

CHAPTER 111  
REAL PROPERTY ACQUISITION AND RELOCATION ASSISTANCE  
[Prior to 6/3/87, see Transportation Department[820]—(06.F) Ch 8]

**761—111.1(316) Acquisition and relocation assistance manual.** The ~~April 2006~~ 2017 edition of Section II of the manual entitled “Uniform Manual, Real Property Acquisition and Relocation Assistance” is adopted by reference.

Formatted: Strikethrough

**111.1(1) Contents.** Section II establishes uniform rules and procedures that comply with Iowa law and the Federal Uniform Relocation Act for the acquisition of real property and for the provision of relocation assistance to persons who are displaced from real property as a result of programs and projects.

Relocation assistance is not compensation for real property acquired nor is it compensation for damages to remaining property. Rather, relocation assistance is assistance and compensation provided to a displaced person for making the move and relocating.

**111.1(2) Applicability.**

*a.* In general, Section II applies to any program or project that involves the acquisition of real property or that causes a person to be a displaced person if the program or project:

- (1) Is undertaken with federal financial assistance, or
- (2) Is a road or street program or project undertaken with state financial assistance from the primary road fund, including primary road funds allocated for state park and institutional roads, or
- (3) Is a public road or highway eligible for federal aid.

*b.* In general, Section II applies to any of the following entities that acquire real property or displace a person for a program or project described in paragraph “a”:

- (1) The state of Iowa.
- (2) A political subdivision of the state.
- (3) A department, agency or instrumentality of one or more states or political subdivisions.
- (4) A utility or railroad subject to Iowa Code section 327C.2 or chapter 476, 478, 479, 479A or 479B authorized by law to acquire property by eminent domain.
- (5) Any other person who has the authority to acquire property by eminent domain under state law.

(6) Any other person who acquires real property or displaces a person for a program or project described in paragraph “a.”

*c.* Any exceptions to paragraphs “a” and “b” are set out in Section II.

*d.* In accordance with Iowa Code subsection 316.9(43), an entity that provides relocation assistance benefits for any program or project is required to provide an appeal process, regardless of the source of funding for the program or project. The appeal process provided shall not diminish the rights of the appellant or the scope of the appeal as described in Section II.

Formatted: Strikethrough

**111.1(3) Availability of manual.** Copies of the manual or portions thereof are available from the Office of Right of Way, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010 or on the department’s Web site at [www.iowadot.gov](http://www.iowadot.gov).

**111.1(4) Future programs or projects.** Failure to comply with Section II when acquiring real property or displacing persons for a program or project may preclude the receipt of future federal financial assistance for the program or project area.

This rule is intended to implement Iowa Code chapter 316 and sections 6B.42, 6B.45, 6B.54, 6B.55 and 310.22.

[Appeared as Ch 8, Highway Commission, July 1974 IDR Supplement]

[Filed 6/17/74]

[Filed 7/8/77, Notice 5/4/77—published 7/27/77, effective 8/31/77]

[Filed without Notice 9/2/77—published 9/21/77, effective 10/26/77]

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed 4/4/90, Notice 2/7/90—published 5/2/90, effective 6/6/90]



**761-111 Subpart A: General Application**

**111.1(1) through 111.1(9)**  
(See Section I of this manual)

49 CFR-24.1  
42 USC 4601,et.seq.

111.1(10) **Purpose.**  
The purpose of this chapter is to implement Iowa Code chapter 316 and sections 6B.42, 6B.45, 6B.54 and 6B.55, as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Title IV, Pub. L. No. 100-17 , Sec. 104, Pub. L. 105-117, and federal regulations adopted pursuant thereto. The objectives of this chapter are:

- I.C. 316.9(1)  
I.C. 316.3(2)  
I.C. 316.15  
(a) **To remain eligible for federal funding.** To establish uniform rules and procedures for state agencies to appraise, review appraisals, negotiate and acquire property by condemnation in a manner required by the federal Uniform Relocation Act, Iowa Code sections 6B.42, 6B.45, 6B.54 and 6B.55, and Iowa Code chapter 316, the Relocation Assistance Law, and thereby receive and remain eligible to continue to receive federal financial assistance for programs and projects.
- I.C. 316.3(1)  
49 CFR-24.1(b)  
(b) **To minimize hardship of displacement.** To establish uniform rules and procedures to ensure that persons displaced shall not suffer disproportionate injuries as a result of programs or projects designed for the benefit of the public as a whole, and to minimize the hardship of displacement.
- I.C. 316.9(1)  
(c) **To expedite acquisition through informed good faith negotiations.** To establish uniform rules and procedures to inform property owners of their rights to have property appraised, to good faith informed negotiations, and to prompt payment of just compensation, and to thereby encourage and expedite acquisitions by agreement with landowners, minimize litigation and relieve congestion in the courts.
- I.C. 316.3(1)  
I.C. 316.3(2)  
I.C. 316.15  
(d) **To encourage and enable displacing agencies to provide relocation assistance.** To establish uniform rules and procedures to implement the legislative determination that relocation assistance for persons displaced is a necessary and essential part of programs and projects, and to encourage and enable displacing agencies to offer relocation assistance and to make relocation payments to persons displaced because of programs and projects being undertaken with or without federal financial assistance.
- I.C. 316.3(2)  
I.C. 316.13  
(e) **To provide uniform relocation assistance on joint projects.** To establish uniform rules and procedures to

I.C. 316.2 I.C. 316.13	<p>encourage efficient joint use of powers and resources of displacing agencies required to provide or which elect to provide relocation assistance, so that relocation assistance is provided uniformly to all persons displaced under the terms of a joint program or project agreement.</p> <p>(f) <b>To prevent unjust enrichment and duplication of payments.</b> To establish uniform rules and procedures to prevent unjust enrichment and duplication of payments for real property acquired or for personal property which is damaged or destroyed or reduced in value as a result of the acquisition of real property.</p>
I.C. 6B.54 I.C. 6B.42 I.C. 316.3(2) I.C. 316.15	<p>111.1(11) <b>Local road or street projects.</b> Conformance with these acquisition and relocation rules on local highway projects is necessary if the local jurisdiction wants federal financial assistance in the program or project for which the acquisition or displacement is occurring. Local projects which do not comply with these acquisition and relocation rules may be ineligible for federal financial assistance. <b>See 111.2(23) Appendix A.</b></p>
49 CFR-24.2 8 CFR-103.12 Pub. L. 105-117	<p><b>111.2 Definitions</b></p> <p>111.2(1) <b>Alien not lawfully present in the United States</b> The phrase "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:</p> <p>(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 and whose stay in the United States has not been authorized by the United States Attorney General, and</p> <p>(b) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.</p>
49 CFR-24.2	<p>111.2(2) <b>Appraisal.</b> An "appraisal" is a written statement independently and impartially prepared by a qualified individual, which sets forth an opinion or conclusion of a defined value of interests in, or aspects of, adequately described property as of a specific date, and which is supported by the presentation and analysis of relevant market information.</p>
I.C. 6B.54(2)	<p>If the nature of an acquisition indicates the cost of valuing the whole unit before and after an acquisition is unwarranted, an appraisal may consist of an estimate of loss in value or damages to property incurred because of the construction of a public works project. <b>See Appendix A.</b></p>

I.C.6B.54(2), (3)

111.2(3) **Appraiser.** An "appraiser" is an individual responsible for appraising and determining the fair market value of property or for determining the amount of a fair or reasonable payment for compensable costs or losses caused by a program or project. **See Appendix A.**

I.C. 316.1(2)  
49 CFR-24.2

111.2(4) **Business.** "Business" means any lawful activity, except a farm operation, conducted primarily:  
(a) For the purchase, sale, lease or rental of personal or real property, or for the manufacture, processing, or marketing of products, commodities, or any other personal property;  
(b) For the sale of services to the public;  
(c) By a nonprofit organization that has established its nonprofit status under applicable federal or state law; or  
(d) For outdoor advertising display purposes, when the display must be moved as a result of the project.

49 CFR-24.2

111.2(5) **Citizen.** The term "citizen" for purposes of this rule includes both citizens of the United States and noncitizen nationals.

I.C. 316.1(3)  
49 CFR-24.2  
49 CFR-24.2

111.2(6) **Comparable replacement dwelling.** "Comparable replacement dwelling" means a dwelling that is all of the following:  
(a) **Decent, safe and sanitary.** A comparable replacement dwelling shall be "decent, safe and sanitary." This term means the dwelling must meet applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the federal agency funding the project. The dwelling shall:  
(i) Be structurally sound, weathertight and in good repair;  
(ii) Contain a safe electrical wiring system adequate for lighting and other devices;  
(iii) Contain a heating system capable of sustaining a healthful temperature;  
(iv) 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 local housing codes or, in the absence of local codes, the policies of the displacing agency. In addition the displacing 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;

(v) 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. In the case of a housekeeping dwelling, 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;

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

(vi) 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.

I.C. 316.5

I.C. 316.8

(b) **Within the financial means of the displaced person.** A comparable replacement dwelling shall be within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner who was in occupancy at the displacement dwelling for at least ~~180~~ 90 days prior to the initiation of negotiations (~~180~~ 90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive, in accordance with subrule 111.401(2), the full price differential as described in subrule 111.401(3), all increased interest costs as described in subrule 111.401(4) and all incidental expenses as described in subrule or 111.401(5), plus any additional amount required to be paid under rule 111.404, Replacement housing of last resort.

I.C. 316.6

(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 these rules, 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 subrule 111.402(2).

I.C. 316.8

(iii) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if a displacing agency pays the 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 subrule 111.402(2)(b). Such rental

Formatted: Strikethrough

Formatted: Strikethrough

assistance shall be paid under rule 111.404, 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 relating to the size of the replacement dwelling shall apply.

(c) **Functionally equivalent to the displacement dwelling.** A comparable replacement dwelling shall be "functionally equivalent" to the displaced person's 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 displacing 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.**

(d) **On a typical site.** A comparable replacement dwelling shall be located 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.

(e) **Currently available.** A comparable replacement dwelling shall be currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.

(f) **In an area not subject to unreasonably adverse environmental conditions.** A comparable replacement dwelling shall be in an area not subject to unreasonable adverse environmental conditions.

(g) **In a location generally not less desirable.** A comparable replacement dwelling shall be in a location generally not less desirable than the location of the displacement dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the displacing agency determines to be more equitable, a business or farm operation:

(a) **Average annual gross receipts.** Had average annual gross receipts of at least \$5,000; or

(b) **Average annual net earnings.** Had average annual net earnings of at least \$1,000; or

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

(d) **Hardship.** If the application of the above criteria creates an inequity or hardship in any given case, the displacing agency may approve the use of other criteria as determined appropriate.

I.C. 316.1(4)  
23 CFR-710.105

111.2(8) **Department.** "Department" means the state department of transportation.

I.C. 316.1(5)  
49 CFR-24.2

111.2(9) **Displaced person.** "Displaced person" means:

(a) **Generally.** A person who moves from real property or moves the person's personal property from real property in either of the following circumstances:

(i) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(ii) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a business as defined in paragraph 111.2(4)(d), as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(b) **For moving expenses.** For purposes of subrule 111.205(3), rules 111.301, 111.302 and 111.303 only, a person who moves from real property, or moves the person's personal property from real property in either of the following circumstances:

(i) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(ii) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or a project undertaken with federal

I.C. 316.1(5)(c)  
49 CFR-24.2

financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

(c) **Persons not displaced.** The following is a nonexclusive listing of persons who are not displaced:

(i) A person who moves before the initiation of negotiations 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 program or project.

(iii) A person who has been determined to be either in unlawful occupancy of the real property or who has occupied the real property for the purpose of obtaining assistance under these rules.

(iv) A person who is not required to relocate permanently as a direct result of the program or project. Such determination shall be made by the state agency in accordance with any guidelines established by the department. **See Appendix A.**

(v) A person, other than the person who was the occupant of the real property at the time it was acquired, who occupies the real property on a rental basis for a short term or a period subject to termination when the real property is needed for the program or project.

(vi) An owner-occupant who voluntarily sells the owner-occupant's property, as described in paragraphs 111.101(1)(b) and (c), after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the property will not be acquired for the program or project, or an owner-occupant who moves as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a result of any acquisition, demolition or rehabilitation for a federal financially assisted program or project is subject to these rules.)

(vii) A person who retains the right of use and occupancy of the real property for life following its acquisition for the program or project.

(viii) A person who the agency determines is not displaced as a direct result of a partial acquisition.

(ix) A person who, after receiving a notice of relocation eligibility (described in subrule 111.203(2)), is notified in writing that he or she will not be displaced for the program or project. Such notice 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.

