.).
  - b. Divisive or disruptive effect on the community, such as separation of residences from community facilities or separation of neighborhoods.
  - c. Impact on the neighborhood and housing where relocation is likely to take place.
  - d. An estimate of the businesses to be displaced and any expected adverse economic impact on the displaced businesses, as well as the general effect of business dislocation on the economy of the community.
  - e. A description of relocation housing in the area and the ability to provide relocation housing for the types of families to be displaced. An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.
  - f. A description of special relocation advisory services that will be necessary for identified unusual conditions.
  - g. A description of the actions proposed to remedy insufficient relocation housing, including, if necessary, housing of last resort.
  - h. Results of consultation with local officials, social agencies, and community groups regarding the impacts on the community affected.
  - i. An estimate of any facilities that may qualify for functional replacement.
6. After presenting the required information for each alternate and possible solutions relative to identified relocation problems, the agent must include for each alternate an estimate of cost for moving and replacement housing payments as well as an estimate of the amount of time which will be required to complete relocation assistance activities.
7. Assistance from the Right of Way Relocation Assistance Office may be requested at any time during preparation of the conceptual stage relocation plan.
8. Upon completion of the plan the agent will transmit it to the Relocation Assistance Officer for further handling. The final estimate will be returned to the original requester.

#### 4.5 RIGHT OF WAY STAGE RELOCATION PLAN

The Right of Way Regional Supervisors are responsible for the preparation and maintenance of inventories of all displaced persons and available replacement structures for any DOTD project that will cause displacements. He or she is also responsible for the preparation of a right of way stage relocation plan if the project will cause the displacement of families or individuals. The preparation of a preliminary right of way relocation plan should begin as soon as sufficient right of way plans are available for the project. When appraisals are ordered, the displaced persons on the project shall be interviewed and the final right of way relocation plan will be prepared. The Maintenance of available housing inventories should continue until such time as relocation assistance activities are completed.

##### **PROCEDURES:**

1. As soon as the Right of Way Regional Supervisor receives sufficient right of way plans, he or she will assign one or more agents to prepare a right of way stage relocation plan.
2. The agent(s) assigned to prepare a preliminary right of way stage plan will conduct a survey of the project to determine the number of individuals, families, businesses and nonprofit organizations that will be displaced. A preliminary right of way relocation plan will be prepared containing all the elements outlined in subsection 9 except occupant interviews and inspection reports. The summary of displacements will instead be estimated based on a visual inspection of the project. This preliminary right of way stage relocation plan is due in Headquarters within one month of the receipt of final right of way plans. NOTE: If appraisals have been ordered at the time the right of way maps are received, preparation of a preliminary right of way stage relocation plan is waived.
3. When appraisals have been ordered or a request for a final right of way stage relocation plan is received on the project, each displaced person or business will be interviewed, as is feasible and feasible.
4. During the interviews the agent(s) will complete occupant interview forms and inspection report forms for each occupied structure.
5. The information described in subparagraphs 2 and 3 above will provide the agent(s) with a picture of the facilities from which each person is being displaced and a means by which to evaluate their needs and determine any problems associated with their displacement.
6. The agent(s) will conduct a survey of the area of the project to find comparable, DSS replacement housing for the displaced individuals and families as well as suitable replacement non-residential structures. He or she will then inventory these available replacements using the replacement property inventory form, multiple listing services, newspaper clippings, and any other means considered necessary. The result will be a description of the available facilities in the area (including price ranges and rental rates), which can then be compared with the survey of displaced persons to assist in identifying relocation assistance problems affecting the scheduling of the project.

7. Inventories of available replacements must be maintained until all persons have been moved from residences within the limits of the project, or until all residential displaced persons have been afforded the opportunity and the necessary time to occupy decent, safe, and sanitary dwellings within their financial means, and/or until all non-residential displaced persons have been afforded the opportunity and necessary time to vacate the property acquired.
8. Using the above information, the agent will prepare the final right of way stage relocation plan which will set forth: a summary or inventory of the characteristics and needs of the displaced individuals and families; a summary or inventory of available, comparable, decent, safe, and sanitary housing; and an analysis and correlation of the two summaries.
9. The final right of way stage relocation plan should be completed within a month of appraisals being ordered and shall be reported by the following outline:
  - a. Summary of displacements - Summarize the characteristics and needs of the individuals and families to be displaced and correlate with available comparable, decent, safe, and sanitary housing. (Summarize only those displaced persons anticipated to require last resort housing provisions.)
  - b. The major relocation problems disclosed by the relocation survey - Outline all major relocation problems that are indicated in comparing the types of improvements to be taken and the types of displacements with the listings of available replacement housing.
  - c. Federal, state and municipal programs currently in operation that affect the availability of housing. Determine whether or not any major housing construction project (private, Federal, State or Municipal) is planned for the area. If so, provide pertinent facts concerning the proposed housing projects.
  - d. Detailed information about displacements being caused by other governmental agencies or private concerns in the subject area. Investigate and determine whether or not any other agency, public or private, is involved in a project that will also require the taking of improved properties in the general area of the planned highway improvement. If so, list the agency and project and discuss the additional relocation problems, if any that will be created.
  - e. Analysis of the various relocation problems and the method of operations to resolve the problems and relocate the displaced persons. Analyze any relocation problems in b. and d. above. Give method of resolving the problems including, if necessary, utilization of housing of last resort.
  - f. Estimate of the lead-time required to carry out a timely and orderly relocation program.
  - g. Recommend whether a site office is necessary.
  - h. Prepare a list of displaced persons and their corresponding parcel numbers and occupancy types. THIS LIST WILL BE USED TO SET UP HEADQUARTERS COMPUTER SCREENS SO PARCEL NUMBERS MUST BE CORRECT AND

COMPLETE. All relocation vouchers subsequently submitted must correspond to the parcel numbers on this list. Headquarters shall be advised immediately of any changes in parcel numbers that develop subsequent to submission of this list.

- i. Summarize the total number of displaced persons and estimated relocation costs by the following categories:
  - i. Residential owners and tenants;
  - ii. Residential replacement housing costs;
  - iii. Residential moving costs;
  - iv. Business and farm owners and tenants;
  - v. Business and farm moving costs; and
  - vi. Relocation services costs (20% of sum of 2+3+5)
  
- j. The agent will prepare an occupant interview for each displaced person utilizing the appropriate form. If the move involves personal property only, the owner must still be interviewed and an interview form completed describing the nature of the personal property. A copy of the occupant interview on each displaced person will be maintained in the Regional office and a copy sent to the Relocation Assistance Officer with the final right of way stage relocation plan.

#### 4.6 RELOCATION SERVICES

As a part of the relocation assistance program all persons displaced by a DOTD project are entitled to the following:

1. Relocation Assistance advisory services;
2. Easy access to the information and services available under the relocation assistance program;
3. Adequate public awareness about the relocation assistance program;
4. Written notices to ensure displaced persons are fully informed of available benefits and services, and their rights under the relocation assistance program;
5. Right to appeal the Department's determinations concerning relocation assistance benefits and services; and
6. Preservation of their civil rights.

#### PROCEDURES:

1. Relocation assistance advisory services will be provided to assist persons affected by projects in relocating to comparable decent, safe, and sanitary housing. Every reasonable effort will be made to provide these services by personal contact with the following persons:
  - a. Any displaced person.

- b. Any person occupying property immediately adjacent to the real property acquired for a DOTD project when the Department determines that such person is caused substantial economic injury or is adversely impacted because of the acquisition.
  - c. Any person who, because of the acquisition of real property used for his business or farm operation, moves from other real property used for a dwelling, or moves his personal property from such other real property.
2. All persons entitled to relocation assistance advisory services will receive uniform and consistent services and payments regardless of race, color, religion, sex, or national origin. The amount and extent of the advisory services administered will be on a reasonable basis commensurate with the person's needs.
  3. Relocation assistance advisory services will be administered as provided for in other parts of this Section and as necessary to accomplish the following:
    - a. Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:
      - i. The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.
      - ii. Determination of the need for outside specialists that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
      - iii. For businesses, an identification and resolution of personal property or realty issues. Every effort must be made to identify and resolve realty or personal property issues prior to, or at the time of, the appraisal of the property.
      - iv. An estimate of the time required for the business to vacate the site.
      - v. An estimate of the anticipated difficulty in locating a replacement property.
      - vi. An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.
    - b. Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the

- procedures for obtaining such assistance. This shall include a personal interview with each residential displaced person.
- i. Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available.
  - ii. As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.
  - iii. Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, the Agency shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.
  - iv. Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. The Agency shall offer all persons transportation to inspect housing to which they are referred.
  - v. 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 (42 month) duration of the relocation rental assistance payment.
- c. Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.
  - d. Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.
  - e. Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loan and other programs administered by the small business administration, and other federal and state programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

- f. Coordination of relocation activities. Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.
    - g. Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.
  4. The right-of-way stage relocation plan will indicate whether establishment of a project site office is recommended, giving reasons for the recommendation. This recommendation will be reviewed by the Relocation Assistance Officer, who will inform the Right of Way Administrator of his or her concurrence or disagreement with the recommendation. The Right of Way Administrator will make the ultimate decision. The decision must ensure that all displaced persons have easy access to the following information:
    - a. Current continuously updated lists of available DSS comparable replacement dwellings, suitable for displaced persons on the project.
    - b. Current continuously updated lists of comparable commercial properties and locations for displaced businesses.
    - c. Current local data on costs such as security deposits, closing costs, typical down payments, interest rates and terms.
    - d. Information concerning the schools, parks, playgrounds, shopping, and public transportation in the area.
    - e. Copies of the Department's brochure "Acquisition of Right of Way and Relocation Assistance", local housing ordinances, consumer education literature, classified sections of local newspapers, and apartment and multiple listing services where available.
    - f. Any other information that might be of value to displaced persons in the particular area.
  5. Displaced persons' access to the above information will be affected in the following ways:
    - a. Where circumstances dictate the maintenance of a relocation assistance project site office, the location of such office shall be in close proximity to the project or on easily accessible public transportation routes.
    - b. Relocation assistance project site office hours will be scheduled so as to be convenient for all displaced persons, including evening office hours if circumstances warrant.
    - c. As much of the above information as possible will be given by the Agent during the relocation assistance interviews and presentation of benefits, services, and payments.

6. The Right of Way Regional Supervisor or an assigned agent, is responsible for providing the necessary relocation assistance information as required for public hearings, and for presenting the appropriate public hearing information script at public hearings to assure adequate public information of the relocation assistance program. The procedures to be followed are more fully discussed in [Section 4.4](#).
7. The Relocation Assistance Officer will provide for the preparation and necessary updating of the relocation assistance section of the brochure, acquisition of right of way and relocation assistance, which will fully explain the relocation assistance program including eligibility requirements, benefits, payments, rights of displaced persons, and the Department's replacement housing policy. This brochure will be made available to all displaced persons.
8. Each displaced person will be given written notices to ensure that he or she is fully informed of the benefits and services available to him. The procedures for and types of written notices are found in [Section 4.8](#). To the greatest extent feasible these notices shall be delivered within 10 days of the beginning of negotiations.
9. All displaced persons are assured of the right of appeal in the event of dissatisfaction or disagreement with a determination as to eligibility for relocation assistance or an amount of payment offered. This right of appeal is more fully discussed in [Section 4.17](#).
10. When an occupant of Department-owned property becomes delinquent under the Department's rental policy, **such delinquent rental amount shall be subject to being withheld from any relocation assistance payment due the occupant**. Delinquent occupants should be advised by the Right of Way Regional Supervisor of the possibility of delinquent rentals being deducted from relocation assistance payments, unless such a deduction would prevent the displaced person from obtaining comparable replacement dwelling.
11. Evictions shall be handled in accordance with [Section 3.6](#) of the Right of Way Operations Manual.

#### 4.7 GENERAL PROVISIONS

To the greatest extent feasible, no person lawfully occupying real property acquired for the construction of a DOTD project shall be required to move from a dwelling, or to move his business or farm, without at least 90 days written notice of the intended vacation date. Individuals and families so displaced are eligible for replacement housing payments in the form of purchase, down payment, or rent supplements, as determined by length of occupancy and type of occupancy (owner or tenant), in accordance with the principles set forth in 4.1. The maximum replacement housing payment offer to which a displaced person is entitled is computed based on the type of occupancy in effect at the beginning of negotiations, and is the amount determined as necessary to enable the displaced person to purchase or rent comparable decent, safe, and sanitary replacement housing. However, a displaced person is not required to maintain the same type of occupancy when he or she relocates.

**PROCEDURES:**

1. Upon receipt of parcel packages, the Right of Way Regional Supervisor or consultant project manager will assign occupied parcels to one or more agents properly trained in relocation assistance procedures. The agent(s) assigned the occupied parcel(s) are responsible for the relocation assistance and services to which all persons occupying the parcel are entitled, as well as negotiations for the parcel.
2. The Agent will locate available residential structures and/or suitable non-residential sites comparable to the occupied improvements situated on the parcel(s) with relocation. He or she will complete a housing inspection form for each residential structure considered comparable.
3. The completed forms will become a part of the inventory of replacements for the project. This inventory will be continuously updated throughout the course of the project until relocation is complete, with listings added or deleted as necessary. As replacements are deleted from the inventory, the forms are to be dated and marked "NOT AVAILABLE".
4. The agent will compute the replacement housing payment to which each displaced person is entitled in accordance with the eligibility requirements set forth in [Section 4.9](#) and the procedures for computations found in [Section 4.10](#). The calculations will be based on the type of occupancy presently in effect. **ALL COMPUTATIONS MUST BE APPROVED BY THE RELOCATION ASSISTANCE OFFICER BEFORE AN OFFER CAN BE MADE.** If the displaced person requests an alternate computation based on a different occupancy, it will be done in addition to the standard computation. However, the Department is not obligated to furnish a maximum replacement housing offer based on an alternate calculation if such alternate is not available, or if the alternate calculation exceeds the limitations set forth in subparagraph d of [Section 4.9](#).
5. After computing the replacement housing payment offer following the procedures set forth in [Section 4.10](#), the agent will prepare the appropriate maximum payment offer letter to each residential displaced person on the parcel in accordance with 4.8. He or she will then contact the owner of the parcel. If the parcel is owner-occupied, the agent will present the just compensation offer letter and the maximum replacement housing payment offer letter, as well as a copy of the brochure if not already provided. He or she will then discuss fully the relocation assistance benefits and requirements with the displaced person.
6. At the first contact with a non-residential owner-occupant, the agent will present the just compensation offer letter, the act of sale, and a copy of the brochure if it was not previously provided, and a non-residential eligibility letter. He or she will then discuss the relocation assistance services and moving expenses payments.
7. If possible, the agent should contact any tenants on the same date the owner is contacted, to present the maximum replacement housing payment offer letter and the brochure, if it was not previously provided. The agent will discuss relocation assistance benefits and

requirements with particular emphasis on the fact that eligibility is not complete until the Department acquires the property.

8. Rental supplement offers or wait letters to tenants must be delivered personally within ten (10) days of the initiation of negotiations for the parcel.
9. Additional contacts by the agent with displaced persons shall be made whenever conditions warrant. During these contacts, the agent will make any necessary revisions and corrections to the information previously obtained. He or she must also record each contact made with a displaced person in the displaced person contact log in the Department's electronic project tracking system.

#### **4.8 WRITTEN NOTICES**

##### **INITIATION OF NEGOTIATIONS ON THE PROJECT**

Delivery of the first just compensation offer letter to any owner on a project (excluding offers for hardship acquisition) constitutes the initiation of negotiations for that project. The Right of Way Regional Supervisor or consultant project manager is responsible for notifying the Relocation Assistance Officer of the date of initiation of negotiations for any DOTD project that will cause displacements. To the greatest extent feasible, each potential displaced person on the project shall be notified of his or her possible displacement within 10 days of this date. This informational notice shall be delivered by personal contact, certified letter or registered letter. A copy of the informational notice shall be placed in the displaced person's relocation assistance file and a copy sent to the Relocation Office.

##### **PROCEDURES:**

1. Upon the first negotiating contact (excluding contacts for hardship acquisition) on any project which will cause displacements, whether the first contact is for an improved or unimproved parcel, the Right of Way Regional Supervisor or consultant project manager shall prepare and transmit a letter to the Relocation Assistance Officer stating the date of initiation of negotiations on the project.
2. To the greatest extent feasible, informational notices will be delivered to each potential displaced person either personally or by certified mail within 10 days of the project initiation of negotiations. Any request for a waiver of this requirement must be approved by the Relocation Assistance Officer prior to initiation of negotiations. Informational Notices are not required on parcels that may be adversely impacted.

##### **INITIATION OF NEGOTIATIONS ON THE PARCEL**

To ensure that each displaced person is fully informed of the benefits, payments and services available to him or her, the Department shall, to the greatest extent feasible, deliver a purchase supplement offer letter to each owner-occupant whose dwelling is within the required area at the same time the acquisition offer is presented, and a rent supplement offer letter to each tenant within 10 days of the acquisition offer to the owner.

**PROCEDURES:**

1. To the greatest extent feasible, no displaced person shall be required to move earlier than 30 days after the date of acquisition or expropriation of the parcel, nor earlier than the 90-day vacate date given in the eligibility letter, purchase supplement offer, rent supplement offer, or non-residential eligibility letter.
2. Upon payment of the acquisition price to the owner of a parcel (or the service of process if the parcel is expropriated), the Agent will determine if it is necessary to send the occupant a supplemental vacate notice, called an extension letter. An extension letter is necessary if the 90-day vacate date will expire before 30 days from the date of payment of acquisition price or service of process. If it is necessary to send an extension letter, the new vacate date shall be 30 days from the date of acquisition or the date of service of process.
3. The agent will prepare the appropriate eligibility letter to each residential and nonresidential displaced person on the project:

- a. Notices to Residential Displaced persons

The eligibility letter to a residential displaced person will be prepared after the Agent has performed the calculations to determine the maximum replacement housing or rent supplement payment to which the displaced person is entitled in accordance with [Section 4.10](#). In addition to the replacement housing offer, it will describe other relocation assistance benefits and services to which the displaced person may be entitled. It will give the address of the comparable and offer to provide transportation to inspect it. The letter will also give the 90-day vacate date.

- i. Notices to 90-Day Owner-Occupants

- (a) The eligibility letter to a displaced 90-day owner-occupant is a purchase supplement letter. This letter will state the maximum purchase supplement to which the displaced person may be eligible. It shall be personally delivered and explained to each displaced person whose residential improvement is in the taking at the same time the acquisition offer is presented.
- (b) If no comparable replacement housing is available on which to compute the replacement housing payment (RHP) offer, the Right of Way Regional Supervisor or consultant project manager shall advise the Relocation Assistance Officer. The Relocation Assistance Officer shall discuss the situation with the Right of Way Manager of Production, who will decide if the acquisition offer will be presented to the owner in advance of the replacement housing offer. If the determination is made to do so, the Right of Way Regional Supervisor or consultant project manager shall be so advised in writing and the displaced person shall be issued a wait letter at the time the acquisition offer is presented. The wait letter advises the displaced person that the purchase supplement offer shall be presented as soon as possible.

- (c) Offer to 90-day owner-occupants of adversely impacted improvements: If the residential improvement is adversely impacted rather than within the acquisition area, computation of the replacement housing offer and presentation of the purchase supplement letter may be delayed until the owner decides if he or she wishes to consider the relocation option.
  - (d) If the owner-occupant wishes to rent rather than purchase a replacement dwelling, his or her alternate entitlement will be computed in accordance with [Section 4.10\(3\)\(a\)](#). This rent supplement offer will be made in writing either as a separate paragraph on the purchase supplement letter, or on a rent supplement offer letter. Issuing a rent supplement letter does not preclude the requirement of presenting a purchase supplement offer.
- ii. Notices to 90-Day Tenant-Occupants
- (a) The maximum rental supplement offer to a 90-day tenant-occupant will be made in a rent supplement letter. The offer will be personally presented within 10 days of the initiation of negotiations.
  - (b) If no available comparable replacement housing is available on which to compute the offer, the Right of Way Regional Supervisor or consultant project manager shall advise the Relocation Assistance Officer. The Relocation Assistance Officer shall discuss the situation with the Right of Way Manager of Production, who will decide if the acquisition offer will be presented to the owner in advance of the replacement housing offer. If the determination is made to do so, the Right of Way Regional Supervisor or consultant project manager shall be so advised in writing and the displaced person shall be issued a wait letter at the time the acquisition offer is presented. If after sending the wait letter the agent is still unable to locate a comparable, and the real estate market in the area historically reveals a lack of comparable housing becoming available at regular intervals, last resort housing procedures in compliance with [Section 4.16](#) will be considered by the agent.
- iii. Notices to Occupants of Less Than 90 Days
- (a) Within 10 days of initiation of negotiations on a parcel, an occupant of less than 90 days who is eligible for a rental supplement because of financial means will receive a rent supplement letter stating the maximum rental supplement to which he or she is entitled.
  - (b) If no available comparable replacement housing is available on which to compute the offer, the Right of Way Regional Supervisor or consultant project relocation assistance manager shall advise the Relocation Assistance Officer. The Relocation Assistance Officer shall discuss the situation with the Right of Way Manager of Production, who will decide if the acquisition offer will be presented to the owner in advance of the replacement housing offer. If the

determination is made to do so, the Right of Way Regional Supervisor or consultant project manager shall be so advised in writing and the displaced person shall be issued a wait letter which advises the displaced person if the Department determines that he or she is eligible for a rent supplement, the entitlement offer will be made as soon as possible.

b. Notices to Non-Residential Displaced persons:

- i. Within 10 days of the initiation of negotiations on a parcel, a displaced business, farm or non-profit organization will receive a non-residential eligibility letter stating that the property it occupies is in the process of being acquired and that the maximum amount of the moving cost to which it is entitled will be computed and furnished as soon as possible. It will also give the 90-day vacate date.
- ii. As soon as the Agent receives the displaced person's inventory, a moving cost offer will be computed and the offer presented in an establishment of estimated cost of move letter.

c. Notice of Intent to Acquire:

A notice of intent to acquire is a displacing Agency's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal Financial Assistance to the activity, which clearly sets forth that the Agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal Financial Assistance. To establish such eligibility, the Right of Way Regional Supervisor or consultant project manager will make a written request to the Right of Way Administrator stating the extenuating circumstances in the case. The decision to utilize the procedures described herein rests with the Right of Way Administrator, and will not be made unless the initiation of negotiations for the parcel is imminent. Notices of intent to acquire shall not be issued prior to the FHWA authorizing negotiations on the project or authorizing acquisition of individual parcels for protective buying or because of hardship.

