

federal register

THURSDAY, FEBRUARY 20, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 35



PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Revised Guidelines

RULES AND REGULATIONS

Title 24—Housing and Urban Development
SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-241]

PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Revised Guidelines

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601) the Department is amending Title 24, Part 42 of the Code of Federal Regulations to incorporate revisions in the guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (General Services Administration Federal Management Circular 74-8) published on October 4, 1974. In addition, amendments have been made to simplify and consolidate certain provisions and to provide new rules governing eligibility for certain aspects of relocation payments in connection with Code Enforcement, Interim Assistance, voluntary rehabilitation activities, and business moving expenses.

On September 27, 1973, (38 FR 26923) the Department first published these amendments for public comment as notice of proposed rule making. The Department has now considered the comments received and promulgates these amendments to be effective forty-five days after publication.

Principal changes and the Department's response to significant comments are set forth below.

The rules governing eligibility for relocation payments in connection with the low-rent public housing programs, code enforcement, voluntary rehabilitation activities and the interim assistance program have been revised and simplified for greater ease in administration of these requirements.

The regulations have been revised to set forth the rules governing eligibility in connection with the community development block grant program.

In response to comments received several changes have been made regarding eligible business moving expenses. The suggestion regarding a liberalization of the rule governing allowable expenses for alteration or improvement and physical changes to structures or premises has been accepted. The provision as now constituted permits these expenses to be payable in an amount not to exceed \$100,000 for each displacement. The rules governing business self-moves have been simplified and clarified to indicate that no documentation will be required when a business self-moves and submits a claim not exceeding the amount of the low bid obtained from a mover in accordance with these regulations. The suggestion that the provision governing actual direct loss of property be greatly simplified and abbreviated has been accepted.

In response to comments received, business expenses in connection with searching for replacement property have been limited to a maximum of \$500 per claim.

The requirements governing nonprofit organizations have been clarified. Comments received regarding the status of mobile homes have led to the adoption of § 42.90(f) dealing with this subject in relation to the Replacement Housing Payment authorized by that section and to the payments authorized by § 42.95.

The comment that the Department should reinstitute the provision governing advance payments in hardship cases has been accepted and is reflected in § 42.175.

The suggestion that all references to set-offs against relocation payment claims be eliminated has been accepted.

The requirements governing temporary moves of individuals, families and business concerns previously appearing in §§ 42.65 and 42.120 have been deleted. The Department remains concerned that these requirements should be applied where appropriate, but has become persuaded by the suggestion that they do not properly belong in regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which imposes no obligations with respect to temporary displacements. The Department will undertake to promulgate these administrative requirements elsewhere.

Accordingly, Part 42 is amended as follows:

Subpart A—General

- | | |
|---|---|
| Sec. | Purpose. |
| 42.1 | Superseded. |
| 42.5 | Statement of policy. |
| 42.10 | Statement of applicable law. |
| 42.15 | Definitions. |
| 42.20 | Applicability of regulations. |
| 42.25 | Assurances. |
| 42.30 | Federal share of costs of relocation payments and assistance. |
| 42.35 | Payments in condemnation proceedings and negotiated purchases. |
| 42.40 | |
| Subpart B—Relocation Payments | |
| 42.45 | Purpose. |
| 42.50 | Relocation payments by State agency. |
| 42.55 | Basic eligibility conditions. |
| 42.60 | Filing of claims. |
| 42.65 | Actual reasonable moving expenses. |
| 42.70 | Actual direct losses of tangible personal property. |
| 42.75 | Actual reasonable expenses in searching for a replacement business or farm. |
| 42.80 | Alternate payments—individuals and families. |
| 42.85 | Alternate payments—business and farm operations. |
| 42.90 | Replacement housing payments for homeowners. |
| 42.95 | Replacement housing payments for tenants and certain others. |
| Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing | |
| 42.100 | Purpose. |
| 42.105 | Relocation assistance advisory program. |
| 42.110 | Eligibility for services. |
| 42.115 | Minimum requirements of relocation assistance advisory program. |

Sec.

- 42.120 Requirement of adequate replacement housing prior to displacement; notices to displaced persons.
- 42.125 Coordination of relocation activities.
- Subpart D—Real Property Acquisition**
- 42.130 Purpose.
- 42.135 Real property acquisition practices.
- 42.136 Notice of intent to acquire real property.
- 42.137 Notice of land acquisition procedures.
- 42.138 Notice of State agency's determination not to acquire.
- 42.140 Payments—expenses incidental to transfer of title.
- 42.141 Statement of Settlement Cost.
- 42.145 Payments—litigation expenses.
- 42.150 Effect upon property acquisition.

