INELIGIBLE REESTABLISHMENT EXPENSES
The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary or otherwise eligible:

1. Purchase of capital assets such as office furniture, filing cabinets, machinery or trade fixtures.

2. Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the operation.

3. Interest on money borrowed to make the move or purchase the replacement property.

4. Expenses incurred to reestablish a part-time business in the home which does not contribute materially to the displacee's income. See definition on Page 68.

NON-RESIDENTIAL FIXED PAYMENT FOR MOVING EXPENSES

GENERAL
A displaced business, farm operation or nonprofit organization may be eligible to choose to accept a fixed payment in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses.

Payment under this category can range from a minimum payment of $1,000 to a maximum payment of $20,000.

There are several advantages to the fixed payment. First, it is simple to administer and relieves the Iowa Department of Transportation and the displacee of having to detail actual moving costs. Second, it provides flexibility for the displacee to use the fixed payment to cover those costs it deems to be most important. This can be especially useful for the eligible operation which chooses not to reestablish and may have to cover loss of income or the cost of discontinuing operations.

Not all small businesses, farm operations or nonprofit organizations will be eligible for a fixed payment under this category. In order to be eligible for this payment, the displacee must meet certain criteria. Specific requirements and payment calculations for small businesses, farm operations and nonprofit organizations are slightly different and each is discussed separately.

SMALL BUSINESSES
A displaced business is eligible for a fixed payment in lieu of payment for moving and related expenses and reestablishment expenses if the Iowa Department of Transportation determines that the business meets ALL of the following criteria:

- The business owns or rents personal property which must be moved and for which an expense would be incurred in such move and the business vacates or relocates from the displacement site.

  The amount of personal property to be moved must be significant enough to require an expense.

- The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). The displacee is assumed to meet this requirement unless the Iowa Department of Transportation determines otherwise.

  It would be difficult to demonstrate that a business does not meet this criteria. However, there are some types of businesses that would not lose patronage that are off-site or location is not a factor in conducting their business. Examples are those who do business strictly by mail or telephone; or in some cases, satellite office locations.

  If the relocation advisor believes that no substantial loss will be incurred and assembles appropriate documentation, it should be submitted to the Relocation Supervisor for approval.

- The business is not part of a commercial enterprise having more than three other entities which are not being acquired.

  The obvious exclusion under this criteria is a chain operation.

- The business is not operated at the displacement dwelling solely for the purpose of renting such dwelling to others.

  This criteria excludes the residential landlord from receiving a fixed payment..

- The business is not operated at the displacement site solely for the purpose of renting the site to others.

  This criteria would exclude the landlord of the business from receiving a fixed payment.

- The business contributed materially to the income of the displacee during the two taxable years prior to displacement.

  - Had average annual gross receipts of at least $5,000; or

  - Had average annual net earnings of at least $1,000; or

- Contributed at least one-third of the average annual gross income from all sources.

In rare cases, the application of this criteria may create an inequity or hardship for the displacee. The Iowa Department of Transportation will consider the use of other criteria in these instances.

In some instances there may appear to be more than one business displaced. Under some circumstances, two or more businesses may have to be treated as a single displacement which is entitled to only one fixed payment. When this is an issue, it should be discussed with the Relocation Supervisor. Factors to be considered when determining the number of displacees include:

- The extent to which the same premises and equipment are shared.

  Lease agreements, if any, can indicate specific arrangements or agreements.

- The extent to which substantially identical or interrelated business functions are carried out.

  Business cards, telephone listings, advertising, etc. can provide documentation.

- The extent to which the business and financial affairs are co-mingled. Income tax records may be a good indicator.

- The extent to which their clientele or general public consider them to be one or more than one entity.

- The extent to which the same person(s) or closely related persons own, control or manage the affairs of the business(es).

  Many times, for tax purposes, the displacee will establish more than one corporation, all "under one roof".

This may be a judgment call and the relocation advisor should prepare a note to the file that adequately explains the reasons for either the existence of one business or the existence of more than one business.

A displaced business that meets <u>ALL</u> of the above criteria is eligible to receive a payment of $1,000 to $20,000.