- i. In the event the decision is made to issue such notice(s), the following procedures shall apply:
- ii. If a notice of intent to acquire is furnished to an owner, it must also be furnished to any tenant on the parcel within 10 days.
- iii. If a notice of intent to acquire is furnished to a tenant, the owner of the parcel must be simultaneously notified of such action.
- iv. When a displaced person is relocated under a notice of intent to acquire, relocation payments may be made at the time of the move.

## **GUIDELINES FOR ISSUING LETTERS AND NOTICES**

### **Informational Notices**

Mailed or delivered within 10 days of the initiation of negotiations on the project.

### **Notice of Intent to Acquire**

Issued by Right of Way Administrator to establish eligibility for relocation benefits to certain occupants prior to the initiation of negotiations and/or commitment of federal funds. Cannot be issued unless the FHWA has authorized negotiations on the project. If furnished a parcel owner, it must also be furnished to any tenant on the parcel within 10 days. If furnished to a tenant of a parcel, it must be simultaneously furnished to the owner.

### **Purchase Supplement Letter**

Eligibility offer letter to 90-day owner-occupants gives purchase supplement offer and 90-day vacate date. Also gives latest date by which Department must acquire property for 90-day date to be valid, which is 30 days prior to 90-day date. If acquisition occurs after that date, the displaced person will be issued an extension letter (see below) that changes the vacate date to 30 days from the date of acquisition. Personally delivered and explained at the same time the acquisition offer is presented.

### **Rent Supplement Letter**

Eligibility offer letter to 90-day tenant-occupants, as well as short term occupants, and subsequent occupants, who meet financial need criteria. Alternate eligibility letter for 90-day owner-occupants who choose to rent replacement housing. Gives rental supplement offer and 90-day vacate date. Also gives latest date by which Department must acquire property for 90-day date to be valid, which is 30 days prior to 90-day date. If acquisition occurs after that date, the displaced person will be issued an extension letter (see below) which changes the vacate date to 30 days from the date of acquisition. Personally delivered and explained at the same time as the acquisition offer is made for an owner-occupant, or within 10 days of initiation of negotiations on the parcel for a tenant. If no comparable is available, a wait letter is issued until a comparable can be located and the offer letter prepared.

### **Wait Letter**

Requires written approval of Right of Way Administrator. Delivered to residential displaced persons entitled to replacement housing offers when there are no comparable properties available on which to compute an offer within the prescribed period following initiation of negotiations on the parcel. The wait letter advises the displaced person that the entitlement offer will be made as soon as possible.

### **Extension Letter**

1. Issued to displaced persons who had previously been given a 90-day vacate date that is fewer than 30 days after the date of payment of just compensation or service of process on

the parcel. It specifies the new vacate date, which shall be 30 days from the date of payment of just compensation or service of process.

2. At the discretion of the Department, issued to displaced persons who request additional time to complete their moves following their 90-day vacate date, when such will not inhibit the letting of the project.

### **Business Eligibility Letter**

Letter to displaced businesses advising that a moving cost estimate will be developed and furnished at a later day, and stating the 90-day vacate date. Also gives latest date by which Department must acquire property for 90-day date to be valid, which is 30 days prior to 90-day date. If acquisition occurs after that date, the displaced person will be issued an extension letter (see below), which changes the vacate date to 30 days from the date of acquisition. Issued within 10 days of the initiation of negotiations on the parcel.

### **Establishment of Estimated Cost of Move Letter**

Letter to businesses and residential displaced persons advising them of the amount of the moving cost offer. Issued as soon as the moving costs based on inventory and specifications are determined.

## **4.9 REPLACEMENT HOUSING ELIGIBILITY REQUIREMENTS**

A residential displaced person is eligible for a replacement housing payment offer if he or she qualifies as a displaced person as defined in [Section 4.2 #6](#). A short-term occupant, as defined in [Section 4.2 #23](#), is eligible for a replacement housing payment if he or she cannot be relocated into a replacement dwelling within his or her financial means. The types of housing payments, based upon length and type of occupancy, are described below. For the displaced person to be eligible for a replacement housing payment, the property must have been acquired by the Department, or if the property has not yet been acquired, must have been issued a notice of intent to acquire. In addition, the displaced person must purchase or rent, and actually occupy decent, safe, and sanitary replacement housing within the time limitations set forth in subparagraph 3 below. The Department will inspect the replacement dwelling and certify that it meets decent, safe, and sanitary standards before eligibility for payment is complete. Such certification shall be made on the housing inspection report form. A displaced person's eligibility for payment will be determined by what he or she actually spends for the replacement dwelling within the limitations set by the Department's replacement housing offer.

### **PROCEDURES:**

1. A displaced residential occupant may be eligible for a replacement housing payment if he or she fulfills the following requirements:
  - a. He or she is in occupancy on the date of initiation of negotiations for the partial or total acquisition of the parcel, and has been for at least 90 consecutive days immediately prior to said date; or

- b. He or she is in occupancy at the time he or she is issued a Notice of Intent to Acquire, and said occupancy has been for at least 90 consecutive days immediately prior to his or her vacate date; or
  - c. He or she has been in occupancy for less than 90 consecutive days prior to either of the dates established in a. and b. above, and he or she cannot relocate to comparable housing within his or her financial means.
  - d. An eligible occupant is eligible for a maximum replacement housing payment offer according to his or her length and type of occupancy as follows:
    - i. An owner-occupant of at least 90 days is eligible for a purchase supplement not to exceed \$31,000.00 which supplement will include the additional cost necessary to purchase replacement housing, to compensate the owner for the loss of favorable financing on his or her existing mortgage if he or she finances the replacement dwelling, and to reimburse the owner for incidental expenses as provided for in [Section 4.12](#).
    - ii. A tenant of at least 90 days is eligible for a rental supplement not to exceed \$7,200, which supplement shall be the difference between the monthly rent plus utilities at the displacement dwelling and the rent plus estimated utilities at a comparable replacement dwelling times 42.
    - iii. Short term occupants & displaced subsequent occupants are entitled to relocation assistance advisory services in assisting them to locate comparable replacement housing as defined in [Section 4.2 #2](#). When such occupants cannot be relocated on a site within their financial means, then provisions of [Section 4.16 Methods #5\(j\)](#) shall be provided.
2. Alternate eligibility if requested by the occupant can be used in computing the maximum replacement housing payment offer as follows:
- a. An owner-occupant of at least 90 days is alternately eligible for a rental supplement not to exceed \$ \$9,570.
  - b. A tenant of at least 90 days is alternately eligible for a down payment supplement not to exceed \$ \$9,570.
  - c. A short term occupant or displaced subsequent occupant eligible for a rent supplement because of financial means is alternately eligible for a down payment supplement not to exceed the amount of the rent supplement offer.

3. Within the above limitations, a displaced person is eligible for payment of the appropriate supplement provided he or she actually purchases or rents and occupies a decent, safe and sanitary replacement dwelling within a one year period beginning:
  - a. For a 90-day owner-occupant, the later of the following dates (except when the Department extends such one year period for good cause):
    - i. The date the person receives final payment for the displacement dwelling, or in the case of expropriation, the date the full amount of the estimate of just compensation is deposited in the court; or
    - ii. The date the Department fulfills the requirements to make available comparable replacement housing to the displaced person.
  - b. For a tenant of more than 90 days, the date he or she moves from the displacement dwelling, unless the Department extends this period for good cause.
  - c. For a short term occupant or displaced subsequent occupant, the date he or she moves from the displacement dwelling, unless the Department extends this period for good cause. For purposes of the above eligibility requirement, the date of a contract entered into by a displaced person for the construction or rehabilitation of a replacement dwelling shall be considered the date he or she relocates to and occupies the replacement.
4. For purposes of determining owner eligibility, a displaced person is considered to have purchased a dwelling when he or she:
  - a. Buys an existing dwelling; or
  - b. Purchases and rehabilitates a substandard dwelling; or
  - c. Relocates to a dwelling which he or she owns or purchases; or
  - d. Constructs a dwelling on a site he or she owns or purchases; or
  - e. 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
  - f. Currently owns a previously purchased dwelling and site, the valuation of which shall be based on the current fair market value.
5. Occupancy of a replacement dwelling is accomplished only if the dwelling is the displaced person's permanent place of residence.

#### 4.10 COMPUTATIONS FOR REPLACEMENT HOUSING OFFER

Replacement housing payment offers in the form of purchase, rent or down payment supplements shall be offered to all eligible displaced persons. A purchase supplement is that amount, if any, which when added to the price paid by the Department for the acquired dwelling, equals the amount determined by the state as necessary to purchase a comparable decent, safe and sanitary dwelling. A rent supplement is that amount, if any, which when added to 42 times the present rent plus utilities, equals the amount determined by the state as necessary to rent a comparable decent, safe and sanitary dwelling for the next 3.5 years (42 months). A down payment supplement is that amount, not to exceed \$9,570 which is applied to the down payment and incidental expenses on a conventional loan on a decent, safe and sanitary replacement dwelling. The comparable dwelling used by the Department in computing the supplemental payment, besides being decent, safe and sanitary, must be available within the occupant's financial means, and should be available on the market at the time the RHP offer is made and during the time the displaced person is actively looking for a replacement dwelling.

##### PROCEDURES:

###### 1. GENERAL

Upon being assigned a negotiating package for an eligible displaced person, the agent will compute the maximum replacement housing payment to which the displaced person is entitled.

- a. The agent will begin by examining the information on the occupant interview form to determine the needs of the displaced person and his or her family. If the information on this form was obtained more than three months earlier, the agent will update the form by making a personal or telephone contact with the displaced person to ensure that all relevant information (income, monthly rent, number of occupants, etc.) is accurate. The replacement housing needs of the displaced person will be evaluated using the criteria for comparability described in [Section 4.2, #2](#).
- b. The Department will take reasonable measures to help minority displaced persons relocate to DSS replacement dwellings within their financial means that are not located in an area of minority concentration. However, this policy does not require the Department to provide a larger payment than is necessary to relocate the displaced person to a comparable replacement dwelling.
- c. If available, three dwellings comparable to the subject will be selected. The agent will fill out a housing inspection report on each dwelling and make a sketch of the floor plan on page 2 of the form. If the acquired dwelling has improvements such as a detached garage, swimming pool, outbuildings or greenhouses, called major exterior attributes (MEAs), the relocation agent should look for comparable properties that have them. If the dwelling most comparable does not have the MEA, the value of such

- attribute will be subtracted from the acquisition cost of the displacement dwelling for purpose of replacement housing computations.
- d. After selecting the three comparable dwellings, the Agent will choose the one most comparable to the displacement dwelling.
  - e. If only one or two comparable properties are available, the parcel file must be documented to show that attempts to locate three comparable properties were unsuccessful. The most comparable dwelling shall be chosen and the Agent will follow the inspection procedures described in item (d.) above.
  - f. If a possible comparable is smaller in heated square footage than the acquired dwelling, the relocation agent shall fax the pertinent information regarding each dwelling to the Relocation Assistance Officer. The Relocation Assistance Officer will determine if the smaller comparable is functionally equivalent to the displacement dwelling according to the circumstances outlined in CFR 49 24.404(c)2. Approval to use the smaller comparable must be approved in writing by the Relocation Assistance Officer.
  - g. When choosing the comparable for an occupant of a multi-family dwelling, the agent should attempt to find a dwelling of the same type as the acquired dwelling (i.e., if the acquired dwelling is a triplex, the agent should attempt to locate a comparable triplex). If unable to do so, the agent should look for a comparable of the next lowest density. If there are no available multi-family dwellings on the market, the agent will choose a single family unit that is comparable to the displaced person's living unit. In no case will the agent choose a comparable that is of a higher density than the acquired dwelling.
  - h. If the comparable dwelling requires reasonable repairs or modifications to conform to decent, safe and sanitary standards, such costs may be included in the initial rent or purchase supplement calculations. Such repairs include but are not limited to replacing broken windows, screens, space heaters, etc.
  - i. If no comparable rental dwellings are available on the market but a comparable unit is available for sale, the economic rental of that dwelling may be used for computations. The economic rent shall be determined using one of the following methods in successive order:
    - i. The economic rent may be set by the Relocation Assistance Officer.
    - ii. The economic rent may be established by the Right of Way Appraisal Office.
    - iii. The economic rent may be determined by some other appropriate means upon approval by the Relocation Assistance Officer.
    - iv. Should the displaced person elect to relocate to the comparable, the Department will acquire the property and rent it to the displaced person at the displacement rent for up to 42 months.

- j. In the event no comparable properties are available on the market, the agent should seek the Relocation Assistance Officer's approval to determine the purchase price or economic rent of a comparable dwelling based on the cost of new construction. This purchase price or economic rent will be determined by obtaining written estimates or bids, including a commitment to build or rent for the price specified, from contractors, builders and/or developers in the area. The estimates or bids will be based upon floor plans and specifications based on the most comparable floor plan that can be found or developed. If comparable plans cannot be found or developed the comparable may be based on a replica of the subject.
- i. In those cases where a specific comparable lot is not available for new construction calculations, an estimated value of a lot in the area shall be used for the computations. However, since a comparable dwelling will not have been made available to the displaced person, a 90-day vacate date may not be given. The displaced person will be advised that if the actual purchase price of a comparable lot is greater than the estimated value used by the Department, and is reasonable, the Department will recalculate. The agent should also advise the displaced person to notify the Department if he or she locates replacement housing, so the Department can determine whether the dwelling can be used as a comparable. If the displaced person agrees, the Department may use his or her remainder property in the offer computations. A written statement from the displaced person to this effect must be placed in the file. The Department may then give the displaced person a 90-day vacate date. The value of the remainder for computations will be its after value as set forth in the appraisal. If the remainder is larger than a typical lot, a carve-out of the typical lot size will be made.
  - (a) Economic rent or market rent on the displacement or comparable dwellings shall be established by the Relocation Assistance Officer.
- k. When a comparable dwelling is obviously overpriced in relation to other comparable dwellings, it shall not be used in the replacement housing payment computation.
- l. After selecting a comparable replacement dwelling for a displaced person, the agent will complete the replacement comparison and computation form and compute the maximum replacement housing offer. The computation for 90-day owner-occupants shall be done in accordance with subsection 2. COMPUTING THE PURCHASE SUPPLEMENT OFFER; the computation for 90-day tenant-occupants and short term occupants shall be done according to subsection 3. COMPUTING THE RENT SUPPLEMENT OFFER. After computing the offer, the agent will submit to the Relocation Assistance Officer for approval, after the offer is approved the agent will prepare the appropriate offer letter to the displaced person.
- m. The agent will make a personal contact with the displaced person or his or her representative to present the replacement housing offer.

- n. If, after being presented with the Department's offer, a displaced person requests assistance in finding a replacement dwelling other than the comparable, he or she will be afforded advisory services. Such services include, but are not limited to: access to the list of available residential properties compiled for the project; information on federal and state programs and technical help in applying for such assistance; transportation to view replacement properties, especially for elderly and handicapped displaced persons.
- o. Should a comparable dwelling be withdrawn from the market before the displaced person actually selects a replacement, the agent who computed the payment will determine if market conditions warrant a new replacement housing computation. If necessary, a new comparable will be selected, and the displaced person notified of the adjusted offer. Should the new offer be less than the original offer, the relocation file must be well documented to show that the displaced person's right to affordable comparable housing has not been violated.
- p. When the maximum replacement housing offer calculated in accordance with these procedures exceeds the specified monetary limits (\$41,200 for purchase supplements and \$9,570 for rent supplements, the payment will be made under the provisions of Last Resort Housing, as outlined in [Section 4.16](#). No last resort housing payments shall be made directly to the displaced person, except as noted in that section.

## 2. COMPUTING THE PURCHASE SUPPLEMENT OFFER

### a. Basic Computation

The purchase supplement offer, not to exceed \$41,200, for a 90-day owner-occupant is computed by subtracting the acquisition price of the displacement dwelling from the purchase price of the comparable.

### b. Determining the acquisition price of the displacement dwelling:

- i. If the acquired parcel is typical or smaller in size than is normal for residential use in the area, the acquisition price for computations will be the actual just compensation offer for the parcel, including land, improvements and damages.
- ii. If the acquired parcel is larger than is typical for residential use in the area, the acquisition price for computations will be the sum of the price paid for the acquired residential improvements plus the prorated portion of the acquisition price and damages paid for that portion of the acquired tract that is typical in size for residential use in the area, plus damages attributable to improvements replaced as items of comparability.
- iii. If the price the Department pays for an acquired parcel is based on usage higher or better than residential, the acquisition price used for computations will be the actual acquisition price for the parcel.

- iv. If the comparable replacement dwelling lacks a **major exterior attribute (MEA)** such as a swimming pool, outbuilding, detached garage, etc., the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.
- c. **Partial Interest Owner-Occupants:**

When a single family dwelling is owned by several persons, not all of whom occupy it, the replacement housing payment offer will be computed by subtracting the total acquisition price of the displacement dwelling from the purchase price of the comparable dwelling. The actual payment will be limited to the lesser of this computed amount or the difference between the owner-occupant's share of the acquisition price and the actual cost of his or her DSS replacement dwelling.

However, if, in the Department's judgment, the occupant cannot afford or obtain financing for the price differential, the occupant may be considered to be a tenant of the estate and therefore be eligible for a down payment subsidy or a rental subsidy payment.

The offer will be made on the purchase supplement offer letter – partial interest owners.
  - d. **Displaced person is a partial interest owner who has usufruct:**

When the displaced person is a partial interest owner who has usufruct, the displaced person is treated as a total interest owner. However, if such a displaced person is legally unable to obtain full interest in the acquisition price, he or she shall be treated as a partial interest owner.
  - e. **Multiple Occupants of One Displacement Dwelling:**

If two or more occupants of the same household in a displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Department, of any relocation payments that would have been made if the occupants had moved to the same replacement dwelling. If the Department determines that two or more owner-occupants maintain separate households within the same dwelling, such occupants have separate entitlements to relocation payments. If such a determination is made, the file must be well documented to show that the occupants did indeed maintain separate households. Such documentation should include copies of housing and utility payments made by each occupant. The offer to each occupant shall be based on comparable housing that is equivalent to the quarters occupied by that occupant, plus community rooms that are shared.
  - f. **Occupants of Multi-Family Dwellings:**

The purchase supplement offer to the owner-occupant of a multi-family dwelling will be the difference between the prorated acquisition price of the displaced person's share

of living area and land in the acquired multi-family dwelling and the prorated cost of such in the comparable dwelling.

To calculate the prorated acquisition price of the acquired dwelling, divide the just compensation price for the land, improvements and damages attributable to a typical size lot in the area by the total square footage of the multifamily dwelling. This is the price per square foot of the acquired dwelling. Multiply the price per square foot by the number of square feet in the displaced person's unit to determine his or her prorated share of the acquisition price.

For example, compute the prorated acquisition price for the owner- occupant of one unit of a duplex on a lot larger than typical in the area acquired by the Department for a total just compensation amount of \$70,000 as follows:

<b><u>Portion of Just Compensation that applies to dwelling &amp; typical lot in neighborhood</u></b>	<b><u>\$65,000</u></b>
<b><u>Total square footage in dwelling:</u></b>	<b><u>3000 sq. ft.</u></b>
<b><u>Square footage in displaced person's unit:</u></b>	<b><u>1,453 sq. ft.</u></b>
<b><u><math>\\$65,000 \div 3000 = \\$21.67</math> per sq. foot</u></b>	
<b><u><math>\\$21.67 \times 1,453</math> sq. ft. = prorated acq. price</u></b>	<b><u>\$31,486.51</u></b>

If the comparable dwelling is a single-family dwelling, the entire purchase price will be used to compute the purchase supplement offer. However, if the comparable is a multi-family dwelling, calculate the prorated cost of the individual living unit and land by dividing the purchase price of the multi-family dwelling by the number of square feet in the entire dwelling. Multiply this price per square foot by the number of square feet in the comparable individual living unit.

For example, if the comparable for the displaced person described above is a duplex, compute the prorated purchase price as follows:

<b><u>Purchase Price</u></b>	<b><u>\$78,500</u></b>
<b><u>Total square footage in dwelling:</u></b>	<b><u>3530 sq. ft.</u></b>
<b><u>Square footage in comparable unit:</u></b>	<b><u>1,503 sq. ft.</u></b>
<b><u><math>\\$78,500 \div 3530 = \\$22.24</math> per sq. ft.</u></b>	
<b><u><math>\\$22.24 \times 1,503 = \\$33,426.72</math></u></b>	

The purchase supplement offer to the displaced person would be calculated by subtracting the prorated acquisition price from the prorated purchase price:

$$\$33,426 - \$31,486 = \$1,940 \text{ purchase supplement offer}$$

g. Owner-Occupants Who Own the Dwelling, But Not the Land:

The purchase supplement offer for an owner-occupant who owns the dwelling but not the land on an acquired parcel is computed the same as for an owner-occupant of the dwelling and land: subtracting the total acquisition price of the displacement dwelling (including the site) from the purchased price of the comparable dwelling.

The actual payment will depend on whether such an owner is able to get access to the acquisition money for the land. If this is the case, the displaced person may provide the Department with legal documentation to this effect, and the RHP payment will be computed as it is for a total interest owner-occupant.

If this option is not available to the displaced person, he or she will be treated like a partial-interest owner, and the payment will be the lesser of the purchase supplement offer; or the difference between the displaced person's share of the acquisition price and the actual cost of the replacement.

h. Owner-Occupants Who Reside on Same Premises as Displaced Business, Farm or Non-Profit Organization:

The purchase supplement offer to a residential owner-occupant who resides in the same building as a displaced non-residential entity is computed as follows:

- i. Compute the prorated acquisition price of that portion of the building used for living quarters plus that portion of the acquired land that represents a tract typical for residential use in the area.
- ii. Select a comparable single-family dwelling that has approximately the same living area as the acquired dwelling.
- iii. The purchase supplement offer will be computed by subtracting i. from the purchase price of ii.

i. Computing the Offer on Parcels with Remainders:

i. Uneconomic Remainders

- (a) If the acquired parcel has an uneconomic remainder, the Department will offer to buy it. If the owner agrees to sell the uneconomic remainder to the Department, its value will be included in the replacement housing offer computations. However, if the owner does not sell the remainder to the Department, the value of the remainder will not be used in the computations.
- (b) If the uneconomic remainder has a residentially-occupied improvement, the following procedures shall apply:
  - (1) The occupants shall be offered full relocation benefits, provided the owner actually sells the remainder to the Department.