Subpart E—Administration

- 42.155 Purpose.
- 42.160 Schedules of comparable replacement dwellings.
- 42.165 Notice to persons in project area.
- 42.168 Manner of notice.
- 42.170 Review of claims.
- 42.175 Prompt payment; advances.
- 42.180 Accounts and records.
- 42.185 Payments not to be considered as income.
- 42.190 Displacement in connection with more than one project.
- 42.195 Policies and requirements of HUD.
- 42.200 Waivers.

AUTHORITY: 84 Stat. 1894; 42 U.S.C. 4601.

Subpart A—General

§ 42.1 Purpose.

The purpose of this subpart is to set forth provisions of general applicability with respect to the regulations in this Part. Such provisions relate to (a) the effect of the regulations in this Part on previously issued regulations pertaining to relocation payments, (b) statements of applicable policy and law, (c) definitions of pertinent terms, (d) a description of the dates, and the entities or persons, on or to which the regulations in this part are applicable, and the assurances required in connection with such applicability, (e) the extent of Federal participation in the costs of relocation payments and assistance, and (f) the effect on payments provided under the regulations in this Part of duplicate payments made in condemnation proceedings and negotiated purchases.

§ 42.5 Superseded.

The regulations in this Part supersede those appearing at Part 41 of this subtitle (35 FR 14307-14, effective September 10, 1970) to the extent that the regulations issued hereunder are, under § 42.25, applicable. The regulations in this Part also supersede those appearing at Part 42 of this subtitle (36 FR 8795-98) effective May 13, 1971, as amended (37 FR 16603 effective August 17, 1972 and 38 FR 25172 effective September 12, 1973). The regulations so superseded shall not apply to any acquisition and/or displacement occurring on and after the effective date of the regulations in this Part, which shall be governed solely by these regulations.

§ 42.10 Statement of policy.

The purpose of the regulations in this Part is to carry out the following poli-

cles of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ((42 U.S.C. 4601); 84 Stat. 1899; Pub. L. 91-646) (hereinafter referred to as the "Act"):

(a) To insure that uniform, fair and equitable treatment be afforded persons displaced as a result of federally-assisted projects in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole, and

(b) In the acquisition of real property for a federally-assisted project, to encourage and expedite acquisition by agreements with owners of such property to avoid litigation and relieve congestion in courts, to assure consistent treatment for owners of real property to be so acquired, and to promote public confidence in Federal land acquisition.

§ 42.15 Statement of applicable law.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899; Pub. L. 91-646) requires satisfactory assurances from a State agency that specified relocation payments and relocation assistance will be provided, and replacement dwellings will be available to displaced persons as a condition to Federal approval of any grant or loan to, or contract or agreement with, such State agency under which Federal financial assistance will be made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act.

(b) Section 305 of the Act requires satisfactory assurances from a State agency that in acquiring real property it will be guided, to the greatest extent practicable under State law, by specified land acquisition policies, and that specified payments will be made to property owners, as a condition to Federal approval of any grant or loan to, or contract or agreement with, any State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date Act.

(c) Section 211(c) of the Act provides that any grant to, or contract or agreement with, a State agency executed before the effective date of the Act under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after such date, shall be amended to include the cost of providing payments and services under the Act.

(d) Section 211(a) of the Act provides that the cost to a State agency of providing such payments and assistance shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency. Section 211(a) also provides that where such Federal financial assistance is by loan, the Federal agency shall loan the State agency the first \$25,000 of such costs.

(e) Subject to section 211(c) of the Act, section 220(a) repealed the following provisions of law: Section 114 of the Housing Act of 1949 (42 U.S.C. 1465); paragraphs (7) (b) (iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8); section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074); section 107(b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307). Subject to section 221(c) of the Act, section 306 repealed sections 401, 402, and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071-3073). Sections 220(b) and 306 of the Act provide that any rights or liabilities existing under prior Acts shall not be affected by such repeals.

