Section 9.4
REPLACEMENT HOUSING PAYMENTS

TABLE OF CONTENTS

PURPOSE....9-4-1
AUTHORITY....9-4-1
SCOPE....9-4-1
REFERENCES....9-4-1
TRAINING....9-4-1
FORMS....9-4-1
9.4.1 Eligibility Criteria....9-4-2
9.4.2 Occupancy Status....9-4-2
9.4.3 Multiple Occupancy....9-4-2
9.4.4 Partial Ownership....9-4-3
9.4.5 Occupancy Requirements for Dwellings....9-4-4
9.4.6 Applicability of Last Resort Housing....9-4-4
9.4.7 Typical Home-site Determination....9-4-4
9.4.8 Large Tract for Area....9-4-5
9.4.9 Higher and Better Use Tract....9-4-5
9.4.10 Joint Residential/Business Use....9-4-5
9.4.11 T.I.I.T.F. Parcels....9-4-5
9.4.12 Carve-Outs of Home-sites....9-4-6
9.4.13 Examples of Typical Home-site Determinations....9-4-7
9.4.14 Submitting Application and Claim....9-4-10
9.4.15 Written Statement of Eligibility....9-4-11
9.4.16 Condemnation Clause....9-4-11
9.4.17 Inspection and Purchase of Replacement Dwelling....9-4-13

9.4.18 Payment after Death 9-4-13
9.4.19 90 Day Homeowner-occupants - Eligibility 9-4-14
9.4.20 90 Day Homeowner-occupants - Amount of Payment 9-4-14
9.4.21 Price Differential for a 90Day Owner Occupant 9-4-15
9.4.22 Increased Mortgage Interest **Differential** Costs 9-4-16
9.4.23 Incidental Expenses for a 90Day Owner Occupant 9-4-18
9.4.24 Rental Assistance Payment for a 90 Day Owner Occupant 9-4-19
9.4.25 90 Day Tenants Eligibility 9-4-20
9.4.26 Rental Assistance Payment for 90 Day Tenants 9-4-20
9.4.25 Down Payment Assistance Payment 9-4-22
9.4.26 Cost of Comparable Replacement Dwelling 9-4-23
9.4.27 Revising the Replacement Housing Payment Eligibility 9-4-24
9.4.28 Owner Retention - Purchase Additive Payment 9-4-25
9.4.29 Conversion of Rental Assistance Payments 9-4-25
9.4.30 Protective Rent Agreement 9-4-26
HISTORY 9-4-26

Section 9.4

REPLACEMENT HOUSING PAYMENTS

PURPOSE

To set forth the eligibility criteria for and establish the process by which replacement housing payments are made to a displacee.

AUTHORITY

Section 20.23(4), Florida Statutes
Section 334.048(3), Florida Statutes
49 Code of Federal Regulations, Part 24
Rule Chapter 14-66, Florida Administrative Code

SCOPE

This section will be used by appropriate District and Central Office of Right of Way and Office of the General Counsel Staff.

REFERENCES

Guidance Document 12, Implementation of MAP-21 Uniform Act Benefit and Eligibility Change Which "Straddle" the Effective Date of October 1, 2014
Right of Way Manual, Section 9.2, General Relocation Requirements
Right of Way Manual, Section 9.6, Last Resort Housing
Trustees of the Internal Improvement Trust Fund, Murphy Act Reservations

TRAINING

Training for this section is provided to all participants in the ***Right of Way Fundamentals Course*****,** a required element of the *Right of Way Training Program*.

FORMS

The following forms are available on the Florida Department of Transportation's Forms Library or the Right of Way Management System (RWMS):

575-040-11, 30-Day Notice to Vacate,
575-040-12, Income Certification
575-040-14, Application and Claim for Replacement Housing Payment

9.4.1 Eligibility Criteria

9.4.1.1 A displaced residential owner or tenant is eligible for a replacement housing payment if he/she is displaced from a dwelling as a result of Department acquisition and/or displacement actions.

9.4.1.2 The dwelling from which a person is displaced must be his/her domicile. A domicile is the place of his/her fixed, permanent home and principal establishment and to which place the displacee, when absent, has full intention of returning.

9.4.2 Occupancy Status

A displacee is not required to relocate to the same occupancy status, owner or tenant, as he/she was prior to acquisition, and may choose payment assistance for the alternate occupancy status, if eligible.

9.4.2.1 At the displacee's request, a dwelling which changes the owner or tenant status of the displacee will be provided, if such a dwelling is available and can be provided more economically and in accordance with ***Section 9.4.24***.

9.4.2.2 The replacement housing payment may not exceed the maximum amount that would have been paid had the displacee remained in the same occupancy status.

9.4.2.3 The displacee's tenure of occupancy of the acquired property determines the type of replacement housing payment for which he/she may qualify.

9.4.3 Multiple Occupancy

(A) If two or more eligible occupants of the displacement dwelling move to separate replacement dwellings and the Department determines only one household existed in accordance with ***Right of Way Manual, Section 9.2, General Relocation Requirements***, payment will be as follows:

(1) If a comparable replacement dwelling is not available and the displacees are required to relocate separately, a replacement housing payment will be computed for each person separately, based on housing which is comparable to the quarters privately occupied by each individual plus community rooms shared with other occupants.