(2) The Owner may be allowed to retain the dwelling and use it as his or her replacement dwelling in accordance with [Section 4.14](#).

j. Major Exterior Attributes (MEAs):

i. Computing the Offer - Comparable has the MEA:

The agent will attempt to find a comparable dwelling that has the MEA. If the comparable has the attribute, the RHP offer will be computed by subtracting the acquisition price of the displacement dwelling from the total price of the comparable.

ii. Computing the Offer - Comparable Lacks the MEA:

If the comparable does not have the MEA, the value of the MEA will be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. The RHP offer will be computed by subtracting this adjusted acquisition price of the displacement dwelling from the cost of the selected comparable. The actual payment for houses with MEA's will be handled as outlined in [Section 4.11 subparagraph 1.\(e\)](#).

(a) Computing the offer - New Construction:

In the case where there are no comparable properties available or where it may be economically advantageous to utilize new construction, the cost of building the attribute will NOT be included in the RHP calculation.

### 3. COMPUTING THE RENT SUPPLEMENT OFFER

**a. Offer to 90-Day Owner-Occupants:**

A 90-day owner-occupant eligible for a purchase supplement but who chooses to rent rather than purchase a replacement dwelling may be eligible for a rent supplement. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The offer is the difference between the market rent of the comparable and the displacement, multiplied by 42. The economic rent of the displacement dwelling shall be established in accordance with 1. (i) of this section. Under no circumstances would the rental assistance payment exceed the amount that could have been received had the 90-day homeowner elected to purchase and occupy a comparable replacement dwelling.

**b. Offer to 90-Day Tenant-Occupants:**

i. The rent supplement offer for 90-day tenant-occupants, not to exceed \$ 9,570, is computed by subtracting the base monthly rental plus utilities at the displacement dwelling from the monthly rent and estimated utilities (computed in accordance with e. below) at the comparable dwelling, and multiplying the difference by 42.

- ii. The base monthly rental of the displacement dwelling is the lesser of:
  - (a) The average actual monthly cost for rent and utilities at the displacement dwelling for the three month period prior to displacement; or
  - (b) Thirty (30) percent of the displaced person's average monthly gross household income only if that amount is classified as "low income" by the U.S. Department of Housing and Urban Development.
  - (c) The income must be documented and the displaced person must complete the certification of monthly income form. If the person refuses to provide proof of income, the base monthly rental will be determined by 1.

**c. Offer to Short Term Occupant:**

A short term occupant (Occupant of less than 90 days) who is classified as "low income" by the U.S. Department of Housing and Urban Development may be eligible for rental assistance under the provisions of housing of last resort. The rent supplement offer is computed by subtracting 30% of the average monthly household income from the monthly rent plus estimated utilities at the comparable, and multiplying the difference by 42.

i. Subsequent Occupants (Displaced)

Subsequent Occupants who are classified as "low income" by the U.S. Department of Housing and Urban Development that have occupied the acquired parcel after the initiation of negotiations but before acquisition may be eligible for rental assistance under the provisions of [Section 4.16](#) housing of last resort, if there is no comparable replacement dwelling available within their financial means. Such a displaced person is eligible for a rent supplement offer computed by subtracting 30% of the average monthly household income from the monthly rent plus estimated utilities at the comparable replacement dwelling.

ii. Subsequent Occupants (Not Displaced)

Subsequent Occupants who occupied the parcel after its acquisition do not qualify as displaced and are not eligible for rental assistance. They are, however, eligible for advisory services.

**d. Utility Computations**

The procedure for utility computations is based on the concept that the actual cost of utilities at the displacement dwelling is the best predictor of estimated utility costs at the comparable dwelling. This approach is based on the following facts:

- i. Utility usage is highly individualized because of ages and lifestyles of displaced persons; and

- ii. The Relocation Assistance Act requires that displaced persons be offered comparable properties that closely resemble the characteristics of the displacement dwellings. The utility usage of displaced persons in most cases is expected to remain the same after relocation, and since the comparable offered is usually similar in size and construction to the acquired dwelling, utilities at the displacement dwelling and the comparable dwelling will generally be considered to be the same and therefore need not be documented. However, if the difference in size between the comparable and displacement is 100 S.F. greater or less or there is a significant dissimilarity between the dwellings, a utility computation shall be performed, as follows:

- (a) Determining Utility Costs at the Displacement Dwelling:

- (1) Utilities Included in Rent:

If some or all utilities are included in the rent, the regional agent will contact the landlord to determine what portion of the rent is dedicated to utilities. This information will be necessary to compute utilities at the comparable. If only some utilities are included, the average actual monthly cost of the non-furnished utilities will be computed as described in b) below. This amount will be added to the portion of the rent dedicated to utilities to determine the total monthly utility costs.

- (2) Utilities Not Included in Rent:

The average cost of utilities at the displacement will be based on the preceding three-month period. During the occupant interview form, the agent will request copies of sewer, gas, electricity and water bills for the past 6 months. If the displaced person does not have copies, the agent will obtain the displaced person's written permission to obtain these utility costs from the suppliers. When the Agent has this information, he or she will compute the average monthly cost for utilities at the displacement by adding the charges for the past three (3) months and dividing the sum by 3.

- (3) Displaced person in Occupancy Fewer Than 6 Months:

If the displaced person occupied the dwelling for fewer than three months, the agent will compute the average monthly utilities on a "utility finding": During the occupant interview, the agent will obtain documentation of actual costs for the months the displaced person was in occupancy. The Agent will then determine the estimated costs for the other months in the three-month period. Average utility costs can frequently be obtained from the supplier. Other acceptable sources for utility findings are HUD schedules or documented utility costs on other acquired dwellings of similar size, construction and occupancy. When the Agent has determined the estimated costs, he or she will add them to the actual costs and compute the average monthly utility expenditure. This computation will be done on the utility computation worksheet, utility finding 1.

(4) In order to develop a data bank of approximate utility costs, each regional office shall open a utility costs file. Copies of any material or information concerning utility costs should be placed in this file. Such documentation may include HUD schedules, estimates from utility suppliers, and copies of actual costs of utilities on dwellings acquired by the Department.

(b) Estimating Utility Costs at the Comparable:

(1) Utilities Included in Rent:

If all utilities are included in the rent, no additional computation is necessary. If only some utilities are included, a computation for the non-furnished utilities will be made according to below.

(2) Comparable Has The Same Utilities as Displacement:

The estimated utility costs at the comparable dwelling will be based on the cost per square foot at the displacement dwelling multiplied by the number of square feet (heated) at the comparable.

The utility cost per square foot will be calculated by dividing the average monthly utility cost by the number of square feet (heated) at the displacement dwelling. Next, the square footage (heated) at the comparable will be multiplied by the cost per square foot at the displacement. The result will be the estimated monthly utility cost at the comparable.

**EXAMPLE**

<b>Displacement Dwelling:</b>	<b>1534 Sq. ft. heated</b>
<b>Average Monthly Utility Costs</b>	
<b>Electricity</b>	<b>\$64.32</b>
<b>Gas</b>	<b>\$10.56</b>
<b>Water</b>	<b>\$5.00</b>
<b>Sewer</b>	<b>\$5.00</b>
<b>Total</b>	<b>\$84.88</b>

**Average Utility Cost per Square Foot:**

$$\text{\$84.88} / 1534 = .055$$

**Comparable Dwelling:** **1718 Sq. ft. heated**

**Estimated Monthly Utilities at Comparable:**

$$1718 \text{ S.F.} \times .055 = \text{\$95.06}$$

## (3) Unequal Utility Situation at Displacement and Comparable:

If the comparable dwelling has a utility cost (such as for heating or cooling, water or sewer) that the displacement dwelling does not have, a utility finding will be done to determine the estimated monthly cost of utilities at the displacement if it had the same utility situation as the comparable: The Agent will determine what the approximate monthly cost of the missing utility would have been at the displacement dwelling. This information can be obtained from the utility costs file or by contacting the utility supplier. The agent will then add this amount to the actual average monthly cost of utilities to compute the utility finding. This computation will be done on the utility computation worksheet, utility finding 2.

For example, if two adults are being displaced from a 1534 S.F. displacement dwelling that has no central air and heating system, and the comparable is a 1718 S.F. house with central air and heat, the Agent will estimate the average monthly cost of central air and heat in a 1534 S.F. house occupied by two adults using the sources described above. This amount will be added to the average actual monthly utility costs. The estimated utilities at the comparable will then be computed as described in b., using the utility finding as the actual cost at the displacement.

## (c) Utilities at the Replacement Dwelling:

If the replacement dwelling is considered by the regional agent to be reasonably similar to the comparable dwelling, estimated utilities at the replacement dwelling will be considered equal to the estimated utilities at the comparable. If the Agent determines that the replacement is significantly dissimilar to the comparable, the estimated monthly utility cost will be adjusted accordingly and the documentation placed in the Regional file.

**e. Computing Rent Supplements for Special or Unusual Cases:**

- i. For a tenant who paid little or no rent at the acquired dwelling, use the fair market rent to compute the base monthly rental, unless doing so would cause a hardship because of the person's income or other circumstances.
- ii. For a tenant who has a lower than market rent because the tenant performs a service for the landlord, such as making minor repairs or collecting rents from other tenants, the market rent amount shall be used in the computation unless doing so would cause a hardship. This approach assumes that the value of the service is equal to the discount in the rental rate.
- iii. If the average monthly rent plus utilities paid during the last six months is not representative of the rent plus utilities normally paid by the displaced person, the average of some other appropriate six-month period may be used. The reasons for

such alternate computation shall be documented on the occupant inventory relocation log.

- iv. If the present monthly rental at the acquired dwelling is not representative (too high or too low) for market rentals for similar dwellings, the economic rent will be used.
- v. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.
- vi. If the displaced person receives a government-assisted rental subsidy (such as HUD Section 8), the rent at the displacement dwelling will be the lower of these three figures:
  - (a) The economic monthly rent + average monthly utilities;
  - (b) 30% of the average monthly gross household income; or
  - (c) The total amount designated for monthly rent and utilities by the government-assisted program.

The lowest of these figures will be subtracted from the monthly rental plus utilities at the comparable and the difference multiplied by 42.

#### **f. Furniture Supplement Offers**

If the displacement dwelling is a furnished unit, every effort should be made to locate a furnished comparable. If this is not possible, the following policy will apply:

- i. The Agent shall attempt to have the landlord furnish the dwelling. If the landlord complies, the rental cost shall be increased to an appropriate amount to recoup the cost of the furniture over a 42-month period.
- ii. If the landlord does not agree to furnish the unit, the displaced person shall be eligible for a furniture supplement in order to rent or purchase furniture. The amount of this supplement is limited to the lesser of:
  - (a) The rental cost of replacement furniture for a period of 42 months; or
  - (b) The purchase price of replacement furniture

The entire amount must be applied to the rental or purchase of furniture. Receipts must be placed in the relocation file.

- iii. If the displacement dwelling was unfurnished and the comparable dwelling is furnished, the amount of the comparable dwelling's rent attributable to furniture will be carved out of the rent supplement computation.
- iv. Although the entire furniture supplement must be spent on furniture (except as noted in v. following), the furniture itself need not be comparable to that at the displacement dwelling.

- v. Should the displaced person choose a down payment supplement, he or she remains eligible for a furniture supplement in addition to the amount of his or her down payment supplement. The furniture supplement may be applied either to the down payment or to the purchase of furniture.

**g. Multiple Occupants of one Displacement Dwelling:**

- i. If two or more occupants of the same household in a displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Department, of any relocation payments that would have been made if the occupants had moved to the same replacement dwelling.
- ii. If the Department determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation benefits. If such a determination is made, the file must be well documented to show that the occupants did indeed maintain separate households. Such documentation should include copies of rent payments and other receipts verifying the fact that each occupant paid a prorated share of expenses.

**4. OFFERS FOR DOWN PAYMENT SUPPLEMENTS:**

- a. 90-day tenant-occupants and short term occupants who decide to purchase rather than rent replacement dwellings are eligible to convert their entitlement to a down payment supplement, subject to the following provisions:
  - i. A 90-day tenant is eligible for payment of any amount up to \$9,570 that is actually applied to the purchase of the replacement dwelling, including incidentals. This is true even if the rent supplement offer is \$0.
- b. A short-term occupant or displaced subsequent occupant meeting the financial need requirements is eligible for a payment of any amount that is actually applied to the purchase of a replacement dwelling, including incidentals, not to exceed the amount of the rent supplement offer.
- c. At the time the Agent presents the rent supplement offer to the displaced person, he or she should explain the displaced person's entitlement under this section.

#### 4.11 COMPUTATIONS FOR REPLACEMENT HOUSING PAYMENT

A displaced person who relocates within his or her twelve (12) month eligibility period and otherwise meets the eligibility requirements for a replacement housing payment outlined in [Section 4.9](#) must file a claim for such benefits no later than eighteen (18) months from the beginning of his prescribed eligibility period as defined in [Section 4.18](#). When an eligible displaced person makes a claim for these benefits, the Agent will compute the displaced person's actual purchase supplement, rental supplement or down payment supplement, as described herein:

##### 1. PURCHASE SUPPLEMENTS

###### a. Basic Computation

An eligible displaced 90-day owner-occupant who purchases a replacement dwelling within his or her 12- month eligibility period is entitled to a purchase supplement not to exceed \$41,200, computed as the difference between the acquisition price of the displacement dwelling and the lesser of:

- i. The actual cost of the displaced person's replacement dwelling; or
- ii. The purchase price of the comparable dwelling.

###### b. Determining the Actual Cost of the Replacement Dwelling:

- i. The actual cost of the replacement dwelling is the price paid for the dwelling at the time of displacement.
- ii. If the displaced person chooses as his replacement dwelling a dwelling that he or she owned prior to displacement, the actual cost of the replacement will be the current fair market value as established by an in-house appraisal. This principle also applies to land owned by the displaced person prior to displacement upon which the replacement dwelling will be built. If the displaced person chooses his or her remainder as the replacement site, its value will be the after value as established in the appraisal report.
- iii. If the displaced person chooses a life estate as his or her replacement, the actual cost shall be the entrance fee plus any other monetary commitments, excluding monetary service charges.
- iv. If the replacement dwelling requires modifications to bring it up to DSS standards, the documented cost of such modifications may be included in the actual cost of the replacement.
- v. Should the displaced person choose to do part or all of the construction of his or her replacement dwelling, the value of his or her labor can be considered part of the actual construction cost. However, profit must be deducted since it is not an incurred expense. To evaluate reasonable labor costs, bids should be obtained.

- c. Payment to the Owner-Occupant of a Single-Family Dwelling Owned by Several Persons, Not All of Whom Occupy it:

The replacement housing payment to such a displaced owner-occupant shall be limited to the lesser of the offer and the difference between the displaced person's share of the acquisition price and the actual cost of the replacement dwelling, as described in [Section 4.10](#).

- d. Interest Payments:

In addition to the replacement housing payment, the displaced person may be entitled to payment of increased interest costs and incidental expenses incurred in purchasing a replacement dwelling. Such payment shall be made in accordance with the procedures described in [Section 4.12](#).

- e. Payments for Houses with Major External Attributes (MEAs):

Regardless of whether or not the replacement has the MEA or whether it is later added, the payment will be computed by subtracting the adjusted acquisition price of the displacement dwelling - as outlined in [Section 4.10.2\(j\)](#) - from the actual purchase price of the replacement dwelling, up to the amount of the RHP offer.

## 2. RENTAL SUPPLEMENTS

- a. 90-Day tenant-occupants

- i. An eligible displaced 90-day tenant-occupant who rents a replacement dwelling within his or her 12-month eligibility period is entitled to a rental supplement not to exceed \$9,570, computed as 42 times the difference between the base monthly rental/utilities for the acquired dwelling and the lesser of:

- (a) The monthly rental plus estimated utilities at the replacement dwelling; or
- (b) The monthly rental plus estimated utilities at the comparable dwelling.

- ii. If the replacement dwelling is considered by the regional agent to be reasonably similar to the comparable dwelling, estimated utilities at the replacement dwelling will be considered equal to the estimated utilities at the comparable. If the agent determines that the replacement is significantly smaller than the comparable, the estimated monthly utility cost will be adjusted accordingly and the documentation placed in the regional file.

- iii. A 90-day tenant-occupant who initially rents an eligible unit that is less expensive than the comparable, and who subsequently moves to a more expensive rental unit within his 12-month eligibility period, is eligible for an additional payment. Such

payment shall be computed by subtracting the rent at the first replacement unit from the lower of:

- (a) The rent at the new replacement unit, or
  - (b) The rent at the comparable unit, and multiplying the difference by the number of months remaining in the 42-month period.
- iv. Services such as lawn mowing and garbage pickup that were furnished at the displacement unit, but are not furnished at the replacement unit are ineligible for payment.
  - v. Furniture supplement payments to eligible displaced persons shall be made only if the displaced person actually rents or purchases replacement furniture in accordance with [Section 4.10](#), furniture supplement offers. The file must be documented with copies of the receipts.
- b. 90-Day Owner-Occupants
- i. A 90-day owner-occupant eligible for a purchase supplement but who chooses to rent rather than purchase a replacement dwelling may be eligible for a rent supplement. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The offer is the difference between the market rent of the comparable and the displacement, multiplied by 42. The actual amount of the payment shall be the lesser of:
    - (a) The amount of the purchase supplement offer; or
    - (b) 42 times the difference between the market rental at the acquired dwelling and the market rent at the comparable dwelling
  - ii. If after receiving a rent supplement, a 90-day owner-occupant purchases a dwelling within his 12-month period of eligibility, he or she is eligible to receive the balance of a purchase supplement computed in accordance with [Section 4.10](#), after deducting the amount of the rental supplement payments made. In no case shall the total replacement housing payment exceed the amount that could have been received had the 90-day homeowner elected to purchase and occupy a comparable replacement dwelling.
- c. Short Term Occupants and Subsequent Occupants (Displaced)
- i. A short term occupant (an owner-occupant or tenant of less than 90 days) or a displaced subsequent occupant (a person who occupied the acquired dwelling after the initiation of negotiations but before the date of acquisition) may be eligible to receive a rent supplement if the monthly rent including utilities of a replacement dwelling is greater than 30% of his or her gross monthly household income only if it is classified as “low income” by the U.S. Department of Housing and Urban

Development. Such payment shall be paid under the provisions of housing of last resort and shall be the lesser of:

- (a) 42 times the difference between the monthly rental including utilities at a comparable dwelling and 30% of the displaced person's average monthly household income; or
  - (b) 42 times the difference between the monthly rental including utilities at the replacement dwelling and 30% of the displaced person's average monthly household income.
- ii. In order to be eligible for this payment, the relocate must submit documentation of the average monthly household income and complete the certification of monthly income form. If the displaced person is receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of these two amounts shall be used instead of 30% of the household income to compute the payment.

### 3. DOWN PAYMENT SUPPLEMENTS

#### a. 90-Day Tenant-Occupants

- i. A displaced 90-day tenant-occupant who is eligible for a rent supplement but chooses to purchase a replacement dwelling may elect to receive a down payment supplement instead of a rent supplement. This payment, not to exceed \$9,570, must be applied in its entirety to the purchase price of the replacement dwelling, including related incidental expenses. The down payment supplement may exceed the amount of the rent supplement offer.
- ii. Within the above restrictions, a displaced person who purchases a dwelling for more than \$9,570 is eligible to receive the maximum payment, with the provision that the entire amount be applied to the purchase.
- iii. If the price of the replacement including allowable incidentals is less than \$9,570, the displaced person is eligible for the entire amount of these costs.

#### b. Short Term Occupants and Subsequent Occupants (Displaced)

A displaced short-term occupant or displaced subsequent occupant eligible to receive a rent supplement who chooses to purchase rather than rent replacement housing may convert his rent supplement to a down payment supplement. The amount of the down payment supplement is limited to the amount of the rent supplement offer up to a maximum of \$7,200, and the entire amount must be applied to the purchase price of the replacement.

#### c. 90-Day Owner-Occupants

A displaced 90-day owner-occupant is not eligible to receive a down payment supplement.

#### 4.12 INTEREST DIFFERENTIAL AND INCIDENTAL EXPENSE PAYMENTS

Payment for increased interest is provided to compensate a 90-day owner-occupant for the additional interest costs incurred in financing a loan for a replacement dwelling at a higher interest rate than the existing loan on the acquired dwelling. Payment for incidental expenses is provided to reimburse a displaced person who purchases a replacement dwelling the necessary and reasonable costs incurred incident to said purchase, excluding prepaid interest.

##### 1. INTEREST DIFFERENTIAL

- a. The interest differential payment shall be the amount that will reduce the mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. This payment shall be made only when the prevailing interest rate on the replacement dwelling is higher than that on the acquired dwelling, and the acquired dwelling was encumbered by a bonafide mortgage which was a valid lien on said dwelling for not less than 90 days prior to the initiation of negotiations on the parcel. In addition, the payment shall include other debt service costs (points, assumption fees) if not paid as incidental costs.
- b. A displaced person eligible for an interest differential payment shall be advised of the approximate amount of that payment. The estimate shall be based on financing the same amount of money as the balance of the mortgage on the acquired dwelling for the same number of months as are remaining on the mortgage on the acquired dwelling at the prevailing interest rate, using the buy down method.
- c. If the acquired dwelling is located on a tract of land normal in size for residential use in the area and the existing mortgage requires that the entire mortgage balance be paid because of the partial acquisition of the tract by the Department, the entire amount of the computed buy down will constitute the estimate. However, if the existing mortgage does not require that the entire mortgage balance be paid, the computed buy down estimate will be reduced by the same proportion that the acquisition price bears to the before value.
- d. If the acquired dwelling is located on a tract of land larger than normal size for residential use in the area, the mortgage balance used to compute the estimate shall be reduced by the same proportion that the value of that portion of the tract that is typical in size to a normal residential lot bears to the before value of the entire tract.
- e. The interest estimate on multi-purpose properties shall be reduced proportionally to reflect the residential value of the multi-use property relative to the before value.
- f. If the acquired dwelling is located on a tract appraised as higher as or better than residential use, but the mortgage is based on the residential value, the interest estimate shall be the full amount of the computed buy down. However, if the mortgage is based on the higher use rather than residential use, the computed buy down shall be reduced

- by the same proportion that the estimated residential value of the parcel bears to the before value.
- g. Points on Mortgage Interest Rate Higher on Acquired Dwelling than Replacement: Determine what interest rate corresponds with 0 points. If that rate is still lower than the existing mortgage, the Department will not participate in point costs. If the interest rate with 0 points is higher than the rate of the existing mortgage, we will pay lesser of that interest differential or the points.
  - h. As soon as the agent learns the details of the mortgage on the acquired dwelling, he or she will contact the Headquarters Relocation Office with the following information:
    - i. Mortgage Information on Displacement Dwelling:
      - (a) Mortgage balance
      - (b) Interest rate (If the displacement has an adjustable rate mortgage, the interest rate in effect at the time of the computation shall be used.)
      - (c) Term (number of months remaining on mortgage)
      - (d) Monthly payment
    - ii. Prevailing Interest Rate Information:
      - (a) Prevailing interest rate
      - (b) Prevailing points
  - i. The relocation agent will compute the amount of the estimated interest differential payment using the software program New Mortgage Toolbox. The agent will fax the computation sheet to the regional agent. The regional agent will notify the displaced person of the estimated amount of the interest payment, documenting the file log of contacts if this is done verbally.
  - j. As soon as the displaced person advises the agent of the specific terms of the mortgage on the replacement dwelling, the actual amount of the interest differential payment will be computed:
    - i. The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, if the person obtains a smaller mortgage than the mortgage balance(s) on the displacement dwelling, the payment will be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be that balance which existed 90 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.
    - ii. The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of new mortgage, whichever is shorter.