(x)A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits in accordance with 111.208.

(d) **Road or street programs or projects.** For those road or street programs or projects described in subrule 111.1(11), the term "displaced person" includes a person who would otherwise qualify as a displaced person except for the absence of federal financial assistance.

49 CFR-24.2  
I.C. 316.1(6)

111.2(10) **Displacing agency.** "Displacing agency" means the state or a state agency carrying out a program or project, or any person carrying out a program or project, with federal financial assistance which causes a person to be a displaced person. For those road or street programs or projects described in subrule 111.1(11), this term includes an entity who would otherwise be considered to be a displacing agency except for the absence of federal financial assistance.

49 CFR-24.2

111.2(11) **Dwelling.** "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 non-housekeeping unit; a mobile home; or any other residential unit.

I.C. 316.1(7)  
49 CFR-24.2

111.2(12) **Farm operation.** "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.

I.C. 316.1(8)  
49 CFR-24.2

111.2(13) **Federal financial assistance.** "Federal financial assistance" means a grant, loan, or contribution provided by the United States; however, "federal financial assistance" does not include any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

49 CFR-24.2

111.2(14) **Household income.** "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 and full time students under 18 years of

I.C. 316.1(9)  
49 CFR-24.2  
42 USC 4601, et.seq.

age. **See Appendix A.**  
111.2(15) **Federal Uniform Relocation Act** - "Federal Uniform Relocation Act" means the ~~Federal~~ Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Title IV, Pub. L. No. 100-17 as amended by Sec. 104, Pub. L. 105-117, November 21, 1997, an Alien not lawfully present in the United States.

Deleted: federal

49 CFR-24.2

111.2(16) **Initiation of negotiations** - Unless a different action is specified in applicable federal program regulations, the term "initiation of negotiations" means the following:

(a) **Displacement by acquisition.** Whenever the displacement results from the acquisition of the real property by a state agency, the "initiation of negotiations" means the delivery of the initial written offer of just compensation by the agency to the owner or the owner's representative to purchase the real property for the project. However, if the agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the actual move of the person from the property.

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

(c) **Permanent relocation of a tenant.** In the case of a permanent relocation of a tenant as a result of an acquisition of real property described in paragraphs 111.101(1)(b) and (c), the initiations of negotiations means the actions described in this section and paragraphs (a) and (b), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants until there is a written agreement between the displacing agency and the owner to purchase the real property. **See Appendix A.**

49 CFR-24.2

111.2(17) **Mobile home.** The term "mobile home" includes manufactured homes and recreational vehicles used as residences. **See Appendix A.**

I.C. 316.1(10)  
49 CFR-24.2

111.2(18) **Mortgage.** "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under Iowa laws, together with the credit instruments, if any, secured thereby.

49 CFR-24.2	111.2(19) <b>Non-profit organization.</b> "Nonprofit organization" means an organization that is incorporated under the applicable laws of a state as a nonprofit organization, and exempt from paying federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).
I.C. 316.1(5)a, b 49 CFR-24.2	111.2(20) <b>Notice of intent to acquire or notice of eligibility for relocation assistance.</b> The written notice to be furnished 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, that establishes eligibility for relocation benefits prior to the initiation of negotiations and/or prior to the commitment of federal financial assistance.
49 CFR-24.2	111.2(21) <b>Owner of a dwelling.</b> A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in the real property: <ul style="list-style-type: none"> <li>(a) <b>Ownership interest.</b> 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</li> <li>(b) <b>Cooperatives.</b> An interest in a cooperative housing project which includes the right to occupy a dwelling; or</li> <li>(c) <b>Contracts of purchase.</b> A contract to purchase any of the interests or estates described in paragraphs (a) or (b) of this subrule; or</li> <li>(d) <b>Other interests.</b> Any other interest, including a partial interest, which in the judgment of the agency warrants consideration as ownership.</li> </ul>
I.C. 316.1(11) 49 CFR-24.2	111.2(22) <b>Person</b> - "Person" means any individual, family, partnership, corporation or association.
49 CFR-24.2	111.2(23) <b>Program or project.</b> The phrase "program or project" means any activity or series of activities undertaken with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines. <p>The word "project" in the phrase "program or project" means an undertaking which is planned, designed or intended to operate as a unit and includes any activity or series of activities undertaken for a project including, but not limited to, the following activities: planning, design, preliminary engineering, acquisition of right of way, relocation assistance, or construction. <b>See Appendix A.</b></p>
I.C. 6B.54(3)	111.2(24) <b>Review appraisal.</b> A "review appraisal" is an administrative determination that the form and content of an appraisal complies with the requirements of law and these rules, and that the value or values

estimated in an appraisal represent the fair market value of property or a fair and reasonable payment for loss in value or damages. It may also be a final administrative determination of the amount to be offered as just compensation for property to be acquired for a program or project. **See Appendix A.**

- I.C. 6B.54(3) 111.2(25) **Review appraiser.** A "review appraiser" is an individual delegated administrative responsibility to make final determinations to accept appraisals, to approve appraisal estimates of fair market value and to establish an amount believed to be just compensation for real property.
- 49 CFR-24.2 111.2(26) **Salvage value.** "Salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.
- 49 CFR-24.2 111.2(27) **Small business.** "Small business" means a business having at least one, but not more than 500 employees working at the site being acquired or displaced by a program or project, which 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 111.304.
- I.C. 316.1(12)  
49 CFR-24.2  
49 CFR-24.2  
23 CFR-710.105 111.2(28) **State agency.** "State agency" means any of the following:  
(a) A department, agency, or instrumentality of the state or of a political subdivision of the state.  
(b) A department, agency, or instrumentality of two or more states or political subdivisions of the state, or states.  
(c) A person who has the authority to acquire property by eminent domain under state law.
- 49 CFR-24.2 111.2(29) **Tenant.** "Tenant" means a person who has the temporary use and occupancy of real property owned by another.
- I.C. 6B.54(8)  
49 CFR-24.2 111.2(30) **Uneconomic remnant.** "Uneconomic remnant" means an "uneconomical remnant" as described in Iowa Code section 6B.54(8), a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property where the acquiring agency concerned determines that the parcel has little or no value or utility to the owner.
- I.C. 316.1(5)c(1) 111.2(31) **Unlawful occupancy.** A person is considered to be in

49 CFR-24.2	"unlawful occupancy" if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the displacing agency to be a squatter who is occupying the real property without the permission of the owner and otherwise has no legal right to occupy the property under state law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.
49 CFR-24.2	111.2(32) <b>Utility costs.</b> "Utility costs" means expenses for heat and cooking fuels, electricity, water and sewer.
49 CFR-24.7	<b>111.3 Waiver of regulations.</b> The federal agency funding the project may waive any requirement in these rules not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under these rules.
23 CFR 1.4 and 1.36 23 CFR 710.201(b)and(h)	In the monitoring of city and county road and street programs or projects, the department may waive any requirements in these rules not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under these rules.  Any request for a waiver shall be justified on a case-by-case basis.
23 CFR 710.203(c) 49 CFR-24.8	<b>111.4 Compliance with other laws and regulations.</b> The implementation of these rules must be in compliance with other applicable federal and state laws and implementing regulations, including, but not limited to, the following: 111.4(1) <b>Section I of the Civil Rights Act of 1866.</b> Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.). 111.4(2) <b>Title VI of the Civil Rights Act of 1964.</b> Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). 111.4(3) <b>Title VIII of the Civil Rights Act of 1968.</b> Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended. 111.4(4) <b>The National Environmental Policy Act of 1969.</b> The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). 111.4(5) <b>Section 504 of the Rehabilitation Act of 1973.</b> Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.). 111.4(6) <b>The Flood Disaster Protection Act of 1973.</b> The Flood Disaster Protection Act of 1973 (Pub. L. 93-234). 111.4(7) <b>The Age Discrimination Act of 1975.</b> The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). 111.4(8) <b>Equal Opportunity and Housing, Executive Orders 11063 and 12892.</b> Executive Order 11063 - Equal Opportunity and Housing, as amended by Executive Order 12892. 111.4(9) <b>Equal Employment Opportunity, Executive Order 11246, as</b>

amended.

111.4(10) **Minority Business Enterprise, Executive Order 11625.**

111.4(11) **Floodplain Management and Protection of Wetlands, Executive Orders 11988 and 11990.** Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

111.4(12) **Leadership and Coordination of Non-Discrimination Laws, Executive Order 12250.**

111.4(13) **Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, Executive Order 12892, January 17, 1994.**

111.4(14) **Governmental Actions and Interference with Constitutionally Protected Property Rights, Executive Order 12630.**

114.4(15) **Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 USC 5121, et seq.)**

**111.5 Recordkeeping and reports.**

49 CFR-24.9(a)

111.5(1) **Records.** The state agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with these rules. These records shall be retained for at least three years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under these rules, or in accordance with the applicable regulations of the federal funding agency, whichever is later.

49 CFR-24.9(b)

111.5(2) **Confidentiality of records.** Except as required by Iowa Code section 6B.45 and this subrule, appraisal, review appraisal, relocation, negotiation and condemnation information in parcel and project files is confidential and is not public information until the property has been acquired, title has passed, and the parcel is closed.

A parcel is not closed until all acquisition and relocation claims have been paid. Once closed, a property owner may examine and copy his or her parcel file in its entirety. The general public may also examine any or all closed parcel files except that no examination shall be made of any copy of another person's income tax form(s) or statement(s) of income made by the owner or claimant or by his or her attorney, accountant or agent, or by an employee of the agency, without the written consent of the owner or claimant or the written approval of the agency's legal counsel.

Where the state agency is involved in litigation, whether it is an appeal from the award of a compensation commission or a dispute over the specific performance of a right of way contract, all appraisal and parcel file information shall be disclosed only by or at the written direction of the state agency's legal counsel. **See Appendix A.**

49 CFR-24.9(c)

111.5(3) **Reports.** Acquiring and displacing agencies shall submit

reports of their real property acquisition and displacement activities under these rules if required by the federal agency funding the project. A report will not be required more frequently than every three years, or as the federal Uniform Relocation Act provides, unless the federal funding agency shows good cause. The report shall be prepared and submitted in the format prescribed by the federal agency funding the project. **See Appendix A.**

23 CFR 1.5  
23 CFR 710.201

Cities and counties shall submit a report on their federal financially assisted road and street programs and projects as required by the department on forms furnished by the department.

#### **111.6 Appeals.**

I.C. 316.9(4)  
I.C. 6B.42  
I.C. 6B.54(10)  
49 CFR-24.10

##### **111.6(1) Applicability and intent.**

- (a) **Applicability.** The applicability of this rule is as stated in subrule 111.1(2). (See also, subrule 111.6(10).)
- (b) **Intent.** The intent of this rule is to provide a one-step, uncomplicated appeal process that ensures a prompt, fair and full review of the appeal.
- (c) **Not a contested case.** An appeal under this rule is not a contested case; it is an appeal of an agency action as defined in Iowa Code subsection 17A.2(2).

49 CFR-24.10(b)

**111.6(2) Actions which may be appealed.** A person who believes that the acquiring or displacing agency has failed to properly determine:

- (a) **Relocation assistance.** The person's eligibility for relocation assistance or a relocation assistance payment, or the amount of relocation assistance payment due the person.
- (b) **Incidental transfer expenses.** The person's eligibility for a payment or the amount of payment due the person under rule 111.106, "Expenses Incidental to Transfer of Title to the Agency".
- (c) **Certain litigation expenses.** The person's eligibility for a payment or the amount of payment due the person under rule 111.107, "Certain Litigation Expenses".

49 CFR-24.10(c)  
I.C. 6B.42

##### **111.6(3) Submission of appeal.**

- (a) **In writing.** To be considered, the appeal shall be submitted in writing within 60 days after written notification of the determination is sent or hand delivered to the person. It shall be sent or delivered to the chief administrative officer of the agency whose determination is being appealed. For appeals to the department, this person is the Director, Highway Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.  
Exceptions: Appeals of railroad's actions shall also be submitted

to the director of the highway division. Appeals of utilities' actions shall be submitted to the Chairperson, Utilities Division, Department of Commerce, Lucas State Office Building, Des Moines, Iowa 50319.

(b) **Timely submission.** An appeal shall be deemed timely if it is postmarked or delivered within the time period required. A timely appeal shall be considered by the reviewing agency regardless of form.

49 CFR-24.10(d) 111.6(4) **Right to representation.** The appellant has the right to be represented by legal counsel or other representative in connection with the appeal, but solely at the appellant's expense.