(f) Section 221 of the Act provides that the Act shall take effect on the date of its enactment (January 2, 1971) except that with regard to acquisitions or displacements occurring prior to July 1, 1972, sections 210 and 305 of said Act with respect to assurances required of State agencies shall be held applicable to a State only to the extent that such State was able under its laws to comply with these sections, and that certain repeals (specified in paragraph (e) of this section) made by sections 220(a), and 306 of the Act do not apply to any State so long as sections 210 and 305 were not applicable in such State prior to July 1, 1972.

§ 42.20 Definitions.

For the purpose of the regulations in this part, the following terms shall mean:

(a) *Business*. Any lawful activity, excepting a farm operation, conducted primarily: (1) For the purchase, sale, lease, and rental of personal and real property, and the manufacture, processing, or marketing of products, commodities or any other personal property; (2) for the sale of services to the public; (3) by a non-profit organization; or (4) solely for the purposes of payments under §§ 42.65, 42.70 and 42.75, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(b) *Comparable replacement dwelling*. A dwelling which is (1) decent, safe and sanitary, and comparable to the acquired dwelling with respect to number of rooms or habitable living space, but in any event adequate to accommodate the displaced person; (2) in an area not subjected to unreasonable adverse environmental conditions from either natural or man-made sources, and not generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities and reasonably accessible to the displaced person's present or potential place of employment; (3) available on the private market to the

displaced person and available to all persons regardless of race, color, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968; and which is available to all persons regardless of sex; (4) to the extent practicable and where consistent with paragraph (b) (1) of this section, functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing; and (5) within the financial means of the displaced person, provided that this subparagraph (5) shall be construed only in accordance with the intent to put such person in an equal or better position: *Provided*, That if housing meeting the requirements of this subparagraph (b) is not available, the State agency may, upon proper finding of the need therefor, consider available housing exceeding these basic criteria.

(c) *Decent, safe and sanitary housing*. Housing in sound, clean and weather-tight condition, in conformance with local housing codes (or in the absence of local housing codes, or where the standards contained in any such code are determined by HUD to be inadequate, in conformance with standards established by HUD) and which meets the following minimum standards:

(1) Each housekeeping unit shall include a kitchen with a fully usable sink, a stove or connection for a stove, a separate and complete bathroom, hot and cold running water in both bathroom and kitchen, an adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(2) Each nonhousekeeping unit shall be in conformance with local code standards for boarding houses, hotels and other dwellings for congregate living. If such local codes do not include requirements relating to space and sanitary facilities in this connection, standards shall be subject to the approval of HUD.

(3) Occupancy standards shall be in conformance with local codes or HUD-approved requirements, whichever of these is higher.

(d) *Displaced person*. A person as defined in § 42.20(1) who meets the basic eligibility requirements specified in § 42.55, and (except for the low-rent public housing program) as set out in general terms below:

(1) Such person moves from real property within the project area or moves his personal property from such real property on or after the applicable date specified in § 42.55 and either:

(2) Such person is displaced as a result of acquisition of such real property in whole or in part for a project, as provided in § 42.55(e); or

(3) Such person is displaced as a result of code enforcement, voluntary rehabilitation, improvement of private property, or demolition, as provided in paragraphs (f), (g), and (h) of § 42.55.

(e) *Dwelling*. The place of permanent or customary and usual abode of a person, including a single-family dwelling, a single-family unit in a two-family, multifamily or multipurpose dwelling, a

unit of a condominium or cooperative housing project, a nonhousekeeping unit, or any other residential unit, including a mobile home which is either considered to be real property under State law or which cannot be moved without substantial damage or unreasonable cost, or is not a decent, safe and sanitary dwelling.

(f) *Family.* Two or more individuals who by blood, marriage, adoption, or mutual consent live together as a family unit.

(g) *Farm operation.* 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.