- iii. The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in area in which the replacement dwelling is located.
  - iv. Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent that they are not paid as incidental expenses, they do not exceed prevailing rates in the area, and they are necessary, as determined by the Department. Points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of said mortgage balance by the buy down.
  - v. In those instances when the displaced person chooses a loan with higher discount points than the prevailing rate/points in order to obtain a more favorable interest rate, it will be necessary to perform two interest computations, one using the prevailing interest rate plus points at that time and the other using the actual interest rate and points the displaced person has chosen. The lesser of these two amounts shall be the amount of the interest differential.
- k. As soon as the agent learns the details of the new mortgage on the replacement dwelling, he or she will contact the relocation office with the following information:
- i. Mortgage Information on Displacement Dwelling:
    - (a) Mortgage balance
    - (b) Interest rate
    - (c) Term (number of months remaining)
    - (d) Monthly payment
  - ii. New Mortgage Information
    - (a) New interest rate (or prevailing rate in area, if lower)
    - (b) New term
    - (c) Number of points (or prevailing rate in area, if lower)
    - (d) Balance of Loan
- l. The relocation agent will compute the actual interest payment using the computer software New Mortgage Toolbox and will fax the computation sheet to the regional agent. The regional agent will verbally notify the displaced person of the actual interest entitlement and will process the payment in accordance with [Section 4.18](#).

## 2. INCIDENTAL EXPENSES

- a. Incidental expenses are those expenses incurred in the purchase of a replacement dwelling. The following items are allowable as incidental expenses if normally paid by the buyer:
  - i. Legal, closing and related costs, including those for title search/abstract conveyance contract Instrument preparation, notary fees, surveys, drawing or plat preparation, and recordation charges;
  - ii. Lender, FHA or VA appraisal fees;
  - iii. Lender, FHA or VA application fees;
  - iv. Tax services fees;
  - v. The cost for a professional home inspection;
  - vi. Certification of structural soundness and termite inspection, when required;
  - vii. Credit report;
  - viii. Owner's and mortgagee's title insurance, not to exceed the cost for a comparable replacement dwelling; if the sale is a cash sale, the cost of the warranty title deed from the closing attorney;
  - ix. Escrow Agent's fee;
  - x. State revenue or documentary stamps, sales or transfer taxes, not to exceed the cost for a comparable dwelling;
  - xi. Lenders or VA loan funding fee;
  - xii. Mortgage insurance premiums;
  - xiii. Reasonable loan origination or assumption fees customarily assessed for a typical loan that do not represent prepaid interest, not to exceed those payable on the old mortgage balance;
  - xiv. EPA endorsement fee;
  - xv. Other charges that the Department determines are necessary and incidental to the purchase.
- b. If the actual cost of the replacement dwelling exceeds the purchase price of the comparable, any incidental expense charges must be reduced to reflect only that portion applicable to the purchase price of the comparable.
- c. Excluded as incidental expenses are any fees, costs, charges or expenses which are determined to be part of the debt service or finance charge, such as discount points and assumption fees.

## 4.13 MOBILE HOMES

Any displaced person who owns and/or occupies a mobile home located within the required acquisition site is entitled to a payment for expenses incurred in moving personal property from the displacement site. Such displaced person may also be entitled to a replacement housing payment on the mobile home and/or home site.

### 1. GENERAL

Louisiana law considers mobile homes to be personal property rather than realty in most circumstances. Units judged to be personal property are considered movable and become items of relocation; units judged to be realty are considered immovable and are acquired by the Department. The occupancy status of a displaced person is determined by displaced person's ownership or tenancy of the mobile home - NOT the mobile home site. The length of occupancy is determined by the length of time the displaced person occupied the mobile home on the displacement site prior to the initiation of negotiations.

#### a. Mobile Homes Which Are Realty

The only time a mobile home is considered realty and immovable is when:

- i. There is an authentic act, sale, mortgage or sale with mortgage which:
  - (a) Describes the mobile home as described in the Certificate of Title or Manufacturer's Certificate of Origin; and
  - (b) Describes the tract of land upon which the mobile home is situated; and
  - (c) Contains a declaration by the owner of the mobile home that it shall remain permanently attached to the tract described; or
- ii. The mobile home is totally surrounded by structures and the appraisal declares it to be realty; or
- iii. The mobile home owner has recorded an affidavit of its immovability.

Mobile homes which are tied to the land in the above manner are acquired by the Department along with the property. Owner-occupants of such units are eligible for replacement housing payments for the mobile home and home site, as well as moving payments for the cost of moving their personal property from the unit. The replacement housing payment will be computed in accordance with [Section 4.12](#), and eligibility will be determined by the length of time the displaced person occupied the unit at the displacement site (see subparagraph d below.)

#### b. Owner-Occupied Mobile Homes Which Are Personal Property and Are Moved

Unless the mobile home is attached to the land as described above, it is considered a movable and is an item of relocation. The owner of a unit that is moved is eligible for reimbursement of the actual reasonable costs of moving. As part of the moving expense, the owner may also be entitled to payment for necessary repairs and

modifications to the mobile home to move it or bring it up to DSS standards. In addition, the owner may be entitled to a replacement housing payment for the mobile home site; however, he or she is not eligible for a replacement housing payment on the mobile home itself.

c. Mobile Homes Which Are Personal Property But Are Not Moved

Occasionally, it is impractical to move a mobile home considered personal property under State Law because of one of the following reasons:

- i. The mobile home is not and cannot economically be made decent, safe and sanitary because it is structurally unsound, inadequate in size to accommodate the displaced persons, or does not meet code requirements.
- ii. The mobile home cannot be moved without substantial damage or unreasonable cost.
- iii. There are no available comparable replacement sites for the mobile home.
- iv. The mobile home is DSS, but mobile home park entrance requirements require extensive modifications that are not economical.
- v. The mobile home cannot be relocated because it does not meet mobile home park entrance requirements.

Although the Department does not acquire such mobile homes, the owner of such a unit is eligible for a replacement housing payment for the mobile home. Payment shall be computed using the salvage value or trade-in value of the mobile home, whichever is higher, as the acquisition price. The offer is computed by subtracting the acquisition price from the price of a comparable mobile home. Title of such a mobile home remains with the displaced person, who is still responsible for moving the unit off the acquired land at his own expense.

d. Partial acquisition of Mobile Home Park.

- i. The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person who is entitled to relocation payments and other assistance under this part.
- e. Determination of Type of Occupancy - The occupancy status of a displaced person is determined by displaced person's ownership or tenancy of the mobile home - NOT the mobile home site. The length of occupancy is determined by the length of time the displaced person occupied the mobile home on the displacement site prior to the initiation of negotiations.

## 2. MOVING COSTS AND RELATED EXPENSES

Any displaced person who owns and/or occupies a displaced mobile home is entitled to reimbursement of moving costs and related expenses for moving the mobile home (if it is considered personal property and is relocated), and/or a payment for moving the contents of the mobile home.

### a. Owner-Occupants of Mobile Homes Classified as Personal Property

The owner-occupant of a displaced mobile home classified as personal property and relocated to the replacement site may be entitled to reimbursement of reasonable and necessary moving costs on an actual cost basis. Reimbursable expenses include, but are not limited to:

- i. Moving the mobile home and other personal property. Moving expenses are generally limited to a 50-mile radius unless the Department determines that a move in excess of 50 miles is justified.
- ii. Packing, crating, moving, unpacking and uncrating personal property. If these services are performed by the mobile home owner-occupant, payment will be made on the basis of \$40 for the first room and \$15 for each additional room (bathrooms included.)
- iii. Disconnecting and reconnecting household appliances.
- iv. The reasonable cost of disassembling, moving and reassembling any attached appurtenances such as porches, decks, skirting and awnings which were not acquired, plus the costs of leveling and anchoring the mobile home, and normal utility hook-up charges.
- v. The cost of repairs or modifications to enable a mobile home to be moved and/or the costs necessary to make the mobile home decent, safe, and sanitary, providing the Department determines the cost is reasonable and economically feasible.
- vi. The cost of insurance for the replacement value of the mobile home and other personal property during the move.
- vii. The replacement value of the mobile home and other personal property lost, stolen, or damaged during the moving process, which is not the fault of or due to the negligence of the displaced person or his or her agent, or employee(s) when insurance covering such loss, theft, or damage is not reasonably available.
- viii. A nonrefundable mobile home park entrance fee is also reimbursable as part of the moving cost benefit providing the fees do not exceed the fee charged at a comparable mobile home park. The Department must also make the determination that payment of the entrance fee is necessary in order to relocate the mobile home.
- ix. If the mobile home park charges an impact fee, notify the Relocation Assistance Officer for a determination of whether it is reimbursable.

- x. Transportation costs of mobile home occupants to the replacement site.
  - xi. Temporary lodging, including means, for displaced mobile home occupants while a mobile home is being relocated and reestablished at a replacement site. Temporary lodging should be based on a determination that the costs are reasonable and necessary.
- b. Moving Payment to Owner/Non-Occupant of a Relocated Mobile Home

The non-occupant owner of a displaced mobile home may be reimbursed for the cost of moving the mobile home from the site based on a moving cost finding or estimate, a documented self-move, or a commercial move. The use of an estimated moving cost is appropriate because in this case the move is not considered residential, but rather a move of personal property or a business move.

- c. Moving payments to Tenant-Occupants of Mobile Homes

The tenant-occupant of a displaced mobile home may be reimbursed for the actual costs of moving personal property from the mobile home, or may choose to move on the basis of the schedule. If the tenant does not own the furniture in the unit, payment will be made on the basis of \$60 for the first room and \$30 for each additional room.

### 3. REPLACEMENT HOUSING PAYMENTS

- a. 90-Day Owner-Occupants

A displaced owner-occupant who has owned and occupied a mobile home on the displacement site for at least 90-days immediately preceding the initiation of negotiations is entitled to a replacement housing payment for a replacement site in the form of a purchase supplement if he or she owned the displacement site, or a rent or down payment supplement if he or she rented the displacement site. The displaced person may also be eligible for a purchase supplement on the mobile home itself if it is acquired by the Department, or is not moved for one of the five (5) following reasons:

- i. **CASE 1 - DISPLACED PERSON OWNS BOTH MOBILE HOME AND SITE - MOBILE HOME IS MOVED TO REPLACEMENT SITE**

The displaced person is eligible for moving costs on the mobile home. Such moving costs payment may include the cost of modifications necessary to move the mobile home and/or bring it up to DSS standards. The displaced person is also eligible for a purchase supplement not to exceed \$41,200 or he purchase of a replacement site, or a rent supplement not to exceed \$9,570 if he or she chooses to rent a replacement site. The computation will be based on the market rent of the replacement site minus the economic rent of the displacement site.

- ii. **CASE 2** - DISPLACED PERSON OWNS MOBILE HOME AND SITE – MOBILE HOME LOT ACQUIRED, AND IS IMPRACTICAL TO MOVE:

The displaced person is eligible for purchase supplement payments for both the mobile home and home site, each computed individually, the sum of which shall not exceed \$41,200. The offer for the mobile home will be computed as described in subsection 1.c., “Mobile Homes Which are Personal Property but are not moved.”

- iii. **CASE 3** - DISPLACED PERSON OWNS MOBILE HOME AND RENTS SITE - MOBILE HOME IS MOVED TO REPLACEMENT SITE

The displaced person is eligible for moving costs for the mobile home. Such payment may include reasonable actual costs for repairs necessary to move the mobile home and/or bring it up to DSS standards. The displaced person is also eligible for a rent supplement or down payment supplement, not to exceed \$9,570, on the replacement site.

- iv. **CASE 4** - DISPLACED PERSON OWNS MOBILE HOME AND RENTS SITE - MOBILE HOME IS NOT ACQUIRED BUT IS IMPRACTICAL TO MOVE

The displaced person is eligible for a purchase supplement on the mobile home, computed as described in subsection 1.c., “Mobile Homes Which are Personal Property but are not moved”, not to exceed the amount of the original RHP offer. He or she is also eligible for a rent supplement or down payment supplement on the site, not to exceed \$9,570. The sum of both supplements shall not exceed \$41,200.

- v. **CASE 5** - DISPLACED PERSON MOVES FROM MOBILE HOME TO CONVENTIONAL DWELLING

In the case where a displaced mobile home-owner-occupant purchase and relocate to a conventional dwelling, the maximum price differential computation will be based on a comparable unit is acquired or not practical to move. If the mobile home is not acquired and is moved, the computation will be based on a comparable site only. The displace remains eligible for moving costs for the mobile home, limited to a 50 mile radius.

- vi. **CASE 6** - DISPLACED PERSON MOVES FROM CONVENTIONAL DWELLING TO MOBILE HOME:

In the case where a 90-day homeowner of a conventional dwelling chooses to purchase and relocate to a mobile home, the purchase supplement will be computed in the usual manner using the conventional dwelling. The cost of the replacement site and site improvements may be included in the computation. The actual payment may not exceed the amount of the original replacement-housing offer.

vii. **CASE 7 - OWNER-OCCUPIED MOBILE HOME IS MOVEABLE BUT OWNER ELECTS NOT TO MOVE INTO IT BUT TO ACQUIRE ANOTHER MOBILE HOME**

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

b. 90-Day Tenants

- i. A displaced tenant who has rented and occupied a mobile home on the displacement site for at least 90 days immediately preceding the initiation of negotiations is entitled to either a rent supplement or a down payment supplement on a replacement mobile home and site.
- ii. The rental offer will be computed by subtracting the rent of the displacement mobile home and site from the rent of a comparable mobile home and site. If the displaced person owned the site, the economic rent of the site will be used in the computations. If there are no comparable mobile homes for rent in the area, a comparable single-family dwelling may be substituted. Utilities are included in the computations. The payment shall not exceed \$9,570.

If the displaced tenant wishes to relocate to the displaced mobile new site, and the rental of the mobile home is increased a reasonable amount because of refurbishment of the unit, the increased rental may be used in computing the payment.

If the displaced person elects to purchase a replacement mobile home he or she may elect to receive a down payment. The actual payment may be any amount up to \$9,570 that is actually applied to the purchase of the mobile home and/or site, including incidental expenses and increased mortgage costs. If the displaced person elects to rent a mobile home and purchase a site, or vice versa, he or she may choose a combination of a rent supplement and a down payment supplement. However, the sum of both may not exceed \$9,570.

Such displaced tenant is also eligible for a moving payment of personal property in the displacement unit, either on an actual cost basis or according to the moving schedule.

c. Short Term Tenants and Subsequent Occupants (Displaced)

A short term occupant or a subsequent occupant (displaced) may be eligible to receive a rent supplement if the monthly rent plus utilities of a replacement exceeds 30% of the gross monthly household income. Such payment shall be paid under the provisions of

Housing of Last Resort. The payment for a short term occupant or subsequent occupants (Displaced) shall be computed according to [Section 4.11, 2.c.](#)

Such displaced occupants are also eligible for moving payments for personal property in the displacement units, either on an actual cost or schedule basis.

- d. Utility Adjustments for Rental Supplements on Mobile Homes
  - i. If the displaced person owns his or her mobile home, no utility adjustment is necessary. If however, such a displaced person is a tenant of the acquired site and the rental includes utilities not included in the comparable site rental, the prorated cost of those utilities shall be carved out of the rental computation.
  - ii. If the displaced person rents the mobile home and the site, utilities will be handled as discussed in [Section 4.10](#) of this manual.

#### **4.14 RETAINED REPLACEMENT DWELLING**

A displaced owner-occupant should be allowed the option of retaining his or her dwelling in accordance with the Department's retention policy. In the event the displaced person chooses his or her retained dwelling as the replacement dwelling, the replacement housing payment, in the form of a purchase supplement, will be computed in accordance with the following procedures.

##### **PROCEDURES:**

1. As soon as possible after the owner-occupant elects to retain his or her dwelling as his replacement, the agent will complete a housing inspection report form covering the retained dwelling. It is imperative that a close inspection be made as to the condition of the dwelling prior to its relocation. Adequate interior and exterior photographs of the dwelling should be taken at this time.
2. The agent should endeavor to monitor, to the degree feasible, the actual relocation of the dwelling. The primary purpose of this activity is to determine what structural alterations, if any, are required in relocating the dwelling as well as any damages caused to the dwelling as a result of the relocation. Photographs should be taken of all such damages and alterations.
3. The agent should complete a second housing inspection report form covering the dwelling at such time as the relocated structure is restored to proper living condition. Any interior or exterior additions and/or other betterments should be noted and photographed.
4. No replacement housing payment can be made unless the total replacement housing costs (lot cost, moving, restoration costs) exceed the acquisition price of the displacement property. A claim for the purchase supplement will be made on the replacement housing payment claim form. The actual cost of the replacement will be the sum of:
  - a. The cost of retained dwelling (retention value set by Department); plus

- b. The cost of moving the dwelling, plus any cost necessary to restore the dwelling and site to its condition prior to the move; plus
  - c. The cost of restoring to decent, safe, and sanitary condition; plus
  - d. The current fair market value for residential use of the replacement dwelling site. The establishment of fair market value shall, to the greatest extent feasible, be determined by the Department's appraisal unit. However, the services of an independent appraiser may be used if necessary.
5. The displaced person may be entitled to eligible incidental expenses and increased interest payments in accordance with [Section 4.12](#).
  6. All evidence supporting the costs incurred in relocating the retained dwelling should be attached to the claim (itemized statement and all receipts are to be retained in the Regional file).
  7. A payment computed in accordance with the above provisions may not exceed the amount which the owner would have obtained as a purchase supplement computed on the basis of a comparable replacement dwelling.
  8. In the event the displaced person utilizes a previously purchased lot, the displaced person shall be eligible for incidental lot purchase costs. Such incidentals must be documented with receipted bills at the time the lot was purchased.

#### **4.15 PURCHASE SUPPLEMENTS ON EXPROPRIATED PARCELS**

When a 90-day Owner-Occupant's, parcel is expropriated by the Department for a just compensation amount greater than the original acquisition offer, the purchase supplement amount must be recomputed using the final just compensation amount. The owner-occupant will be required to refund the Department any excess purchase supplement amount he or she was paid.

##### **PROCEDURES:**

1. When a displaced 90-day Owner-Occupant whose property is expropriated by the Department signs the replacement housing claim, he or she will be required to sign Section V, in which he or she agrees to refund any excess payment resulting from an increase in the just compensation amount awarded by the court. He or she agrees to the same stipulation when he or she receives the check for payment and signs the relocation check receipt.
2. Upon receipt of the final judgment in an expropriation case, the regional agent will check the relocation file to see if the displaced person received a purchase supplement. If he or she did, and the final judgment is an amount greater than the original acquisition offer, the agent will so advise the Right of Way Regional Supervisor.

3. The Right of Way Regional Supervisor or his or her designee will re-compute the purchase supplement payment, using the amount awarded by the court instead of the original acquisition offer.
4. The relocation agent will contact the displaced person and inform of the amount he or she must refund the Department. The refund amount will be the difference between the purchase supplement payment made to the displaced person and the recomputed purchase supplement amount.
5. If the displaced person fails to refund the excess amount, the Right of Way Regional Supervisor will advise the Relocation Assistance Officer. The Relocation Assistance Officer will notify the Legal Division, which will institute legal action for collection on the Department's behalf.

#### 4.16 LAST RESORT HOUSING

When comparable replacement housing is not available and cannot otherwise be made available, or when the cost of available comparable properties exceed the monetary limits for owners or tenants as specified in [Section 4.10](#), additional assistance may be provided them under Last Resort housing provisions. Last Resort housing provisions are utilized by the Department on any DOTD highway project that has one or more of the following situations:

1. Comparable replacement housing is not available for a displaced person(s).
2. Comparable replacement housing is available for the displaced person(s), but the computed replacement housing payment exceeds the maximum amounts established in [Section 4.10](#), (\$41,200 for purchase supplements and \$9,570 for rental supplements).
3. There are displaced, less than 90-day occupants, who cannot be relocated to comparable replacement dwellings within their financial means.
4. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and the project cannot be advanced to completion in a timely manner without Last Resort housing assistance; and the method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total project costs.

On any relocation project that requires Last Resort housing, the regional agent will address Last Resort housing considerations as a part of the Right-of-Way Stage Relocation Plan. This part of the Right-of-Way Stage Relocation Plan will describe the needs of any Last Resort displaced persons, the housing necessary to meet these needs, and the examine methods of providing replacement housing.

#### PROCEDURE

1. The Department will choose a comparable dwelling that places the displaced person in the same occupancy status (owner or tenant) as he or she was in prior to displacement.

However, if the displaced person requests a change in occupancy, the Department may comply if a dwelling is available and is at least as economical as the original comparable.

2. If a tenant requests a down payment supplement, the upper limit of the payment, including closing costs and incidentals, is established by the rent supplement offer.

## METHODS

When comparable replacement housing is not available and cannot otherwise be made available, the Department will provide such housing through innovative approaches and methods which may include, but are not limited to the following possible procedures.