(2) If a comparable replacement dwelling is available and the displacees elect to relocate separately, each displacee is entitled to a prorated share of the singular relocation payment(s) allowable had they moved together to a single dwelling.

(B) If two or more eligible occupants of the displacement dwelling move to separate replacement dwellings and the district determines that separate households were maintained in the acquired property in accordance with the ***Right of Way Manual, Section 9.2, General Relocation Requirements***, each occupant will be entitled to separate replacement housing payments.

The replacement housing payment computation will be based on housing which is comparable to the quarters privately occupied by each individual plus community rooms shared with other occupants.

9.4.4 Partial Ownership

When a single family dwelling is owned by several persons, but not occupied by all of the owners, the replacement housing payment for the displaced owner occupants is the lesser of the difference between the total acquisition price of the acquired dwelling and:

(A) The amount determined by the district as necessary to purchase a comparable replacement dwelling; or

(B) The actual cost of the replacement dwelling.

9.4.4.1 If the non-occupant owners do not reinvest their share of the acquisition price in a replacement dwelling for the occupying owner(s), it may be necessary to re-compute a replacement housing payment to ensure the availability of an affordable comparable replacement dwelling. The provisions under the ***Right of Way Manual, Section 9.6, Last Resort Housing***, may be used, if applicable.

9.4.4.2 The displaced owner occupants may choose a rent supplement payment instead of a purchase additive. The rent supplement will be based on the district's determination of the fair market/economic rent of the acquired dwelling.

9.4.4.3 To receive the entire replacement housing payment, the owner occupant must purchase and occupy a replacement dwelling for an amount equal to his/her share of

the acquisition payment for the acquired dwelling plus the amount of the replacement housing payment as calculated above.

9.4.5 Occupancy Requirements for Dwellings

No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these procedures for a reason beyond his/her control, including:

(A) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the Department;

(B) A delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the District Relocation Administrator.

9.4.6 Applicability of Last Resort Housing

Whenever a $31,000purchase additive payment under ***Section 9.4.21***, a $7,200 rental assistance payment under ***Section 9.4.26***,or a $7,200 down payment assistance payment under ***Section 9.4.27***, is insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a displacee, the district will provide additional or alternative assistance under the provisions in the ***Right of Way Manual, Section 9.6, Last Resort Housing***.

9.4.7 Typical Home-site Determination

9.4.7.1 If the acquired dwelling is located on a tract typical in size for residential use in the area, the maximum purchase additive payment is the probable selling price of a comparable replacement dwelling on another typical tract, less the acquisition price of the acquired dwelling and the tract on which it is situated.

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

9.4.8 Large Tract for Area

If the acquired dwelling is located on a tract larger in size than is typical for residential use in the area, the maximum purchase additive payment is the probable selling price of

a comparable replacement dwelling on a typical tract, less the sum of the acquisition price of the acquired dwelling on the portion of land typical in size for residential use in the area, plus any severance damages to the dwelling and/or typical home-site area.

9.4.9 Higher and Better Use Tract

If the acquired dwelling is located on a tract where the fair market value is established on a use higher and better than residential, the maximum replacement housing payment is the probable selling price of a comparable replacement dwelling on a typical tract, less the sum of the acquisition price of the acquired dwelling on the portion of land typical in size for residential use in the area, plus any severance damages to the dwelling and/or typical home-site area.

9.4.10 Joint Residential/Business Use

9.4.10.1 If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

9.4.10.2 To determine what constitutes the typical residential home-site, a tract typical in the area must be used. The site should be similar in terms of square footage and normal site improvements.

9.4.11 T.I.I.T.F. Parcels

When an owner occupant resides on a parcel affected by a roadway easement reserved by the ***Trustees of the Internal Improvement Trust Fund, Murphy Act Reservations***, the value of the improvements as stated in the approved appraisal shall be the acquisition portion of the Replacement Housing Payment calculation. If the improvements have no value the acquisition portion of the Replacement Housing Payment calculation shall be zero.

9.4.12 Carve-outs of Home sites

To determine the typical home site portion of the acquisition price, use the actual price paid for the portion of the home site in the taking area plus the value of the residential improvements in the taking area plus any severance damages to either the remainder of the dwelling or home site area. If damages are assigned to the entire remainder without an allocation between the remainder of the home site and the excess land remaining, the damages will be prorated between these remainders to establish the acquisition price of the dwelling, including the structure and land.

9.4.12.1 In areas where a typical home site cannot be determined due to variances of tract sizes within a residential area, the area actually utilized for residential purposes by the displacee will be used to compute the replacement housing payment.

