

Chapter Three

Owner Occupied Residences

State and Federal requirements provide significant benefits for those displaced from their homes as a result of a public project. This chapter will outline what benefits are involved and those that are entitled to receive them.

Types of Owner Occupants

The term “dwelling” may be defined as 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.

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 real property:

- 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
- An interest in a cooperative housing project which includes the right to occupy a dwelling; or
- A contract to purchase any of the interests or estates described above; or
- Any other interest, including a partial interest, which, in the judgment of the Iowa DOT is considered as ownership.

There are five general categories of residential occupants:

- Owner-Occupants of 180 days or more.
- Occupants of 90 days, but less than 180 days.
- Occupants of less than 90 days.
- Persons who occupied the property after the Initiation of Negotiations and before the property was acquired by the Iowa DOT.
- Persons who did not occupy the property until after it was acquired by the Iowa DOT. These occupants are not considered displaced under the definition of Displaced Persons.

State and federal requirements classify different types of owner occupied residences according to the length of occupancy. Each group is allowed different levels of benefits as discussed later in this Chapter. A description of each type of ownership has been provided.

- *180-DAY OWNER OCCUPANT* – A person is considered to be in this category and may be eligible for a Replacement Housing Payment (RHP) if the person has actually owned and occupied the displacement dwelling for not less than 180 days prior to the initiation of negotiations for its purchase by the Iowa Department of Transportation.

For mobile homeowner-occupants, the person both owned the mobile home and occupied it on the site to be acquired for the project at least 180 days immediately prior to the initiation of negotiations for its purchase.

- The maximum RHP for this category is \$22,500 unless Housing of Last Resort provisions apply. Please see 761 IAC 111.401(2). The payment will be the sum of:
 - ❖ The supplemental payment and
 - ❖ The increased mortgage interest costs and other debt service costs incurred in connection with the mortgage of the replacement dwelling, limited to: the remaining balance of the mortgage(s) on the displacement dwelling; and
 - ❖ The expenses incidental to the purchase of the replacement dwelling, limited to the lesser of: the costs that would have been incurred had the person purchased a comparable replacement dwelling; or, the actual expenses.

Definitions for Purchase Supplement, Mortgage Interest Differential and Incidental Expenses can be found later in this Chapter.

Owner Occupants of at Least 90 Days but Less Than 180 Days – denotes a displaced person who has actually owned and occupied the dwelling to be acquired for the project for at least 90 days but less than 180 days immediately prior to the initiation of negotiations for its purchase.

For mobile homeowner-occupants, the person both owned the mobile home and occupied it on the site to be acquired for the project for at least 90 days but less than 180 days immediately prior to the initiation of negotiations for its purchase.

The RHP available for owner-occupants of less than 180 days is limited to a rental supplement up to a maximum of \$5,250. Please see 761 IAC 111.402(2). Sometimes these payments are not sufficient to meet the objectives of the law and regulations and it is necessary to follow Housing of Last Resort procedures to provide payments. Please see 761 IAC 111.404(1).

A person is considered to be in this category and may be eligible for a rental supplement if the person has actually owned and occupied the displacement dwelling for not less than 90 days prior to the initiation of negotiations for its purchase by the Iowa DOT and either rents or purchases and occupies a DSS replacement dwelling within one year after:

The date final payment for the displacement dwelling is received, or in the case of a condemnation, the date the full amount of the estimate of just compensation is deposited with

the sheriff, or the date the displacee is offered comparable replacement housing.

The maximum rental supplement for this category may not exceed \$5,250 unless Housing of Last Resort provisions apply.

The Rental Assistance Payment is based on the difference between the monthly rent and utilities necessary to rent a comparable replacement dwelling, as determined by the Iowa DOT and the monthly rent and utilities for the displacement dwelling. Utilities include heat, electricity, water and sewer.

Computation of the rental assistance payment is completed using the following formula:

❖ Monthly rent of the most comparable replacement dwelling plus utilities

MINUS

❖ Base monthly rent of the displacement dwelling (Including utilities)

TIMES 42 (months)

❖ Equals the maximum rental assistance payment

If \$5,250 is exceeded, Housing of Last Resort provisions will apply. In all cases, the cost of utilities must be included with both the rent of the displacement dwelling and the replacement dwellings when computing the rental assistance payment.

- *LESS THAN 90-DAY OWNER OCCUPANT* – denotes a displaced person who has actually and lawfully occupied the dwelling to be acquired for the project less than 90 days immediately prior to the initiation of negotiations for its purchase. Please note this category includes owners and tenants.