1. The Department may provide comparable replacement housing through the purchase of land and/or dwellings. The procedures implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as revised, are required unless such property purchased has been offered for sale on the open market or the owner voluntarily acts to sell his property to the Department, and the owner so certifies in a statement maintained in the headquarters relocation assistance project file. This includes obtaining an appraisal for houses that will be used as seed houses. The Department shall not purchase tenant-occupied improvements for sale on the market, as seed houses.
2. The Department may provide comparable replacement housing through the rehabilitation of existing dwellings to meet decent, safe, and sanitary requirements provided the cost of acquisition and/or rehabilitation does not exceed the estimated cost of constructing, on a timely basis, a new comparable dwelling meeting the decent, safe, and sanitary requirements of the displaced persons.
3. The Department may provide comparable replacement housing through the construction of new dwellings, or the relocation of dwellings purchased by the Department for right of way purposes. If dwellings are relocated they will be refurbished or rehabilitated as needed.
4. The Department may provide comparable replacement housing through the transfer of real property surplus from the general services administration to the Department. Such transfer shall be subject to such terms and conditions as the general services administration determines necessary to protect the interest of the United States. The transfer may be made without monetary consideration, except that the Department shall pay to the United States all amounts received from the sale, lease, or other disposition of such property.
5. In those circumstances where the construction of new housing is considered the best means of providing comparable replacement housing, the Department will determine the cost of such construction in accordance with [subparagraph 1.j of Section 4.12](#). The maximum replacement housing payment offer will then be computed and the displaced person will be advised of his or her maximum offer. The actual construction will be accomplished by one of the following methods:
  - a. Contract between displaced person and contractor usually followed by a letter of credit issued by the agent and agreed to by the displaced person and the contractor. This letter

will set forth the terms of payment by the Department to the contractor. The terms of payment may be upon completion and inspection by a regional agent, or in the form of progress payments based upon stages of construction with final payment upon completion and inspection.

- b. Department contracts for the construction (public bids).
- c. Department contracts with a third party such as the local public housing authority.
- d. The Department may pay for the modification of otherwise suitable replacement housing for handicapped displaced persons to remove architectural barriers.
- e. The status of the displaced person may be changed, with his concurrence, from tenant to homeowner when it is more effective to do so, as in cases where a down payment may be less expensive than a Last Resort rental supplement.
- f. Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on functional equivalency, such as space and physical characteristics different from those in the displacement dwelling, including upgraded but smaller replacement housing that is DSS and adequate to accommodate persons displaced from marginal or substandard housing with probable functional obsolescence. The Relocation Assistance Officer must approve the usage of a smaller comparable. In no event, however, shall a displaced person be required to move to a dwelling that is not functionally equivalent to the displacement dwelling.
- g. Short Term Occupants (occupants of less than 90 days) who cannot be relocated to comparable replacement housing within their financial means are eligible for a last resort rental supplement. The rent supplement offer to such a displaced person is computed by subtracting 30 percent of his average monthly gross household income from the monthly rent plus estimated utilities at the comparable, and multiplying the difference by 42.

The actual payment shall be the lesser of:

- i. Forty-two (42) times the difference between the monthly rental including utilities at the comparable and 30 percent of the displaced person's average monthly household income.
- ii. Forty-two (42) times the difference between the monthly rental including utilities at the replacement and 30 percent of the displaced person's average monthly household income. The displaced person must submit documentation of the average monthly household income, and must complete the certification of monthly income form. If he or she is receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of these two amounts shall be used instead of 30 percent of the household income to compute the payment.

- h. A short-term occupant eligible for a rent supplement who chooses to purchase replacement housing may elect to receive a down payment supplement. The amount of the down payment, not to exceed \$9,570 is limited to the amount of the rent supplement offer. The entire amount must be applied to the purchase price of the replacement.
- i. Displaced subsequent occupants who cannot be relocated to suitable replacement dwellings within their financial means may be eligible for a Last Resort rental supplement. The replacement dwelling need not be comparable to the displacement dwelling (see Subparagraph 8). The computation of entitlement is computed as in 9.a. above. The Relocation Assistance Office will oversee all methods of providing housing of Last Resort.

**PAYMENTS**

Last Resort purchase supplement and down payment supplement payments shall be made jointly to the displaced person and the seller or contractor of the replacement dwelling. Last resort rent supplement payments will be made directly to the displaced person unless it is felt that establishing an escrow account is the only way to relocate the displaced person to DSS replacement housing. The decision to establish an escrow account for a displaced person will be made by the Relocation Assistance Officer on the recommendation of the Agent.

- 1. A tenant who is eligible for last resort housing but wishes to purchase a replacement dwelling may elect to receive a down payment supplement not to exceed the amount of the computed rental supplement offer. Such supplement must be applied in its entirety to the purchase price, including incidentals and closing costs.
- 2. A tenant who is eligible for a furniture supplement and who chooses a down payment supplement may apply his or her furniture supplement to the purchase price of the replacement dwelling.
- 3. The Relocation Agent should provide good advisory services to displaced tenants who choose the down payment option to ensure that they are fully aware of all costs associated with home ownership.

**4.17 APPEALS PROCESS**

All displaced persons disagreeing with the Department's determination regarding their eligibility and/or benefits under the relocation assistance program have the right of appeal, as described in the brochure "Acquisition of Right of Way and Relocation Assistance."

**PROCEDURES:**

- 1. Before the formal appeal process is instituted, an attempt should be made to resolve the conflict informally. If the agent handling the relocation is unable to provide resolution of the displaced person's concerns, the Agent shall present the facts of the case to the Relocation Assistance Officer for review. The agent will provide the Relocation Assistance Officer with all of the pertinent facts concerning the area of disagreement, as well as any written statement of dissatisfaction submitted by the displaced person. If the Relocation

Assistance Officer finds that the displaced person has a valid complaint, he or she may reverse the earlier decision. If, however, he or she finds that the original decision was correct, the displaced person shall be advised to enter the formal appeal process.

2. An appeal may be filed for any of the several determinations made by the Department concerning relocation assistance. The claimant must make the appeal in writing, preferably on the appeal claim form, attaching any supporting documentation. The Department shall consider any written appeal, regardless of form. Appeals must be submitted within 60 days after the person receives written notification of the Department's determination regarding the person's application or claim for relocation services or benefits.
3. After receiving an appeal from a claimant, the Right of Way Regional Supervisor or consultant project manager will forward the appeal to the Relocation Assistance Officer. The Relocation Assistance Officer will prepare a letter to the claimant acknowledging the appeal. This letter will also advise the claimant that he or she may request a personal meeting with the Right of Way Manager of Production and the Right of Way Administrator.
4. The claimant has the right to be represented by legal counsel or other representative in connection with his appeal, but solely at the claimant's own expense. The claimant shall also have the right to inspect and copy all materials pertinent to his appeal, except those materials that are classified as confidential. However, the Relocation Assistance Officer must be consulted before any records are disclosed to the claimant. The claimant may supplement the appeal with any material he or she feels is pertinent to his claim.
5. The Relocation Assistance Officer will forward the appeal file, including any supplemental information submitted by the claimant, to the Right of Way Manager of Production for review.
6. In reviewing an appeal, the Right of Way Manager of Production shall consider all pertinent records, as well as any other materials submitted by the claimant, to ensure a fair and full review of the appeal.
7. If the Right of Way Manager of Production approves the total appeal as submitted by the claimant, the reasons for approval must be filed with the appeal claim, and copies sent to the Relocation Assistance Officer and the Right of Way Regional Supervisor or consultant project manager. The claimant shall be notified of the approval in writing, and the claim processed for payment.
8. If the appeal is wholly or partially disapproved by the Right of Way Manager of Production, the appeal form, the factual findings and the written recommendations of the Right of Way Manager of Production against approval will be forwarded to the Right of Way Administrator, who shall make the final decision regarding approval or disapproval of the claim.
9. If the Right of Way Administrator wholly or partially approves the appeal, he or she shall notify the claimant by letter and place the claim in line for payment. In the case of partial

approval, the letter will advise the claimant of the right of judicial review of the unapproved portion of the claim. A copy of the letter will be placed in the appeal file, which is then returned to the Relocation Assistance Officer. A copy of the letter will also be sent to the Right of Way Regional Supervisor or consultant project manager.

10. If the Right of Way Administrator disapproves the appeal, he or she shall notify the claimant by letter, giving the reasons for the denial of the appeal and advising the claimant of the right of judicial review. A copy of the letter will be placed in the appeal file, which is then returned to the Relocation Assistance Officer. A copy of the letter will also be sent to the Right of Way Regional Supervisor or consultant project manager.
11. The appeals process from receipt of the appeal in Headquarters to final determination shall be handled as expeditiously as possible, preferably within three weeks. If a longer time is needed, the file shall be documented to explain the reasons for the delay.

#### **4.18 CLAIMS FOR REPLACEMENT HOUSING PAYMENTS**

Claims for replacement housing payments shall be in writing on the Department's replacement housing payment claim form. The latest date for filing such application is 18 months after:

1. For tenants, the date of displacement.
2. For owner-occupants, the date of displacement or the date of the final payment for the acquisition of the property, whichever is later. In the case of expropriation, the date shall be 18 months after the date of final adjudication (last legal action).

This time period may be extended up to six months by the Right of Way Administrator for good cause. The replacement housing payment claim form will be prepared by the regional agent and presented to the displaced person for signature. The agent will then recommend approval of the claim and submit it with appropriate documentation and vouchers to the Right of Way Regional Supervisor, who will review the claim and forward to the Relocation Assistance Officer if the claim and documentation are in good order. The Relocation Assistance Officer or his or her assistant will review the claim. If the claim meets all eligibility and documentary requirements, it will be approved and processed for payment. If it does not, it will be returned to the regional agent for appropriate action.

#### **PROCEDURES:**

1. Prior to submitting a claim for a replacement housing payment, the agent will complete a housing inspection form for the replacement dwelling, attaching any applicable checklists, and certifying that the replacement meets the applicable standards for decent, safe and sanitary housing as set forth in [Section 4.2 #5](#).
2. If a displaced person relocates to a state other than Louisiana, the agent will request the Highway Department of that State to perform the required inspection of the replacement dwelling. If circumstances make it impossible for the agent or a third party to inspect the replacement, a certification from the displaced person that he or she has occupied decent, safe and sanitary housing will be sufficient.

3. Ordinarily, payment should be deferred until the displaced person actually occupies DSS housing. The Department may make the payment to a displaced person in advance of the actual move if it is determined that delaying the payment would cause the displaced person hardship, provided he or she presents sufficient evidence of the pending purchase or rental of a decent, safe and sanitary replacement dwelling (see subparagraph 9.)
4. Following the displaced person's acceptance of the Department's replacement housing payment offer, the agent will prepare the replacement housing claim form. After completing the form, the Agent will present it to the displaced person for the displaced person's review and signature, and obtain any outstanding documentation necessary to support the claim. The original claim will be maintained in the official relocation parcel file, which is kept at the regional office
5. The Agent will prepare a voucher for payment of the claim and submit it with the supporting documentation and a copy of the signed claim to the Relocation Assistance Officer for approval.
6. The Relocation Assistance Officer will review the claim. If he or she finds any errors or discrepancies, he or she will return it to the agent for clarification or correction. If the claim meets all Federal and State regulations, the Relocation Assistance Officer will approve it and forward it to the Right of Way Administrator for approval and final processing for payment by the Financial Services Section. The Financial Services Section will prepare the relocation check and forward it to the Right of Way Section, where the Relocation Assistance Officer will transmit it to the field.
7. The relocation office will keep computerized records of all relocation payments. Such records shall be maintained on the Department's electronic project tracking system database and shall include the following information: Project number, parcel number, displaced person name and occupancy type, vacate date, amount and type of payments, dates relocation checks are sent to the field and delivered to the displaced person, and dates claims are filed. These records shall be used to compile relocation payment data for Federal or other reports, as mandated by law or otherwise requested.
8. When the relocation check reaches the field, receipt of the check by the displaced person will be acknowledged on the relocation check receipt. The displaced person will be given a copy of the signed receipt, and another copy will be forwarded to the Relocation Assistance Officer. The original will be placed in the regional relocation parcel file.
9. Advance Payments:

All claims and checks for replacement housing payments shall be handled promptly so as to minimize any financial hardship to the displaced persons. In those cases where regular processing procedures would present a hardship to the displaced person, advance payment of relocation monies may be requested from the Relocation Assistance Officer. For such advance payments to be approved, the displaced person must present evidence of his or her

commitment to purchase or rent DSS housing. Procedures for making advance payments are as follows:

- a. The displaced person may request advance payment verbally or in writing for the amount of the computed payment. He or she must submit sufficient proof of purchase or rental, such as a purchase agreement, contract for new construction, lease or rent receipt.
- b. The agent will inspect the replacement dwelling or plans for the replacement dwelling for compliance with all DSS standards.
- c. The agent will prepare a voucher for the advance payment. Vouchers for purchase supplements and down payment supplements shall be payable jointly to the displaced person and the seller of the replacement property. Vouchers for rental supplements, interest and incidental expenses may be payable directly to the displaced person. After the voucher is prepared, it shall be submitted along with the appropriate documentation and the advance request to the Relocation Assistance Officer.
- d. If the Relocation Assistance Officer agrees that advance payment is described in subparagraphs 2 through 4 above. Receipt of the check shall be acknowledged on the relocation payment check receipt.
- e. Deductions: An agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.
- f. Notice of denial of claim: If the agency disapproves all or part of a payment claimed or refused to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of the basis of its determination and the procedures for appealing that determination.

## **REQUIRED SUPPORTING DOCUMENTATION FOR VOUCHERS**

### **Vouchers for Purchase Supplements**

1. Replacement Comparison and Computation Sheet
2. Purchase Agreement or Construction Contract for Replacement Dwelling
3. Housing Inspection Reports on the Comparable and the Replacement
4. Claim Form, if not an advance payment

**Vouchers for Rental Supplements**

1. Replacement Comparison and Computation Sheet
2. Copies of Leases or receipts for rent at displacement and replacement dwellings
3. Utility Computation Worksheet, if necessary
4. Housing Inspection Reports on the Comparable and the Replacement
5. Claim Form, if not an advance payment

**Vouchers for Down Payment Supplements**

1. Replacement Comparison and Computation Sheet
2. Purchase Agreement or Construction Contract for Replacement Dwelling
3. Housing Inspection Reports on the Comparable and the Replacement
4. Claim Form, if not an advance payment

**Vouchers for Furniture Supplements**

1. Inventory of furniture in displacement dwelling
2. Documentation of costs to rent furniture for 42 months vs. buying it
3. Bill or receipt for replacement
4. Claim form, if not an advance payment

**Vouchers for Interest Payments and/or Incidentals**

1. Copies of mortgages on displacement and replacement dwellings
2. Copy of interest computations (computer printout or other)
3. Copy of closing statement (or estimated closing statement for advance payment)
4. Claim Form, if not an advance payment

#### 4.19 RESIDENTIAL MOVING PAYMENTS

To the greatest extent feasible, no person lawfully occupying real property acquired for the construction of a DOTD highway project shall be required to move from a dwelling without at least 90 days written notice.

##### PROCEDURE

1. A person displaced from a residential dwelling or a seasonal residence or a dormitory style room other than a mobile home is eligible for one of the two following types of moving payments:
  - a. Payment of actual moving expenses, described in ACTUAL MOVING COST OPTION, of this section; or
  - b. A fixed payment, as described in subsection 3 of this section.
2. The agent should ascertain the moving method preferred by the displaced person during one of the personal contacts, and should enter this information on the occupant inventory.
3. A displaced owner-occupant of a multi-family dwelling is eligible for a residential moving payment for relocating his residence. If such displaced person rents out other units in the dwelling, he or she may also be eligible for a business move payment in accordance with [Section 4.20](#).
4. When the displaced persons at one displacement dwelling relocate to separate replacement dwellings, the moving cost payment will be determined by whether the displaced persons maintained the same or separate households at the displacement dwelling.
  - a. If the displaced persons were considered to be one household, the moving cost eligibility will be determined by whether the separate move is voluntary or whether it is necessitated by the lack of a comparable unit. If the separate move is voluntary, and the displaced persons choose a fixed cost (schedule) move, the moving cost eligibility will be split equally. If they choose an actual cost move, each may be reimbursed on the actual costs of moving his or her personal property, plus a prorated share of disconnect costs at the displacement and reconnect costs at one replacement dwelling. If the separate move is necessitated by the lack of a comparable unit, each displaced person is entitled to a separate moving payment.
  - b. If the displaced persons were considered to have maintained separate households, each will be entitled to separate moving payments. Such a determination can be made only if the file is well documented to show that each household had exclusive use of separate sleeping, bath and kitchen quarters in the dwelling. Documentation must also include copies of receipts or cancelled checks for separate housing and utility payments.
  - c. If such displaced persons elect to move under the schedule option, their payment shall be determined by the number of rooms they actually occupied, as well as a proportional amount for the number of community rooms shared with the other household.

5. A person displaced from a dwelling or seasonal residence or dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses. The payment shall be determined according to the Schedule option.
6. The payment to a person displaced from a dormitory style room with minimal personal possessions or a person whose residential move is performed by an agency at no cost to the person shall be limited to the amount stated in the Schedule.
7. When an owner-occupant retains his or her dwelling as a replacement, the cost of moving the dwelling is part of his or her replacement housing payment rather than his moving expense payment. However, the displaced person is eligible for a payment for moving any items that must be removed from the dwelling for the move. Such payment may be made on an actual cost or schedule basis. In order to be eligible for a schedule move, the rooms claimed must be substantially emptied of their contents. The displaced person also is eligible for payment of temporary storage costs of personal property while the dwelling is being moved, with prior approval.

**LOUISIANA RESIDENTIAL MOVING COST SCHEDULE**

1. UNFURNISHED UNITS (Furniture Owned by Occupant)

1	2	3	4	5	6	7	8	Each Extra
\$600	\$800	\$1,000	\$1,200	\$1,300	\$1,550	\$1,700	\$1,900	\$300

2. FURNISHED UNITS (Furniture Not Owned by Occupant)

1 Room Not Furnished \$400

Each Additional Unfurnished Room \$ 70

3. EXCEPTIONS:

- a. A person displaced from a residential dwelling, including a mobile home, is eligible for a moving payment regardless of whether they move into DSS or NON-DSS housing.
- b. Payment for moving expenses shall be processed in accordance with [Section 4.16](#).
- c. The payment to a person with minimal personal possessions who's in occupancy of a seasonal residence, dormitory style room, or a person whose residential move is performed by an agency at no cost to them shall be limited to the amount stated in the fixed residential moving cost schedule, section B.
- d. Move of Mobile Home: Actual costs, plus a payment for packing and securing personal property on the basis of \$80.00 for the first room and \$40.00 for each additional room.

**ACTUAL MOVING COST OPTION**

Actual cost reimbursement is payment for the actual direct expenses incurred by the displaced person in conducting the move. A commercial mover may perform the move or it may be a self-move. Payment will be made for costs incurred and must be supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

1. Actual costs may include any of the following:
  - a. Transportation of the displaced person and personal property up to 50 miles to the replacement site, unless the Department determines that relocation beyond 50 miles is justified. Such costs may be on a mileage basis, not to exceed current state travel rate per mile, or reasonable actual fee if commercial transport is used. This may include special services such as the cost of an ambulance to transport invalid displaced persons. The actual reasonable costs of meals and lodging, when the Department determines that such costs are justified may also be eligible. This also includes the cost of moving personal property onto remaining or other lands owned by the displaced person or his landlord.
  - b. Payment to a commercial mover for completing all or part of the move.
  - c. If a self-move, payment for the rental of vehicles or equipment such as truck, pads, dollies, etc.
  - d. Packing, crating, uncrating and unpacking of personal property.
  - e. Payment for the storage of personal property up to 12 months with prior approval. A longer period of time may be approved if the Department determines that it is necessary.
  - f. Insurance premiums to cover the replacement value of personal property for damage or loss during the move or during necessary storage.
  - g. Replacement value of personal property lost, stolen, or damaged under certain circumstances when insurance is not reasonably available.
  - h. Compensation paid to persons employed to help conduct the move.
  - i. Payments to service personnel to disconnect, dismantle, remove, reassemble and reinstall household appliances and other personal property, such as a washer, dryer, telephone, etc.
  - j. Other moving-related expenses that the Department determines to be reasonable and necessary.
2. The following expenses are considered ineligible:
  - a. Additional expenses incurred because of living in a new location;

- b. The cost of moving structures, improvements or other real property in which the displaced person reserved ownership. This does not preclude payment for the costs of moving personal property into a dwelling that is retained and reoccupied on a replacement site;
- c. Improvements at the replacement site;
- d. Interest on loans to cover moving expenses;
- e. Personal injury incurred during the move;
- f. Costs for storage of personal property on real property leased or owned by the displaced person;
- g. Expenses for searching for a replacement dwelling;
- h. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Department.

### **Types of Actual Cost Residential Moves:**

There are two basic types of actual cost residential moves: an actual cost self-move and a commercial move. The total amount of reimbursement under either option is limited only by costs actually incurred that the Department determines are reasonable and necessary for the move. The agent will use good judgment in determining necessity and reasonableness of costs, and should provide displaced persons with reasons for the determinations before such costs are actually incurred.

#### **1. Actual Cost Self Moves**

- a. A displaced person choosing actual cost self-moves will be provided with a copy of the residential actual cost self-move form. Reimbursement for packing personal items shall be based on the hourly rate set forth on the handout. The agent should carefully review the number of hours claimed in packing to make sure it is compatible with the inventory moved.
- b. The Agent should provide the displaced person with guidelines for record keeping.
- c. Following the move, the displaced person must present an inventory of the items actually moved as well as all other supporting documentation. If questionable costs are submitted, the displaced person should be given an opportunity to provide an explanation. Should the agent disallow any items, he or she should advise the displaced person of the appeal process ([Section 4.17](#)).

#### **2. Commercial Moves**

- a. A displaced person choosing a commercial move must submit an inventory of personal property to be moved. The moving cost offer will be based on the lower of two bids submitted by commercial movers. Should there be a large disparity between the bids, the agent should contact the bidders to ascertain the reason. The agent may also

estimate the cost of the move in order to determine whether the low bid is realistic. Should the low bid be found to be unrealistic, the high bid may be selected if it is judged to be realistic. However, the file must be well documented as to the inadequacy of the low bid. The displaced person will be notified of the bid amount in an establishment of estimated cost of move letter.