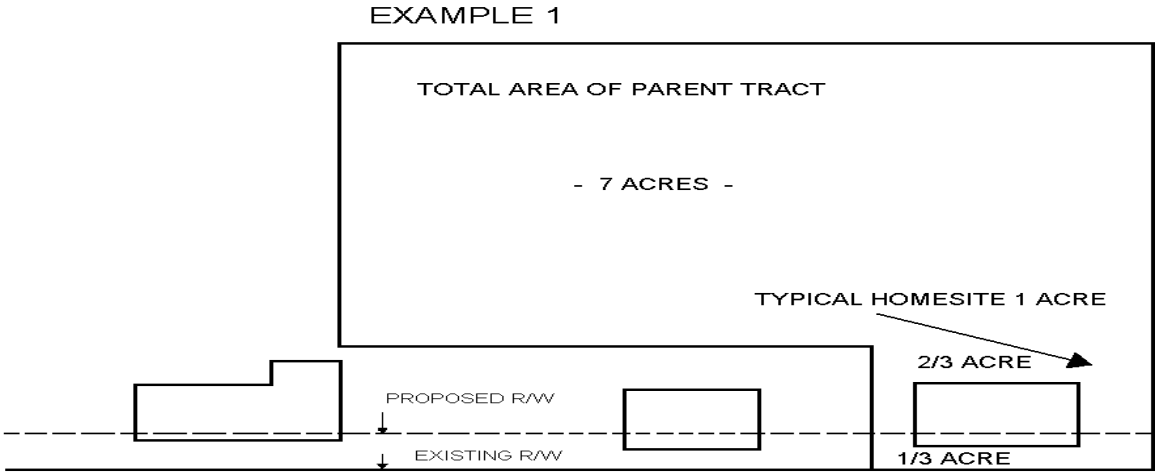
Consideration must be given to locations of driveways and fences, outbuildings, gardens, pools, and to the area maintained, cleared and mowed, for residential usage.

9.4.12.2 If all or part of areas occupied by non-residential structures must be included in order to create a home site tract typical of the area, the typical home site will be figured using whatever portion of those areas are necessary.

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

9.4.13 Examples of Typical Home site Determinations

The accompanying examples on the next three (3) pages are included here for instructional purposes only.



COMPUTATION OF RHP FOR OWNER OCCUPANT

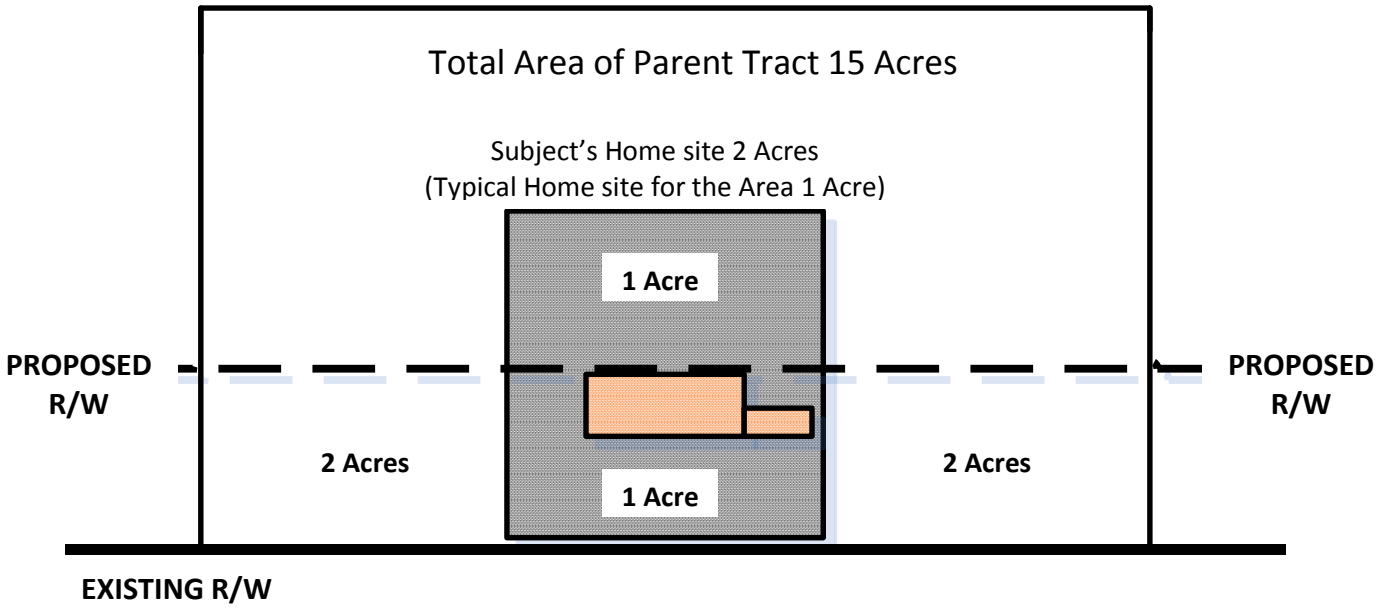
Value of improvements (residential dwelling) $60,000
Appraised Value of land, per acre $12,000
Total area of the taking..... ..... 1/3 acre
Typical home site determination..... 1 acre
Comparable dwelling on typical tract..... ..... $72,000
Comparable replacement dwelling $72,000
LESS: Acquired dwelling $60,000
Value of home site area (1/3 acre) in taking.....$4,000

Replacement Housing Payment..... $ 8,000

NOTE: While the typical home site has been determined to be 1 acre, only 1/3 of that area is located within the taking. Therefore, the acquisition price for RHP computation

purposes includes only the value of that portion (1/3) of the home site area which lies within the taking.