A person is considered to be in this category if the person has actually rented and occupied or owned and occupied the displacement dwelling for less than 90 days prior to the initiation of negotiations for its purchase by the Iowa DOT and either rents or purchases and occupies a DSS replacement dwelling within one year after: The date final payment for the displacement dwelling is received, or in the case of a condemnation, the date full amount of the estimate of just compensation is deposited with the sheriff, or the date the displacee is offered comparable replacement housing.

All Replacement Housing Payments to displacee's in this category will be paid under Housing of Last Resort provisions.

Owner occupants of less than 90 days are not eligible for a supplemental housing payment to assist in purchasing replacement housing. Unless the market is volatile, it is assumed that a home owner in this category can purchase a replacement dwelling for the same price paid for the displacement. This situation is rarely encountered and the Relocation Supervisor will be consulted to determine the course of action.

- **SUBSEQUENT OCCUPANTS** – denotes occupants that begin the occupancy after acquisition of the property. Persons who occupied the property after its acquisition by the Iowa DOT will be provided advisory assistance and services if such assistance is needed and is requested in writing.
- **MULTIPLE OCCUPANTS OF ONE DISPLACEMENT DWELLING** - When two or more occupants live together they may be considered a family unit for relocation assistance purposes and one comparable housing study will be prepared and presented to them as a unit. If they elect to move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Iowa DOT, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. If the Iowa DOT determines that two or more occupants maintained separate households within the same dwelling, each occupant will have separate entitlement to relocation payments.

All residential displacees except persons occupying the property after it was acquired by the Iowa DOT are entitled to comparable replacement housing, advisory assistance and advisory services.

For specific eligibility requirements and implementation details see 761 IAC 111.401, 111.402, and 111.403. A brief description of eligibility for the different types of ownerships has been provided as a comparison chart.

Replacement Housing Payment (RHP) Eligibility

Payment	Max. Amount	180 day Owner -Occupant	90-179 day Owner-Occ	90 day Tenant
RHP for owners	\$22,500	Yes	No	NA
Rental Assistance	\$5,250	Yes*	Yes	Yes
Down payment Assistance	\$5,250	No	Yes	Yes

*not to exceed RHP

Replacement Housing

While displacee’s are entitled to purchase the replacement housing of their choice state and federal requirements provide minimum standards be in place before public funds may be used for participation in the costs.

Decent, Safe and Sanitary (DSS)

The definition for DSS is found in 49 CFR Part 24.2 (8) “The term decent, safe, and sanitary dwelling means a dwelling which meets local housing and occupancy codes.” However, any of the following standards which are not met by the local code shall apply unless waived for good cause.

- WATER -The dwelling must have an adequate supply of potable (drinking) water.
- KITCHEN - When considering a housekeeping unit, there shall be a kitchen area containing a fully usable sink properly connected to potable hot and cold water and to a sewage drainage system. There must also be adequate space and utility connections for a stove and refrigerator.
- HEATING SYSTEM – The dwelling must contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees. If the furnace has not been inspected or installed within past 12 months, a furnace inspection by a qualified person is required.
- BATHROOM - The dwelling must have a separate, well-lighted and ventilated bathroom affording privacy to the user, containing a sink, bathtub or shower stall and a toilet. All must be in good working order and properly connected to appropriate sources of water and a sewage system.
- ELECTRICAL SYSTEM - The dwelling's electrical system must have an adequate and safe electrical wiring system for lighting and other electrical services.
- STRUCTURALLY SOUND - The dwelling must be structurally sound, weather-tight and in good repair. Examples: no broken windows; chipped or peeling paint; no major foundation problems; weather proof roof; functional gutters; drainage away from the foundation, etc.
- EGRESS - The dwelling must have a safe, unobstructed means of egress to safe, open space at ground level.
- ADEQUATE IN SIZE - Housing must be adequate in size with respect to the number of rooms, bedrooms and living space needed to accommodate the displacee. The number of persons occupying each room used for sleeping shall not exceed the number permitted by local housings codes, or in the absence of local codes, each sleeping room should contain at least 72 square feet of floor space for the first occupant and at least 68 square feet for each additional occupant. Generally children of different sex should not be required to share bedrooms. Unique situations may be considered on a case by case basis considering the age and sex of adults and children sharing the unit, cultural customs and the appropriateness of sharing bedroom space.
- ACCESSIBLE - For a displacee who is disabled, the dwelling must be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling by such person. Examples: wheelchair ramps, wider doorways, grab bars and special bathing facilities, first floor laundry, etc.
- WARNING & SAFETY DEVICES - The replacement dwelling must have operating smoke alarms, a minimum of one per floor, including the basement, and outside each sleeping area. Steps and stairways must have adequately attached and functioning handrails.