49 CFR-24.10(e) 111.6(5) **Review of files.** The agency whose determination is being appealed shall permit the appellant to inspect and copy all materials pertinent to the appeal, except materials that by law and these rules are confidential and are not open to inspection or copying by the appellant. The agency may impose reasonable conditions on the appellant's right to inspect and copy, consistent with applicable laws.

49 CFR-24.10(f) and (h) 111.6(6) **Review of appeal.**

(a) **Review committee.** The reviewing agency shall appoint a committee of three persons to review and decide the appeal. For the department, one member of the committee shall be a District engineer or the District engineer's designee. The individuals reviewing the appeal shall:

- (i) Not have been directly involved in the matters being appealed.
- (ii) Become familiar with the statutes and rules and review the records relevant to the matters being appealed.

(b) **Meeting with appellant.** The review committee shall schedule a meeting with the appellant and the agency official(s) whose determination is being appealed to consider the appeal. The review committee shall schedule the meeting for a date, time and place convenient to the appellant. The review committee shall notify the appellant in writing of the date, time and place of the meeting.

(c) **Settlement negotiations.** Prior to this meeting, the agency whose determination is being appealed may attempt to resolve all or portions of the appeal. If a resolution is made, it shall be approved in writing by the appellant. If all matters appealed are resolved, the remaining provisions of this rule do not apply.

(d) **Fair meeting.** During the meeting, both the appellant and the agency officials shall be given full and equal opportunity to be heard. Both parties may present oral and written information

on an informal basis without regard to rules of evidence, may object to information presented, and may question those presenting information.

(e) **Record of meeting.** The review committee shall take reasonable notes of the oral information presented and objections made at the meeting.

49CFR-24.10(f) and (g)

111.6(7) **Decision.**

(a) **Prompt decision.** Promptly after the receipt of all information submitted by the appellant in support of the appeal and not later than 30 days thereafter, the review committee shall prepare a decision.

(i) In deciding an appeal, all pertinent justification and other material submitted by the appellant and all other available information needed to ensure a fair and full review of the appeal shall be considered. The review committee shall prepare a written summary of the information it considered, including a listing of the documents submitted by the appellant and the records reviewed, for inclusion in the appeal file.

(ii) The decision shall award to the appellant all the benefits and payments for which the appellant is determined to be eligible under these rules.

(iii) The decision shall report the rationale underlying the decision, show appropriate calculations, and cite the section(s) of the law or rule that authorizes payment or requires a denial of benefits.

(b) **Copy to appellant.** A copy of the decision shall be furnished to the appellant.

(c) **Final agency decision.** The decision of the review committee is final. If the full relief requested is not granted, the reviewing agency shall inform the appellant of the appellant's right to seek judicial review. **See Appendix A.**

111.6(8) **Communications.** Appeals, meeting notices, decisions and other communications related to the appeal may be sent by ordinary mail.

111.6(9) **Retention of records.** In accordance with subrule 111.5(1), all records related to the appeal shall be retained for three years after the final payment is made for project right of way.

I.C. 316.3(2)

111.6(10) **Appeals on programs and projects not otherwise subject to these rules.** Agencies electing, but who are not required by these rules, to provide relocation assistance or to make relocation payments shall provide an appeal process that accomplishes the purpose of subrules 111.6(1) to 111.6(9). The scope of the appeal and the rights of the appellant shall not be diminished. Notwithstanding subrules 111.6(6)

and 111.6(7), the appeal may be decided by either the agency head or a person or committee appointed by the agency head.

**111.7 Assurances, monitoring and corrective action.**

49 CFR-24.4(a)  
I.C. 316.9  
42 USC 4601 et. seq.

111.7(1) **Assurances.** A state agency (see subrule 111.2(28) for definition) to which federal financial assistance will be made available for a program or project which results in real property acquisition or displacement shall furnish the federal agency providing federal financial assistance with appropriate assurances that it will comply with the federal Uniform Relocation Act, Iowa Code chapter 316 and sections 6B.42, 6B.54 and 6B.55, and these rules before the federal agency may approve any grant to, or contract or agreement with the agency. A state agency's assurances shall be in accordance with Section 210 and 305 of the federal Uniform Relocation Act and must contain specific reference to any state law which the state agency believes provides an exception to Section 301 or 302 of the federal Uniform Relocation Act. If in the judgment of the federal agency, federal Uniform Act compliance will be served, a state agency may provide these assurances at one time to cover all subsequent federally assisted programs or projects. A state agency which both acquires real property and displaces persons may combine its acquisition and displacement assurances in one document.

49 CFR-24.4(a)(2)

If a state agency provides federal financial assistance to another state agency causing displacement, the agency providing the federal financial assistance is responsible for ensuring compliance with the requirements of these rules. If a state agency provides federal financial assistance to a "person" causing displacement, the agency is responsible for ensuring compliance with the requirements of these rules.

49 CFR-24.4(b)

111.7(2) **Monitoring and corrective action by the federal agency.** The federal agency will monitor compliance with the federal Uniform Relocation Act, and the state agency shall take whatever corrective action is necessary to comply with the federal Uniform Relocation Act and these rules. The federal agency may also apply sanctions in accordance with applicable program regulations. **See Appendix A.**

23 CFR 710.201  
I.C. 316.9

111.7(3) **Federal road and street projects.** Cities and counties shall provide the department with an annual assurance that they will comply with the federal Uniform Relocation Act, Iowa Code chapter 316 and sections 6B.42, 6B.54 and 6B.55, and these rules on all federal financially assisted road and street programs and projects.

23 USC 635.309(c)(g)

A county or city shall certify that it has acquired the right to the possession of all right of way or all necessary property in advance of construction on federal financially assisted road or street programs or projects in a manner which complies with the requirements of the federal Uniform Relocation Act, Iowa Code chapter 316 and sections 6B.42,

6B.54 and 6B.55, and these rules. The department shall specify the form and procedure for the submission of the right of way certificate. **See Appendix A.**

23 CFR 710.201

**111.7(4) Monitoring and corrective action by the department.** The department shall advise and assist cities and counties in obtaining adequate staff to acquire right of way for federal financially assisted road and street programs and projects and in complying with the federal Uniform Relocation Act, 6B.42, 6B.54 and 6B.55, and these rules. The department shall take corrective action necessary to assure compliance and to preserve a county or city's eligibility for future federal financial assistance. **See Appendix A.**

I.C. 316.2(3)  
I.C. 316.9(2)  
I.C. 316.13  
49 CFR-24.3  
49 CFR-24.4(c)

**111.7(5) Prevention of fraud, waste, duplication of payments and mismanagement.** Acquiring and displacing agencies shall take appropriate measures to carry out these rules in a manner that minimizes fraud, waste and mismanagement. Relocation payments shall be paid in addition to and not as a part of any award of damages in any condemnation proceeding or appeal from any condemnation proceeding. Relocation payments and benefits are not compensable items of eminent domain damage and shall not be considered by the appraiser or the review appraiser. Agencies shall not negotiate, withhold or threaten to withhold relocation assistance payments or benefits except as otherwise provided in these rules. (See subrules 111.207(6) and (8).) **See Appendix A.**

49 CFR-24.5

**111.8 Manner of notices.** Each notice which an acquiring or displacing agency is required to provide to a property owner or occupant under the Iowa code chapter 316 and these rules, except the notice of the acquiring agency's interest in acquiring real property and of the basic protections and agency obligations provided to owners by law (see subrule 111.102(2)) shall be personally delivered or served or sent by first-class mail, return receipt requested, and documented in agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translations and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

49 CFR-24.6  
I.C. 316.3(2)  
I.C. 316.7(5)  
I.C. 316.9  
I.C. 316.13  
I.C. 316.14

**111.9 Administration of jointly funded projects.**  
**111.9(1) Cognizant agency.** Whenever two or more state agencies (see subrule 111.2(28) for definition) jointly agree to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person on a federally financially assisted program or project, the state agencies shall designate by

I.C. 316.15  
I.C. 6B.42  
I.C. 6B.54  
I.C. 306.42

agreement one agency as the cognizant agency. All federal financially assisted activities under the agreement shall be deemed a project for the purpose of these rules. In the unlikely event that agreement among the agencies cannot be reached as to which state agency shall be the cognizant agency, the department shall designate one of the agencies to assume the cognizant role.

111.9(2) **Terms of joint agreements.** At a minimum, such joint project agreements shall set forth federally assisted activities that are subject to its terms and cite any policies or procedures in addition to these rules that are applicable to the activities under the agreement. Joint project agreements shall specify which state agency shall be responsible for acquisition of property (title to be in the name of the agency which is functionally responsible for the improvement) and which agency shall be responsible for performing any relocation assistance functions. Under the agreement, the cognizant state agency shall assure that the project is accomplished in compliance with the provisions of the federal Uniform Relocation Act, Iowa Code chapter 316 and sections 6B.42, 6B.54 and 6B.55, and these rules. The value of land, buildings or other property acquired by donation and contributed to a joint project shall be the amount determined by a reviewed and approved appraisal in accord with these rules. **See Appendix A.**

#### **761-111 Subpart B: Real Property Acquisition**

##### **111.101 Applicability of Acquisition Requirements**

###### **111.101(1) General.**

I.C. 6B.54  
49 CFR-24.101(a)  
  
49 CFR-24.101(a)(1)

(a) **Applicability.** The general applicability of this subpart is as stated in subrule 111.1(2). **See Appendix A.**

(b) **Voluntary transaction.** The requirements of this subpart do not apply to a voluntary transaction that meets all of the following conditions:

(i) No specific site or property needs to be acquired, although the acquiring agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly.

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The state agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The state agency will inform the owner of what it

49 CFR-24.101(a)(2)	believes to be the fair market value of the property. <b>See Appendix A.</b>
49 CFR-24.101(a)(2)	(c) <b>No eminent domain authority.</b> The requirements of this subpart do not apply to a state agency undertaking a program or project with federal financial assistance but for which it does not have eminent domain authority provided that: <ul style="list-style-type: none"> <li data-bbox="505 573 1066 680">(i) Prior to making an offer for the property, the agency clearly advises the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and</li> <li data-bbox="505 686 1066 741">(ii) The agency informs the owner of what it believes to be fair market value of the property.</li> </ul>
49 CFR-24.101(a)(4)	(d) <b>Acquisition from federal or state agency.</b> The requirements of this subpart do not apply to the acquisition of real property from a federal agency, state, or state agency, if the state agency desiring to make the purchase does not have eminent domain authority.
49 CFR-24.101(c)	(e) <b>Acquisition by a cooperative.</b> The requirements of this subpart do not apply to the acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.
I.C. 6B.54(1) 49 CFR-24.102(a)	111.101(2) <b>Less-than-full-fee interest in real property.</b> In addition to fee simple title, the provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; to the acquisition of permanent easements; and to the acquisition of lesser or temporary easements or interests when the construction or maintenance of the project will cause permanent damage to remaining property. The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached. <b>See Appendix A.</b>  <b>111.102 Basic acquisition policies</b> 111.102(1) <b>Expeditious acquisition.</b> The state agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.
49 CFR-24.102(b) I.C. 6B.2A(1)(f)	111.102(2) <b>Notice to owner.</b> As soon as feasible, the owner shall be notified of the state agency's interest in acquiring the real property and the basic protections, including the state agency's obligation to secure an appraisal, provided to the owner by law and these rules. (See also rule 111.203.)

I.C. 6B.54(2)  
49 CFR-24.102(c)  
I.C. 306.19(2)(a)

111.102(3) **Appraisal, waiver thereof, and invitation to owner.**

(a) **Generally.** Before the initiation of negotiations, the real property to be acquired shall be appraised as required by these rules, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(b) **Release of obligation to appraise.** An appraisal is not required if the owner is donating the property and releases the state agency from the obligation to appraise the property or the state agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated to be ~~\$10,000~~ \$25,000 or less, exclusive of payments for the cost of tillage, fertilizer, growing crops, agricultural right-of-way fence, and legislated future maintenance compensation for lengthened driveway, as determined by a review of available market data.

(c) **Appraisal Waiver.** If the acquiring agency determines that an appraisal is not necessary in accordance with 111.102(3)(b), the acquiring agency may use a appraisal waiver to document an acquisition payment of ~~\$10,000~~ \$25,000 or less, exclusive of payments for the cost of tillage, fertilizer, growing crops, agricultural right-of-way fence, and legislated future maintenance compensation for lengthened driveway, as determined by a review of available market data. A appraisal waiver may also be used when no permanent interest in land is acquired and damages caused by the acquisition which are not cured by the construction of the project can reasonably be measured by a cost to cure, or when a permanent interest in land is acquired but because of the limited interest or the limited amount of land acquired the problem is not complex.

An individual who is preparing a appraisal waiver shall have a working knowledge of how to identify, estimate and document the cost to cure damages and how to determine the value of land to be acquired from available market data.