EXAMPLE NO. 2



COMPUTATION OF RHP FOR OWNER OCCUPANT

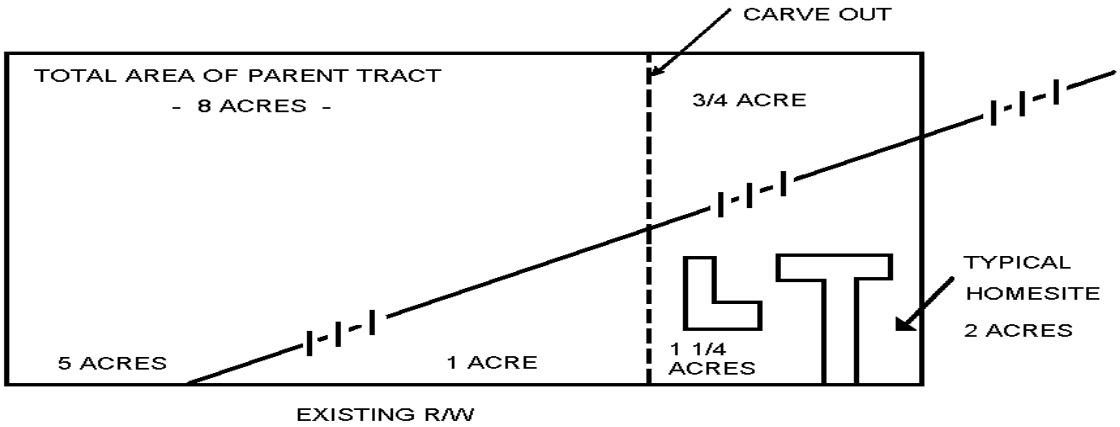
Value of improvements (residential dwelling) $60,000
Appraised value of land in taking 5 acres (@$4,000 per acre)..... $20,000
Total area of the taking..... .....5acres
Subject home site area 2 acres
Typical home site determination.....1 acre
Comparable dwelling on typical tract..... $72,000

Comparable replacement dwelling $72,000
LESS: Acquired dwelling .....($60,000)
Value of home site area in taking .....($ 4,000)
Replacement Housing Payment $8,000

NOTE: While the typical home site was determined to be 2 acres, only one of those acres actually lies within the area of the taking. Therefore, the acquisition price, for

RHP computation purposes, includes only the value of the one acre of home site area within the taking.

EXAMPLE NO. 3



COMPUTATION OF RHP FOR OWNER OCCUPANT

Value of improvements (residential dwelling) $60,000
Appraised value of land in taking 2.25 acres (@$4,500 per acre)..... $10,125
Area of the taking .....2 1/4 acres
Typical home site determination..... 2 acre
Home site area within the taking .....11/4 acres
Comparable dwelling on typical tract..... $75,000
Damage to remainder (5 3/4 acres), loss of access & angulations $22,000

Comparable replacement dwelling $75,000
LESS: Acquired dwelling .....($60,000)
Value of home site area in taking*.....($5,625)
Damages to remainder home site area** .....($2,869.56)
Replacement Housing Payment..... $6,505.44

*Value of home site area in taking access on 1 1/4 acres.

**Damages are computed for the remainder home site area by determining the ratio, or proportion, of the remaining home site area to the total remainder; the ratio, in this case, 3/4 acre to 5 3/4 acres. That ratio (3/4 divided by 5 3/4) is expressed in decimals as .1304347. Therefore:

Damages to home site remainder = .1304347 X 22,000 = $2,869.56

NOTE: Another method of determining the ratio of damages would be:

$22,000/5.75 = $3,826.09 X .75 = $2,869.57.

9.4.14 Submitting Application and Claim

Form No. 575-040-14, Application and Claim for Replacement Housing Payment must be submitted to the district within 18 months of:

(A) For owners, the later of:

(1) The date of the move; or

(2) The date of final payment for the property acquired.

(B) For tenants:

The date of the move.

(C) This time period shall be waived for good cause. Such waiver shall be in writing and approved by the District Relocation Administrator.

9.4.14.1 The claim must be submitted on ***Form No. 575-040-14, Application and Claim for Replacement Housing Payment*** provided by the district.

9.4.14.2 The Application and Claim is subject to the following conditions:

(A) The displacee must certify that:

(1) The displacee is a U.S. citizen or is lawfully present in the U.S;

(2) The displacee meets the applicable tenure of occupancy requirements;

(3) The replacement dwelling is decent, safe, and sanitary; and

(4) The replacement dwelling will be the displacees domicile.

(B) The replacement housing payment will be made payable to the displacee unless written authorization assigning the payment to other parties is given by the displacee in the application.

(C) It is specified in the application that the warrant be made payable to all eligible claimants, such as all joint owner occupants, or their assigns.

9.4.15 Written Statement of Eligibility

A displacee who qualifies for a replacement housing payment but has not yet purchased or occupied a replacement dwelling will, at his/her request, be provided with a written statement to any interested party, financial institution or lending agency, by the Department, that the displacee will be eligible for the payment of a specific sum subject to the Department's requirements.

9.4.15.1 This statement may only be provided when the proposed dwelling has been inspected by a Relocation Specialist and has been determined to be decent, safe, and sanitary.

9.4.15.2 If not decent, safe, and sanitary, the statement must specify that all deficiencies will require correction prior to any replacement housing payment being made.

9.4.16 Condemnation Clause

If determination of the acquisition price is delayed pending the outcome of condemnation proceedings, an advance provisional replacement housing payment can be paid.