Comparable Replacement Dwelling

No person may be required to move from a dwelling unless he or she has been offered a comparable replacement dwelling. The Iowa DOT must offer every displaced person at least one comparable replacement dwelling and, if possible, three. The term “comparable replacement dwelling” means a dwelling which is:

- Decent, Safe and Sanitary (DSS)
- Functionally equivalent to the displacement dwelling meaning that it performs the same function, provides the same utility and is generally similar with regard to number of rooms and area of living space. The comparable replacement dwelling need not possess every feature of the displacement dwelling, but the principal features must be present. In determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, reasonable trade-offs may be considered for specific features when the replacement dwelling is equal to or better than the displacement dwelling.
- Adequate in size to accommodate the occupants. It should have similar habitable area.
- In an area not subject to unreasonable adverse environmental conditions.
- In a location generally not less desirable than the displacement dwelling with respect to public utilities, commercial and public facilities and distance to schools and employment.
- On a site that is typical in size for the residential development with normal site improvements. It does not need to include specialized improvements such as swimming pools, greenhouses, over-sized garages, outbuildings, etc.
- Must currently be available to the displacee on the private market. However, the comparable replacement dwelling for a person receiving government housing assistance before displacement should reflect similar government housing assistance.
- Within the financial means of the displacee
- For owners, it is assumed they can afford replacement housing, if they are not required to pay more for the mortgage payment on their replacement dwelling than they paid for the displacement dwelling. The test for the owner-occupant of 180 days or more is that the cost of the comparable replacement dwelling does not exceed the total amount of the acquisition price for the displacement dwelling plus the supplemental housing payment.

Habitable Space

The enclosed floor space for living, sleeping, cooking or eating purposes with minimum ceiling heights of 7 feet, except in rooms under a sloping ceiling. In those instances at least one half of the floor area must have a ceiling height of 7 feet. Floor area located under the portion of the room where the ceiling height is less than 5 feet may not be counted when computing maximum permissible occupancy. Areas excluded as habitable space include bathrooms, hallways, closets, basements without proper egress and bedrooms that are throughways.

Replacement Housing Payments (RHP)

Replacement Housing Payments are designed to help eligible displaced persons move into housing which is Decent, Safe and Sanitary (DSS), adequate for their needs and comparable to what they had before the project required their move. These payments are available to residential displaced persons only.

The three basic components of RHPs are Purchase Supplements, Rental Assistance and Down Payment Assistance. Sometimes even these payments are not sufficient to meet the objectives of the law and regulations and it is necessary to provide Housing of Last Resort payments and/or procedures. Please see 761 IAC 111.404(1).

All RHP offers are conditional. In order to receive the maximum amount calculated, the displacee must spend or be legally committed or bound to spend the amount indicated on the offer as the basis for the determination.

Displacees are not required to relocate to housing that will keep them in the same occupancy status. Tenants are eligible for assistance in the purchase of replacement housing and owners are eligible for rental assistance.

Per 761 IAC 111.403(4) No person will be denied eligibility for an RHP solely because the person does not meet the occupancy requirements described, for a reason beyond his or her control including:

- A disaster, emergency, hospital stay, military reserve duty; or
- Another reason such as a delay in the construction of the replacement dwelling.

All RHP categories have specific requirements for eligibility and computation. However, all have a number of features in common.

- *Occupancy* - Payments may only be made to occupants of the dwelling. This means that the dwelling is their usual place of residency or abode. Summer homes are not considered primary residences.
- *Displacement* - Payments may only be made to displaced persons. A displaced person

is one who moved or moved personal property from real property as a direct result of the project. See definition for Displaced Person (Displacee), in Chapter 1 of this manual or 761 IAC 111.2(9).

- *Replacement Housing Standards* - Payments may be made only if the housing to which the displaced person moves meets certain standards. These standards concern size, physical condition, utility and affordability for the displacee. See the discussion of Comparable Replacement Dwelling, Habitable Space and Decent, Safe and Sanitary (DSS) provided earlier in this chapter.
- *Time Limit For Purchase/Rental of Replacement Dwelling* - Payment may be made only if the displacee purchases or rents and occupies the replacement dwelling within one year. (See 111.401 (1)) Claims must be filed with the displacing agency within 18 months. (See 111.207 (4)).

For displaced homeowners the year begins on the later of:

- ❖ The date of displacement or,
 - ❖ The date the displacee receives final payment for the displacement dwelling, or, in the case of a condemnation, the date of the final adjudication by the court.
- *Time Limit For Filing Claims* - Reimbursement may be made only if the displacee files a claim for payment within 18 months of the beginning of the one year period discussed above. The Iowa DOT may waive this limit in extraordinary circumstances. See “Time For Filing Claims” in Chapter 10.
 - *Payment Limited To Actual Cost* - Payments under the RHP are intended to assist displaced persons in obtaining comparable replacement housing and to compensate for the increased housing related costs imposed on them by the project. The payment is limited to the lesser of:
 - ❖ The calculated RHP, or
 - ❖ The amount actually paid for the comparable replacement dwelling.