The appraisal waiver shall be approved by an agency representative before a negotiated agreement based on the appraisal waiver is accepted. The purpose of this approval is to prevent inconsistency of value determinations within a project and to ensure there has been an adequate investigation of the local market to support the value estimate.

Formatted: Strikethrough

Deleted: **Compensation estimate**

Deleted: compensation estimate

Formatted: Strikethrough

Deleted: compensation estimate

Deleted:

Deleted: compensation estimate

Deleted: compensation estimate

Deleted: compensation estimate

Deleted:

I.C. 6B.54(3)  
49 CFR-24.102(d)

111.102(4) **Establishment and offer of just compensation.** Before the initiation of negotiations, the state agency shall establish an amount which it believes is just compensation for the real property. The amount

shall not be less than the approved ~~appraisal waiver~~ or appraisal of the fair market value of the property, taking into account the value of allowable damages to any remaining property. (See rule 111.104.) Promptly thereafter, the agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. **See Appendix A.**

Deleted: compensation estimate

I.C. 6B.54  
I.C. 6B.45  
49 CFR-24.102(e)

111.102(5) **Acquisition documents and summary appraisal statement.** The state agency shall prepare appropriate forms of offers to purchase, legal descriptions, plats, conveyances and title instruments necessary to acquire appropriate title to the property. Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(a) **Copy of the appraisal.** The appraisal shall include at least an itemization of the appraised value of:

- real property or interest in real property acquired;
- buildings thereon;
- all other improvements including fences;
- severance damages; and
- loss of access.

(b) **Description.** A description and location identification of the real property and the interest in the real property to be acquired.

(c) **Improvements.** An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

I.C. 6B.54(4)  
49 CFR-24.102(f)  
I.C. 6B.52

111.102(6) **Basic negotiation procedures.** The state agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property. An explanation shall be made of the basis for the offer of just compensation, and the agency's acquisition policies and procedures. Notice of the owner's right to the payment of reasonable incidental expenses in accordance with rule 111.106 and notice of the owner's right to renegotiate construction or maintenance damages not apparent at the time of settlement or condemnation shall be given to the owner in writing. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The agency shall consider the owner's presentation. **See Appendix A.**

49 CFR-24.102(g)	111.102(7) <b>Updating offer of just compensation.</b> If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the state agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the agency shall promptly reestablish its estimate of just compensation and offer that amount to the owner in writing.
I.C. 6B.54(6) 49 CFR-24.102(h)	111.102(8) <b>Coercive action.</b> The state agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.
I.C. 6B.54(1) 49 CFR-24.102(i)	111.102(9) <b>Administrative settlement.</b> The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized state agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. A written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) supports such a settlement. <b>See Appendix A.</b>
I.C. 6B.54(11) I.C. 6B.25 I.C. 6B.26 I.C. 6B.30 49 CFR-24.102(j)	111.102(10) <b>Payment before taking possession.</b> Before requiring the owner to surrender possession of the real property, the state agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the state agency may obtain a right-of-entry for construction purposes before making payment available to an owner. <b>See Appendix A.</b>
I.C. 6B.54(8) 49 CFR-24.102(k)	111.102(11) <b>Uneconomic remnant.</b> If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the state agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project.
I.C. 6B.54(7) 49 CFR-24.102(l)	111.102(12) <b>Inverse condemnation.</b> If the state agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal

proceedings to prove the fact of the taking of the real property.

I.C. 6B.54(5)  
49 CFR-24.102(m)

111.102(13) **Fair rental.** If the state agency permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the agency on short notice, the rent shall not exceed the fair market rent for such short term occupancy. **See Appendix A.**

I.C. 6B.54(2)  
49 CFR-24.103(a)

**111.103 Criteria for appraisals.**

111.103(1) **General.** The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. A detailed appraisal is not necessary, if the estimate of just compensation is to be determined by a value finding. **See Appendix A.**

Deleted:

I.C. 6B.54(2)  
49 CFR-24.103(a)

111.103(2) **Criteria for a detailed appraisal.** A detailed before and after appraisal shall be prepared for all acquisitions except as provided in subrules 111.102(3)(b) and 111.103(1). A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition and the Uniform Standards of Professional Appraisal Practice. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support the appraiser's opinion of value. At a minimum, a detailed appraisal shall contain the following items:

(a) **Purpose statement.** The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(b) **Adequate description of the property.** 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), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property.

(c) **Approaches to value.** All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. If more than one approach to value is utilized, there shall be an analysis and reconciliation of approaches to value sufficient to support the appraiser's opinion of value.

(i) The appraiser may omit any approach to value which would not significantly add to the reliability and support of value estimates.

(ii) The reasons for omitting any traditional approach

shall be clearly stated in the appraisal.

(iii) The state agency may instruct the appraiser to limit the analysis to a specific valuation approach or approaches when in the judgment of the agency, the inclusion of additional approaches to value would not significantly add to the reliability of value estimates.

(d) **Comparable sales.** A description of comparable sales, including a 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) **Statement of value.** A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages, if any, to the remaining real property, where appropriate.

(f) **Date of valuation.** The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

23 CFR 710.201

111.103(3) **Number of appraisals.** The state agency may obtain more than one appraisal or a detailed appraisal when the appraisal problem is complex or unusual, it is necessary to obtain a specialist to value equipment or fixtures, or an additional appraisal or a detailed appraisal is necessary to defend the agency in a condemnation or an appeal from a condemnation. **See Appendix A.**

Deleted:

23 CFR 710.201

111.103(4) **Value finding appraisal.** The state agency may use a value finding appraisal report to value non-complex total or partial acquisitions when damages to the remaining property are non-existent or are relatively minor, are easily measured or explained, or are measurable by cost-to-cure.

The use of this report is limited only by the complexity of the acquisition or of the property being appraised. The extent of the narrative and documentation shall be commensurate with the significance of the appraisal problem and the values involved. In the event of condemnation, the appraiser may be required to provide an estimate of the before and after values for the property. **See Appendix A.**

111.103(5) **Reserved.**

I.C. 6B.54(2)

I.C. 6B.44

111.103(6) **Payment for agricultural fence.** Payments made for agricultural fence are payments made in lieu of replacing or moving fence as authorized by Iowa Code section 6B.44, and are considered damages which will be cured by the construction of the project for purposes of determining what form of an appraisal or if a compensation estimate is required.

23 CFR-710.201	111.103(7) <b>Appraisal forms.</b> The department shall develop appraisal forms and formats for road and street programs and projects. All forms and formats developed by the department shall assure that all appraisals are performed in conformance with the federal Uniform Relocation Act and the Jurisdictional Exception Rule of the Uniform Standards of Professional Appraisal Practice. <b>See Appendix A.</b>
Iowa Constitution Article I, Sect. 18 49 CFR-24.103(b) 49 CFR-24.105	111.103(8) <b>Influence of the project on just compensation.</b> The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. <b>See Appendix A.</b>
I.C. 6B.44 I.C. 6B.55 49 CFR-24.103(c) 49 CFR-24.105	111.103(9) <b>Owner retention of improvements.</b> If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value of the retained improvement.
23 CFR 1.4 23CFR1.34 23 CFR 710.203(c)	111.103(10) <b>Qualifications of appraisers and review appraisers.</b> (a) <b>Adequate staff required.</b> (i) The acquiring agency shall review the project and determine the complexity or difficulty of the appraisal problems for purposes of determining what qualifications appraisers and review appraisers must have in order to successfully complete appraisal assignments as required by these rules. (ii) The acquiring agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and shall assign or employ only qualified individuals as appraisers and review appraisers.
I.C. 543D.3	(iii) If required by the acquiring agency or by federal or state law or rule, an appraiser or a review appraiser shall hold the certification required to complete the appraisal assignment as a certified appraiser. Any contract (fee) appraiser employed to perform a detailed appraisal must be State of Iowa certified in accordance with Iowa Code Chapter 543D.
49 CFR-24.103(d)	(b) <b>Qualifications of appraiser.</b> Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. (i) An appraiser and individuals performing the appraisal function shall understand how acquiring a part of a property can cause damage, destroy or reduce in value property which remains.

49 CFR-24.103(d)  
49 CFR-24.104

(ii) A person who is appraising property shall have a working knowledge of and the ability to apply appraisal theories, practices and techniques necessary to render an informed opinion of the value defined and to document the value opinion either as a value finding appraisal or as a detailed appraisal in accord with appraisal standards required by federal or state law or rule, or state agency directive.

(c) **Qualifications of review appraiser.** A review appraiser's qualifications shall be consistent with the level of difficulty of the review assignment.

(i) A review appraiser shall understand how acquiring a part of a property can cause damage, destroy or reduce in value property which remains.

(ii) Review appraisers shall have a working knowledge of and the ability to apply appraisal theories, practices and techniques necessary to render an opinion of value as the appraiser of the property being appraised or of the loss in value or damages being estimated.

(iii) The state agency may hire a qualified consultant review appraiser but only to make final determinations to accept appraisals, to approve appraised estimates of fair market value and to recommend an amount believed to be just compensation for real property. When a contract review appraiser is retained to review a detailed appraisal prepared by a contract appraiser who was required by subrule 111.103(10)(a)(iii) to be State of Iowa certified, that contract review appraiser shall also be State of Iowa certified. The authority to make the agency's final determination of the amount to be offered as just compensation shall be exercised only by an employee or officer of the state agency or of the cognizant agency in the case of joint projects. Such an officer or employee need not be an appraiser but must be generally knowledgeable of real estate valuation. **See Appendix A.**

49 CFR-24.102 (n)

(d) **Conflict of interest.**

(i) No appraiser or review appraiser or negotiator shall have any interest, direct or indirect, in the real property being appraised that would in any way conflict with the preparation or review of the appraisal or negotiation for the acquisition of the property.

(ii) Compensation for making an appraisal shall not be based on the amount of the valuation.

I.C. 6B.54(2)

(iii) No appraiser shall act as a negotiator for real property which that individual appraised. An individual who is valuing property, by preparing a compensation estimate may also negotiate to acquire the property when the amount offered to

Deleted:

acquire the property is approved as just compensation by an official of the acquiring agency before a negotiated agreement is accepted by the acquiring agency. **See Appendix A.**

(iv) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or person preparing a compensation estimate regarding any valuation or other aspect of an appraisal, an appraisal review or compensation estimate. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving federal financial assistance, the federal funding agency may waive this requirement if it determines it would create a hardship for the agency.

I.C. 6B.54(2),(3)  
49 CFR-24.104

**111.104 Review of appraisals.**

The acquiring agency shall have an appraisal review process that meets the following minimum requirements:

49 CFR-24.104(a)

111.104(1) **All appraisals shall be reviewed.** A qualified review appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.

49 CFR-24.104(b)

111.104(2) **The review appraiser may become the appraiser.** If the review appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the review appraiser may develop appraisal documentation in accordance with rule 111.103 to support an approved or recommended value.

49 CFR-24.104(c)

111.104(3) **The review appraiser shall certify the appraisal as approved.** The review appraiser shall certify and thereby approve or recommend approval of an appraised value of the property.

(a) **Detailed appraisal.** The review appraiser's certification for a detailed appraisal shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval and identifies any damages to remaining property.

(b) **Value finding appraisal.** The review appraiser's certification for a value finding appraisal shall include a statement, if any is required, to clarify what property is being acquired, what damages are being compensated for, and the basis for approving the amount of the value finding. **See Appendix A.**

I.C. 6B.55

**111.105 Acquisition of tenant-owned improvements.**

Deleted: ¶

- 49 CFR-24.105(a) 111.105(1) **Acquisition of improvements.** When acquiring any interest in real property, the state agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.
- 49 CF4-24.105(b) 111.105(2) **Improvements considered to be real property.** Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.
- 49 CFR-24.105(c) 111.105(3) **Appraisal and establishment of just compensation for tenant-owned improvements.** Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at subrule 111.2(26).)
- 49 CFR-24.105(d) 111.105(4) **Special conditions.** No payment shall be made to a tenant-owner for any real property improvement unless:
  - (a) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the state agency all of the tenant-owner's right, title, and interest in the improvement; and
  - (b) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and
  - (c) The payment does not result in the duplication of any compensation otherwise authorized by law.