9.4.16.1 Prior to payment, the displacee must agree, in a written condemnation clause within the Application and Claim, that:

(A) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price established by the court or by stipulated settlement and the lesser of:

(1) A decent, safe, and sanitary replacement dwelling; or

(2) The cost of a comparable replacement dwelling.

(B) If the amount awarded as the fair market value of the property acquired plus the amount of the provisional replacement housing payment exceeds the amount in ***Section 9.4.16.1(A)***, the displacee will refund to

the Department, from the condemnation award or stipulated settlement, an amount equal to the amount of excess.The displacee will refund no more than the amount of the replacement housing payment advanced.

9.4.16.2 If the displacee does not agree with the above provisions, the replacement housing payment will be deferred pending final adjudication or a stipulated settlement.

9.4.16.3 The Application and Claim must be signed by all eligible owner-occupants, in the case of condemnation.

9.4.16.4 If the value of the acquired dwelling and typical home-site area, including damages to any remainder home-site or to the dwelling, is less than 100% of the acquisition price, the condemnation clause must specify the ratio of the residential area, dwelling and home-site, including appropriate damages, to the total.

Any adjustment made as a result of the court award or stipulated settlement must be made in accordance with this ratio.

EXAMPLE: Typical home-site value on the acquired property equals 75% of the district's offer of $100,000, 75% x $100,000 = $75,000 acquisition price, for price differential computation.

Comparable used for computation = $95,000
$95,000 - $75,000 = $20,000 advance purchase additive
After suit, jury awards displacee $120,000
75% x $120,000 award = $90,000
$95,000 - $90,000 = $5,000 actual purchase additive after award

Displacee must refund $15,000 of $20,000 advance purchase additive to the Department, per the condemnation clause.

9.4.16.5 In those cases when a different ratio should be applied to the home-site area to reflect the actual terms of the award or settlement (see ***Section 9.4.8, 9.4.10***, and ***9.4.12***), the District Relocation Administrator shall be responsible for approving the use of a different ratio. Close coordination with the Acquisition Section will be required to ensure files are adequately documented to reflect the reasoning why a different ratio is deemed appropriate for a particular settlement or court award. **Note:** The same

responsibility applies for administrative settlements when an eminent domain lawsuit has not been filed.

9.4.17 Inspection and Purchase of Replacement Dwelling

Before making a replacement housing payment or releasing a payment from escrow, a Relocation Specialist must inspect the replacement dwelling and determine that it is decent, safe and sanitary. The following conditions apply:

(A) If it is not, the claim will be denied until the dwelling is brought up to decent, safe and sanitary standards or the displacee occupies a replacement dwelling which is decent, safe and sanitary within the one-year time frame.

(B) Certification of decent, safe and sanitary replacement housing will be in writing on the approved Department form.

9.4.17.1 A displaced person has met the requirement to purchase a replacement dwelling if the displacee:

(A) Purchases a dwelling;

(B) Purchases and rehabilitates a substandard dwelling;

(C) Relocates a dwelling which the displacee owns or purchases;

(D) Constructs a dwelling on a site the displacee 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 such dwelling shall be the current fair market value.

9.4.18 Payment after Death

A replacement housing payment is personal to the displacee and upon his/her death, the undisbursed portion of any such payment will not be paid to the heirs or assigns, with the following exceptions:

(A) The amount attributable to the displacee's period of actual occupancy of the replacement housing will be paid.

(B) The full payment will be disbursed whenever a member of a displaced family dies and other family members continue to occupy the replacement dwelling in accordance with relocation procedures.

(C) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of the deceased shall be disbursed to the estate.

9.4.19 90-Day Homeowner-occupants - Eligibility

A displaced person is eligible to receive replacement housing payments as a 90-day homeowner-occupant if the person:

(A) Has lawfully owned and actually occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations;

(B) Purchases and occupies a decent, safe and sanitary replacement dwelling within one year after the later of:

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

(2) The date a comparable replacement dwelling is made available to the displaced person.

(3) This time period may be waived for good cause. Such waiver shall be in writing and approved by the District Relocation Administrator.

9.4.20 90Day Homeowner-occupants - Amount of Payment

The total replacement housing payment may not exceed $31,000. The payment will be the sum of:

(A) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, in accordance with ***Section 9.4.21***; and

(B) The increased interest costs and other debt service costs incurred by the mortgage(s) on the replacement dwelling, in accordance with ***Section 9.4.22***; and

(C) The reasonable expenses incidental to the purchase of the replacement dwelling, in accordance with ***Section 9.4.23***.

9.4.21 Price Differential for a 90 Day Owner Occupant

9.4.21.1 A price differential, or purchase additive, is the amount, not to exceed $31,000, which must be added to the acquisition cost of the displacement dwelling and site to provide a total amount equal to the lesser of:

(A) The reasonable cost of a comparable replacement dwelling in accordance with ***Right of Way Manual, Section 9.2, General Relocation Requirements***; or

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

9.4.21.2 At least three comparable replacement dwellings should be documented, if available for each purchase additive computed. The dwelling considered most comparable to the displacement dwelling will be used to compute the price differential.