Purchase Supplement

The purchase supplement is the difference between the price actually paid by the displaced person for a replacement dwelling and the price paid by the Iowa DOT for the displacement dwelling. The purchase supplement may not exceed the price of a comparable dwelling, which is established in the comparable housing study completed by the advisor. The displacee's may elect to spend amounts in excess of the purchase supplement, but the Iowa DOT's participation is limited to the amount of the purchase supplement,

Determining the Cost of a Comparable Replacement Dwelling

The upper limit of a purchase supplement is based on the cost of a comparable replacement dwelling. A minimum of one but, three comparable replacement dwellings should be located by the Relocation Advisor so that the addresses and locations can be provided to the displacee. If less than three are available in the local market, the Relocation Advisor should document the extent of the search that was conducted.

If possible, the Comparable replacement dwellings will be selected within the neighborhood from which the person was displaced. When it is not possible to find replacement dwelling within the neighborhood, comparables will be selected from nearby or similar neighborhoods with housing costs that are generally the same or higher than the displacee's former neighborhood.

The purchase supplement payment should be based on the most nearly representative dwelling equal to or better than the displacement dwelling. If at all possible, the Relocation Advisor should include two more listed properties that were considered which are comparable, DSS and not listed at a higher price than the most comparable.

- The study is a document that provides assurance that the Iowa DOT will provide monetary assistance (purchase supplement), if necessary, to the displaced person in order to purchase any of the comparable replacement dwellings listed on the offer.
- The study also provides documentation that more than one comparable replacement property is available in the marketplace for the displacee to purchase for the monies set out in the offer.
- The study also allows the Acquisition Agent to issue the 90 day notice. See Notices in Chapter 1), thus assuring the timely completion of relocation activities prior to the letting of the construction project.

The Relocation Advisor should state the reasons for selecting the most comparable dwelling. An obviously overpriced dwelling should be ignored.

In some cases there may not be suitable properties available for sale. The Relocation Advisor may then determine that in order to provide for comparable replacement housing, Housing of Last Resort is necessary. In these cases the Iowa DOT cannot assure the availability of comparable replacement housing, until the housing is DSS and available for occupancy.

If the Relocation Advisor determines that new construction or rehabilitation of existing housing is necessary, they must be sure to monitor the selection of potential contractors to ensure the displacee's choice of contractor will not cause project delays because of failure to complete the work necessary to make the dwelling DSS.

An example of acceptable new construction is when there is a partial acquisition from a operating farm operation which includes the acquisition of the owner-occupied dwelling.

Adjustments to the Price of the Displacement Dwelling

If the comparable replacement property lacks a major exterior attribute that the displacement property has, the contributive value of that attribute may be subtracted from the approved appraised value of the residential portion of the property for purposes of calculating the maximum payment.

When locating comparable replacement properties, the Relocation Advisor should make every attempt to locate a comparable that includes all the amenities of the displacement and may consider attributes that the comparable has in offsetting attributes found in the displacement. Examples of such adjustments include lot size, location, street surfacing, swimming pool, decks, patios, etc.

The contribution value of an attribute may be determined from the Elements of Comparison portion of the approved appraisal. In instances where this is not available, the Relocation Supervisor will either consult with the reviewer of the appraisal or consult records of similar adjustments on other properties in order to ascertain the acquisition price of said attribute.

A report documenting the “carve out” or adjustment to the replacement housing payment will be developed by the Relocation Supervisor or the Production Coordinator.

Price Differential or Supplemental Housing Payment

The price differential is the amount that must be added to the final acquisition price whether it is established through the approved appraised value, negotiated settlement, condemnation or an appeal from condemnation) of the displacement dwelling to provide an amount equal to the LESSER of:

- The reasonable cost of a comparable replacement dwelling as determined by the Iowa DOT or
- The actual purchase of the DSS replacement dwelling actually obtained and occupied by the displacee.

If the displacee is disabled or has some special needs or accommodations that are legitimately necessary for their reasonable enjoyment of the replacement dwelling, those needs should be considered. Because it may be difficult to find properties to accommodate the special needs the reasonable cost of the modifications may be reimbursed in addition to the calculated RHP.