(h) *Federal financial assistance.* A grant, loan, or contribution (except any Federal guarantee or insurance) made by HUD, including a grant, loan or contribution specified below:

(1) A community development block grant under title I of the Housing and Community Development Act of 1974 (88 Stat. 633 (42 U.S.C. 5301));

(2) A loan, a grant, or a loan and grant, for an urban renewal project under title I of the Housing Act of 1949 (63 Stat. 413, 414 (42 U.S.C. 1450));

(3) A grant for concentrated code enforcement and public improvements under section 117 of the Housing Act of 1949 (79 Stat. 478 (42 U.S.C. 1468));

(4) A grant for the demolition of unsafe structures under section 116 of the Housing Act of 1949 (79 Stat. 477 (42 U.S.C. 1467));

(5) A grant for interim assistance to slums or blighted areas under section 118 of the Housing and Urban Development Act of 1949 (82 Stat. 525 (42 U.S.C. 1468a));

(6) A loan or annual contribution, made in connection with low-rent public housing projects under the U.S. Housing Act of 1937 (50 Stat. 888 (42 U.S.C. 1401 et seq.));

(7) A grant for open-space use or for a historic preservation or urban beautification project under title VII of the Housing Act of 1961 (75 Stat. 183 (42 U.S.C. 1500) as amended);

(8) A grant for a neighborhood facilities program under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(9) A public facility loan under title II of the Housing Amendments of 1955 (69 Stat. 642 (42 U.S.C. 1491));

(10) A water and sewer facilities grant under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(11) A grant for advance acquisition of land under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(12) A grant for the purpose of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255 (42 U.S.C. 3301));

(13) Loans or grants to assist educational institutions in construction of

housing and other educational facilities under title I of the Housing Act of 1950 (64 Stat. 48, 77 (12 U.S.C. 1749)) where such payments are made to a State agency;

(14) Loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 (73 Stat. 654, 667 (12 U.S.C. 1701q)) where such loans are made to a State agency;

(15) Where contributions are made to a State agency and the performance by such State agency, or by a private body acting on behalf of such State agency of undertakings necessary to enable it to receive such contributions will be the direct cause of displacement, the payment of contributions specified below.

(i) Assistance payments under section 235 and interest reduction payments under section 236 of the National Housing Act (48 Stat. 1246 (12 U.S.C. 1715z and 1715z-1)),

(ii) Below market interest rates provided under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715-1),

(iii) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (79 Stat. 451 (12 U.S.C. 1701s)),

(iv) Grants under section 713(a) and loans under section 714(a) of title VII of the Housing and Urban Development Act of 1970 (Pub. L. 91-609, 84 Stat. 1791) to assist in financing new community development programs.

(i) *HUD.* The Secretary of Housing and Urban Development or an officer or employee duly authorized to perform the functions of the Secretary.

(j) *Initiation of negotiations.* Except as provided in §§ 42.90(b)(3) and 42.95(b)(5), the initial written offer made by the acquiring agency to the owner of real property to be acquired for a project of the amount established as just compensation for such property in accordance with § 42.135.

(k) *Mortgage.* Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(l) *Person.* Any individual, family, partnership, corporation, or association. For purposes of an alternate payment under § 42.80 and a replacement housing payment under §§ 42.90 and 42.95, two or more individuals (regardless of whether they are family members or not) living together in, and displaced from, a single dwelling, shall be regarded as one person.

(m) *Personal property (tangible personal property).* (1) Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered personal property and is noncompensable (other than for moving expenses) under the State law of eminent domain, and (2) in the case of a tenant, fixtures and equipment which the tenant may lawfully, and at his election determines to,

move and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall take due consideration of how it is identified in the acquisition appraisals and the closing or settlement statement with respect to the real property acquisitions.

(n) *Plan.* (1) A duly approved formal plan, as exists from time to time, for any project as defined in this Part and any action program implementing such plan, or (2) in the case of a project for which no formal plan is required the application by the State agency as approved by HUD and modified from time to time.

(o) *Project.* Any undertaking which receives Federal financial assistance and to which the Act is applicable pursuant to § 42.25.

(p) *Project area.* An area which HUD has approved for the carrying out of project activities.

(q) *Relocation payment.* A payment specified under §§ 42.65 through 42.95.

(r) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(s) *State agency.* The National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or two or more States or two or more political subdivisions of a State or States. Unless otherwise indicated in the context of a specific provision of these regulations, the term "State agency" as used in these regulations shall mean the particular State agency to which Federal financial assistance is made available for a specific project.

(t) *Voluntary rehabilitation.* Structural or other substantial repairs to, or alterations to, or demolition of, any building or other improvement on land within a project area, undertaken by an owner in order to conform to the property rehabilitation standards or other applicable provisions set forth in the applicable plan.

§ 42.25 Applicability of regulations.

(a) *Applicability of the regulations in this part.* (1) Except as provided in paragraph (a)(2) of this section, these regulations are applicable to all acquisition and displacements occurring on or after their effective date.