9.4.21.3 In accordance with the ***Right of Way Manual, Section 9.6, Last Resort Housing***, the cost new method to construct a comparable dwelling may be used to determine the maximum purchase additive, when no other comparable replacement dwelling is available or when it is most cost effective to do so. The following conditions apply:

(A) From qualified home builders and contractors, obtain estimates of the cost to construct a decent, safe and sanitary dwelling in a comparable area and functionally similar to the displacement dwelling.

(B) Any variation in size between the acquired and replacement dwellings must be fully explained and documented.

(C) The ***Form No. 575-040-11*, *30-Day Notice to Vacate,*** may not be delivered unless newly constructed housing will be available for occupancy within 30 days, or existing comparable housing became

available for purchase at the same amount or less and was made available prior to the displacee's commitment on a new construction.

(D) If a displacee chooses to construct a replacement dwelling when existing comparable replacement dwellings are available, the amount of the payment cannot exceed the amount that would have been paid had the

comparable used in the replacement housing payment eligibility computation been purchased.

9.4.21.4 To avoid duplication of payment, any insurance proceeds a displacee receives in connection with a loss to the displacement dwelling due to a catastrophe; fire, flood, etc., will be included in the acquisition cost of that dwelling when computing the price differential.

9.4.22 Increased Mortgage Interest Differential Payment

9.4.22.1 The amount payable as increased mortgage interest costs is the sum of:

(A) An amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest applicable for the mortgage(s) on the acquired dwelling, and;

(B) Other debt services costs not paid as incidental expenses, ***Section 9.4.23****.*

9.4.22.2 Computation rules are as follows:

(A) Payment is based on the unpaid balance of all mortgages which:

(1) Were valid liens on the property for a minimum of 180 days prior to the initiation of negotiations, and;

(2) Had a fixed interest rate lower than the interest rate on the replacement dwelling. If the acquired property is secured with an

adjustable rate mortgage, utilize the interest rate that is current on the property as of the date of acquisition.

(B) The term used for computation shall be the remaining term of the mortgage on the acquired dwelling, or the term of the new mortgage, whichever is shorter.

(1) If the term of the new mortgage is the same as or greater than the term of the existing mortgage, use the monthly payment of the existing mortgage(s) to compute the number of months actually necessary to pay off the existing mortgage.

(2) If the term of the new mortgage is less than the term of the existing mortgage(s), use the term of the new mortgage to compute the monthly payment necessary to pay off the existing mortgage using the shorter term.

(C) The interest rate on the new mortgage shall be the actual rate paid under the mortgage on the replacement dwelling, **except** when the mortgage is an adjustable rate mortgage or when the interest rate exceeds the prevailing fixed rate for conventional mortgages in the area. In such cases, the rate used shall be the prevailing fixed rate for conventional mortgages in the area of the replacement dwelling.

(D) Debt Services Costs that may be included are, purchaser's points and loan origination or assumption fees provided (1) they have not been paid as incidental expenses, (2) they do not exceed rates normal to similar real estate transactions in the area, (3) the District Relocation Administrator has determined them to be necessary, and (4) the computation of points and fees is based on the mortgage balance as defined in ***Section 9.4.22.2 (A)***, less the mortgage reduction amount. Seller's points are not included in the payment.

9.4.22.3 The payment amount under this section shall be computed as follows:

Step 1 -- Holding the term and interest rate as defined in ***Section 9.4.22.2 (A)*** *and* ***(B)***, and using the monthly payment on the current mortgage, as specified in ***Section 9.4.22.2 (B)***, calculate the amount which could be financed under these conditions, present value.

Step 2 -- Subtract the amount determined in Step 1 from the balance as defined in ***Section 9.4.22.2 (A)***. The result is the mortgage reduction amount, unless step 3 below is applicable.

Step 3 -- If the amount financed on the replacement dwelling is less than the sum of the current balances on all mortgages existing on the acquired dwelling, the mortgage reduction amount must be adjusted. To do this, divide the amount financed on the replacement dwelling by the sum of the current balances on the acquired dwelling less the mortgage reduction amount calculated in Step 2 above. Multiply the mortgage reduction amount from Step 2 by the resulting factor. The result is the new mortgage reduction amount.

Step 4 -- Add the amount of debt services costs as defined in ***Section 9.4.22.2 (D)***, if any, to the mortgage reduction amount. The result is the total payment for increased interest costs.

9.4.22.4 The displaced person shall be advised of the approximate amount of this payment as soon as the facts relative to the current mortgage(s) are known. Payment shall be made available at the time of closing on the replacement dwelling. The displaced person may elect to have payment made direct to the lender or to him or herself.

9.4.23 Incidental Expenses for a 90 Day Owner Occupant

9.4.23.1 Incidental expenses are those necessary and reasonable costs actually incurred by the displaced person due to the purchase of a replacement dwelling and customarily paid by the buyer, including:

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

(B) Lender, FHA, or VA application and appraisal fees;

(C) Loan origination or assumption fees that do not represent prepaid interest and are normal to real estate transactions in the vicinity of the replacement dwelling, when a mortgage existed on the acquired dwelling;

(D) Professional home inspection certification of structural soundness, and termite inspection;

(E) Credit report;

(F) Owner's and mortgagee's evidence of title, such as title insurance, not to exceed the costs for a comparable replacement dwelling;

(G) Escrow agent's fee;

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

(I) Mortgage default insurance;

(J) Other costs as the district deems incidental to the purchase.