Owner Retention of Displacement Dwelling

If an owner-occupant retains ownership of the displacement dwelling and moves it from the displacement site, the purchase price of the replacement dwelling will be the sum of:

- The cost of moving and restoring the dwelling to a condition comparable to that prior to the move and,

- The cost of making the dwelling DSS; and,
- The current fair market value (unless the displacee rents the displacement site and there is a reasonable opportunity to rent a suitable replacement site) for residential use of the replacement site; and,
- The retention value of the dwelling, if such retention value is reflected in the acquisition cost used when the supplemental housing payment was calculated.

Calculating Residential Portion

If the displacement dwelling was a part of a property that was not just a single family residence but contained another dwelling unit, and/or space used for non-residential purposes, and/or is located on a lot that is larger than typical for residential purposes, only the acquisition price that is actually attributable to the displacement dwelling is considered. The acquisition price attributable to the displacement dwelling will be determined by the Relocation Supervisor or designee.

If the displacement property is appraised and acquired based on a highest and best use other than residential, such as vacant commercial, the acquisition price of the residential portion is the per unit price applied to the square footage that is considered to be typical for a residential site.

Example: The displacement dwelling is located on a 30,000 sq.ft. lot. The approved appraisal concludes the highest and best use of the property is as vacant land for commercial development with an estimated value of \$10.00 per sq. ft. or a total value of \$300,000. The approved appraisal concludes the value of the property as improved is \$150,000, and therefore the highest and best use is as vacant land. The residential portion of the property is therefore \$150,000.

The displacement dwelling is on a seven acre tract and includes six outbuildings and valued at \$275,000. After a review of the market the Relocation Advisor finds replacement housing available on one acre tracts with attached garages. A review of the approved appraisal finds land outside in addition to one acre supporting the residence contributes \$10,000 per acre and the outbuildings contribute a total of \$45,000. The residential portion is therefore \$275,000 - \$60,000 (6 acres @ \$10,000) - \$45,000 (contributive value of outbuildings) = \$170,000 representing the residential portion of the displacement property.

A displaced person is considered to have purchased a replacement dwelling if the person:

- purchases a dwelling considered as DSS compliant or
- Purchases and rehabilitates a non-DSS dwelling to DSS standards or
- Moves and establishes a DSS dwelling that he or she owns or purchases; or
- Constructs a DSS dwelling on a site he or she owns or purchases or

- Contracts for the purchase or construction of a DSS dwelling on a site provided by a builder or on a site the person owns or purchases; or
- Currently owns a previously purchased DSS dwelling and site. The valuation will be based on its current fair market value. It is not necessary to obtain an appraisal as long as the determination is made on a reasonable basis. The Relocation Supervisor should be consulted for the basis on which fair market value will be determined.

Calculating Benefits for Partial Owners

If a partial owner is the occupant of the property, the calculation of the supplemental housing payment is somewhat different.

Example: An occupant has a one quarter interest in a dwelling with an appraised value of \$60,000. The comparable replacement study indicates housing is available for \$70,000.

The occupant is eligible for a maximum supplemental housing payment of \$10,000. In order to qualify for the maximum payment, the occupant must spend his or her share of the acquisition price of the displacement dwelling (\$15,000) plus at least \$10,000, or \$25,000 for DSS housing, and must actually occupy it.

If the supplemental housing payment is not sufficient to allow the displacee to purchase replacement housing, the displacee may need to be considered as a tenant for displacement purposes. The Iowa DOT does not have the obligation to provide higher supplemental housing payments for the sole purpose of making the displacee a sole owner of replacement housing.

Mortgage Increase Differential Payment (MIDP)

A mortgage is a lien commonly given to secure advances on the unpaid purchase price of real property, and any credit instruments secured by it. For relocation purposes, real estate contracts are considered to be mortgages.

A mortgage differential payment is intended to compensate the displaced owner-occupant for increased interest costs which they are required to pay for financing the replacement property. The mortgage on the displacement dwelling must have been a bona fide and valid lien in existence for at least 180 days prior to the initiation of negotiations. More than one qualifying mortgage may be considered.

This payment computation is based on the unpaid balance of the existing mortgage on the displacement dwelling, the remaining term and the current prevailing interest rate charged by lending institutions in the area of the comparable replacement dwelling used in the housing study. If there is more than one mortgage outstanding on the displacement dwelling, a separate computation will be required for each mortgage. See 761 IAC 111.401(4) for further details.

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 (principal and interest) as that for the mortgage(s) on the displacement dwelling. See 761 IAC 111.401(4)

In the case of a home equity loan, the unpaid balance shall be the balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less. If the displacee obtains a smaller mortgage or a mortgage for a lesser term than the one on the displacement dwelling, the payment will be reduced accordingly. This payment should be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage.