(2) For the low-rent public housing program under the U.S. Housing Act of 1937, Subpart D of these Regulations (implementing Title III of the Act) is applicable to all acquisitions of real property by the State agency except: (i) Acquisitions by the turnkey method; (ii) acquisitions in connection with construction for leasing projects (i.e., leases or agreements to lease) where such acquisitions result from proposals submitted in response to public invitation; and (iii)

leasing or acquisition of existing structures after rehabilitation where such leasing or acquisition results from proposals submitted in response to public invitation. For the purposes of this paragraph (a) (2), a lease is considered to be an "acquisition of real property" where the term, including options for extension, is for more than ten years.

(3) Subpart D of the regulations in this Part shall not apply in the case of any acquisition of property from any public body.

(b) *Applicability of previously published regulations.* The regulations covering Relocation Payments appearing at Part 41 of this subtitle and at 35 FR 14307-14 (effective Sept. 10, 1970) shall apply to (1) displacements occurring on or after September 10, 1970, and prior to January 2, 1971, and (2) displacements occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that the regulations appearing at Part 42, as issued at 36 FR 8785 (effective May 13, 1971) do not apply. The regulations appearing at Part 42 of this subtitle as issued at 36 FR 8785 (effective May 13, 1971) shall apply to all acquisition or displacement occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that a State agency has furnished HUD with satisfactory assurances under § 42.30 with respect to the federally assisted activity under which such acquisition or displacement takes place. Where, as of January 2, 1971, a State agency was not legally empowered under State law to make such assurances, to the extent that the State agency subsequently became so empowered and furnished such assurances prior to July 1, 1972, the regulations appearing at 36 FR 8785 shall apply to acquisitions and displacements occurring on or after the date on which the State agency became legally empowered to furnish such assurances. On and after July 1, 1972, the regulations appearing at 36 FR 8785 apply to all acquisition or displacement occurring prior to the effective date of the amended regulations in this Part.

(c) *Continuation of rights and liabilities.* Nothing in paragraph (a) or (b) of this section shall be deemed to affect any rights or liabilities in existence as of January 2, 1971, under any laws repealed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 42.30 Assurances.

(a) *Displacement.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or part of the cost of any undertaking which will result in the displacement of any person on or after such date, a State agency shall submit assurances (either separately or by contract) satisfactory to HUD that with respect to such displacement—

(1) Relocation payments shall be provided to displaced persons in accordance with §§ 42.65 through 42.95;

(2) Relocation assistance programs offering the services described in Subpart C shall be provided to such displaced persons;

(3) Within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to displaced persons in accordance with § 42.120;

(4) Affected persons will be adequately informed of the benefits, policies and procedures provided in these regulations; and

(5) The relocation process will be carried out in such a manner as to provide displaced persons with uniform and consistent services, and replacement housing under § 42.120 will be available and the same range of choices with respect to such housing will be offered to all displaced persons regardless of race, color, religion or national origin pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3501 et seq.) and Executive Order 11063 (27 FR 11527) and which is available to all persons regardless of sex.

(b) *Acquisition.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or a part of the cost of an undertaking which will result in the acquisition of real property on or after such date the State agency shall, to the extent it is authorized under State law, submit assurances (either separately or by contract) satisfactory to HUD that with respect to such acquisition:

(1) It will, to the greatest extent practicable under State law, be guided by the land acquisition policies and provisions in § 42.135;

(2) Property owners will be paid or reimbursed for necessary expenses specified in §§ 42.140 and 42.145; and

(3) Affected persons will be adequately informed of the benefits, policies and procedures provided in the regulations in this Part: *Provided*, That in the case of the community development block grant program any acquisition of real property (whether such acquisition is federally-assisted or not) shall be subject to this paragraph and to the regulations in Subpart D if such acquisition occurs on or after the date of submission of an application requesting Federal financial assistance which is funded for a proposed activity in connection with which the acquisition has been or will be undertaken.

§ 42.35 Federal share of costs of relocation payments and assistance.

Payments made and assistance provided in accordance with Subpart B and C of this part and §§ 42.140 and 42.145, and pursuant to a grant, loan, contract, or agreement for Federal financial assistance for a project, shall be included as a part of the cost of such project and shared in the same manner and to the same extent as other program or project costs: *Provided*, That where such Fed-

eral financial assistance is by loan, HUD shall loan the full amount of the first \$25,000 of the cost to the State agency for providing such payments and assistance to an eligible displaced person or a person from whom property is acquired.