111.105(5) **Alternate compensation.** Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

I.C. 6B.54(10) **111.106 Expenses incidental to transfer of title to the agency.**

49 CFR-24.106(a) 111.106(1) **Eligible transfer costs.** The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:
  - (a) **Generally.** Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the state agency. However, the state agency is not required to pay costs solely required to perfect the owner's

	title to the real property; and
	(b) <b>Penalty costs.</b> Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property.
I.C. 427.2	(c) <b>Real estate taxes.</b> The state agency shall assist taxing authorities to collect unpaid real property taxes and special assessments as required by Iowa Code section 427.2, Taxable Property Acquired Through Eminent Domain.
49 CFR-24.106(b)	111.106(2) <b>Direct payment of transfer costs.</b> Whenever feasible, the state agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the agency. <b>See Appendix A.</b>
	<b>111.107 Certain litigation expenses.</b>
I.C. 6B.30	The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:
I.C. 6B.32	
I.C. 6B.33	
I.C. 6B.34	
49 CFR-24.107	111.107(1) <b>No authority to condemn.</b> The final judgment of the court is that the state agency cannot acquire the real property by condemnation; or
	111.107(2) <b>Condemnation proceeding abandoned.</b> The condemnation proceeding is abandoned by the state agency other than under an agreed-upon settlement; or
	111.107(3) <b>As otherwise authorized by statute.</b> The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding as required by Iowa Code sections 6B.30, 6B.32, 6B.33, and 6B.34.
	<b>111.108 Donations.</b>
I.C. 6B.54(9)	An owner whose real property is being acquired may, after being fully informed by the state agency of the right to receive just compensation for such property, donate the property or any part thereof, any interest therein, or any compensation paid therefor, to the agency as such owner shall determine. The agency is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the agency from such obligation, except when compensation is determined by a compensation estimate as authorized by subrule 111.102(3)(c).
49 CFR-24.108	
	<b>761-111 Subpart C: General Relocation Requirements</b>
	<b>111.201 Purpose.</b>
49 CFR-24.201	Subparts C, D, E and F prescribe general requirements for the provision of relocation assistance programs and payments.

49 CFR-24.202

**111.202 Applicability.**

The requirement of subparts C, D, E and F apply to the relocation of any displaced person as defined in rule 111.2(9). Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the federal Uniform Relocation Act and these rules. In extraordinary circumstances, when a displaced person is not readily accessible, the displacing agency must make a good faith effort to comply with these rules and document its efforts in writing.

49 CF4-24.203

**111.203 Relocation notices.**

111.203(1) **General information notice.** As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program which may be in the form of a brochure, and which does at least the following:

(a) **Of the project.** Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(b) **Of advisory services.** Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(c) **Right to ninety-day notice to move.** Informs the person that he or she will not be required to move without at least 90 days' advance written notice as set forth in subrule 111.203(3), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(d) **Alien not lawfully present.** Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation assistance and payments, unless such ineligibility would result in exceptional and extremely unusual hardship as defined in subrule 111.208(8) to a qualifying spouse, parent, or child.

(e) **Right to appeal eligibility and payment amounts.** Describes the person's right to appeal the displacing agency's determination as to a person's eligibility for assistance or a payment, or the amount of a payment. The appeal process is described in rule 111.6.

111.203(2) **Notice of relocation eligibility.** Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (as

defined in subrule 111.2(20)), the initiation of negotiations (as defined in subrule 111.2(16)) for the occupied property, or its acquisition whichever occurs first. The displacing agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

I.C. 6B.54(4)

111.203(3) **Ninety-day notice.**

(a) **General.** No lawful occupant shall be required to move unless he or she has received at least 90 days' advance written notice of the earliest date by which he or she may be required to move.

(b) **Timing of notice.** The displacing agency may issue the notice 90 days before it expects the person to be displaced, or earlier.

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

(d) **Urgent need.** In unusual circumstances, an occupant may be required to vacate the property on less than 90 days' advance written notice if the displacing agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the displacing agency's determination shall be included in the applicable case file.

49 CFR-24.204

**111.204 Availability of comparable replacement dwelling before displacement.**

111.204(1) **General.** No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person.

Where possible, three or more comparable replacement dwellings shall be made available. **See Appendix A.** A comparable replacement dwelling will be considered to have been made available to a person, if:

(a) **Notice of location.** The person is informed of its location; and

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

(c) **Assurance of receipt of relocation payment.** Subject to reasonable safeguards, the person is assured of receiving the

relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

111.204(2) **Circumstances permitting waiver.** The federal agency funding the project may grant a waiver of the policy in subrule 111.204(1) in any case where it is demonstrated that a person must move because of:

- (a) **Major disaster.** A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 USC 5122); or
- (b) **National emergency.** A presidentially declared national emergency; or
- (c) **Other emergency.** Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

111.204(3) **Basic conditions of emergency move.** Whenever a person is required to relocate for a temporary period because of an emergency as described in subrule 111.204(2), the displacing agency shall:

- (a) **Temporary relocation.** Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and
- (b) **Out-of-pocket moving expenses.** Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and
- (c) **Comparable replacement dwelling made available.** Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

49 CFR-24.205

**111.205 Relocation planning, advisory services, and coordination.**

111.205(1) **Relocation planning.** The displacing agency shall assign or employ staff necessary to carry out timely and orderly relocation of persons and property in the manner required by these rules for all programs and for each project for which relocation assistance is required or offered. During the early stages of development, federal financially assisted programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any

action by a displacing agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity. Planning may involve a relocation survey or study which may include the following:

(a) **Estimate of number of households.** An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with a disability when applicable.

(b) **Estimate of comparable replacement dwellings in the area.** An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.

(c) **Estimate of number and type of businesses displaced.** An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(d) **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.

(e) **Special advisory services needed.** Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

111.205(2) **Loans for planning and preliminary expenses.** In the event that a displacing agency elects to consider using the duplicative provision in section 215 of the federal Uniform Relocation Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the cognizant agency will establish criteria and procedures for such use upon the request of the federal agency funding the program or project.

I.C. 316.7

111.205(3) **Relocation assistance advisory services.**

(a) **General.** The displacing agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.),

Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et. seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described in paragraph (b) of this subrule.

If the displacing agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(b) **Services to be provided.** The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine for nonresidential (businesses, farm operations and nonprofit organizations) displacements, the relocation needs and preferences of each business (and 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:

- A. The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.
- B. Determination of the need for outside specialists in accordance with subrule 111.301(7) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or personal property.
- C. For businesses, an identification and resolution of personalty/realty issues prior to, or at the time of, the appraisal of the property.
- D. An estimate of the time required for the business to vacate the site.
- E. An estimate of the anticipated difficulty in locating a replacement property.
- F. An identification of any advance relocation payments required for the move, and the displacing agency's legal capacity to provide them.

(ii) 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.

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 as set forth in subrule 111.204(1).

As soon as feasible, the displacing 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 (see Subpart E) 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.

Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards (see subrule 111.403(2)). If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

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 a displacing agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. **See Appendix A.**

All persons shall be offered transportation to inspect housing to which they are referred.

Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (see subrule 111.2(6)(b)(iv)), as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

(iii) 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.

(iv) 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.

(v) 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.

(vi) Any person who occupies property acquired by a displacing 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 displacing agency.

111.205(4) **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. (Also see subrule 111.7(5))

49 CFR-24.206

**111.206 Eviction for cause.**

Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in these rules unless the displacing agency determines that:

111.206(1) **Notice prior to negotiations.** The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

111.206(2) **Notice after negotiations.** The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

111.206(3) **No evasion of relocation payments.** In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in these rules.

111.206(4) **Determining date of displacement.** For purposes of

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

49 CFR-24.207

**111.207 General requirements -- claims for relocation payments.**

111.207(1) **Documentation.** Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment. **See Appendix A.**

111.207(2) **Expeditious payments.** The displacing agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

111.207(3) **Advance payments.** If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the displacing agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

111.207(4) **Time for filing.**

(a) **Time limitation.** All claims for a relocation payment shall be filed with the displacing agency within 18 months after:

- (i) For tenants, the date of displacement;
- (ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(b) **Waiver for good cause.** This time period shall be waived by the displacing agency for good cause.

111.207(5) **Multiple occupants of one displacement dwelling.** If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the displacing agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the displacing agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

49 CFR-24.403(a)(6)

111.207(6) **Deductions from relocation payments.** A displacing agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The displacing agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

111.207(7) **Notice of denial of claim.** If the displacing 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 its determination, the basis for its determination, and the procedures for appealing that determination.

111.207(8) **No waiver of relocation assistance.** A displacing agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the federal Uniform Relocation Act and these rules. **See Appendix A.**

111.207(9) **Expenditure of payments.** Payments, provided pursuant to these rules, shall not be considered to constitute federal financial assistance. Accordingly, these rules do not apply to the expenditure of such payments by, or for, a displaced person.

49 CFR-24.208  
Public Law 105-117  
42 USC 4605

**111.208 Aliens not lawfully present in the United States.**

111.208 (1) **Certification.** Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(a) **Individual.** In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(b) **Family.** In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(c) **Unincorporated business.** In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(d) **Incorporated business.** In the case of an incorporated business, farm or nonprofit organization, that the corporation is authorized to conduct business within the United States.

111.208(2) **Certification requirements.** The certification provided pursuant to this subrule shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this subrule shall be within the discretion of the federal funding agency and, within those parameters, that of the displacing agency.

111.208(3) **Payments to eligible and ineligible owners.** In computing relocation payments, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

111.208(4) **Certification presumed valid.** The displacing agency shall consider the certification provided to be valid unless the displacing agency determines that it is invalid based on a review of an alien's documentation or other information that the agency considers reliable and appropriate.

111.208(5) **Nondiscriminatory reviews.** Any review by the displacing agency of the certifications provided shall be conducted in a nondiscriminatory fashion. Each displacing agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

111.208(6) **With evidence of invalid certification.** If, based on a review of an alien's documentation or other credible evidence, a displacing agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, the person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination.

(a) **Verification – lawful alien.** If the agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing agency shall obtain verification of the alien's status from the local Bureau of Citizenship and Immigration

Service (BCIS) Office. Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation.

(b) **Verification – citizen or national.** If the agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence from the issuer.

111.208(7) **Exceptional or extremely unusual hardship.** No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described previously or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing agency's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

111.208(8) **Exceptional or extremely unusual hardship described.** For purposes of subrule 111.208(7), "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

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

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

(c) **Other adverse impact.** Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

111.208(9) **May be part of claim.** The certification referred to in this subrule may be included as part of the claim for relocation payments described in 111.207.

49 CFR-24.209

**111.209 Relocation payments not considered as income.**

No relocation payment received by a displaced person under these rules shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, USC), Iowa Code chapter 422, or for the purpose

of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 USC 301, et seq.) or any other state or federal law except a state or federal law providing low-income housing assistance.

I.C. 316.4(1)  
49 CFR-24.301

**761-111 Subpart D: Payments for Moving and Related Expenses**

**111.301(1) General.**

(a) **Occupant.** Any owner-occupant or tenant who qualifies as a displaced person (defined at subrule 111.2(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the displacing agency determines to be reasonable and necessary.

(b) **Non-occupant.** A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under rule 111.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at paragraph 111.503(1)(c), the home-owner occupant is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

111.301(2) **Moves from a dwelling.** A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in paragraphs 111.301 (7)(a) through (g).)

(a) **Commercial move.** Moves performed by a professional mover.

(b) **Self-move.** Moves that may be performed by the displaced person in one or a combination of the following methods:

(i) Fixed Residential Moving Cost Schedule.

(Described in rule 111.302.)

(ii) Actual cost move supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fee should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

111.301(3) **Moves from a mobile home.** 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 111.301(7)(a) through (g). In addition to the items in 111.301(1)(a), 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 moving expenses described in paragraphs 111.301(7) (h) through (j).

(a) **Commercial move.** Moves performed by a professional mover.

(b) **Self-move.** Moves that may be performed by the displaced person in one or a combination of the following methods:

(i) Fixed Residential Moving Cost Schedule. (Described in rule 111.302.)

(ii) Actual cost move 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 to exceed the cost paid by a commercial mover.

**111.301(4) Moves from a business, farm or nonprofit organization.** Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a business, farm or non profit organization include those expenses described in paragraphs 111.301(7)(a) through (g) and paragraphs 111.301(7)(k) through (r), and rule 111.303.)

(a) **Commercial move.** Based on the lower of two bids or estimates prepared by a commercial mover. At the displacing agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(b) **Self-move.** A self-move payment may be based on one or a combination of the following:

(i) The lower of two bids or estimates prepared by a commercial mover or qualified displacing agency staff person. At the displacing agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

**111.301(5) Personal property only.** Eligible expenses for a person

who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described in paragraphs 111.301(7)(a) through (g) and 111.301(7)(r). **See Appendix A**

111.301(6) **Advertising signs.** The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

- (a) **Depreciated cost less sale.** The depreciated reproduction cost of the sign, as determined by the displacing agency, less the proceeds from its sale; or
- (b) **Moving.** The estimated cost of moving the sign, but with no allowance for storage.