The Relocation Advisor should attempt to obtain the necessary information on the displacee's current mortgage, if any, during the first personal contact. In preparation for the first visit, the Relocation Advisor could review the Record of Ownership and Liens (in Records Center) to ascertain recorded mortgages. The displacee may consider this information to be very personal and may refuse to divulge it until they have an understanding of its purpose and possible benefit to them. Further explanation should alleviate their concerns.

The information needed for any computation includes the unpaid balance of the mortgage, the interest rate, the monthly payment (principal and interest only) and the remaining term in months or years. While the displacee's may not have the exact figures, with the displacee's permission, the advisor should be able to contact the mortgage holder for a copy of the information needed. Generally, it is necessary for the displacee to provide an account number for reference to the lender.

Once the information on the existing mortgage and prevailing mortgage terms are known the Relocation Advisor can then prepare an estimated MIDP for presentation to the displacee. When the information on both the displacement and replacement is available, an actual payment can be calculated. It is important to have this information far enough ahead of the closing on the replacement dwelling so that the displacee will be able to know how much financing they will need.

It may be necessary to establish an escrow agreement with the finance or lending institution that will handle the closing on the replacement so that any last minute changes will not cause a delay in payment.

Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

- They are not paid as incidental expenses;
- They do not exceed rates normal to similar real estate transactions in the area;
- The Iowa DOT determines them to be necessary;
- The computation of these points will be based on the unpaid mortgage balance on the

displacement dwelling less the amount determined for reduction of the mortgage balance under this section.

This payment is not available to the displacee if:

- There is no mortgage on the displacement dwelling; or
- The interest rate obtained on the mortgage for the replacement dwelling is less than the interest rate on the displacement dwelling.

Specific instructions, definitions and a calculation form are located in the Appendix.

Procedure

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 (principal and interest) as that for the mortgage on the displacement dwelling. In order to calculate the mortgage buy down, the Relocation Advisor will need the following information:

- Balance of the existing mortgage.
- Interest rate of the existing mortgage.
- Monthly payment of the existing mortgage - If the term of the new mortgage is the same or greater than the term of the existing mortgage, use the monthly payment of the existing mortgage to compute the number of months actually necessary to pay off the existing mortgage.
- Amount of the new mortgage. The actual amount of the new mortgage is only a concern if it is less than the amount needed to be financed to maintain the old or existing mortgage.
- Interest rate of the new mortgage.
- Term of the new mortgage. If the term of the new mortgage is less than the term of the existing mortgage, use the term of the new mortgage to compute the monthly payment necessary to pay off the existing mortgage using the shorter term. (Hypothetical Monthly Payment).
- Points on the new mortgage the payment computation is limited to the balance and remaining term of the existing mortgage. If the new mortgage is in a lesser amount or for a shorter term than the existing mortgage, the payment will be reduced accordingly.

Calculate the Mortgage Interest Differential Interest Payment (MIDP)

The following is an example of the method used to calculate the MIDP.

Remaining principal balance	\$50,000.00
Present monthly payment	\$ 458.22
Present interest rate	7%
Remaining term	174 months
New interest rate	10%
Points needed to secure prevailing rate	3
Term of new mortgage	180 months

Using a financial calculator the following data may be entered.

Monthly payment	\$ 458.22
New interest	10% (10/12 = 0.833)
Term of mortgage (lessor of remaining term -174 months Or new term – 180 months)	174 months
Amount to be financed to keep the same monthly payment (Present Value) or Amount of new mortgage	\$42,360.58

The MIDP can now be calculated as follows.

Remaining principal balance	\$50,000.00
Amount of new mortgage	less \$42,360.58
Increased mortgage interest costs	\$ 7,639.42
3 points needed = 0.03 X 42,360.58 =	\$ 1,270.81
Total buy down necessary to maintain present \$458.22 monthly payment or MIDP	\$ 8,910.23

When New Mortgage is Smaller than the Calculated Replacement Mortgage

If the displacee elects to obtain a mortgage smaller than the calculated replacement mortgage, the payment must be prorated per 761 IAC 111.104(4) Appendix A Subpart E. To calculate the prorated benefit divide the actual mortgage by the calculated replacement mortgage.

Using the amounts provided in the previous example the prorating calculation is demonstrated as follows.

Estimated new mortgage	\$42,460.58
Actual mortgage borrowed	\$35,000.00
Calculation for proration $35,000/42,460.58 =$	0.8262 (prorate %)
Estimated MIDP	\$ 8,910.23
Prorated factor 0.8262 X 8,910.23 = actual MIDP	\$ 7,361.98

When the New Mortgage has a Shorter Term than the Old Mortgage

If the displacee elects to obtain a mortgage for a shorter term than the remaining term of the old mortgage, it is necessary to compute a hypothetical monthly payment for the old mortgage at the old interest rate, but at the shorter term of the new mortgage. This hypothetical monthly payment will be larger than the actual payment on the old mortgage because of the shorter term.