The payment is a calculation based on the average net earnings of the business for the two years prior to displacement. In Iowa, if the business had a loss during one year, they are not penalized, but rather, the net income for that year is considered to be zero.

Examples: The business was displaced (or moved) in 2000.

1.

Net Income for 2004:	$ 15,000
Net Income for 2005:	18,000
Two Year Average:	$ 16,500

The fixed payment calculated is $16,500

2.

Net Income for 2004:	$ 17,000
Net Income for 2005:	25,000
Two Year Average:	$ 21,000

The fixed payment calculated is $20,000, the statutory maximum.

3.

Net Income for 2004:	$ 12,000
Net Income for 2005:	(5,000)
Two Year Average:	$ 6,000

The fixed payment calculated is $6,000, because the net income for 2005 was considered to be zero.

If the business was not in operation for the full two years prior to displacement, net earnings will be prorated and projected to an annual amount for the partial year or over a two year period, whichever is greater.

Example: The business started up in March, 2004, and the net income for the ten months of operation in 2004 was $ 15,000, or $1,500 per month. The projected net income for 2005 was $18,000 ($1,500 per month times 12 months). The business had net income of $20,000 in 2005. The calculated fixed payment is $19,000.

Example: The business started up in March, 2004, and the net income for the ten months of operation in 2004 was $5,000, or $500 per month. The projected income for 2005 was $6,000 ($500 per month times 12 months). The business had net income of $16,000 in 2005. The calculated fixed payment is $11,000.

Using the total net income of $22,000 for the 22 month period the displacee was in operation would indicate a projected two year net income of $24,000, or a fixed payment of $12,000.

This method averages in the slow first year of operation and spreads those startup costs over the entire calculated period. In this example, the displacee would be offered a fixed payment of $12,000.

Average annual net earnings may be based on a different time period for good reason. These reasons must be beyond the displacee's control such as: family illness, economic downturn, strikes, etc. However, the years used in the calculation must be consecutive in order to avoid a payment based on a "pick and choose" process.

Net earnings include any compensation obtained from the business by the owner, the owner's spouse and the owner's dependents.

In order to qualify for a fixed payment calculation, the displacee must furnish the Iowa Department of Transportation proof of net earnings through income tax returns for the covered years. The vast majority of fixed payment calculations are performed using bonafide income tax returns. All submittals must include the complete, signed return for the covered years.

In certain instances, financial statements can be used but they must be certified by the preparer and must reflect realistic NET earnings. If the displacee fails to provide sufficient documentation to calculate the fixed payment, the displacee is not eligible for payment.

If the small business intends to claim only the minimum payment of $1,000 a statement signed by the owner of the business indicating that fact is generally sufficient to document the file and generate payment. There may be cases when more documentation is needed and the Relocation Supervisor should be consulted.

There are a number of categories of businesses and thus methods of income tax reporting. Each is somewhat different in structure, taxability and in the method of calculating of net earnings. The following explains each type and how the calculation of net earnings is determined based on 2000 Internal Revenue Service forms and schedules.

Sole Proprietorship

- The simplest form of ownership in that it has only one owner

- Owner reports income (or loss) on Schedule C (Profit or Loss From Business)
    - Line 1 ("Gross receipts or sales") is gross receipts
    - Line 31 ("Net profit or (loss)") is net income or loss
    - Owner does not receive a wage, but income or loss is whatever is shown on Line 31

- Owner reports income (or loss) on Form 1040 (U.S. Individual Income Tax Return)
    - Income or loss reported on Line 12 (“Business income or (loss)”)
    - May be more than one Schedule C reported
    - Sum of Schedule Cs must be equal to Line 12

- Additional wages may be paid to spouse or dependents
    - Shown on Form 1040, Line 7 (“Wages, salaries...”)
    - Payroll record or W-2 must be furnished for individual(s) if counted as part of the calculation

- Net income or loss for the year
    - Form 1040, Line 12, plus
    - Form 1040, Line 7, if applicable