111.301(7) **Eligible actual moving expenses.**

- (a) **Transportation – 50 mile limitation.** Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the displacing agency determines that relocation beyond 50 miles is justified.
- (b) **Packing.** Packing, crating, unpacking and uncrating of the personal property.
- (c) **Disconnect – reconnect.** Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household 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.
- (d) **Storage.** Storage of the personal property for a period not to exceed 12 months, unless the displacing agency determines that a longer period is necessary.
- (e) **Insurance.** Insurance for the replacement value of property in connection with the move and necessary storage.
- (f) **Lost or stolen property.** The replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- (g) **Other expenses.** Other moving-related expenses that are not listed as ineligible under subrule 111.301(8), as the displacing agency determines to be reasonable and necessary.

Deleted:

(h) **Mobile home appurtenances.** The 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.

(i) **Mobile home repairs and modifications.** The reasonable cost or repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

(j) **Mobile home park nonrefundable fees.** 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 displacing agency determines that payment of the fee is necessary to effect relocation.

(k) **License or permit.** Any license, permit, fee or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fee or certification.

(l) **Professional services.** Professional services as the displacing agency determines to be actual, reasonable and necessary for:

- (i) Planning the move of the personal property;
- (ii) Moving the personal property; and
- (iii) Installing the relocated personal property at the replacement location.

(m) **Signs and stationery.** Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

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

(i) The fair market value in place of the item, as is for continued use, 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 displacing agency determines that such effort is not necessary. 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.); or

(ii) 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. **See Appendix A.** If the business or farm operation is discontinued, the estimated cost of moving the item

shall be based on a moving distance of 50 miles.

(o) **Cost of attempted sale.** The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(p) **Purchase of substitute personal property.** If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs of the replacement item; minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the displacing agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(q) **Searching for a replacement location.** A business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the displacing agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings. **See Appendix A.**

(r) **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: The amount which would be received if the property were sold at the site or 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 displacing agency.

111.301(8) **Ineligible moving and related expenses.** A displaced person is not entitled to payment for:

- (a) **Moving real property.** The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this part does not preclude the computation under subparagraph 111.401(3)(d)(iii));
- (b) **Interest.** Interest on a loan to cover moving expenses;
- (c) **Goodwill.** Loss of goodwill;
- (d) **Profits.** Loss of profits;
- (e) **Employees.** Loss of trained employees;
- (f) **Additional operating expenses.** Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in paragraph 111.304(1)(f);
- (g) **Personal injury;**
- (h) **Legal fees.** Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the displacing agency;
- (i) **Search expenses for dwelling.** Expenses for searching for a replacement dwelling;
- (j) **Physical changes.** Physical changes to the real property at the replacement location of a business or farm operation except as provided in 111.301(7)(c) and 111.304(1);
- (k) **Storage on property owned or leased.** Cost for storage of personal property on real property already owned or leased by the displaced person, and
- (l) **Refundable deposits.** Refundable security and utility deposits.

111.301(9) **Notification and inspection (nonresidential).** The displacing 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 as set forth in 111.203. To be eligible for payments under this section the displaced person must:

- (a) **Advance notice.** Provide the displacing 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 displacing agency may waive this notice requirement after documenting its file accordingly.
- (b) **Inspections.** Permit the displacing agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

111.301(10) **Transfer of ownership (nonresidential).** Upon request and in accordance with applicable law, the claimant shall transfer to the displacing agency ownership of any personal property that has not been moved, sold, or traded in.

I.C. 316.4(2)  
49 CFR-24.302

**111.302 Fixed payment for moving expenses—residential moves.** Any person displaced from a dwelling, a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under rule 111.301. This payment shall be determined according to the Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by a displacing agency at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule. **See Appendix A.**

I.C. 316.4(1)  
49 CFR-24.303

**111.303 Related nonresidential eligible expenses.** The following expenses, in addition to those provided by 111.301 for moving personal property, shall be provided if the displacing agency determines that they are actual, reasonable and necessary:

(a) **Utilities.** Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

(b) **Professional services.** Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site.). At the discretion of the displacing agency a reasonable pre-approved hourly rate may be established.

(c) **Impact fees.** Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the displacing agency.

49 CFR-24.304

**111.304 Reestablishment expenses—nonresidential moves.** In addition to the payments available under rules 111.301 and 111.303 of this subpart, a small business, as defined in subrule 111.2(27), farm or nonprofit organization is entitled to receive a payment, not to exceed

~~\$40,000~~ **\$25,000**, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

Formatted: Strikethrough

111.304(1) **Eligible expenses.** Reestablishment expenses must be reasonable and necessary, as determined by the displacing agency. They include but are not limited to, the following:

- (a) **Repairs or improvements.** Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance.
- (b) **Modifications to replacement property .** Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- (c) **Signing.** Construction and installation costs for exterior signing to advertise the business.
- (d) **Redecoration.** Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- (e) **Advertising.** Advertisement of the replacement location.
- (f) **Increased operating costs.** Estimated increased costs of operation during the first 2 years at the replacement site, for items such as:
  - (i) Lease or rental charges;
  - (ii) Personal or real property taxes;
  - (iii) Insurance premiums; and
  - (iv) Utility charges, excluding impact fees.
- (g) **Other.** Other items that the displacing agency considers essential to the reestablishment of the business.

111.304(2) **Ineligible expenses.** The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

- (a) **Capital assets.** Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
- (b) **Supplies and inventory.** Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- (c) **Interest.** Interest on money borrowed to make the move or purchase the replacement property.
- (d) **Part-time home business.** Payment to a part-time business in the home which does not contribute materially (defined at subrule 111.2(7)) to the household income.

**111.305 Fixed payment for moving expenses—nonresidential moves.**

111.305(1) **Business.** A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by rules 111.301, 111.303 and 111.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with subrule 111.305(5), but not less than \$1,000 nor more than ~~\$0,000~~ **\$40,000**. The displaced business is eligible for the payment if the displacing agency determines that:

- (a) **General.** The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site;
- (b) **Substantial loss of existing patronage.** The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the displacing agency determines that it will not suffer a substantial loss of its existing patronage;
- (c) **Not part of a larger enterprise.** The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the displacing agency, and which are under the same ownership and engaged in the same or similar business activities.
- (d) **Not renting dwelling.** The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.
- (e) **Not renting site.** The business is not operated at the displacement site solely for the purpose of renting the site to others; and
- (f) **Material contribution to income.** The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See subrule 111.2(7).)

111.305(2) **Determining the number of businesses.** In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

- (a) **Shared premises.** The same premises and equipment are shared;
- (b) **Identical or interrelated business.** Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- (c) **Known as one business.** The entities are held out to the

Deleted: 2

Formatted: Strikethrough

public, and to those customarily dealing with them, as one business; and

(d) **Same owner or control.** The same person or closely related persons own, control, or manage the affairs of the entities.

111.305(3) **Farm operation.** A displaced farm operation (defined at subrule 111.2(12)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with subrule 111.305(5). Such payment shall be not less than \$1,000 nor more than ~~\$20,000~~ **\$40,000**. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the displacing agency determines that:

Formatted: Strikethrough

(a) **Displacement caused.** The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(b) **Change in operation.** The partial acquisition caused a substantial changes in the nature of the farm operation.

111.305(4) **Nonprofit organization.** A displaced nonprofit organization may choose a fixed payment of \$1,000 to ~~\$20,000~~ **\$40,000**, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the displacing agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the displacing agency demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. **See Appendix A.**

Formatted: Strikethrough

111.305(5) **Average annual net earnings of a business or farm operation.** The average annual net earnings of a business or farm operation are one-half of its net earnings before federal, state and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the displacing agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The

displaced person shall furnish the displacing agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the displacing agency determines is satisfactory. **See Appendix A.**

#### 761-111 Subpart E: Replacement Housing Payments

I.C. 316.5  
49 CFR-24.401

##### 111.401 Replacement housing payment for ~~180~~ 90-day homeowner-occupants.

Formatted: Strikethrough

111.401(1) **Eligibility.** A displaced person is eligible for the replacement housing payment for a 90-day homeowner-occupant if the person:

Deleted: 180

(a) **Length of ownership and occupancy.** Has actually owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations; and

Deleted: 180

(b) **Replacement purchased.** Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the displacing agency may extend such one-year period for good cause):

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

(ii) The date the displacing agency's obligation under rule 111.204 is met. **See Appendix A.**

111.401(2) **Amount of payment.** The replacement housing payment for an eligible 90-day homeowner-occupant may not exceed ~~\$22,500~~ \$31,000. (See also rule 111.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

Deleted: 180

Formatted: Strikethrough

(a) **Payment in excess of acquisition cost.** The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with subrule 111.401(3); and

(b) **Increased interest and debt service costs.** The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with subrule 111.401(4); and

(c) **Expenses incident to purchase of replacement dwelling.** The reasonable expenses incidental to the purchase of the

replacement dwelling, as determined in accordance with subrule 111.401(5).

111.401(3) **Price differential.**

(a) **Basic computation.** The price differential to be paid under paragraph 111.401(2)(a) is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with subrule 111.403(1); or

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

(b) **Mixed-use and multifamily properties.** If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, 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.

(c) **Insurance proceeds.** To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see subrule 111.7(5).)

(d) **Owner retention of displacement dwelling.** If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

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

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling; and

(iii) The current fair market value for residential use of the replacement site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment. **See Appendix A.**

111.401(4) **Increased mortgage interest costs.** The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph 111.401(2)(b). The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations.

This payment is contingent upon a mortgage being placed on the replacement dwelling. The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known. This notification of the approximate amount shall be clearly labeled as an estimate. The displaced person should be advised that the agency will need the actual replacement mortgage information as early as practicable so that the payment can be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

Computation of the payment is based on the following factors:

(a) **Generally.** The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination 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 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(b) **Term.** The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(c) **Interest rate.** 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 the area in which the replacement dwelling is located.

(d) **Points and fees.** Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

- (i) They are not paid as incidental expenses;
- (ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The displacing agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this rule. **See Appendix A.**

111.401(5) **Incidental expenses.** The incidental expenses to be paid under paragraphs 111.401(2)(c) or 111.402(3)(a) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

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

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

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

(d) **Professional home inspection.** Professional home inspection, certification of structural soundness and termite inspection.

(e) **Credit report.** Credit report.

(f) **Owner's evidence of title - title insurance.** Owner's and mortgagee's evidence of title; e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.

(g) **Escrow fees.** Escrow agent's fee.

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

(i) **Other costs incidental to the purchase.** Such other costs as the displacing agency determines to be incidental to the purchase.

111.401(6) **Rental assistance payment for 90-day homeowner.**

A 90-day homeowner-occupant, who could be eligible for a replacement housing payment under subrule 111.401(1) but elects to rent a replacement dwelling, is eligible for a rental assistance payment. 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 difference, if any, is computed and disbursed in accordance with subrule 111.402(2), except that the limit of ~~\$5,250~~ **\$7,200** does not apply. Under no circumstances would the rental assistance payment exceed the amount that could have been received

Deleted: 180

Deleted: 180

Formatted: Strikethrough

I.C. 316.6  
49 CFR-24.402

under subrule 111.401(2) had the 180-day owner elected to purchase and occupy a comparable replacement dwelling.

**111.402 Replacement housing payment for 90-day occupants.**

111.402(1) **Eligibility.** A tenant ~~or owner-occupant~~ displaced from a dwelling is entitled to a payment not to exceed ~~\$5,250~~ \$7,200 for rental assistance, as computed in accordance with subrule 111.402(2), or downpayment assistance, as computed in accordance with subrule 111.402(3), if such displaced person: **(see Appendix A)**

Formatted: Strikethrough

Formatted: Strikethrough

(a) **Length of lawful occupancy.** Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(b) **Replacement.** Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year (unless the displacing agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling, or

~~(ii) For an owner-occupant, the later of:~~

~~The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or~~

Formatted: Strikethrough

~~The date he or she moves from the displacement dwelling.~~

111.402(2) **Rental assistance payment.**

(a) **Amount of payment.** An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed ~~\$5,250~~ \$7,200 for rental assistance. (See also rule 111.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

Formatted: Strikethrough

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

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

(b) **Base monthly rental for displacement dwelling.** The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the displacing agency. (For an owner-occupant, use the fair market rent for the displacement

dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances); or

(ii) Thirty (30) percent of the person's average gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's (HUD) Annual Survey of Income Limits for the Public Housing and Section 8 Programs. If the person's income exceeds the survey's "low income" limits, if the person refuses to provide appropriate evidence of income, or is a dependent, the base monthly rental shall be established solely on the criteria in paragraph (i). A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or

(iii) The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities. **See Appendix A.**

(c) **Manner of disbursement.** A rental assistance payment may, at the displacing agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by subrule 111.403(6), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

**111.402(3) Downpayment assistance payment.**

(a) **Amount of payment.** An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under subrule 111.402(2) if the person rented a comparable replacement dwelling. At the displacing agency's discretion, a down payment assistance payment that is less than ~~\$5,250~~ \$7,200 may be increased to any amount not to exceed ~~\$5,250~~ \$7,200 plus those actual, reasonable and necessary expenses, as determined by the displacing agency, incidental to the purchase as described in subrule 111.401(5). If the displacing agency elects to provide the maximum payment of ~~\$5,250~~ \$7,200 as a downpayment, the displacing agency shall apply this discretion in a uniform and consistent manner, so that all eligible displaced persons in like circumstances are treated equally.