Example:

Existing Mortgage Balance:	\$50,000.00
Interest Rate:	7.00%
Monthly Payment:	\$ 458.22
Remaining Term:	168 Months
New Mortgage: Term:	120 Months
Interest Rate: 10.00% plus 3 points	

- Step 1 - Compute the hypothetical monthly payment for the old mortgage based on a 120 month term.

Enter Remaining Balance:	\$50,000.00
Enter Old Interest Rate:	7.00%
Enter New Term:	120 months
Compute Hypothetical Payment: PMT	\$ 577.17

- Step 2 - Compute a calculated replacement mortgage using the hypothetical monthly payment, the new interest rate and new term.

Enter New Interest Rate:	10.00%
Enter New Term:	120 months
Enter Hypothetical Payment: PMT	\$ 557.17
Compute Replacement Mortgage	\$44,039.08

- Step 3 - Calculate the difference between the remaining balance of the old mortgage and the calculated replacement mortgage to determine the buy down amount. Adding in the points will give you the M.I.D.P.

Existing Mortgage Balance:		\$50,000.00
less Calculated Replacement Mortgage:	less	\$44,039.08
Difference:		\$ 5,960.92
plus Points (44,039.08 x.03)		\$ 1,321.17
M. I. D. P.		\$ 7,282.09

When New Mortgage is Smaller and has Shorter Term than the Old Mortgage

A different computation is made, if the new mortgage is both smaller and for a shorter term. Using the old mortgage figures cited earlier, with a new mortgage for \$35,000.00, a term of 120 months and interest rate of 10 %, the calculated replacement mortgage as computed in the preceding example is divided into the smaller mortgage. The resulting prorating percentage is multiplied by the estimated MIDP from the preceding example to determine the MIDP for this category.

Estimated new mortgage	\$44,039.08
Actual mortgage borrowed	\$35,000.00
Calculation for proration $35,000/44,039.08 =$	0.7947 (prorate %)
Estimated MIDP	\$ 7,282.09
<u>Prorated factor 0.7947 X 7,282.09 = actual MIDP</u>	<u>\$ 5,787.43</u>

Estimating the MIDP Based on Prevailing Interest Rates

The initial or estimated MIDP computation is based on data for mortgages available at the time the Replacement Housing Payment (RHP) is computed and one of the prevailing fixed rate interest rates (including points) for conventional mortgages in the area. Rates for terms of mortgages that are at least as long as the remaining term of the old mortgage should be used.

Example:

Existing Mortgage Balance:	\$ 50,000.00
Interest Rate:	7.00 %
Term:	174 mos.
Monthly Payment:	\$ 458.22

The Relocation Advisor researches the availability of conventional mortgages and finds the following rates are available for 15 year mortgages:

- 10.00 % with 0 points
- 9.50 % with 1 points
- 9.00 % with 3 point

The computed MIDP for each of these rates is as follows:

Mortgage Financed

Balance less Amount = Buy down + Point = MIDP

10%-0pt	\$50,000.00 - \$42,360.58 = \$7,639.42 + 0 =	\$7,639.22
9.5%-1pt	\$50,000.00 - \$43,545.12 = \$6,454.88 + \$435.45 =	\$6,890.33
9%-3pts	\$50,000.00 - \$44,780.92 = \$5,219.08 + \$1,343.42 =	\$6,562.50

In this instance, the prevailing interest rate that will provide maintenance of monthly payments of \$458.22 at the least cost 9% interest with 3 points.

The Relocation Advisor would then inform the displacee they are eligible for a payment of \$6,562.50 for the MIDP, based on the current mortgage rate of 9% interest plus 3 points, if a new mortgage is obtained in an amount of at least \$44,780.92 and for at least 174 months.

However, since all three rates were considered to be prevailing rates, the displacee may choose any of the three rates and the Iowa DOT is obligated to make payment. 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.

Exceptions to the Prevailing Interest Rate

There are instances when the displacee cannot become eligible for the prevailing interest rate because of the amount of the new mortgage, credit difficulties or some other reason. In these cases, the file should be documented and the computation of the MIDP will be based on the mortgage interest rate that the displacee can qualify for and obtains.

Incidental Expenses

Reimbursement may be made for the actual and reasonable expenses incurred by the displacee in the purchase of a replacement dwelling and customarily paid by the buyer. Eligible expenses include:

- Legal, closing and related expenses, including title search, preparation of conveyance instruments, notary fees, preparation of surveys and plats and recording fees
- Lender, loan application fees and appraisal fees
- FHA mortgage insurance fees
- Loan origination or assumption fees that do not represent prepaid interest. Limited to the balance of the existing mortgage of the owner-occupied dwelling.
- Certification of structural soundness, radon and termite inspection if required or customary in the community
- Whole house inspections
- Credit report
- Escrow agent's fee

See 761 IAC 111.401(5) for further details.