- b. In order to claim payment, the displaced person must present receipted bills from the moving company. If the list of items actually moved deviates significantly from the original inventory, the established amount may be appropriately adjusted for payment.
- c. If a commercial mover submits a bid for moving the displaced person, and the displaced person actually employs the company to perform the move, the commercial mover shall not be paid for submitting a bid. Language in the bid proposal must provide for the cost of the estimate to be deducted from the final bill.

### 3. **Mobile Home Moves**

A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (2)(b)(i) - (vii) of this section. In addition, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the following moving expenses:

- a. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.
- b. The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.
- c. The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the agency determines that payment of the fee is necessary to effect relocation.

### 4. **Fixed Moving Cost Option (Schedule Move)**

- a. Residential displaced persons may choose a self-move based on the number of rooms in the displacement dwelling. When using the schedule, a "counted room" means that space in a dwelling unit containing the usual quantity of household furniture, equipment and personal property. It shall include such space as a living room, dining room, bedrooms, kitchen, recreation room, library, study, laundry room, basement, garage, workshop and patio, and "out buildings" if such places do, in fact, contain sufficient

- personal property as to constitute a room. Bathrooms will generally be excluded from the room count, unless they contain an unusual amount of furniture or other movables.
- b. Rooms or storage areas containing substantial amounts of personal property relating to the residential occupancy of the property may be counted as additional rooms. An oversized room may contain sufficient furniture for two rooms and can be considered as two rooms. An alcove dining room may be considered a separate room if it contains a normal amount of dining room furniture.
  - c. Documentation of the number of rooms in the displacement dwelling, such as a sketch of the floor plan, must be included in the regional and headquarters relocation file. The agent determines the amount of the payment, and the displaced person is not required to submit any supporting documentation other than verification of the move.
  - d. The displaced tenant of a mobile home is eligible for a moving cost payment based on the schedule. If the displacement unit was unfurnished, the displaced person shall be paid according to part A of the schedule. If the unit was furnished, the displaced person shall be paid according to Part B.
  - e. In some cases you may have items involved in a residential move, which do not readily fit into the schedule. Examples of such items are butane tanks, satellite dishes, etc. To move these items you may estimate the cost of moving these items and add the number of rooms necessary to cover the cost of moving these items. To make these estimates you need to make phone calls to movers to see what the cost in labor and equipment would be to move these items. Document your files as to the information you received and compute your estimate. Add the number of rooms to cover the amount of your estimate. Example: Estimate to move a butane tank is \$500.00, (the same amount for each additional room from the schedule), In this case you would have to add 1 more room to the room count to cover the cost of moving the butane tank.
  - f. In other cases, the characteristics of the move may make a combination fixed move-actual cost move more desirable.

#### **4.20 BUSINESS MOVING EXPENSES**

To the greatest extent feasible, no business, farm or non-profit organization occupying real property acquired for the construction of a Department highway project shall be required to move without at least 90 days written notice. Such displaced persons are eligible for relocation assistance payments on the basis of actual, reasonable moving costs, actual direct loss of tangible personal property, certain actual costs of reestablishing their operations, or a fixed payment in lieu of moving expenses based on the operation's average annual net earnings. Displaced persons who relocate within their 18-month eligibility period and otherwise meets the eligibility requirements for a moving payment outlined in this section must file an

application for such benefits within 18 months of the beginning of his prescribed eligibility period.

## 1. GENERAL

- a. A displaced business, farm or non-profit organization (hereafter called a business, unless otherwise noted) may be eligible for one or more of the following moving payments:
  - i. The actual reasonable costs of moving and other related expenses, as described in subsection ACTUAL REASONABLE MOVING EXPENSE METHOD;
  - ii. The cost of certain expenses incurred in searching for a replacement location for the business, as described in subsection ACTUAL REASONABLE MOVING EXPENSE METHOD, paragraph 1.k.
  - iii. The actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business, as described in the subsection ACTUAL REASONABLE MOVING EXPENSE METHOD, paragraph 1.l.
  - iv. Payment for certain actual costs of reestablishing the business, up to a maximum of \$-33,200, as described in subsection REESTABLISHMENT EXPENSES. This benefit is only available to businesses that meet the definition of a small business (a business with no more than 500 persons actually working at the displacement site).
  - v. A fixed payment between \$1,000 and \$53,200, based on the business's average annual net earnings, as described in subsection FIXED PAYMENT METHOD (IN LIEU PAYMENT). A business choosing this method is not eligible for any of the other types of business move payments described in (i) through (iv).
- b. The following moving and related expenses are not eligible for reimbursement:
  - i. The cost of moving any structure or other real property improvement in which the business reserved ownership;
  - ii. Interest on a loan to cover moving expenses;
  - iii. Loss of trained employees;
  - iv. Loss of business or patronage;
  - v. Any additional operating expenses of a business or farm operation incurred because of operating in a new location, except as specified in subsection REESTABLISHMENT EXPENSES;
  - vi. Personal injury;
  - vii. Any legal fee or other cost for preparing a claim for a relocation payment or for representing this claimant before the Department;

- viii. Costs of storage of personal property on real property already owned or leased by the displaced business.
- ix. Physical changes to the real property at the replacement location of a business or farm operation except as provided as a moving or reestablishment expense.

When the business displaced person abandons or refuses to move personal property, and makes no effort to dispose of such property by sale or removal at no cost by a junk dealer, the owner will not be entitled to moving expenses, or losses, for the items involved. In this situation the Department should attempt to obtain a written statement from the owner that he or she is abandoning the property. The statement should itemize the abandoned items. If no such statement can be obtained, the regional agent should notify the relocation office, who will refer the parcel to legal which will have the items declared abandoned and disposed of by the Department. The displaced owner-occupant of a multi-family dwelling who rents the other unit(s) to tenants may be eligible for a business move payment of actual reasonable moving expenses of personal property in the rental unit(s) in addition to a residential moving payment. However, such a business is not eligible for a fixed moving method in lieu payment. Payment for business moving expenses shall be processed in accordance with [Section 4.21](#).

## 2. TYPES OF BUSINESS MOVING EXPENSE PAYMENTS:

### a. Actual Reasonable Moving Expense Method

Any displaced business or farm operation is entitled to payment for such actual moving and related expenses that the Department determines to be reasonable and necessary. Such expenses include the following:

- i. Transportation of personal property up to 50 miles unless the Department determines that relocation beyond 50 miles is justified. Such costs may be on a mileage basis, not to exceed current state travel rates, or reasonable actual fee if commercial transport is used.
- ii. Packing, crating, unpacking and uncrating of personal property.
- iii. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
- iv. Storage of personal property for 12 months with prior approval. A longer period may be approved if the Department determines that it is necessary.
- v. Insurance for the replacement value of the personal property in connection with the move and approved storage.

- vi. Any license, permit, fees or certification required of the displaced business at the replacement, based on the remaining useful life of the existing license, permit, fees or certification at the displacement site.
- vii. The replacement value of property lost, stolen or damaged in the move (not through the fault or negligence of the displaced person or his or her agent or employee), where insurance covering such loss is not reasonably available.
- viii. Professional services necessary for planning the move of the personal property, and moving and reinstalling it at the replacement site.
- ix. Re-lettering signs and replacing stationery on hand at the time of displacement that are rendered obsolete by the move.
- x. The reasonable cost of attempting to sell an item that is not to be relocated.
- xi. Impact fees or one-time assessments for anticipated heavy utility usage.
- xii. Provision of utilities from right-of-way to improvements on the replacement site.
- xiii. Professional services in connection with the purchase or lease of a replacement site.
- xiv. Certain expenses incurred in searching for a replacement location, not to exceed \$2,500.
  - (a) Allowable searching expenses include transportation, meals, lodging and the reasonable value of time actually spent searching for a replacement location., obtaining permits, attending hearings, negotiating the purchase or lease of the replacement site. Also included are the fees of Field Agents or brokers who assist in the search. Excluded are costs of preparing the application for moving and related expenses.
  - (b) Mileage reimbursement will be based on actual cost supported by paid receipts or at the recognized state mileage rate.
  - (c) Payment for time actually spent in the search shall be based on the claimant's average hourly rate, verified by review of income tax returns. A certified statement of time, including a log of dates, times and activities, as well as documentation of salary (income tax returns), shall accompany the claim.
  - (d) All expenses claimed must be documented on the searching expense claim form and supported by receipted bills or other documentation.
  - (e) Costs associated with modifying personal property in order to conform to Federal, State, or local law, are compensable as actual moving costs and are limited only to the extent that they are reasonable and necessary and were not compensated under acquisition.

**b. Direct loss of tangible personal property:**

This type of payment is really a substitute for a payment for moving personal property that is not moved but is disposed of by sale or trade-in. It may be appropriate when the business is being discontinued, or when the personal property will not be used in the reestablished business. Many businesses have machinery or equipment that is old, obsolete, in storage on site, and of marginal value. This benefit provides the business operator a method of compensation for the item without actually having to move it.

- i. The "direct loss" benefit allows the business to be paid an amount up to the cost to move the item.
  - (a) The payment shall be the lesser of:
    - (1) The fair market value in place of the item, as is for continued use, but not including any allowance less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or
    - (2) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site.
  - (b) Plus the cost of the sale.
- ii. Payment of actual direct losses may be made only after an honest effort has been made by the owner to sell the item(s), unless the Department makes the determination that the item is obsolete and/or unsellable. If efforts to sell the item are unsuccessful, or if it is declared unsellable, the fair market value for continued use shall be used in the computation. When payment for property loss is claimed for goods held for sale, the market value shall be based on the cost of the goods to the business, not the potential selling prices.
- iii. The file must be documented with a copy of the establishment of fair market value of the item, bids for moving the item, documentation of the sales price, if any, of the items. The actual, reasonable costs of advertising and conducting the sale shall be supported by copies of bills of sale or similar documents, and by copies of any advertisements, offers to sell, auction records and other items supporting the bonafide nature of the sale. The Department will then assume the responsibility for moving the item.

**c. Purchase of substitute personal property:**

This option is similar to the actual direct loss of tangible personal property option, except that the item of personal property is not moved but instead is promptly replaced with a substitute item that performs a comparable function at the replacement site. The payment shall be the lesser of:

- i. The cost of the substitute item (or a comparable item, if the substitute represents a significant upgrade), including installation costs at the replacement site, minus the proceeds of the sale or trade-in of the replaced item; or
- ii. The estimated cost of moving and reinstalling the replaced item, not including storage of the item. (The Department may base the estimated cost on a single bid or estimate.)

The Department may, on a case-by-case basis, decide that moving-related expenses not listed above are reasonable and necessary, and therefore reimbursable as actual moving expenses.

The owner of a displaced business who chooses an actual cost move must submit an inventory of the items to be moved and request that the Department establish an estimated cost of move. The Agent should verify the items on the list, at least on a spot check basis. If at all possible, the Agent should assist the displaced business in preparing the inventory. In the event the displaced person fails to provide such an inventory, the Agent shall prepare the inventory and have the displaced person certify its correctness. If necessary, the Department may contract a moving specialist or inventory specialist to perform the inventory.

**d. 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 the displacing agency, the allowable moving cost payment shall not exceed the lesser of:

- i. The amount which would be received if the property were sold at the site or
- ii. The replacement cost of a comparable quantity delivered to the new business location.

Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency.

**NOTIFICATION AND INSPECTION:**

The Agency shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person. To be eligible for payments under this section the displaced person must:

1. Provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.
2. Permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

**MOVING SPECIFICATIONS:**

The agent should prepare or provide for the preparation of the move specifications. The specifications are detailed instructions of when and how the move will be performed. It is imperative that all who bid on the move prepare their bids on the same moving instructions. The specifications also provide the basis for agreement between all parties (Department, displaced person and mover) regarding the scope of the work to be performed. The specification list shall include the following items:

1. An inventory of the items to be moved.
2. Any special handling requirements.
3. Any disconnect, removal and installation requirements.
4. The timing of the move. (No overtime is allowable without prior approval.)
5. The location of the displacement and replacement sites.
6. If the move is of a complex nature, specialized consultants may be employed to plan and expedite the move. This could include the services of specialists to develop inventories, as well as specialized industrial consultants to develop move specifications.

**3. TYPES OF ACTUAL COST MOVES:****a. Commercial Move:**

If the owner of the displaced business wishes to move commercially, the Agent will obtain two acceptable bids from moving companies based on the inventory and specifications. The bids shall be solicited from moving consultants with bid letter and bid proposal form. All bids must be submitted on this form, and all appropriate information on the form must be completed, such as man-hours, cost per man-hour, packing materials, equipment, etc. The agent may pay a nominal fee to the moving company for providing the bid. This fee will be deducted from the total bid if the bidder is actually engaged to perform the move. The lower of the two bids will constitute the

offer. If there is a large disparity between the bids, the agent should attempt to resolve it, either by contacting the bidders or preparing his or her own moving cost estimate. Should the low bid be found to be unrealistic, the high bid may be selected if it is judged to be realistic. However, the file must be well documented as to the inadequacy of the low bid. Following the move, the business must supply copies of receipted bills from the mover, as well as a certified inventory of items actually moved. If the agent is able to obtain only one bid for a commercial move the file must be well documented that another bid is unobtainable.

**b. Self-Move:**

If the business wishes to take full responsibility for moving the business personally, the agent will establish an estimate of the cost of the move, not to exceed the cost of moving commercially.

The methods of establishing the estimated cost of the move are as follows:

**i. Lower of Two Bids**

The cost may be established as the lower of two acceptable bids from qualified moving firms and/or specialists based on the specifications. Bids must be submitted on the Bid Proposal Form. Following the move, the owner must supply a certified list of items actually moved.

If the agent is only able to obtain one independent bid, the business may submit its own estimate for the move, and this will constitute the second bid. However, the file must be well documented to clearly establish that it was not possible to obtain a second independent bid.

**ii. Actual Cost Self-Move**

In the absence of independent moving or bids, the agent may estimate the cost of a self-move as closely as possible. The displaced owner will then be paid his actual reasonable moving costs, supported by a completed actual cost self-move form, receipted bills or other evidence of costs incurred. Allowable expenses include:

- (a) Costs for truck or equipment rental;
- (b) A reasonable amount to cover gas and oil, if the displaced person's personal vehicles are used, as well as the cost of insurance and depreciation for the time the vehicles are used in accomplishing the move;
- (c) Wages paid to persons who physically participate in the move. Such costs shall be computed on the basis of actual hours worked at an hourly wage not in excess of that paid by commercial movers or contractors in the area;
- (d) Wages paid to employees of the business who supervise the move. Such payment will be based on their regular hourly wage times the number of hours spent supervising the move.

**c. Finding**

Estimates for low-cost or uncomplicated business moves, not to exceed \$6,000, may be prepared by Department agents familiar with moving costs in the area. This type of estimate is called a finding. Estimates less than \$4,000 may be prepared by one agent; estimates between \$4,000 and \$6,000 must be prepared two agents. A certified list of items to be moved is required. Following the move, the business must supply a certified list of items actually moved.

After computing the moving cost estimate by one of the above methods, the agent will submit the estimate to the Relocation Assistance Officer for approval before notifying the owner of the amount on an establishment of estimated cost of move letter. The agent should monitor the move to the degree indicated by its complexity and cost. Complicated and/or costly moves shall be more closely monitored than simple, inexpensive moves.

Following the move, the displaced business must supply the Department with the documentation required for the type of move chosen. The amount claimed shall not exceed the amount specified in the establishment of estimated cost of move letter unless the overage is well documented and the Department deems it reasonable and necessary. If the inventory of items actually moved deviates significantly from the original inventory, the offer will be appropriately adjusted for payment.

If a commercial bidder is paid for submitting a bid and is then awarded the move, the amount of the bid payment shall be deducted from the moving payment.

**4. REESTABLISHMENT EXPENSES:**

- a. In addition to payment for actual moving expenses, a small business is also eligible for a payment up to \$33,200 for actual reasonable and necessary expenses incurred in reestablishing the business.
- b. If the nature of the business changes subsequent and/or simultaneous to the relocation, the business is still eligible for a reestablishment expense payment.
- c. A small business is a business that has no more than 500 persons actually working at the displacement site. This includes self-employed individuals who work full-time at the business, businesses with no employees on site (self-service car wash, etc.) and absentee landlords. Excluded are owners of part-time home businesses that do not contribute materially to the household income.
- d. Eligible expenses under this section include the following:
  - i. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
  - ii. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

- iii. Construction and installation costs for exterior signing to advertise the business.
- iv. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
- v. Licenses, fees and permits when not paid as part of moving expenses.
- vi. Feasibility surveys, soil testing and marketing studies.
- vii. Advertisement of replacement location.
- viii. Estimated increased costs of operation during the first two years at the replacement site for such items as:
  - (a) Lease or rental charges (increased costs for purchasing a replacement site are excluded);
  - (b) Personal or real property taxes;
  - (c) Insurance premiums; and
  - (d) Utility charges, excluding impact fees.
  - (e) Other items that the Department considers essential to the reestablishment of the business.
- e. THE FOLLOWING EXPENSES ARE NOT ELIGIBLE AS REESTABLISHMENT EXPENSES:
  - i. Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
  - ii. Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation.
  - iii. Interior and exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in item (5) under eligible expenses.
  - iv. Interest on money borrowed to make the move or purchase the replacement property.

Advance payment of reestablishment expenses may be made if not doing so will create a hardship for the business. However, such requests must be documented with finalized bids or other documentation of anticipated actual costs of items claimed. A completed reestablishment expense worksheet must also accompany the request.

**FIXED PAYMENT METHOD (IN LIEU PAYMENT):**

- 1. An eligible business, farm and non-profit organization may choose to take a fixed payment for moving instead of payment for actual moving expenses and/or reestablishment expenses. This type of payment, called an in lieu payment, is based on the average annual

income of the operation for the two years preceding displacement. It cannot be less than \$1,000 nor more than \$53,200.

2. A business displaced person who requests an in lieu payment must submit the request in writing to the regional relocation agent. The Agent will then submit the request with all supporting documentation to the Relocation Assistance Officer, with a recommendation for approval or disapproval based on whether the business meets the criteria outlined below. The Relocation Assistance Officer will determine the business's eligibility for the in lieu payment and notify the agent.

### **In Lieu Payments to Businesses**

1. To be eligible for an in lieu payment, a business must meet the following criteria:
  - a. The business owns or rents personal property at the displacement site which must be moved and for which an expense would be incurred in such move; and the business vacates or relocates from the displacement site; and
  - b. The business cannot be relocated without a substantial loss of existing patronage. The substantial loss of patronage criteria is assumed to exist for a displaced business unless the Department determines that it will not suffer such a loss; and
  - c. The business is not part of a commercial enterprise that has more than three other entities that are not being acquired which are under the same ownership and engaged in the same or similar business activities; and
  - d. The business contributes materially to the income of the displaced person during the two taxable years prior to displacement (or during such other period the Department determines to be more representative.) A business is considered to contribute materially if:
    - i. It had average annual gross receipts of at least \$5,000; or
    - ii. It had average annual net earnings of at least \$1,000; or
    - iii. It contributed at least 33-1/3 percent of the owner's or operator's average annual gross income from all sources; or
    - iv. If the above criteria create a hardship in any given case, the Department may approve other more appropriate criteria.
  - e. The business is not operated solely for the purpose of renting such dwellings to others; and
  - f. The business is not operated solely for the purpose of renting the site (including structures) to others.

2. Determining the number of businesses displaced:

In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, the following questions should be addressed:

- a. To what extent are the same premises and equipment shared?
- b. Are the functions of the businesses substantially identical, interrelated or commingled?
- c. Are the entities presented to their clientele and the public as one business?
- d. Does the same person or a closely related person own, control or manage the businesses?

3. Determining the amount of the payment:

4. The in lieu payment for a displaced business shall be based on the average annual net earnings of the business during the two taxable years prior to the taxable year in which it was displaced. It may not be less than \$1,000 or more than \$53,200.

- a. If the two taxable years specified above are not representative of the business's average annual income, the Department may use a two-year period beginning with two years prior to negotiations for the project that would be more representative. Prior to utilizing this alternative procedure, it must be determined that the proposed construction resulted in the outflow of residents who patronized the business, thereby negatively impacting the business's sales.
- b. Whenever possible, U.S. Internal Revenue Service tax returns shall be used to compute payments. The net earnings will include any compensation paid by the business to the owner, his spouse or dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, his wife, and their dependent children shall be treated as one unit.
- c. Schedule C (Form 1040) Profit or Loss from Business - Use line for "net profit or (loss)" plus that amount of line "wages" that represents payment to the business owner's spouse or dependents. Copies of the appropriate IRS forms must be attached to document the amount of the wages.
- d. Form 1120 U.S. Corporation Income Tax Return – Use line for "taxable income before net operating loss deduction and other special deductions" plus:
- e. That amount, if any, that represents compensation to the owner(s) of the business, as shown on Schedule E; and
- f. That amount, if any, on the line "salaries and wages" that represents payment to the business owner's spouse and/or dependents. Copies of the appropriate W2 forms or Form 1099 must be attached to document the amount of the wages.

- g. Form 1065 U.S. Partnership Return of Income Use line for "ordinary income or loss from trade or business activities" plus on Schedule K, line for "net earnings (loss) from self-employment." NOTE: If there is any income from oil, gas or geothermal properties shown on Schedule K, call headquarters for assistance in computing the payment.
- h. If the business has no tax returns, some other acceptable method of establishing annual income may be substituted, such as a certified financial statement or an affidavit from the owner stating the business's annual net earnings. The Department reserves the right to review the financial records of the business if one of these types of documentation is used.

If the business was not in operation for the full two specified taxable years, the payment shall be computed by dividing the net earnings of the business for the period it was in operation by the number of months it was in operation, then multiplying by twelve. This figure will be the amount of the in lieu payment, within the \$1,000- \$53,200 limits.

### **In Lieu Payments to Farms**

A displaced farm operation may choose an in lieu payment computed in accordance with in lieu payments to businesses if it meets the following conditions:

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

### **In Lieu Payments to Non-Profit Organizations**

1. In order to qualify as a Non-Profit Organization, the operation must be incorporated under the applicable laws of the State as a non-profit organization, and must be exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code.
2. A displaced non-profit organization may elect to take an in lieu payment if the Department determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A non-profit organization is assumed to meet these criteria unless the Department determines otherwise.
3. The payment, which shall not be less than \$1,000 nor more than \$53200, shall be based on the average of the gross revenues less administrative expenses for the two years prior to displacement. Any payment in excess of \$1,000 must be supported with financial statements for the two twelve-month periods used in the computation.

**SIGNBOARDS:**

Signboards, regardless of ownership, are not items of relocation. They shall be purchased in the acquisition process.