§ 42.40 Payments in condemnation proceedings and negotiated purchases.

No payment shall be made under the regulations in this Part which would duplicate a payment received by a displaced person or owner under the State law of eminent domain, and which is included in an award in eminent domain or in the purchase price for any property acquired by negotiation, if such payment so received is determined by HUD to have the same purpose or effect as a payment under this Part, and to be part of the cost of the program or project for which Federal financial assistance is available.

Subpart B—Relocation Payments

§ 42.45 Purpose.

The purpose of this Subpart is to set forth the types of, and specific eligibility criteria for, relocation payments to displaced persons.

§ 42.50 Relocation payments by State agency.

The State agency shall make relocation payments to or on behalf of eligible displaced persons in accordance with and to the full extent permitted by §§ 42.65 through 42.95.

§ 42.55 Basic eligibility conditions.

(a) *General.* The rules set forth in this paragraph shall apply to all displaced persons except those who move from real property or move personal property from real property as the result of activities undertaken pursuant to the community development block grant, low-rent public housing or model cities programs. A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project, or (ii) on or after the date of HUD approval of a budget for project execution activities resulting in displacement, provided that the contract for Federal financial assistance for the contemplated project is thereafter executed, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (e) of this section, (ii) code enforcement, voluntary rehabilitation, improvement of private property, or demolition as provided in paragraphs (f), (g), and (h) of this section.

(b) *Community development block grant program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment under the community development block grant program if such person moves from real property or moves his

personal property from real property as a result of the acquisition of such real property for an activity assisted under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) and the regulations appearing at 42 CFR Part 570. Any displacement resulting from the acquisition of real property (whether such acquisition is itself federally-assisted or not) shall be subject to the regulations in this Part if such displacement occurs on or after the date of submission of an application requesting Federal financial assistance which is funded for a proposed activity in connection with which the acquisition has been or will be undertaken.

(c) *Model cities program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment under the model cities program if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project or (ii) if the displacement occurs prior to the approval of the contract for Federal financial assistance, on or after the date approved by HUD for a specific undertaking upon the request of the State agency: *Provided*, That a contract of Federal financial assistance is thereafter executed: *And provided further*, That the comprehensive city demonstration program thereafter identifies the undertaking as one being carried out in connection with such program, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (e) of this section, or (ii) code enforcement, voluntary rehabilitation, or demolition as provided in paragraphs (f), and (h) of this section.

(3) In all cases in which a comprehensive city demonstration program is amended to incorporate any of the activities specified in this section which were carried out prior to the date of such amendment, and to recognize the eligibility of persons displaced by reason of any of such activities, a person so displaced shall qualify as a displaced person for purposes of establishing basic eligibility for a relocation payment: *Provided*, That the date of displacement for such person shall be deemed to be the date on which the comprehensive city demonstration program was amended to include the activity bringing about displacement: *And provided further*, That the regulations in effect at the time of such amendment shall be fully applicable to each such displacement.

(d) *Low-rent public housing program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if such person moves, including a move of personal property, under the following circumstances:

(1) *Conventional bid, or acquisition of existing housing other than under para-*

graph (2) below: If (i) such person moves from the project site on or after the date of the annual contributions contract, or the date of tentative site approval by HUD, if it is later, and (ii) the move is a displacement by acquisition as provided in paragraph (e) of this section: *Provided*, That an option agreement shall not be considered as a notice of intent to acquire or a firm offer to acquire as provided in paragraph (e) (3).

(2) Turnkey new construction or rehabilitation: If such person (i) moves from the project site, other than for cause, on or after the date of the Contract of Sale, or (ii) moves from the project site on or after the date of the annual contributions contract and prior to the date of the Contract of Sale.

(3) Housing assistance payments program: If such person moves from a dwelling on and after the date of execution of the annual contributions contract: *Provided*, That eligibility under the regulations in this Part shall be limited to cases in which a public housing agency itself acquires real property from which such person is displaced.