Partnership

- The relationship between two or more persons who join together to engage in a trade or business
    - Each contributes asset, skill or labor
    - Each shares in the income or loss of the business
    - Can include syndicate, group, pool, joint venture or other unincorporated group
    - Can be as simple as a handshake or have complex partnership agreements
    - NOT a trust, estate or corporation

- Partners report income (or loss) on Form 1065 (U.S. Partnership Return of Income”)
    - Line 1a (“Gross receipts or sales”) is gross receipts
    - Line 22 (“Ordinary income (loss)”)is ordinary income or loss
    - Partners do not receive a wage, but sometimes receive a guaranteed payment. If so, it is shown on Line 10 (“Guaranteed payments to partners”)

- Additional wages may be paid to spouses and/or dependents
    - Shown on Line 9 (“Salaries and wages....”)
    - Payroll record or W-2 must be furnished for individual(s) if counted as part of the calculation

- Additional information
    - Individual partner’s share of income or loss is shown on Form K-1(Partner’s Share of Income, Credits, Deductions, etc.”)

- Form K-1 is not used to calculate the partnership net earnings
- Partners generally withdraw all or part of the income of the partnership. Referred to as the “draw”
- The draw is the partner withdrawing part of the income shown on Form 1065, Line 22

- Net income or loss for the year
  - Form 1065, Line 22, plus
  - Form 1065, Line 10, if applicable, plus
  - Form 1065, Line 9, if applicable

Limited Liability Company (LLC)

- Created to provide limited liability to business entities similar to that provided to a corporation
- Most are made up of two or more persons
- For tax purposes are treated like partnerships
- Can be a general, limited or limited liability partnership or limited liability company

- Their income or loss is reported on Form 1065 (“U.S. Partnership Return of Income”)
  - Line 1a (“Gross receipts or sales”) is gross receipts
  - Line 22 (“Ordinary income (loss)”)is ordinary income or loss
  - Partners do not receive a wage, but can receive a guaranteed payment. If so, it is shown on Line 10 (“Guaranteed payments to partners”)

- Wages may be paid to spouses and/or dependents
  - Shown on Line 9 (“Salaries and wages....”)
  - Payroll record or W-2 must be furnished for individual(s) if counted as part of the calculation

- Additional information
  - Individual partner’s share of income or loss is shown on Form K-1
  - Form K-1 is not used to calculate the partnership net earnings
  - Partners may draw all or part of the partnership income. Referred to as the “draw”
  - The draw is part of the income shown on Form 1065, Line 22
  - A sole proprietor can become a limited liability company
    - If the case, rules for calculating net earnings are like an LLC,
    - Income reported on Schedule C, just like a sole proprietor

- The LLC may elect to be treated like a corporation
  - If the case, rules for calculating net earnings like a corporation
  - Necessary to look at their corporate tax return to ascertain their net earnings

- Net income or loss for the year same as Partnership or Corporation, depending on above elections. Always reported on Schedule C, Form 1120 or Form 1120-S

Corporation

- Sometimes referred to as “C Corporations” to distinguish them from “S Corporations”. It files a tax return on Form 1120 or 1120A

- Owners of a corporation are referred to as shareholders with each owner owning shares in the corporation. If only one owner owns all the shares, he or she is referred to as the “sole owner”

- Corporation reports income (or loss) on Form 1120 (U.S. Corporation Income Tax Return)
  - Line 1c (“Gross receipts/sales”) is gross receipts
  - Line 12 (“Compensation of officers”) is pay to the corporation officers
  - Line 28 (“Taxable income before net....”) is the taxable income for the year
  - Line 29b (“Special deductions”) is dividends and special deductions and supported by Schedule C (part of Form 1120)

- Wages may be paid to spouses and/or dependents
  - Shown as part of Line 13 (“Salaries and wages”)
  - Payroll record or W-2 must be furnished for individual(s) if counted as part of calculation

- Additional information
  - If there is a profit, the corporation pays tax on the profit -- unlike the partnership which passes the profit through to the partner to report on an individual tax return (Form 1040)
  - Obtain a list of shareholders to ascertain whether spouses and/or dependents are included as shareholders (paid under Line 12 or Line 13)
  - Profits of the corporation are paid out to individual shareholders in the form of dividends. Dividends paid out are not added as part of the net earnings calculation as they are already included in Line 28
  - Owners of a corporation receive W-2 for their wages