A displaced person eligible to receive a payment as a ~~90-day~~ owner-occupant under subrule 111.401(1) is not eligible for this payment.

(b) **Application of payment.** The full amount of the

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

Deleted: 180

replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

49 CFR-24.403

**111.403 Additional rules governing replacement housing payments.**

**111.403(1) Determining cost of comparable replacement dwelling.**

(a) **Limitation on amount of payment.** The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at subrule 111.2(6)). **See Appendix A.**

(b) **Replacement dwelling requirement.** If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(c) **Significantly different replacement dwelling.** If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

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

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

**111.403(2) Inspection of replacement dwelling.** Before making a replacement housing payment or releasing a payment from escrow, the displacing agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at paragraph 111.2(6)(a).

**111.403(3) Purchase of replacement dwelling.** A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(a) **Purchase requirement.** Purchases a dwelling; or

- (b) **Substandard dwelling.** Purchases and rehabilitates a substandard dwelling; or
- (c) **Relocates a dwelling.** Relocates a dwelling which he or she owns or purchases; or
- (d) **New dwelling on owned site.** Constructs a dwelling on a site he or she owns or purchases; or
- (e) **Site provided by a builder.** 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) **Previously purchased dwelling and site.** Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

111.403(4) **Occupancy requirements for displacement or replacement dwelling.** No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these rules for a reason beyond his or her control, including:

- (a) **Disasters.** 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 displacing agency; or
- (b) **Construction delays or illness.** Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the displacing agency.

111.403(5) **Conversion of payment.** A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under subrule 111.402(2) is eligible to receive a payment under rule 111.401 or subrule 111.402(3) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under rule 111.401 or subrule 111.402(3).

111.403(6) **Payment after death.** A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

- (a) **Attributable to period of occupancy.** The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.
- (b) **Continued occupancy by family.** The full payment shall be disbursed to the remaining family members in any case in which a member of a displaced family dies.

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

I.C. 316.8  
49 CFR-24.404

**111.404 Replacement housing of last resort.**

111.404(1) **Determination to provide replacement housing of last resort.** Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in rule 111.401 or 111.402, as appropriate, the displacing agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(a) **Case-by-case basis.** On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area; and

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person; or

(b) **Determination required.** By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs.

111.404(2) **Basic rights of persons to be displaced.** Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the federal Uniform Relocation Act or these rules. The displacing agency shall not require any displaced person to accept a dwelling provided by the displacing agency under these procedures (unless the displacing agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any

relocation payment for which the person may otherwise be eligible. **See Appendix A.**

111.404(3) **Methods of providing comparable replacement housing.** Displacing agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project. **See Appendix A.**

(a) **Methods to provide housing.** The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in rule 111.401 or 111.402. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the displacing agency's discretion.

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

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

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

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

(vii) The removal of barriers to a person with a disability.

(viii) The change in status of the displaced person with his or her concurrence from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

(b) **Special methods.** 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 space and physical characteristics different from those in the displacement dwelling including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with paragraph 111.2(6)(c). **See Appendix A.**

(c) **Occupancy less than 90 days.** The displacing agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under rules 111.401 and 111.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the person's financial means (See paragraph 111.2.(6)(b)). Such assistance shall cover a period of 42 months.

**761-111 Subpart F: Mobile Homes**

49 CFR-24.501

**111.501 Applicability.**

This subpart describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of these rules. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with Subpart D and a replacement housing payment in accordance with Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in subrule 111.301(7).

49 CFR-24.502

**111.502 Moving and related expenses - mobile homes.**

111.502(1) **General entitlements of mobile home occupants.** A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with rule 111.301. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under rule 111.303. However, if the mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described in paragraph 111.503(1)(c), the owner is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

111.502(2) **Partial acquisition of mobile home park.** The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the displacing 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 these rules.

**111.503 Replacement housing payment for 90-day mobile home owner displaced from a mobile home, and/or from the acquired mobile home site.**

Deleted: 180

111.503(1) **Eligibility.** A displaced owner-occupant of a mobile home or site is entitled to a replacement housing payment, not to exceed ~~\$22,500~~ \$31,000, under rule 111.401 if:

Formatted: Strikethrough

(a) **Ownership and occupancy.** The person occupied the mobile home on the displacement site for at least 90 days immediately prior to:

Deleted: 180

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the displacing agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in subrule 111.503(1)(c)(i) through (iv).

(b) **Other eligibility requirements.** The person meets the other basic eligibility requirements at subrule 111.401(1); and

(c) **Acquisition or displacement.** The displacing agency acquires the mobile home as real estate, or acquires the mobile home site, or the mobile home is personal property but the owner is displaced from the mobile home because the displacing agency determines that the mobile home:

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

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

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

111.503(2) **Replacement housing payment computation for a 90-day owner that is displaced from a mobile home.** The replacement housing payment for an eligible displaced 90-day owner is computed as described at subrule 111.401(2) incorporating the following as applicable:

Deleted: 180

Deleted: 180

(a) **Owned mobile home and/or site acquired.** If the displacing agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of

the mobile home, and/or site, if owned by the displaced mobile homeowner.

(b) **Displaced without acquisition.** If the displacing agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph 111.503(1)(a)(iii) of this subpart, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (i.e., purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the displacing agency's selected comparable mobile home less the displacing agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(c) **If no site available.** If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

111.503(3) **Rental assistance payment for a 90-day owner-occupant that is displaced from a leased or rented mobile home site.** If the displacement mobile home site is leased or rented, a displaced 90 day owner-occupant is entitled to a rental assistance payment computed as described in subrule 111.402(2). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

Deleted: 180

Deleted: 180

111.503(4) **Owner-occupant not displaced from the mobile home.** If the displacing 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 as described at rule 111.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this subrule or subrule 111.504 as applicable.

#### **111.504 Replacement housing payment for 90-day mobile home**

**occupants.**

111.504(1) **Eligibility.** A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed ~~\$5,250~~ **\$7,200**, under rule 111.402 if:

Formatted: Strikethrough

(a) **Ownership and occupancy.** The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) **Other eligibility requirements.** The person meets the other basic eligibility requirements at subrule 111.402(1); and

(c) **Acquisition or displacement.** The displacing agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the displacing agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at paragraph 111.503(1)(c).

~~(d) **Occupancy less than 90 days.** The displacing agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under rules 111.401 and 111.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the person's financial means (See paragraph 111.2.(6)(b)). Such assistance shall cover a period of 42 months~~

Deleted: ¶

Formatted: Indent: Left: 0", First line: 0"

Deleted: ¶

**Appendix A to Chapter 111**

**Uniform Manual**

**Real Property Acquisition and Relocation Assistance**

**Rules and Policy**

**Section III**

*This Appendix provides additional information to explain the intent of certain provisions of these Rules.*

**Subpart A  
General Application**

**111.2(2) Appraisal** – The definition of “Appraisal” recognizes that the written statement should be commensurate with the nature and complexity of the appraisal problem. A written statement which does not value the whole parcel on a before and after basis complies with this rule where the statement otherwise complies with the criteria for appraisals in rule 111.103.

**111.2(3) Appraiser** – This definition identifies the two basic functions of an appraiser which are to determine the value of land or rights in land acquired and also damages, if any, caused to remaining land.

**111.2(6) Comparable replacement dwelling** – The requirement in subrule 111.2(6) that a comparable replacement dwelling be “functionally equivalent” to the displacement dwelling means it must perform the same function and provide the same utility as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in the garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms, or consequently, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is “adequate to accommodate” the displaced person) may be found to be “functionally equivalent” to a larger but very run-down substandard displacement dwelling.

The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing.

A housing program subsidy that is paid to a person (not tied to the building), such as a HUD Section 8 Housing Voucher Program, may be reflected in an offer of a comparable replacement dwelling to a

person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits a displacing 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. However, the displacing agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing assistance program, the rules of that program governing the size of the dwelling apply, and the rental assistance payment under rule 111.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Deleted:

Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the displacing agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets, and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The displacing agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

**111.2(9) Displaced person.** Subparagraph 111.2(9)(c)(iv) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend one year before the person is returned to his or her previous unit or location. The displacing agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expense or must be determined to be displaced at the displacing agency's option.

Any person who disagrees with the displacing agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with rule 111.6.

**111.2(14) Household income (exclusions).** Household income for purposes of this regulation does not include program benefits that are not considered income by federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see the Federal Highway Administration, Office of Real Estate Services Web site. If there is a question on whether or not to include income from a specific program contact the federal agency administering the program.

**111.2(16) Initiation of negotiations.** Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility

for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the displacing agency must make a good faith effort to provide these notifications and document its efforts in writing.

**111.2(17) Mobile home.** The following examples provide additional guidance on the types of mobile home and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the “primary” place of residence; it is located on a purchased or leased site and connected to or has available all necessary utilities for functioning as a housing unit on the date of the displacing agency’s inspection; and, the dwelling, as sited, meets all local, state, and federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

**111.2(23) Program or project** – The definition of “Program” illustrates that the law and these rules may apply even if no federal funds are used to acquire the parcel or in the acquisition of right of way for the project, or in the construction of the project. Compliance with these rules is necessary when land is acquired in advance of planned or scheduled projects in order to remain eligible for future federal funding for the improvement or the project. A policy to acquire all right of way on all programs and for all projects in a manner which conforms with these rules will prevent disputes over eligibility for future federal funding.

Land acquired prior to the effective date of the Relocation Assistance Law (April 2, 1989) will be presumed to have been acquired without any intention to deny persons benefits of the law and these rules for a project that will receive federal financial assistance.

Land acquired for a non-federally aided program before the program became a part of a federally aided program will be presumed to have been acquired without any intention to deny persons benefits of the law and these rules for a project which will receive federal financial assistance.

**111.2(25) Review appraisal** – The definition of a review appraisal identifies the administrative and the acquisition-related aspects of the review appraisal. The review appraisal ensures that fair market value determinations are realistic and consistent with the real estate market. The review appraisal assures valuation consistency among the parcels on the project. The review appraisal may also serve as a determination that the total amount to be offered will justly compensate for all damages caused by the project. Damages which are not included in the appraisal and which are not cured by the construction of the project must be included in the amount offered by the agency as just compensation.

**111.5(2) Confidentiality of records** – This subrule is a restatement of department policy. The policy was in effect prior to the passage of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646). These rules recognize and protect the interests of both the state agency and the property owner. Disclosures made in litigation through the discovery process are subject to the discretion of the district court.

**111.5(3) Reports** – This subrule allows federal agencies to require the submission of a report on activities under the federal Uniform Relocation Act no more frequently than once every three years. The report, if required, will cover activities during the federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on agencies implementing this subrule, a basic report form has been developed which, with only minor modifications, may be used in all federal and federally-assisted programs or projects.

**111.6 Appeals** – That part of a relocation assistance payment which is in dispute is nearly always too small to justify litigation. This rule provides displaced persons and agencies with a fair, prompt informal and one-step fact-finding process. These appeals are not contested cases requiring an administrative

hearing as a contested case under the Iowa Administrative Procedures Act. Persons aggrieved by the final determination made as a result of the appeal may appeal directly and immediately to the district court without any further administrative review.

**111.7(2) Monitoring and corrective action by the federal agency** – The federal agency which provides federal financial assistance is responsible to monitor the acquisition of land and displacement of persons for programs and projects which are not for roads or streets to assure compliance with these rules.

**111.7(3) Federal road and street projects and**

**111.7(4) Monitoring and corrective action by the department** – The department is responsible for the acquisition of right of way on federal road and street projects. The following requires that the department monitor federal road and street projects to assure compliance with these rules:

- (a) 23CFR 710.201(b) – Program oversight
- (b) 23CFR 710.201(c) – Right-of-way (ROW) operations manual
- (c) 23CFR 710.201(h) – Use of other public land acquisition organizations or private consultants.
- (d) I.C. 310.22 Right of way – how acquired.
- (e) I.C. 6B.42 Eminent domain – payment to displaced persons.