(e) *Displacement by acquisition.* Displacement as a result of the acquisition of real property includes displacement which is a result of:

(1) The obtaining by the acquiring agency of title to or the right to possession of such real property for a project;

(2) The written order of the acquiring agency to vacate such property for a project; or

(3) The issuance by the acquiring agency of a written notice to the owner of its intent to acquire the real property for such project, in accordance with § 42.136: *Provided*, That a person (other than the former owner or tenant of any real property acquired by a State agency) who enters into rental occupancy of real property after its acquisition by a State agency and thereafter moves from such real property shall not be considered displaced by acquisition for the purposes of the regulations in this Part. If no written notice of intent to acquire the real property is issued, the issuance by the acquiring agency to the owner of a firm offer to acquire shall constitute a notice of intent to acquire: *Provided*, That no person moving from real property after the State agency has served upon him the notice described in § 42.137 shall be deemed eligible for any of the relocation assistance or relocation payments described in this Part. Displacement as a result of acquisition of real property in the urban renewal, neighborhood development, and model cities programs shall include displacement which is a result of the acquisition of real property by a State agency other than the State agency receiving Federal financial assistance as defined in § 42.20(h), to the extent that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is not applicable to such other State agency in connection with such displacement, and if the acquisition is undertaken in accordance with the plan for the project, or, in the case of the model cities program, if the

comprehensive city demonstration program identifies the acquisition as being carried out in connection with such program.

(f) *Displacement by code enforcement and voluntary rehabilitation.*—(1) *Urban renewal, neighborhood development, and code enforcement programs.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the urban renewal, neighborhood development, and code enforcement programs if the vacation of the real property is the result of code enforcement, as further specified in paragraph (f) (3) of this section, or of voluntary rehabilitation, as further specified in paragraph (f) (4) of this section with respect to the property occupied and if such activities are undertaken in accordance with the plan: *Provided*, That no person displaced by the activities described in such paragraphs (f) (3) and (f) (4) in connection with the community development block grant program shall be deemed eligible under the regulations in this Part.

(2) *Model cities program.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the model cities program if the vacation of the real property is the result of code enforcement, as specified in paragraph (f) (3) of this section, or of voluntary rehabilitation activities, as specified in paragraph (f) (4) of this section, with respect to the property occupied and if such activities are undertaken in accordance with the comprehensive city demonstration program which identifies the undertaking as being carried out in connection with such program.

(3) *Code enforcement.* A person shall be deemed to be displaced as a result of code enforcement if the vacating of real property occurs after: The State agency has (a) determined that code enforcement cannot reasonably be undertaken without the vacation of the real property, and (b) has notified the owner and occupant of the real property in writing, return receipt requested, of its intention to undertake such code enforcement within not less than 90 nor more than 180 days from the date of the receipt of such notice: *Provided*, That such notice shall confer no eligibility under this Part upon any person who moves from the real property more than 180 days from the date of his receipt of the notice unless code enforcement activities have commenced, and the notice shall so state.

(4) *Voluntary rehabilitation.* A person shall be deemed to be displaced as a result of voluntary rehabilitation if the vacating of real property occurs after: The State agency has (i) agreed with the owner of the real property that rehabilitation activities will be undertaken in accordance with HUD policies and requirements; and (ii) the State agency has determined that such activities cannot reasonably be undertaken without the vacating of the real property; and (iii) the State agency has notified the owner and occupant of the real property in writing, return receipt requested, of

the owner's agreement to undertake voluntary rehabilitation within not less than 90 nor more than 180 days from the date of the receipt of such notice: *Provided*, That such notice shall confer no eligibility under this part upon any person who moves from the real property more than 180 days from the date of his receipt of the notice unless voluntary rehabilitation has commenced; and the notice shall so state;

(g) *Displacement by improvement of private properties in the interim assistance program.* A person shall be deemed displaced by the improvement of private property under the interim assistance program if the vacating of the real property is the result of:

(1) Improvement with respect to the property occupied and undertaken in accordance with the plan; and

(2) The State agency has determined that such improvement cannot reasonably be undertaken without the vacation of the real property and has notified the owner and occupant of the real property in writing, return receipt requested, of its intention to undertake such improvement within not less than 90 nor more than 180 days from the date of the receipt of such notice: *Provided*, That such notice shall confer no eligibility under this Part upon any person who moves from the real property more than 180 days from the date of his receipt of the notice, unless improvement has commenced, and the notice shall so state.

(h) *Displacement by Demolition Grant Program.* A person shall be deemed displaced as a result of demolition if the vacating of real property is the result of demolition undertaken in accordance with the plan for a project, and occurs on or after the date on which the State agency has ordered the real property to be vacated and demolished under State and local law on the ground that it is structurally unsound or unfit for human habitation.