**STEPS IN HANDLING BUSINESS MOVES**

1. Determine if business will be reestablished. If yes,
  - a. Document replacement site requirements.
  - b. Determine if specialists are needed to assist in the move planning.
  - c. Assess the time needed to complete the move.
  - d. Assess difficulty in locating a replacement property.
  - e. Identify advance payments that might be necessary to facilitate the move.
2. Identify replacement site.
3. Identify personal property to be moved. Early determination of whether items are personal property or realty is essential.
4. Prepare inventory of personal property to be moved.
5. Identify items requiring special handling, packing & crating.
6. Explain direct loss of tangible property & the purchase of substitute property.
7. Assist in preparation of move specifications.
8. Determine manpower & tradesmen needed to complete the move.
9. Determine materials & equipment needed to perform the move.
10. Have owner select move option preferred.
11. Assist in preparation of moving schedule for complicated moves.
12. Ensure that move is conducted in accordance with specifications.
13. Conduct post-move inspection and obtain certified inventory of Items that were moved.
14. Process moving claim for payment.

**4.21 CLAIMS FOR MOVING EXPENSES**

Application for moving expense payments shall be made in writing on the appropriate claim form: Residential moving expense claim form for residential displaced persons and moving expense claim form (Non-Residential) for businesses, farms and non-profit organizations. The latest date for filing such a claim is eighteen months after the later of:

1. The date the displaced person moves from the acquired property; or

2. The date of acquisition, or in the case of expropriation, the date of final adjudication.

The claim will be prepared by the regional agent and presented to the displaced person for signature. The agent will then recommend approval or disapproval of the claim and submit it with appropriate documentation and vouchers to the Right of Way Regional Supervisor who will review the claim and forward to the Relocation Assistance Officer if the claim is in order. The Relocation Assistance Officer will review the claim. If it meets all eligibility and documentary requirements, it will be approved and processed for payment. If there is some deficiency in the claim, it will be returned to the regional agent for appropriate action.

**PROCEDURES:**

1. Following the displaced person's move from the acquired property, the regional agent shall prepare the appropriate moving expense claim form and present it to the displaced person for review and signature and to obtain any outstanding documentation necessary to support the claim. The original claim will be maintained in the official relocation parcel file.
2. The agent shall prepare a voucher for payment of the claim and submit it with the supporting documentation to the Right of Way Regional Supervisor for review and approval.
3. If all is in order, the agent shall forward the claim to the Relocation Assistance Officer or his or her assistant will review the claim. If there are any errors or discrepancies, it will be returned to the regional agent for clarification or correction. If the claim meets all Federal and State regulations, the Relocation Assistance Officer will approve it and forward it to the Financial Services Section. The Financial Services Section will prepare the relocation check and forward it to the Right of Way Unit, where the Relocation Assistance Officer will transmit it to the regional office.
4. The relocation office will keep computerized records of all relocation moving payments. Such records shall be maintained on the Department's electronic project tracking system database and shall contain the following information:
  - a. Project number, parcel number, displaced person name and occupancy type, vacate date, amount and type of payments, dates relocation checks are sent to the field and delivered to the displaced person, and date claim is filed.
  - b. These records shall be used to compile relocation payment data for Federal or other reports, as mandated by law or otherwise requested.
5. When the relocation check reaches the regional office, an agent shall deliver the check to the displaced person. Receipt of the check by the displaced person shall be acknowledged on the relocation check receipt. The displaced person will be given a copy of the signed receipt, and another copy will be forwarded to the Relocation Assistance Officer. The original receipt will be placed in the Regional Relocation parcel file.

6. Advance Payments (Payments Made In Advance of Finalization of Claim Form):

All claims and checks for moving payments shall be handled promptly so as to minimize any financial hardship to the displaced persons. In those cases where regular processing procedures would present a hardship to the displaced person, advance payment of relocation monies may be made. Procedures for advance payments are as follows:

- a. The displaced person may request advance payment verbally or in writing.
- b. The agent will prepare a voucher for the advance payment and submit it along with the appropriate documentation to the Relocation Assistance Officer.
- c. If the Relocation Assistance Officer agrees that the advance payment is appropriate, he or she will place the voucher in line for payment as described in items 3 through 5 above.

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

**REQUIRED SUPPORTING DOCUMENTATION FOR VOUCHERS**

**Residential Actual Cost Moves:**

1. Copies of all moving cost bids and receipts
2. A completed actual cost self-move form, if the move is not done commercially and the displaced person is claiming costs for labor, vehicle rental and mileage, etc. documentation must be attached
3. Claim Form if not advance payment

**Residential Schedule Moves:**

1. A copy of the floor plan of the dwelling (not necessarily to scale) in order to document room count. If adjustments are made to the room count to compensate for storage areas, etc., a memo to the files explaining the reason for the adjustment
2. Claim Form if not advance payment

**Business Actual Cost Moves**

As applicable:

1. Copies of all receipts, moving bids, or findings
2. Direct loss of tangible property:
  - a. Fair market value for continued use of item
  - b. Documentation of selling price
  - c. Receipts for advertising the sale of the item
  - d. Bids for moving the item
3. Substitute personal property:
  - a. Replacement cost plus installation costs of new item
  - b. Computations for prorating costs of new item if it is a significant upgrade from old item; Bids for moving the item.
4. Actual cost self-move:
  - a. Completed actual cost self-move form
  - b. Mileage records
  - c. Documentation of wages of any persons assisting in the move
5. Searching expenses:
  - a. Copy of searching expense form with required documentation
  - b. Claim form if not advance payment
6. Reestablishment expenses:
  - a. Copy of worksheet for reestablishment expenses. If partial reestablishment payments are made, a worksheet must be attached to each voucher, with the expenses for that voucher highlighted. This is necessary in order to keep a running tab of payments made
  - b. As applicable: copies of all receipts or bills or firm bids, tax statements, lease charges, and utility costs; if cost to cure payment made at acquisition, copy of appraisal review report; Claim form if not an advance payment

**In lieu payments:**

As applicable:

1. Copies of tax returns used in computation (including W2 Forms or 1099 Forms to document wages to business owner's dependents or spouse, if claimed);
2. Copies of certified financial statements;
3. For non-profit organizations
  - a. Copies of certified financial reports of gross revenues and certified statements of administrative costs;
  - b. Claim Form, if not advance payment.

## **SECTION 5: PROPERTY MANGEMENT**

### **5.1 PROPERTY MANAGEMENT – POLICY**

The Property Management Unit is responsible for managing the inventory and disposal of property owned by DOTD, which includes rights of way, land leases, mineral leases, transfers, and the handling of certain improvements. Disposal is accomplished in accordance with the Louisiana Constitution, Article I, Section 4, LRS 48:221, LRS 48:224, EDSM I.1.1.10, EDSM I.1.1.19, and EDSM I.1.1.27.

1. Properties are inventoried by the Property Management Unit and consist of four (4) types:
  - a. Residual Property (Uneconomic Remainder/UR Parcel): A parcel of real property remaining after a partial acquisition, deemed by the department to have little or no value or use to the owner.
  - b. Excess Right of Way: Property acquired or used by DOTD as right of way, and later declared excess (not needed for departmental purposes). Can be owned in Servitude or Fee Title.
  - c. Excess Real Property: Real estate owned by DOTD, excluding properties purchased as required right of way, and no longer needed for the purpose for which it was purchased (such as maintenance units, radio tower sites, etc.). These properties should have a Site Code in the State Land and Building System Database (SLABS) maintained by the Office of State Lands.
  - d. Adversely Impacted Properties: Improvements acquired because they are determined by the Right of Way Administrator to suffer severe negative impacts as a result of the taking. Such improvements may be acquired with or without the associated land, and are only acquired amicably.
2. Types of Real Property Interest owned by DOTD:
  - a. Fee Title (Full Ownership) - sometimes referred to as, “fee simple”, it is the complete ownership of real property, free from any restrictions or limitations and granting the owner full rights to use, enjoy and dispose of the property.
  - b. Servitude - an agreement between parties to provide for the use of real property for specified purposes. The fee title owner of real property that is burdened by a servitude cannot unilaterally terminate the servitude or transfer the property free from the servitude without the consent of all beneficiaries.
3. Disposal of Excess Property occurs by five (5) methods:
  - a. Private Sale – Only to qualified buyers

- b. Public Sale – Awarded to highest bidder (Minimum is present appraised fair market value)
  - c. Abandonment – Disposal of property where DOTD only has servitude rights
  - d. Transfers to Public Entities
  - e. Exchanges of DOTD residual or excess right of way may be accomplished in order to avoid expropriation and settle acquisition amicably.
4. Disposal of Expropriated Property (Per Louisiana Constitution Article I, Section 4):
- a. If the expropriation was less than 30 years ago, the DOTD must first offer to sell the excess property to the original owner or heir, or if there is no heir, to the successor in title, at the current fair market value.
  - b. If offer is refused or if no response is received, then the property shall be offered at public bid.
- NOTE: DOTD must, within 1 year of project completion, identify those expropriated properties not necessary for the public purpose of the project and declare them surplus property; and within 2 years of project completion offer to sell that property to the original owner or heir or successor in title at the current fair market value. If the original owner or heir or successor in title fails or refuses to purchase the property by the end of 3 years after project completion, then the property may be sold to the general public by competitive bid.
- c. If the expropriation was over 30 years ago, the DOTD may sell or transfer the property “as provided by law”. (The law being referred to here is LRS 48:221)
5. The Property Management Unit is responsible for systematically working toward the identification of excess DOTD property and reducing inventory by disposing of excess property.
6. DOTD policy is to wait one year after final acceptance to dispose of property. This is not a law. If it is in the best interest of the DOTD to dispose of property prior to final acceptance, this policy can be waived by the Right of Way Administrator.
7. Recommendation and/or approvals for disposal will be in accordance with policy and procedures as written in the DOTD Right of Way Operations Manual.
8. If there was Federal participation in the acquisition of the disposable property, proceeds from the disposal must be used for transportation projects eligible for funding under 23 U.S.C. Property Management forwards all funds received to the Financial Services Section for proper handling.
9. Disposable property on which the DOTD has only a servitude, either recorded or unrecorded, either acquired for monetary consideration or by donation, will be abandoned

by the Department. No monetary return can or will be received for such abandonment, which will be accomplished in accordance with LRS 48:224.

10. The DOTD may exchange residual property or excess right of way for property needed for the construction or maintenance of a state highway, provided the property sought to be acquired by exchange shall have a present appraised fair market value equal to or greater than the present appraised fair market value of the excess or surplus property owned by the DOTD which is to be exchanged. (LRS 48:221 B)
11. Properties will be sold "as is" and subject to any liens which may exist, and without any warranty whatsoever, even for the return of the purchase price, but with full substitution and subrogation in and to all rights and actions of warranty.
12. DOTD will take advantage of the Federal oversight regulations effective June 15, 1994, and will obtain approvals for disposal as follows:
  - a. Federal approval will be obtained prior to disposal of excess right of way on the interstate system only, regardless of whether or not there was federal participation in the purchase of the property. Federal approval is not required for the disposal of residuals or excess property.
  - b. Environmental clearance will be obtained prior to disposal of residuals or excess right of way on Federal projects, defined as follows:
    - i. projects on the NHS
    - ii. project had Federal participation in any phase

## **5.2 DISPOSAL OF RESIDUALS, EXCESS RIGHT OF WAY, AND EXCESS PROPERTY**

After the necessary approvals have been obtained and a property has been determined to be excess, the disposal will be by private sale, public bid, or abandonment. The Louisiana Constitution prohibits donation of anything of value by the Department. Properties on which the DOTD has only a servitude cannot be sold, but will be abandoned if determined to be excess.

### **PROCEDURES:**

#### **5.2.1 PROCESSING REQUESTS FOR DISPOSAL**

- a. Requests for disposal of DOTD property may originate from the following:
  - i. The public (requires the following action):
    - (a) Respond with the request package letter - Form 515A
    - (b) When package is received from requester, acknowledge receipt – Form 546, and send \$100.00 processing fee check to Financial Services – Form 597

- ii. District Engineer Administrator (or other DOTD official)
- iii. Local governing authority (City, Parish, police jury, etc.)
- b. If the requested property has a reasonable potential of being unnecessary for departmental purposes, proceed as follows to get a disposal determination:
  - i. Check property management records for an existing file on the property. If no file is found, make a file, assign a file number and enter into the Property Management Module (PMM) database.
  - ii. File should have a copy of the acquisition deed, any applicable maps or plats, appraisal review report and original appraisal, if possible. Consult the acquisition file, the Real Estate Instrument Database (REID) and/or microfilm for all necessary file documentation.
  - iii. Check for final acceptance date, making sure project has had final acceptance for at least one year.

## 5.2.2 OBTAINING A DISPOSAL DETERMINATION

The following positions/entities must sign off on the disposal determination.

- a. For residual property (UR):
  - i. District Engineer Administrator Form 591
  - ii. Road Design Engineer Administrator Form 592  
(Remove Maint. Div. Chief from letter for U.R.'s)
  - iii. Traffic Engineering Development Administrator
  - iv. ITS Engineer Director
  - v. Environmental Engineer Administrator Form 587
    - (a) property on NHS, or
    - (b) project had Federal participation in any phase
  - vi. Right of Way Administrator (Signs Sale Instrument)
- b. For excess right of way:
  - i. District Engineer Administrator Form 591A
  - ii. Road Design Engineer Administrator Form 547
  - iii. ITS Engineer Director
  - iv. Traffic Engineering Development Administrator
  - v. Project Development Division Chief and  
Chief Engineer Administrator Form 547A
  - vi. Environmental Engineer Administrator Form 587
    - (a) property on NHS, or
    - (b) project had Federal participation in any phase
  - vii. Federal Highway Administration Form 589
    - (a) property on interstate
  - viii. Division of Administration (if a site code exists)

- c. For excess property:
  - i. District Engineer Administrator Form 591A
  - ii. Road Design Engineer Administrator Form 592
  - iii. ITS Engineer Director
  - iv. Traffic Engineering Development Administrator
  - v. Maintenance Division Chief (if a site code exists)
  - vi. Project Development Division Chief and Chief Engineer Administrator Form 547A
  - vii. Division of Administration (if a site code exists) Form 550
- d. For adversely impacted property (A.I.):
  - i. Right of Way Administrator (Signs Sale Instrument)

### **5.2.3 DETERMINATION OBTAINED – RETAIN OR DISPOSE**

- a. If the determination is to retain the property, or environmental clearance or FHWA approval is not obtained, proceed as follows:
  - i. Advise requestor
  - ii. Update Property Management Module (PMM)
  - iii. Mark file as Retained, and return to file room
  - iv. NOTE: If property is retained and owned in fee title (full ownership) by DOTD, it may qualify for a Joint Use Agreement (JUA). If the requestor is interested in a JUA, forward the requestor's contact information to the JUA Engineer in the Road Design Section. No further action necessary by the Property Management Unit.
- b. If the internal recommendation is to dispose of the property and DOTD only owns a servitude, see Section 5.2.7 Abandonment - Excess Property.
- c. If the internal recommendation is to dispose of the property and DOTD owns fee title (full ownership), proceed as follows:
  - i. Request an appraisal using Form 590. Include ROW map and acquisition document containing applicable property description. If expedited appraisal is preferred, verify with the Right of Way Manager over Support Services that there is sufficient budget to pay for a consultant appraisal and notate same in Form 590 letter.
  - ii. For partial disposals, a survey and new property description will be necessary for the appraisal request and for future preparation of the conveyance document.
    - (a) Surveys and property descriptions should be requested from and provided at the expense of the external requestor subject to review by an internal DOTD surveyor.

**5.2.4 LAWS GOVERNING HOW TO OFFER PROPERTY FOR SALE**

- a. If the property was acquired by expropriation less than 30 years ago, offer the property at private sale to the original vendor, or heir, or if there is no heir, to the successor in title, as verified by acquisition documents. If no offer is accepted or no responses received, offer property at public bid (per LA Constitution, Article I, Section 4).
- b. If the property was acquired amicably or by expropriation over 30 years ago, offer the property as follows (per LRS 48:221):
  - i. At private sale to the owner of the property or any portion thereof that is separated from a highway by the excess property, as verified by deed of acquisition and last year's tax assessment.
  - ii. If no offer accepted or no responses received, offer at private sale to the original vendor.
  - iii. If no offer accepted or no responses received, offer at public bid.
- c. If the property is residual (UR) acquired amicably after July 1, 2016, there is no obligation to offer at a private sale to the original vendor or successor's in title (per LRS 48:221).
- d. Possible Contamination: If the property to be disposed is a Maintenance Site or other property suspicious for contamination, Property Management Unit will request that the Materials and Testing Section prepare a Phase 1 assessment. A Phase 2 analysis shall be done if the Phase 1 indicates underground contamination. If contamination is confirmed, the Right of Way Administrator shall be advised and determine what course of action to take.
- e. Submit to Federal Highway Administration - Form 589, if the disposable property is excess right of way (NOT RESIDUALS), and if it is on the interstate.

**5.2.5 DISPOSAL BY PRIVATE SALE**

- a. There should already be an appraisal of the property (previously ordered in Paragraph 5.2.3.c.i above). If not, request an appraisal.
- b. Make offer for private sale at present appraised fair market value via certified mail - Form 520 - or email with read receipt. If no response or offer is refused by all qualifying parties, go on to Disposal by Public Bid.
- c. If offer is accepted proceed as follows:
  - i. When payment is received from Purchaser, send payment to Accounting - Form 598
  - ii. Prepare Sale - Form 525

- iii. Send Sale in triplicate to Purchaser for execution - Form 521.
- iv. Once executed Sale is received in triplicate from Purchaser, process as follows:
  - (a) Witness Sales
  - (b) Have Sales notarized by Department notary
  - (c) Send Sales to Right of Way Administrator for signature
- v. Once Sales are fully executed, keep two originals, send one original to the clerk of court for recordation - Form 544
- vi. When recordation information or certificate is received from the clerk of court, process as follows:
  - (a) Send a copy of the Sale and a copy of recordation information or certificate to District Engineer Administrator and Right of Way Regional Supervisor.
  - (b) Send one (1) of the originals to the Purchaser along with a copy of the recordation information or recordation certificate.
  - (c) Record the Sale in the REID
  - (d) Send copy of sale and right of way map to Right of Way GIS and request an update to GIS.
  - (e) Complete File Purge Checklist, Update PMM, file in File Room.
- d. If property sold was excess property with a site code, send copy of Act of Sale to the Division of Administration, Attn: State Land Office – Form 509.
- e. If property sold had buildings or other improvements, consult with the Right of Way Manager over Support Services to complete a building Deletion Form (UND-4.2) and send to the Office of Risk Management, so they can cancel insurance.

#### **5.2.6 DISPOSAL BY PUBLIC BID**

- a. Begin preparations to advertise for sale by Public Bid by completing the following steps:
  - i. There should already be an appraisal of the property (previously ordered in Paragraph 5.2.3.c.i above). If not, request an appraisal.
  - ii. The minimum bid must be the present appraised fair market value.

- iii. Provide the following information to Right of Way GIS for posting public bid listing on the Right of Way website.
    - a) State Project Number and/or project description
    - b) Parcel Number(s)
    - c) Parish
    - d) Bid Letting Date
    - e) Letting Type (sale of land, demolition of building, etc.)
    - f) Any attachments: Right of Way maps, aerial maps, online map link, etc.
    - g) Minimum Bid
    - h) Property Description (doesn't have to be the legal description)
    - i) Contact information for the responsible Right of Way Agent
  - iv. Request the Right of Way Regional Supervisor place DOTD "FOR SALE" signs on the property.
  - v. Per LRS 48:221, advertise the property as specified in the official local journal (newspaper) where the property is located.
- b. Public Sale of Adversely Impacted (AI) Properties
- i. In order to avoid extended vacancies in such improvements which can lead to vandalism, disposal procedures for AI improvements will be undertaken as soon as possible. The Adversely Impacted form will indicate the method of disposal.
  - ii. If the property is to be offered for sale by public bid, the form will indicate if the owner agrees to allow the DOTD to show the property before their 90-Day Vacate Date expires. If they do, the property may be put up for bid immediately. If they do not, the property will be put up for bid as soon as the Vacate Date expires.
  - iii. Lease agreements on Adversely Impacted properties shall include a statement that the occupant agrees to allow the DOTD to show the property to interested persons.
  - iv. The sale date shall be no earlier than 15 days from the date the lease is terminated. As specified in the lease, notification of the termination of the lease shall be given by either party by written notice thereof at least ten (10) days prior to the end of the any thirty (30) day rental term.
- c. Proceed with public bid process in accordance with Public Bid Procedures.

- d. When bids are received, review to determine recommendation for acceptance or rejection, and send recommendation to the Right of Way Administrator - Form 545.
  - i. If acceptance approved:
    - a) send Form 553 requesting balance due
    - b) when payment is received, complete applicable steps found in Paragraph 5.2.5.c.i above.
  - ii. If no bids are received:
    - a) update Property Management Database (PMM)
    - b) file in Central File Room
    - c) re-advertise in 6 months - 1 year

#### **5.2.7 ABANDONMENT - EXCESS PROPERTY**

Disposable property (other than sections of the State highway system) on which the DOTD has only a servitude, whether recorded or unrecorded, and whether acquired for monetary consideration or by donation, cannot be sold or transferred to another public entity, and will be processed as follows:

- a. 30-day notification letter Form 548 to public entities provided by DEA as requested with Form 591A.
- b. prepare a Declaration of Abandonment - Form 516A
- c. make mention in the Declaration of Abandonment of the acquisition information, if available and/or applicable
- d. record with the Clerk of Court for the Parish where the property is located - Form 544
- e. Send a copy of the Declaration of Abandonment with recordation data to the District Engineer Administrator, Right of Way Regional Supervisor and requestor.
- f. Record the Disposal in the REID
- g. Complete File Purge Checklist, Update PMM, File in Central File Room

NOTE: Generally, the DOTD will abandon all servitudes (construction, drainage, right of way, control of access) for no monetary consideration. However, FHWA says we must charge money for the relinquishment of these rights. Therefore, in some circumstances, at the discretion of the Right of Way Administrator, we will appraise the rights being relinquished and charge the person who will benefit by such relinquishment. Examples of such circumstances are relinquishment of control of access, or large amount of money paid by the DOTD for a drainage servitude which was never used or is being abandoned.