- Net income or loss for the year
    - Form 1120, Line 12, plus
    - Form 1120, Line 13, if applicable, plus
    - Form 1120, Line 28, minus
    - Form 1120, Line 29b

S Corporation

- A corporation that, if it qualifies, may elect to be generally exempt from federal taxation. It files a tax return on Form 1120S

- Owners of the corporation are referred to as shareholders with each owner owning shares in the corporation

- Shareholders include their share of the profits from the corporation on their individual Form 1040 (U.S. Individual Income Tax Return)

- Corporation reports income (or loss) on Form 1120S (U.S. Income Tax Return for an S Corporation)
    - Line 1c (“Gross receipts/sales”) is gross receipts
    - Line 7 (“Compensation of officers”) is pay to the corporation officers
    - Line 21 (“Ordinary income [loss] from trade....”) is the taxable income for the year

- An S Corporation owner should receive a W-2 if he or she works for the corporation

- Wages may be paid to spouses and/or dependents
    - Shown as part of Line 8 (“Salaries and wages”)
    - Payroll record or W-2 must be furnished for individual(s) if counted as part of calculation

- Additional information
    - Income from the corporation is passed through to the owners on a Form K-1 (Shareholder’s Share of Income, Credits, Deductions, etc.)
    - Form K-1 is not used to calculate the net earnings since it is already included in Line 21
    - The owner may withdraw the profits. Referred to as the “draw”
    - The draw is the owner withdrawing part or all of the income shown on Line 21

- Net income or loss for the year
  - Form 1120S, Line 7, plus
  - Form 1120S, Line 8, if applicable, plus
  - Form 1120S, line 21

Farm Operations - A displaced farm operation is eligible for a fixed payment in lieu of payment for moving and related expenses and reestablishment expenses if it is acquired as a total acquisition.

A displaced farm operation is eligible to claim a fixed payment following a partial acquisition if the Iowa Department of Transportation determines that:

- The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

- The partial acquisition caused a substantial change in the nature of the farm operation

  If the outbuildings or a substantial number of the outbuildings are included in the partial acquisition from a dairy farm operation, a substantial change in the nature of the farm operation has probably occurred.

The fixed payment calculation for farm operations is similar to that of a business in that the fixed payment is based on the average net earnings, from all sources, for the two years prior to displacement. In Iowa, if the farm operation had a loss during one year, they are not penalized, but rather, the net income for that year is considered to be zero. Examples are shown on Pages 89 and 89.

If the farm operation was not in operation for the two full years prior to displacement, like the business, net earnings will be prorated to an annual amount for the partial year or over a two year period, whichever is greater. Examples are shown on Page 89.

Farm operations may take on any of the entities discussed under Small Businesses: sole proprietor, partnership, corporation or S Corporation. These entities are discussed on Pages 108 through 112.

The calculation of net earnings differs slightly from businesses on the forms used. These differences are:

- A farm may be operated by a single operator and is treated similar to a sole proprietor with the only difference being that the farmer will report income on a Schedule F (Profit or Loss from Farming) which lists such agricultural related expenses such as feed, seed, veterinary fees, etc., instead of Schedule C.

- Owner reports income (or loss) on Schedule F
    - Line 11 ("Gross income") is the farm's gross income
    - Line 36 ("Net farm profit or (loss)") is the farm's net earnings
    - Owner does not receive a wage, but income or loss is whatever is shown on Line 36

- Owner may report income (or loss) on Form 4797 (Sales of Business Property)
    - Line 10 ("Gain or loss") for breeding stock, etc

- Owner reports income (or loss) on Form 1040 (U.S. Individual Income Tax Return)
    - Form 4797 income or loss reported on Line 14 ("Other gains or losses")
    - Schedule F income or loss reported on Line 18 ("farm income [or loss]")

- Net income or loss for the year
    - Form 1040, Line 14, plus
    - Form 1040, Line 18

- A farm partnership will also report the income on Schedule F and attach it to Form 1065, Partnership Return. The income is then added to the Form 1065 on Line 5 ("Net farm profit/loss") and included with any other partnership income. Wages paid to a spouse and/or dependents and guaranteed payments to the partners are treated the same as any other partnership.