9.4.23.1 Reimbursable expenses which are incurred by the origination of a new mortgage for the replacement dwelling will be based upon the lesser of the balance of the mortgage(s) on the acquired dwelling or the balance of the new mortgage on the replacement dwelling. Eligible expenses are reimbursable regardless of the length of time a mortgage has been in effect on the acquired dwelling.

9.4.23.2 In order to be reimbursed for eligible incidental expenses, the displacee must provide the district with valid copies of the closing statement and/or other documented evidence of expenses incurred.

9.4.24 Rental Assistance Payment for a 90 Day Owner Occupant

9.4.24.1 A 90-day homeowner-occupant who is eligible for a replacement housing payment may opt to rent a replacement dwelling instead.

9.4.24.2 When electing to rent rather than purchase, a rental assistance payment may be computed and disbursed in accordance with ***Section 9.4.26***.

9.4.24.3 The rental assistance payment to a 90 day owner-occupant is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. Although the payment would be computed in the same manner as for 90 day tenants, the limits of the 90 day tenants would not apply and under no circumstance would the rental amount exceed the amount that could have

been received under ***Right of Way Manual, Section 9.4.20***, had he/she elected to purchase and occupy a comparable replacement dwelling.

9.4.25 90-Day Tenants Eligibility

A tenant displaced from a dwelling is entitled to a payment not to exceed $7,200 for rental assistance, in accordance with ***Section 9.4.26***, or down payment assistance, in accordance with ***Section 9.4.27***, if such displaced person:

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

(B) Has rented, or purchased, and occupied a decent, safe and sanitary replacement dwelling within one year after the date the tenant moves from the displacement dwelling:

(2) This time period may be waived for good cause. Such waiver shall be in writing and approved by the District Relocation Administrator.

9.4.26 Rental Assistance Payment for 90 Day Tenants

9.4.26.1 An eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment, or rent supplement, not to exceed $7,200.

9.4.26.2 This payment will be 42 times the amount obtained by subtracting the base monthly rental amount for the displacement dwelling from the lesser of:

(A) The monthly rent and estimated average monthly utility service cost for a comparable replacement dwelling; **or**

(B) The monthly rent and estimated average monthly utility service cost for the decent, safe and sanitary dwelling actually occupied by the displaced person.

9.4.26.3 In calculating the estimated average monthly utility service cost for the displacement dwelling use actual utility service cost paid by the displaced person. For

the replacement dwelling refer to the utility service cost schedule utilized by a utility company in the area of the replacement dwelling or use a utility company's past utility service cost history for the replacement dwelling, if available.

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

(A) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Department. (For an owner/occupant who elects to relocate as a tenant, use an economic or fair market rent. Fair market rent should also be used when the tenant provides a service in lieu of paying rent, the rent paid does not represent an arm's length transaction between the tenant and landlord or the tenant pays little or no rent, unless its use would result in a hardship because of the person's income or other circumstances); or

(B) Thirty (30) percent of the person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Salary of Income Limits for the Public Housing and Section 8 Programs*. The base monthly rental shall be established solely on the criteria in ***Section 9.4.26.4(A)*** for persons with incomes exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. Income should be documented through a verifiable source, such as pay stubs, signed income tax returns, a statement from the employer, or a bank statement. If complete information cannot be obtained in this manner, the Department may supplement the information provided with a signed statement from the displacee certifying the amount and source of income ***Form No. 575-040-12, Income Certification***, a full-time student or resident of an institution may be assumed to be a dependent unless the person demonstrates otherwise; or

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

***NOTE:** The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on the FHWA's website at

http://www.fhwa.dot.gov/realestate, under "Real Estates Topics of Special Interest", click on "Low Income Calculations".

9.4.26.5 The base monthly rent for the displacement dwelling for a 90-day owner-occupant who rents rather than purchases a replacement dwelling will be the economic

or fair market rent and average monthly utilities service cost. Monthly income is not a factor in the calculation of this rental assistance eligibility amount.

9.4.26.6 The monthly rent for a comparable replacement dwelling will be computed by the three comparable method in accordance with ***Section 9.4.21***.

9.4.26.7 The rental assistance will be paid in a lump sum, unless the displaced person requests installment payments. The request for installment payments requires approval of the District Relocation Administrator, who can also determine on a case-by-case basis if installment payments are warranted. In either case the file must contain documentation to support the district's actions.

Regardless of payment method, the full amount vests immediately. Adjustments **shall not be made** if the condition, location or choice of the displacee's housing changes or if there is a change in their income or rent.

9.4.27 Down Payment Assistance Payment

9.4.27.1 Any displaced person eligible for a rental assistance payment under ***Section 9.4.26***, may choose to use that payment as a down payment supplement, including incidental expenses, to purchase a replacement dwelling.

A displacee eligible to receive a replacement housing payment for a 90-day homeowner-occupant under ***Section 9.4.19*** is not eligible for this payment, with the exception of a mobile home owner who rents or leases the mobile home site.

9.4.27.2 If the required down payment on the replacement dwelling exceeds $7,200 and:

(A) The rental assistance payment allowable does not exceed $7,200; the down payment supplement will be limited to $7,200;

(B) The rental assistance payment allowable exceeds $7,200, the full amount of the rental assistance payment will be used as the down payment

supplement under the provisions of the ***Right of Way Manual, Section 9.6, Last Resort Housing***.