If there are utilities located on the right of way, advise the District Engineer Administrator in writing that since it was only a servitude, we cannot stipulate any conditions in a declaration of abandonment. The District Engineer Administrator must advise whether to abandon or retain under those circumstances.

### **5.2.8 DISPOSAL TO GOVERNING AUTHORITIES**

- a. Governing authorities are generally categorized as either public entities (City, Parish, police jury, etc.) or State agencies.
- b. Article 7, Part 14, Section 14(a) of the Louisiana Constitution prohibits donation of anything of value.
- c. Requests from governing authorities to acquire property owned by the DOTD in full ownership, can only be processed as follows:
  - i. Obtain all disposal approvals as provided by section 5.2.2 above.
  - ii. Request an appraisal of the property to obtain the present appraised fair market value
  - iii. Sell the property to the governing authority at present appraised fair market value if they qualify for private sale.
  - iv. If the governing authority does not qualify for private sale, engage the DOTD Legal Section to work directly with the governing authority to obtain an Act of the Legislature authorizing DOTD to sell the property to the governing authority at private sale for the present appraised fair market value.
- d. Requests from governing authorities to use DOTD property can be processed as follows:
  - i. Engage the DOTD Legal Section to work directly with the governing authority to garner any necessary approvals and produce a CEA or other agreement between DOTD and the governing authority to use/lease the DOTD property.

### **5.3 TRANSFERS, EXCHANGES, AND ABANDONMENTS**

Situations often arise where it is in the best interest of DOTD and the public to abandon a section of a roadway, or to transfer a portion of a roadway to, or exchange with, a local governing authority. Realignment of state highways sometimes creates situations where a portion of the old roadway will be transferred to and maintained by a local governing authority. Sections of roadways to be transferred, exchanged and abandoned will be considered excess right of way and will be accomplished in accordance with LRS 48:221, LRS 48:224, LRS 48:224.1, EDSM I.1.1.10, EDSM I.1.1.19 and EDSM I.1.1.27.

**TRANSFER PROCEDURES:**

1. This process originates with a request from a DOTD engineer or executive, the Road Transfer Program or the DOTD Highway Inventory Group (Section 21) and in accordance with either of the following:
  - a. A resolution from a local governing authority and the DOTD Secretary's letter of acceptance.
  - b. Intergovernmental Cooperative Endeavor Agreement with resolution
  - c. Cooperative Endeavor Agreement with resolution
  - d. Entity/State Agreement
  - e. Other document approved by the DOTD Secretary
2. When a section of the State highway system is to be transferred to, or exchanged with a local governing authority, or abandoned, proceed as directed below.
  - a. If an Agreement is furnished, review the terms of the Agreement to see which party is responsible for contacting the following:
    - i. local governing authority(s)
    - ii. all public utilities with recorded right of way agreements or permits and/or each member of the legislature in whose district the highway section is located recorded holders of right of way permits (other than driveway permits) affected by the abandonment
  - b. If there is no Agreement or the Agreement does not name a responsible party, request that the District Engineer Administrator furnish the names, addresses, and contact persons of the authorities and entities listed above. Form 549
  - c. Send notification letters to all authorities and entities listed above. Form 600
  - d. Prepare Transfer and Acceptance (Form 540) or Transfer and Exchange (Form 531) whether the highway is owned in full ownership or the DOTD has only a servitude.
  - e. Send the document to the governing authority for execution (Form 532)
  - f. Once received back from the governing authority, have the Act of Transfer signed, notarized and witnessed.
  - g. Request Recordation from Clerk of Court (Form 544)
  - h. Once received, send Certification of Recordation with recordation date to the following via email:

- i. District Engineer Administrator
  - ii. Road Design Engineer Administrator
  - iii. Project Development Division Chief
  - iv. Traffic Engineering Development Administrator
  - v. Road Transfer Program Engineer
  - vi. Highway System Inventory Engineer
  - vii. Data Collection/Mgt. Systems Administrator
  - viii. Right of Way Regional Supervisor
- i. Input the Transfer in the REID.
  - j. Complete File Purge Checklist, Update PMM, File in Central File Room.
3. If the local governing authority is unwilling to accept and maintain the highway section and the DOTD owns the property in full ownership:
- a. If the roadway can and will be obliterated:
    - i. proceed with proper legal notice and notify District Engineer Administrator to post signs in accordance with EDSM I.1.1.10
    - ii. prepare and process Declaration of Abandonment - Form 516, and have document recorded in the applicable Parish
    - iii. Send copy of document with recordation data to parties listed in Paragraph 5.3.2.h above.
  - b. If the roadway cannot be obliterated because it is serving members of the public, direction will be requested from the Chief Engineer and the General Counsel.
- NOTE: Abandonment of a roadway where the Department owns full ownership will possibly never occur, but is included herein due to LRS 48:224, paragraph C which provides for abandonment of property which cannot be sold at public or private sale.
4. Abandonment of Sections of Highways – right of way whereby the DOTD has servitude rights only.
- a. Process for approvals as directed under Section 5.2.2

- b. Request District Engineer Administrator to furnish names, addresses, and contact persons for the following (Form 549-public entities):
  - i. local governing authority(s)
  - ii. all public utilities with recorded right of way agreements or permits and/or each member of the legislature in whose district the highway section is located recorded holders of right of way permits (other than driveway permits) affected by the abandonment
- c. If approved for disposal, send out 30-day notification letter to public entities provided by the District Engineer Administrator ([Form 548](#)).
- d. Prepare Declaration of Abandonment ([Form 516](#)).
- e. Record with the Clerk of Court for the Parish where the property is located ([Form 544](#)).
- f. Send a copy of the recorded Abandonment with recordation data to:
  - i. District Engineer Administrator
  - ii. Road Design Engineer Administrator
  - iii. Project Development Division Chief
  - iv. Traffic Engineering Development Administrator
- g. Notify District Engineer Administrator to post signs in accordance with EDSM I.1.1.10.
- h. Input the Abandonment in the REID System.
- i. Complete File Purge Checklist, Update PMM, File in Central Files

NOTE: It is not necessary to barricade the road or to remove the surfacing because the DOTD owned only servitude. However, signs indicating no state maintenance or responsibility should be posted.

## 5.4 MISCELLANEOUS

The Property Management Unit is responsible for related processes not directly connected to inventory and disposal of excess properties. These related processes include handling land leases, mineral leases, certain improvements, and Special Use Permits.

### 5.4.1 LAND LEASES

- a. Land leases are entered into by the DOTD only under unusual circumstances. Public bid is required for all leases. Processing land for lease through public bid will be accomplished as follows:

- i. Process for internal recommendations and/or approvals and FHWA approval and environmental clearance. (For purposes of following the above steps, land leases will be considered excess right of way.)
  - ii. Order appraisal, if necessary - Form 590 (change to request value of lease instead of value of land).
  - iii. Prepare for public bid by following bid procedure found in Public Bid Procedures
  - iv. Bids received, (Lease Agreements are generally not recorded).
  - v. Send copy of fully executed Lease to District Engineer Administrator and to the Right of Way Regional Supervisor.
  - vi. Update PMM
  - vii. File under Lease Files
- b. Processing Land/Improvement lease check:
- When check is received:
- i. pull file and verify payment is current and in the correct amount
  - ii. transmit to accounting - Form 530
  - iii. make copy of letter and check for file
  - iv. update PMM
  - v. When copy of letter comes back initialed from accounting, discard file copy and replace with the copy initialed by accounting
- c. Renewing leases
- i. If a lease is for no monetary consideration and is renewable by mutual consent, follow steps mentioned in Paragraph 5.4.1.a.i. above, to obtain required recommendations for renewal. If approved, a letter stating that both parties are in agreement on a renewal of lease is all that is needed in the file.
  - ii. If a month-to-month lease is terminated by either party, for any reason, the property must be re-advertised for public bid, unless needed by DOTD, in which case status will be changed on the computer accordingly.
  - iii. Reports should be ordered regularly to assure all lease payments are up to date. Delinquent accounts shall be notified by certified mail.

## 5.4.2 MINERAL LEASES

- a. When a request is received from the public (generally an oil company) for information concerning a possible mineral lease of property belonging to the DOTD, proceed as follows:
  - i. If they have questions regarding the DOTD's rights (full ownership or servitude) to the property in which they are interested, direct them to the courthouse conveyance office or DOTD General Files.
  - ii. If they are interested in the mineral rights to a piece of property put up for lease at public bid, request a plat showing the tract no., acreage, Section, Township, Range, and the parish in order to prepare a Mineral Lease Nomination Letter, have the Right of Way Administrator sign and forward to requestor. Advise the requestor to submit the following directly to the Office of Mineral Resources:
    - a) \$400.00 non-refundable check (in the form of bank money order, certified check or cashier's check) made payable to the Office of Mineral Resources.
    - b) Cover letter explaining their request and copy of deed of acquisition by the Department DOTD to the property in which they are interested
    - c) A hard copy plat map showing the property and a legal description of the property.
  - iii. Create an application file, retain a copy of the letter, description and map in the application file until notification from the Office of Mineral Resources is received of an award or rejection of bid.
- b. When the Office of Mineral Resources sends an award letter along with cash payment from the Company that was the successful bidder, proceed as follows (All first payments are considered CASH payments):
  - i. Pull the corresponding application file, match Tract # and Lease # to check and letter, hold until received lessee agreement, and then prepare a new lease folder in accordance with the State Agency Lease No., the State Agency Tract No., and the Parish. (The original applicant's name may differ from the name of the company that was the successful bidder.)
  - ii. Examine the Deed(s) of Acquisition furnished by the company and determine if there was FHWA participation in the acquisition of the property covered by the lease.
    - a) If there was Federal participation, when preparing the Form 536, Form 536A, or Form 539, always advise accounting of the project number under which the property was acquired, and specify to them that the money is to be deposited into Fund 03 - Capital Outlay.

- iii. Prepare Form 536 and send with check to Financial Services. (Proceed to Part 5.4.2.c.iv below)
- c. During the life of the lease there are 2 types of payments received:
  - i. Delay rental (see page 1 of any Mineral Lease document) - company can use this payment in order to keep their options on the lease open. Send these payments to accounting using Form 536A. (Proceed to Part 5.4.2.c.iv below)
  - ii. Royalty payments - proceeds from the well that are sent to Property Management. Send these payments to Financial Services using Form 539. (Proceed to Part 5.4.2.c.iv below)
  - iii. Royalty payments are sometimes sent directly to Financial Services. In these cases, Financial Services will email Property Management with a copy of the payment and a request for the associated project information. Reply to the email with the requested project information.
  - iv. Post necessary mineral lease information into the current mineral lease spreadsheet.

#### **5.4.3 DISPOSAL OF IMPROVEMENT ON UR PARCEL**

- a. Proceed with bid process in accordance with Public Bid Procedure
  - i. The type of disposition is to be determined by the Right of Way Regional Supervisor.
  - ii. Amount of Performance Guaranty is set at \$2.00 per sq. ft.

#### **5.4.4 INSURING DOTD OFFICE BUILDINGS**

- a. When the DOTD acquires a new building to house a DOTD office, it is necessary to have it insured and added to the Department's Property Exposure Report as follows:
  - i. Coordinate with the Right of Way Manager over Support Services to fill out the Office of Risk Management Building Data Change Form and mail to the Office of Risk Management (address on form). Send a copy to the Safety Operations and Information Section.
  - ii. Advise the Division of Administration, State Land Office of the acquisition – Form 509, attaching a copy of the deed of acquisition, with recordation information, a copy of the floor plan, and a copy of a plat showing the area on which the building is located.

NOTE: These buildings will have insurance coverage when purchased for both the building and contents; however, when the Office of Risk Management receives the information from us, they re-appraise the property and add it to the DOTD's exposure list.

## **SECTION 6: TITLE VI**

### **NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

#### **6.1 OVERVIEW**

Title VI of the Civil Rights Act of 1964 is a Federal law that prohibits discrimination on the basis of race, color, and national origin in federally assisted programs and activities. It directs the appropriate Federal departments and agencies to take the appropriate action to carry out this policy. The law specifically states:

"No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance." (42 USC 2000d)

The Title VI Program is not limited to prohibitions of Title VI of the Civil Rights Act of 1964. Other nondiscrimination authorities include:

The Uniform Act of 1970 (42USC 4601)  
Section 504 of the 1973 Rehabilitation Act (29 USC 790)  
The Federal Aid Highway Act of 1973 (23USC 324)  
The Age Discrimination Act of 1975 (42USC 6101)

An overview of Title VI can be viewed online at:  
<http://www.fhwa.dot.gov/civilrights/programs/tvi.cfm>.

The text of the statute itself can be viewed online at:  
<https://www.justice.gov/crt/fcs/TitleVI-Overview>

The Right of Way Section shall comply with all aspects of Title VI, and shall ensure that all employees, sub-recipients (Local Public Agencies, cities and municipalities over which it has oversight), as well as its consultants are adequately trained to ensure compliance with all aspects of the regulations. The primary responsibility for such training rests with the Compliance Programs Section, which will be notified of all project kick-off meetings so that the DOTD Compliance Programs Specialist can attend and provide the appropriate level of Title VI training.

As required by [23 CFR SUBCHAPTER C CIVIL RIGHTS PART 200 TITLE VI PROGRAM AND RELATED STATUTES - IMPLEMENTATION AND REVIEW PROCEDURES](#), The Right of Way Section shall collect necessary demographic data on owners and displaced persons to provide to the DOTD Compliance Programs Section. The Compliance Programs Section will use this information to observe appraisal, acquisition and relocation activities as necessary to assure the Right of Way Section's compliance with Title VI requirements.

## 6.2 TITLE VI REQUIREMENTS AND RESPONSIBILITIES

The DOTD Title VI Coordinator will review policies, rules, and standard operating procedures to ensure compliance with Title VI requirements in all phases of right of way activities.

1. The Right of Way Section enters into agreements with independent right of way consultants on a contract basis or utilizes staff depending upon availability. Each consultant or staff person is required to have on file in the Right of Way Section a list of qualifications, education and experience. Title VI provisions, including USPAP, Louisiana State Law and the guidelines of the Department of Transportation and Development and USFLA (if applicable) in all fee appraiser, fee review appraiser and other specialty valuation contracts are required.
2. The DOTD Compliance Programs Office will receive copies of all new Right of Way Section consultant contracts to ensure equal participation by minority/women disadvantaged business enterprises (DBE's); and that employment of right of way consultants is carried out without restrictions as to race, color, national origin, sex, age, or disability. Employment is based on professional training, education, experience, evaluation of previous work, (if any), availability to complete assignments within project schedule time limits, and effectiveness as a witness in court.
3. The consultants are required to comply with regulations relative to non-discrimination in all transportation programs.
4. All consultant services and services by staff will be done without distinction as to race, color, national origin, sex, age or disability. The consultants are aware that no discriminatory statement is to be made in appraisal and other specialty valuation reports and in any acquisition and/or relocation assistance activity report.
5. All consultants and staff will be instructed to be on the alert for any indication of discrimination. If discriminatory statements are discovered, the work will be returned for correction before final acceptance.
6. All assignments are made objectively, without regard to race, color, national origin, sex, age, or disability.
7. Using the State and Federal appraisal, appraisal review, and acquisition procedures, a properly prepared and reviewed appraisal of fair market value of property for acquisition does not allow discrimination on account of race, color, national origin, sex, age or disability.
8. The acquisition procedures and required documentation as set forth ensures that all property owners in Louisiana are treated and dealt with fairly regardless of race, color, national origin, sex, age or disability.

9. Employment of right of way professionals is based upon professional training, education, experience, licensing (if applicable) and evaluation of previous work, if any, and the ability to complete assignments within project scheduled time limits without restrictions as to race, color, national origin, sex, age, or disability.
10. Abstractors are used for performing title research and title report preparation for the entire state. The hiring and assignment process for abstractors is carried out without restrictions as to race, color, national origin, sex, age, or disability.
11. Relocation assistance is provided without discrimination in accordance with Title VI requirements. Relocation services and payments, including searching activities for comparable and replacement properties, are conducted in a manner which adheres to applicable Federal and State laws.
12. The Right of Way Section staff provides pertinent information during various stages of a highway project. The Environmental Section is furnished certain data from the Right of Way Section and/or environmental consultant for environmental impact statements (EIS). Similarly, a "Relocation Assistance Plan" is provided by the Right of Way and/or consultant at the "conceptual stage" of a project. This plan includes a description of the social and economic impacts of a proposed project, a projection of the number and type of displacements to occur, and a replacement housing study. This information is updated for the requisite project public hearing.
13. Eligibility for relocation advisory and payment benefits are explained at design public hearings. The Department's brochure entitled "Acquisition of Right of Way and Relocation Assistance" is also provided to attendees at these hearings. Informal public meetings are held with certain individuals including neighborhood and minority groups when necessary to address any problems a community or group may be experiencing. The "Acquisition of Right of Way and Relocation Assistance" brochure is made available at the informal meetings and attendees are assured that relocation assistance services are provided to displaced persons consistently, uniformly, equitably and without discrimination.
14. Assistance is provided to residents in relocating to decent, safe, and sanitary replacement housing. Efforts are made to use the best available comparable housing to compute the payments for replacement dwelling for displaced persons. Displaced persons are given the opportunity to view and inspect areas to which to relocate and displaced persons also have the opportunity to request assistance from the Department in this regard. Assistance is provided without restrictions as to the race, color, national origin, sex, age, or disability in the population of the selected areas. The selection process for replacement properties is overseen and assistance given by the relocation assistance agent. The agent works closely with each displaced person in a uniform manner and gives special attention to those in special need, i.e., elderly and disabled displaced persons. Residential displaced persons with physical disabilities are offered replacement housing free of physical barriers. All displaced businesses have the opportunity to utilize the "Business Reestablishment

Expense Payment” program for assistance to remove physical barriers at replacement properties. Owners and occupants of displaced businesses, farms, and non-profit entities are provided assistance in securing suitable replacement properties.

15. The Title VI Specialist for the –Right of Way Section is also responsible for assuring compliance with Title VI requirements.
16. After the Location & Survey Section provides the legal description and plat for a subject property, a staff or contract attorney signs and files the Petition, the Order of Expropriation along with the Just Compensation amount and obtains the Receipt in the appropriate court and returns the documents to the Right of Way Section. Fee attorneys and expert witnesses are assigned through the contracting process by the Legal Section. The selection process is done without restrictions as to race, color, national origin, sex, age, or disability.

## **PROCEDURES**

### **1. DATA COLLECTION – PROPERTY OWNERS AND DISPLACED PERSONS**

- a. Beginning December 1, 2005, the Right of Way Section staff and consultants shall collect the following information on owners and displaced persons on all new projects:

Race, color or national origin, sex, disability

Right of Way Agents will advise owners and displaced persons that Title VI requires the Department to collect this information, as outlined in the Informational Brochure (page 4.) If the subject declines to supply this information, the interviewer will indicate their best assessment. This information will be made a part of the negotiator’s summary report

- b. For property owners, the information will be collected at the first face-to-face contact. The information will be input into the Department’s electronic project tracking system by the field agent or consultant negotiator as soon as possible.
- c. For displaced persons, the information will be collected at the time of the Occupant Inventory, and will be input into the Department’s electronic project tracking system by the field agent or consultant negotiator as soon as possible.

### **2. DATA COLLECTION – IDIQ CONTRACT CONSULTANTS**

- a. Beginning December 1, 2005, any consultant having an IDIQ contract with the Department will be asked to voluntarily provide the following information for EEO purposes:

Race, color or national origin, sex, disability

Certified as Disadvantaged Business Enterprise (DBE)?

If the information is provided, it will be noted in the Consultant Contract Database.

- b. Computer data on existing consultants who are personally known by the Right of Way Section staff will be updated to indicate this information.

### **3. REPORTS ON PROTECTED CLASSES**

New reports will be developed and made available to the Compliance Programs Section on the above-outlined demographics:

- a. A report listing the demographic information on all owners and displaced persons on projects undertaken after December 1, 2005, on which right of way activities are still pending. The report will be filterable by Region, Project or Parish and will show the assigned review appraiser, Right of Way Section project manager and Right of Way Supervisor.
- b. A report listing all persons holding IDIQ contracts who fall in any protected category or are registered as a DBE.

### **4. RIGHT OF WAY SECTION CORRESPONDENCE PROVIDED TO COMPLIANCE PROGRAMS SECTION**

- a. Beginning December 1, 2005, copies of the following letters will be sent to the Compliance Section.
  - i. Project appraisal requests letters - This will serve as notification to the Compliance Programs Section that appraisal activities are about to begin.
  - ii. Initiation of negotiation letter – This will serve as notification to Compliance that acquisition and relocation activities have begun on a particular project.
- b. Although race, sex and age information will not be available on projects until appraisals are complete and negotiations actively begun, these letters will give the Title VI Specialist a snapshot of active right of way projects.

### **5. COORDINATION BETWEEN COMPLIANCE AND THE RIGHT OF WAY SECTION**

When the Compliance Programs Section selects the Right of Way Section activities to monitor, the Title VI Specialist will contact the project's review appraiser, project manager or Right of Way Supervisor to arrange advance notification of meetings with the owners or displaced persons.

### 6.3 DISCRIMINATION COMPLAINTS

The Right of Way Manager of Support Services shall serve as the Title VI Coordinator of the Right of Way Section and, as such, will be notified of any allegations of Title VI violations by its employees, sub-recipients or consultants, and will forward them to the Compliance Programs Section for investigation.

#### PROCEDURES:

1. A copy of The Title VI Discrimination Form shall be included in the Acquisition of Right of Way and Relocation Assistance brochure given to all owners and displaced persons. Persons alleging discrimination will be advised by Right of Way Section or the Compliance Programs Section to fill out this form to formally institute their complaint. If the claimant needs assistance in completing this form, the Right of Way Section or Compliance will provide it upon request.
2. Complaint forms should be mailed or faxed by complainants to the Compliance Program Section. Any complaints sent directly to the Real Estate Section by a complainant will be forwarded to the Right of Way Manager of Support Services, who will log them in and forward to the Compliance Programs Section, with a copy to the Right of Way Administrator.
3. The Right of Way Section will provide the Compliance Programs Section and/or FHWA with all documents and data requested in a timely manner so that the claim can be fully investigated.
4. If the formal findings of the investigation reveal evidence of discrimination, the Right of Way Section will take whatever remedial actions are deemed necessary. Staff found to have committed discrimination (intentionally or unintentionally) may be counseled, directed to take remedial Title VI training or disciplined as appropriate. A finding of discrimination against a sub recipient/consultant may result in the imposition of administrative remedies or sanctions.