- Farm corporations (both C and S corporations) report the income from the farm directly on the respective 1120 or 1120S corporate tax returns. Therefore, the same numbers will be used to determine the annual net earnings for the farm corporation as for any other corporate business.

If the farm operation intends to claim the minimum payment of $1,000 a statement signed by the operator of the farm indicating that fact is generally sufficient to document the file and generate payment. There may, however, be instances when more documentation is needed and the Chief Relocation Advisor should be consulted.

Nonprofit Organizations - A nonprofit organization is eligible to claim a fixed payment in lieu of payment for moving and related expenses and reestablishment expenses if the Iowa

Department of Transportation determines the nonprofit organization cannot be relocated without substantial loss of existing patronage (membership or clientele). They are assumed to meet this test unless we demonstrate otherwise.

In most cases, it would be difficult to demonstrate such a loss and generally it is in the Department's best interest to entertain a fixed payment for reasons cited earlier. Experience has shown that a fixed payment would be less than moving and reestablishment expenses and this information should be explained to the displacee.

A displaced nonprofit organization that meets the criteria described earlier is eligible to claim a fixed payment of a minimum of $1,000 to a maximum of $20,000.

The amount of this payment is the average gross revenue of the organization less administrative expenses from the two years prior to displacement. Examples are shown on Pages 89 and 89.

If the nonprofit organization was not in existence for the two full years prior to displacement, like businesses and farm operations, the gross revenue less administrative expenses will be prorated to an annual amount for the partial year or over a two year period, whichever is more advantage to the displacee. Examples are shown on Page 89.

Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that provide money for the organization to operate.

Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other items as well as fund raising expenses. Expenses for carrying out the purpose of the nonprofit organization are not included.

Any claim for a payment in excess of the $1,000 minimum must be supported by certified financial statements or tax returns and a completed Fixed Payment for Non-Residential Move (See Appendix).

Nonprofit organizations or exempt organizations can apply to the Internal Revenue Service for special tax-exempt status. The organization must be organized and operated for charitable purposes that serve the public. Charitable purposes include community development, services for children, elderly, disabled or poor, legal services, educational services, health services, arts and culture, etc.

- The nonprofit organization will file Form 990 (Return of Organization Exempt From Income Tax) annually with the Internal Revenue Service
    - Line 12 ("Total revenue") is total revenue received
    - Part II ("Statement of Functional Expenses") shows a breakdown of how funds are used

  - Column A is total of all expenses
  - Column B shows amount spent on program services or its tax-exempt purpose
  - Column C shows the administrative expenses
  - Column D shows the expenses of fund raising
  - Totals are carried back to Lines 13-17 of page 1

- The amount used to compute the payment is:
  - Column C ("Management and general")

If the nonprofit organization intends to claim only the minimum payment of $1,000 a statement signed by the organization indicating that fact is generally sufficient to document the file and generate payment. There may be cases when more documentation is needed and the Chief Relocation Advisor should be consulted.

ADVERTISING DEVICES (SIGNS)

In Iowa, when an advertising sign is located within the proposed acquisition area, it is nearly always considered a non-residential personal property move and the owner of the sign is eligible for reimbursement of those actual and reasonable expenses that the Iowa Department of Transportation determines to be necessary for a successful move.

The major difference between relocating an advertising sign and other personal property is that many signs (generally off-premise) are subject to Iowa laws regulating them along the state's primary and interstate highways. The law defines various types of outdoor signs and presents the general prohibitions and controls which apply to them.

GENERAL PROHIBITIONS
These general prohibitions apply to all types of signs involving relocation activities.

- No sign may encroach on or hang over the highway right of way.

- No sign may be lighted so it impairs the vision of any motor vehicle driver.

- No sign may obstruct the view of any highway or railroad to the extent it makes it dangerous to use the highway.

- No sign may imitate or resemble an official traffic control sign, signal or device.

- No sign may obscure or physically interfere with, an official traffic control sign, signal or device.