9.4.27.3 The full amount of the down payment assistance payment must be applied to the purchase price of the replacement dwelling and related incidental expenses and must be shown on a signed closing statement or similar documentation.

9.4.27.4 The payment to a 90-day owner-occupant shall not exceed the amount the owner would receive as a purchase additive under ***Section 9.4.21***.

9.4.27.5 Should the amount of the rental assistance payment exceed the purchase price of the replacement dwelling, the payment will be limited to the cost of the dwelling and related incidental expenses.

9.4.28 Cost of Comparable Replacement Dwelling

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

9.4.28.1 At least three comparable replacement dwellings will be documented for each replacement housing payment computed, unless there are not three available, with the one most equal to, or better than, the displacement dwelling used to compute the payment.

(A) When a dwelling is not reflective of the market, it should not be offered as a comparable.

(B) If the comparable replacement dwelling used for the computation is similar to but lacks major exterior attributes of the displacement dwelling, such as a garage, pool, outbuilding, or waterfront or golf course lot, a separate computation may be made, as in ***Section 9.4.28.1(B)(3)***.

(1) A major exterior attribute is any appurtenant structure of substantial value which is exterior to the residential dwelling, or an aesthetically valuable view, or a valuable location which contributes to the value of the property and to the quality or standard of living of the displacee.

(2) The following guidelines are to be used in determining whether an adjustment to payment computations needs to be made:

(a) The attribute must be currently in use by and part of the lifestyle of the displaced residential owner-occupant.

(b) The attribute must be used by the displaced residential owner-occupant solely for personal, non-commercial non-profit purposes.

(c) The attribute must have contributory value of $100 or more.

(3) When the comparable replacement dwelling used for computation purposes is functionally similar to the displacement dwelling, but lacks major exterior attributes which follow the above guidelines, the Relocation Specialist will use the contributory value of those attributes as determined in the approved appraisals and subtract that amount from the acquisition cost of the displacement dwelling when working computations.

(C) Comparable replacement dwellings will be selected from the neighborhood of the displacement dwelling, whenever possible, or in nearby or similar neighborhoods where housing costs are the same or higher than the displacement dwelling.

9.4.29 Revising the Replacement Housing Payment Eligibility

When replacement housing, similar in price and comparability to the dwelling used in the initial Replacement Housing Payment (RHP) computation, is no longer available, the Relocation Specialist will revise that offer and refer the displacee to comparables currently available on the market.

No revised offer is necessary when comparables similar in price and comparability to the original comparable used in the RHP computation are available on the market to the displacee.

9.4.29.1 The revised offer may not be less than the original offer because a less expensive comparable becomes available.

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

(A) The appraisal is updated and the acquisition offer is increased;

(B) In condemnation cases, the Department's legal representative settles for an amount greater than the initial acquisition offer; or

(C) In the case of an administrative settlement, the settlement is for an amount greater than the initial acquisition offer.

9.4.30 Owner Retention - Purchase Additive Payment

If an owner elects to retain the displaced dwelling and have it relocated to a replacement site, the purchase additive entitlement amount is determined by comparing the acquisition price of the displacement property to the lesser of: the value of a comparable replacement dwelling **or** the value of the retained dwelling on the new site. The value of the retained dwelling on a replacement site is determined by adding the values of the following:

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

(B) The costs of repairs necessary to make the dwelling decent, safe and sanitary;

(C) The cost of the home-site, including any necessary landscaping, driveways, wells, septic system, etc. If the dwelling is moved onto the displacee's remainder land, the current fair market value of that home-site will be used to compute the purchase additive entitlement; and

(D) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the purchase additive entitlement.

This amount must not exceed the cost of a comparable dwelling and site.

9.4.31 Conversion of Rental Assistance Payments

A displacee who initially rents a replacement dwelling and receives a rent supplement payment under the provisions of these procedures may subsequently choose to purchase a dwelling.

9.4.31.1 If the displacee meets the eligibility criteria described in ***Section 9.4.19*** or ***9.4.25***, the displacee is eligible to receive:

(A) A replacement housing payment, including:

(1) A purchase additive as provided in ***Section 9.4.21***;

(2) Mortgage interest differential payments as provided in ***Section 9.4.22 (applies to mortgages valid for 180 days prior to IN for 90 day owner only)***;

(3) Incidental expenses as provided in ***Section 9.4.23***; or

(B) A down payment supplement as provided in ***Section 9.4.27***.

9.4.31.2 Any portion of the rental assistance payment that has been disbursed will be deducted from the replacement housing or down payment supplement payments, as applicable.

9.4.32 Protective Rent Agreement

Vacant property scheduled to be acquired by the Department or property which is vacated after initiation of negotiations on the parcel, either residential or non-residential, may be rented by the Department when doing so will be less costly than relocating a potential tenant. Refer to ***Section 7.2.31*** of the ***Right of Way Manual*** for guidance in the execution of a protective rental agreement.

HISTORY

04/15/99; 02/21/00; 2/27/02; 01/31/03; 9/27/05; 08/12/08; 07/28/09; 06/29/2011