Payment After Death

A RHP is personal to the displaced person and upon his or her death, the undisbursed portion of any RHP shall not be paid to the heirs or assigns, except that:

- The amount attributable to the displacee's period of actual occupancy of the replacement dwelling will be paid. Typically, this would only occur in the case of last resort supplemental rental payments made in installments;
- Full payment will be disbursed, if the other members of the displacee's family continue to occupy the DSS replacement dwelling. If the family elects to move to a different replacement dwelling, the Relocation Supervisor will be consulted to determine what payments may be appropriate;
- Any portion of an RHP that is necessary to satisfy a legal obligation of an estate in connection with the selection of a replacement dwelling by, or on behalf of, a deceased displacee will be made to the estate.

Removal of Barriers

The removal of barriers or the addition to or the rehabilitation of an existing dwelling to assist the elderly or those displacee's with special needs is sometimes necessary. The cost of these features may be added to the purchase price of the replacement dwelling. It is preferable for the Relocation Advisor to obtain two estimates, if possible, in order to ascertain the reasonable cost to make the adaptations necessary. Examples of these adaptations include, ramps or lifts, wider doors, first floor laundry, garage openers, special commodes (or, "toilets") and/or showers, lower counters, special features for the hearing impaired, etc.

In the case of new construction any adaptations necessary should be considered in the original estimate, since it is generally more cost effective to add these features during construction.

In some circumstances, when the person is displaced from a very large or substandard dwelling, a RHP based on different space and physical characteristics than the displacement, is possible. Smaller, better quality replacement housing that is DSS and is adequate in size to accommodate the displacee's may be used. However, the housing must be functionally equivalent to the displacement dwelling.

Recalculating Supplemental Housing Payments

Supplemental housing payments are conditional and subject to recalculation. The initial determination and offer are based on the approved appraised value of the displacement dwelling and available comparable replacement dwelling at the time of the study. In the event the compensation for the residential portion changes, through either administrative settlement or eminent domain proceedings, the amount of the supplemental payment may change.

In the event that the determination made by a compensation commission is appealed to

District Court, a significant delay may ensue. If the displacee opts to move prior to final adjudication, the displacee will be required to sign an agreement (similar to the Replacement Housing and Possession Agreement) will require the displacee to refund any part of the supplemental housing payment for which they are not eligible, based on the final adjudicated residential value as determined by the Court.

Rental Assistance Payment

An owner-occupant of 180 days or more, who could be eligible for a supplemental housing payment to purchase replacement housing, instead, elects to rent a replacement dwelling, is eligible for a rental supplement. The amount of the rental supplement 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 the procedures for tenant occupants of 90 days or more, except the limit of \$5,250 does not apply. Under no circumstances would the rental assistance payment exceed the amount that could have been received had the 180 day homeowner elected to purchase and occupy a comparable replacement dwelling.

The computed supplemental housing payment, increased interest and incidental costs for purchasing replacement housing exceeding \$22,500, demonstrates the need for Housing of Last Resort provisions. Thus, the rental supplement may exceed the \$5,250, but in no event can it exceed the amount computed for the purchase of replacement housing.

Chapter Three Overview

- There are different types of ownership and interests in property. Eligibility for benefits is determined by the type and length of ownership.
- Comparable Housing must be available before the displaced can be required to move from their dwelling. Comparable housing at a minimum must be considered:
 - ❖ Decent Safe and Sanitary (DSS)
 - ❖ Provide comparable habitable space.
 - ❖ Currently available and affordable.
- Replacement Housing Payment is an overall payment that includes:
 - ❖ Price Differential (or Purchase Supplement)
 - ❖ Increased interest costs (or Mortgage Differential)
 - ❖ Incidental costs including closing costs and necessary inspections of the replacement.
- Price Differential (or Purchase Supplement) is the difference between the amount paid for the property being acquired and the amount paid by the displacee for their replacement dwelling. (Subject to limitations)
- If the owners elect to retain their dwelling and move the building, they may still be eligible for relocation benefits.
- Sometimes land is acquired in excess of the residential portion. In those cases a calculation of the residential portion is required.
- When the displacee purchases their replacement dwelling, specific steps must be taken to secure Iowa DOT participation.

In some cases the displacee may only possess a partial ownership in the property. The benefits for a partial owner must be calculated differently.

A mortgage differential payment is intended to compensate the displaced owner-occupant for increased interest costs which they are required to pay for financing the replacement property.