**111.7(5) Prevention of fraud, waste, duplication of payments and mismanagement** – I.C. subsection 316.2(3) and this subrule are intended to establish a clear distinction between land acquisition, eminent domain and relocation assistance laws to prevent fraud, waste, duplication of payments and mismanagement.

This subrule also prohibits an agency from making a payment to a person under these regulations that would duplicate another payment the person receives under federal, state, or local law. The agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the agency's knowledge at the time a payment under these rules is computed. This rule implements I.C. sections 316.2(3), 316.9(2), 316.13 and 49CFR-24.3 and 49CFR-24.4(c).

**111.9 Administration of jointly funded projects** – This rule is intended to promote efficient use of agency staff resources by requiring joint project agreements that establish a cognizant agency to coordinate and acquire property in a manner which complies with these rules. Title to land is to be acquired in the name of the public authority or person functionally responsible for the improvement. This coordination is required on any joint project where there is federal financial assistance for any project activity.

The rule exercises the joint use of powers and coordination authority contained in 49CFR-24.6 and I.C. sections 316.9, 316.13, 316.14, 316.15, 6B.42, 6B.54 and subsections 316.3(2) and 316.7(5).

This rule applies to non-federal aid highway projects which are a part of a joint project with state or federal financial assistance.

Agencies other than the department must determine if these rules are to be complied with on a non-federal financially assisted local program or project.

**Subpart B  
Real Property Acquisition**

**111.101(1)(a) Applicability** – Complying with the acquisition requirements of these rules will assure that the agency remains eligible for future federal financial assistance for a program or project.

This rule implements department policy to comply with the acquisition requirements of these rules on all state highway projects regardless of how the project may be funded.

**111.101(1)(b) Voluntary transaction** – A transaction is voluntary under this paragraph if the state agency will not acquire the property for the current project or program in the event that negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

**111.101(2) Less than full fee interest in real property** – A state agency may apply these rules to any other less than full fee acquisition which in its judgment should be covered.

**111.102(4) Establishment and offer of just compensation** – The initial offer to the property owner may not be less than the amount of the agency's approved appraisal, but may exceed that amount if the agency determines that a greater amount reflects just compensation for the property.

**111.102(6) Basic negotiation procedures** – It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this subrule is not intended to require such contact in all cases.

This subrule also provides that the property owner be given a reasonable opportunity to consider the displacing agency's offer and to present relevant material to the displacing agency. In order to satisfy this requirement, displacing agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably be expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the displacing agencies adhere to the Uniform Act ban on coercive action (section 301(7) of 42 U.S.C 4601 et seq., the Uniform Act).

If the owner expresses intent to provide an appraisal report, displacing agencies are encouraged to provide the owner and/or his/her appraiser a copy of the displacing agency's appraisal requirements and inform them that their appraisal should be based on these requirements.

**111.102(9) Administrative settlement** – This subrule provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimates of value for purposes of justifying such settlements. Such action would invalidate the appraisal process.

**111.102(10) Payment before taking possession** – It is intended that such a right-of-entry for construction purposes be obtained only in an exceptional case, such as an emergency project when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

**111.102(13) Fair rental** – An agency may collect rent when a former owner or tenant occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the agency. Such rent may not exceed the fair rental to a short-term occupier.

Generally, the agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

### **111.103 Criteria for appraisals**

**111.103(1) General** – The purpose of this rule is to encourage the most cost effective and efficient use of appraisal resources. The only appraisal detail or documentation required is that which is necessary either to adequately appraise the property or to protect the interests of the agency.

Requirements for federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for federal and federally-assisted programs or projects. However, displacing agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This “consistent” relationship was more formally recognized in OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of these rules. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term “scope of work” defines the general parameters of the appraisal. It reflects the needs of the displacing agency and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and a displacing agency official who is competent to both represent the displacing agency’s needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data.

**111.103(3) Number of appraisals** – A second appraisal is not necessarily required. This subrule includes standards to determine when a second appraisal or a detailed appraisal is necessary either to adequately appraise the property or to protect the interests of the agency.

**111.103(4) Value finding appraisal** – This shorter form appraisal format is all that is required for most road or street acquisitions of strips of right of way or parts of a parcel. Effective use of this shorter form appraisal format requires that the appraisal problem be defined in advance to ensure appraisers are qualified to complete the assignment as required by subrule 111.103(10).

**111.103(7) Appraisal forms** – The department is directed to develop appraisal forms and formats for road and street programs and projects. Existing formats include a residential appraisal report (Fanny Mae type).

**111.103(8) Influence of the project on just compensation** Subrule 111.2(23) defines the term “project” to mean an undertaking which is planned, designed and intended to operate as a unit.

Because of public knowledge of the proposed project, property values maybe effected. A property owner should not be penalized because of a decrease in value caused by a proposed project nor reap a windfall at public expense because of increased value created by a proposed project. This subrule implements Article 1, Section 18 of the Iowa Constitution, I.C. subsections 316.2(1) and (2) and 49CFR-24.103(b).

**111.103(10)(c) Qualifications of review appraiser** – An agency that does not have experienced review appraisal staff resources may use qualified employees of another agency. A consultant may be employed to provide appraisal acceptance and fair market value appraisal review determinations

provided that the agency remains responsible for making the final determination of the amount to be offered as just compensation.

**111.103(10)(d) Conflict of interest** - The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, this paragraph provides that the same person may both value and negotiate an acquisition, if the value is indicated by a compensation estimate of ~~\$~~ \$25,000 or less. However it should be noted that all compensation estimates must be reviewed in accordance with rule 111.102(3)(c).

Formatted: Strikethrough

Deleted: 10,000

No person who functions as a negotiator for a project or program may supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent displacing agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving federal financial assistance, the federal funding agency may waive this requirement if it would create a hardship for the displacing agency. The intent is to accommodate federal-aid recipients that have a small staff where this provision would be unworkable.

It should be noted that this exception for properties valued at ~~\$~~ \$25,000 or less is not mandatory, e.g., displacing agencies are not required to use those who prepare a compensation estimate or appraisal of ~~\$10,000~~ \$25,000 or less to negotiate the acquisition.

Deleted: 10,000

Formatted: Strikethrough

**111.104 Review of appraisals** – This rule recognizes that agencies differ in the authority delegated to the review appraiser. In some cases the review appraiser establishes the amount to be offered to the owner and in other cases the review appraiser makes a recommendation which is acted on at a higher level. It is also within agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report(s) on a property.

Before an appraisal is accepted, the review appraiser must determine that the appraiser's documentation, including valuation data and the analysis of that data, demonstrate the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the appraiser's recommended or approved value determination depend on the complexity of the appraisal problem.

**111.106 Expenses incidental to transfer of title to the agency** – Generally, the agency is able to pay these incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the agency's intent to make such arrangements. In addition, it is emphasized that the expenses must be reasonable and necessary.

### **Subpart C General Relocation Requirements**

**111.204(1) General** – This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, this subrule requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus the basic standard for the number of referrals required is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the displacing agency make fewer than three referrals.

**111.205(3)(b)(ii)** is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

**111.207(1) Documentation** – An agency may make a payment for a low cost or uncomplicated move without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in subrule 111.301(4).

**111.207(8) No waiver of relocation assistance.** While subrule 111.207(8) prohibits a displacing agency from proposing or requesting that a displaced person waive his or her rights or entitlements to relocation assistance and payments, a displacing agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the displacing agency.

#### **Subpart D Payment for Moving and Related Expenses**

**111.301(5) Personal property only.** Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be acquired and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the displacing agency may obtain estimates from qualified movers to use as the standard in determining the payment.

**111.301(7)(n) Direct loss of personal property.** If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. The allowable in-place value estimate and moving cost estimate must reflect only the “as is” condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

**111.301(7)(q) Searching for a replacement location.** In special cases where the displacing agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on reasonable salary or earnings, required to apply for licenses or permits, zoning changes and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to investigate and acquire the site exceed \$2,500, the displacing agency may consider waiver of the cost limitation under the waiver provision. Such a waiver should be subject to the approval of the federal-funding agency in accordance with existing delegation authority.

**111.302 Fixed payment for moving expenses – residential moves** – The residential fixed moving payment schedule is updated periodically and published by the Federal Highway Administration based on the experiences of displacing agencies. The most recent is contained in the Department’s brochure “Relocation Assistance and Advisory Services.” Or, copies will be provided upon request.

**111.305(4) Nonprofit organization** – Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enable the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items, as well as fund-raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

**Subpart E  
Replacement Housing Payments**

**111.401(1) Eligibility** – The provision in paragraph (b) for extending eligibility for a replacement housing payment beyond the one-year period for good cause means that an extension may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction of a replacement dwelling or other like circumstances should cause delays in occupying a decent, safe, and sanitary replacement dwelling.

**111.401(3) Price differential** – The provision in subparagraph (d)(iii) to use the current fair market value for residential use does not mean the displacing agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used.

**111.401(4) Increased mortgage interest costs** – The provisions in this subrule set forth the factors to be used in computing the payment that will be required to reduce a person’s replacement mortgage (added to the down payment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgage(s). This payment is commonly known as a buydown.

The remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage must be known to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

Sample computation

Old mortgage:	
Remaining principal balance	\$50,000.00
Monthly payment (principal and interest)	\$458.22
Interest rate	7%
New mortgage:	
Interest rate	10%
Points	3
Term (years)	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee. If it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of \$458.22 at 10% is \$42,010.18.

	\$50,000.00
	less <u>42,010.18</u>
Increased mortgage interest costs	\$ 7,989.82
3 points on \$42,010.18 is	<u>1,260.31</u>
Total buydown necessary to maintain payments at \$458.22/mo.	\$ 9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18 in the sample computation) the buydown shall be prorated accordingly. If in the example, the displaced person chose to obtain a mortgage in the amount of \$35,000 instead of \$42,010.18, the buydown payment would be prorated and would be \$7,706.28 (35,000 divided by 42,010.18 is 0.8331; 9,250.13 times 0.8331 is 7,706.28)

The displacing agency is obligated to inform the person of the approximate amount of this payment and that he or she must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of the computed payment. The displacee is also to be advised of the interest rate and points used to calculate the payment.

**111.402 Replacement housing payment for 90-day occupants** – For purposes of this rule, the term “down payment” means the down payment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the down payment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the down payment may be the amount which the displacing agency determines is necessary.

**111.402(2)(b) Base monthly rental for displacement dwelling.**

Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with 111.402(2). One factor in this calculation is to determine if a displaced person is “low income” as defined by the U.S. Department of Housing and Urban Development’s (HUD) annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the displacing agency must:

- (1) Determine the total number of members in the household (including all adults and children);
- (2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: <http://www.fhwa.dot.gov/reestate/ua/ualic.htm>);
- (3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA), or Primary Metropolitan Statistical Area (PMSA) in which the displacement property is located, and;
- (4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (111.2(14)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18.

If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered “low income.” For example:

Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the displacing agency is as follows:

Tom Smith, employed, earns \$21,000/yr.

Mary Smith receives disability payments of \$6,000/yr.

Tom Smith Jr., 21 employed, earns \$10,000/ yr.

Mary Jane Smith, 17, student, has a paper route, earns \$3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18).

Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is \$21,000 + \$6,000 + \$10,000 = \$37,000

The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: \$47,450. (2004 income limit)

This household is considered “low income.”

**111.404(2) Basic rights of persons to be displaced** – This subrule affirms the right of a 90-day home owner-occupant, who is eligible for a replacement housing payment under rule 111.401, a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of “owner of a dwelling” at subrule 111.2(21). The displacing agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the displacing agency would be required to provide to such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the displacing agency may provide additional purchase assistance or rental assistance.

Deleted: 180

**111.404(3) Methods of providing comparable replacement housing** – The use of cost-effective means of providing comparable replacement housing is implied throughout the subpart. The term “reasonable cost” is used here to emphasize the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

**111.404(3)(b) Special methods** – The use of last resort housing may involve variations from the usual methods of obtaining comparability in special cases. However, it should be noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

#### **Subpart F Mobile Homes**

**111.503 Replacement housing payment for 90-day mobile home owner-occupants** – A 90-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under rule 111.401 and a replacement housing payment for a site computed under rule 111.402. A 90-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under rule 111.401 to assist in the purchase of a replacement site or, under rule 111.402 to assist in renting a replacement site.

Deleted: 180

Deleted: 180

Deleted: 180