(i) *Moves from dwellings as a result of displacement from a business or farm operation.* Notwithstanding any other provision of this Subpart, any person who moves from real property or moves his personal property from real property on or after the applicable date specified in paragraphs (a), (b), (c) or (d) of this section as a result of displacement (as specified in paragraphs (a), (b), (c) or (d) of this section) from other real property on which such person conducts a business or farm operation shall qualify as a displaced person for the purposes of establishing basic eligibility for the following payments and assistance: (1) Actual reasonable moving expenses under § 42.65, (2) actual direct losses of personal property under § 42.70, (3) actual reasonable expenses in searching for a replacement business or farm under § 42.75, (4) an alternate payment for individuals and families under § 42.80, and (5) relocation advisory assistance under Subpart C of this part.

§ 42.60 Filing of claims.

(a) *General.* All claims shall be submitted to the State agency on the appro-

priate HUD form, supported by such documentation as may be required by the specific provisions of the regulations in this Part applicable to the payment claimed, and by such other documentation as may be required by the State agency.

(b) *Time for filing claims.* Any claim for a payment shall be submitted to the State agency within a period of 18 months after displacement of a claimant.

§ 42.65 Actual reasonable moving expenses.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of § 42.55 and the requirements of this section, for actual reasonable expenses specified below and subject to the limitations set forth in paragraph (d) of this section for moving himself, his family, business, farm operation or other personal property. In all cases the amount of a payment shall not exceed the cost of the least expensive feasible method of accomplishing the activity in connection with which a claim has been filed, as determined by the State agency. The moving and related expenses for which claims may be filed shall include:

(1) Transportation not to exceed a distance of 50 miles from the site from which displaced, except where the State agency determines that relocation beyond such distance of 50 miles is justified;

(2) Packing, crating, unpacking and uncrating personal property;

(3) Such storage of personal property, for a period generally not to exceed 12 months, as the State agency determines to be necessary in connection with relocation;

(4) Insurance of personal property while in storage or transit; and

(5) The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonably available.

(b) *Actual reasonable moving expenses—displaced business concerns and farm operations.* In addition to those compensable expenses set forth in paragraph (a) of this section, a displaced business concern or farm operation may file a claim for the following moving and related expenses:

(1) Disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the State agency;

(2) The cost, directly related to displacement and subject to the limitations imposed by this subparagraph of:

(i) Any addition, improvement, alteration or other physical change in or to any structure or its premises in connection with the reassembling, reconnection or reinstallation of machinery, equipment or other personal property, or otherwise required to render such

structure, premises, or equipment suitable for a displaced business; or

(ii) Expenditures made by a business concern to adapt or convert relocated equipment to the use of a different type of power supply.

Claims for payment under this subparagraph shall be subject to the following limitations:

(iii) Reimbursable costs shall be limited to \$100,000;

(iv) The cost shall be found by the State agency to be required by law or ordinance or to be otherwise necessary to the reestablishment of the displaced business;

(v) The cost could not be avoided or substantially reduced at an alternate available and suitable site to which the business was referred.

(vi) The State agency shall deduct the amount, if any, realized by the displaced business concern as compensation for comparable additions, improvements, alterations or other physical changes to the structure and premises acquired, as part of the payment made for the acquisition of such structure and premises; and

(vii) In any case in which the claim for payment exceeds \$25,000 the State agency shall obtain HUD concurrence before making payment.

(3) The cost of any license, permit or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location;

(4) The cost of any professional services necessary to the planning, preparation for or accomplishment of a move by a displaced business concern, or its reestablishment at a new location, including, but not limited to, architects', attorneys' or engineers' fees, or consultants' charges; and

(5) Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (i) the replacement cost, minus any proceeds received from its sale, or (ii) the estimated cost of moving, whichever is less.

(c) *Requirements—Moving a business or farm operation.* Except as provided in this paragraph, no payment for actual reasonable moving expenses shall be made to a displaced person for moving his business or farm operation unless:

(1) The State agency has received, at least 30 days (or such earlier date as the State agency may determine necessary, but not earlier than 90 days) prior to the moving date, written notice from such displaced person of his intention to move or dispose of personal property used in connection with such business or farm operation (which property shall be described generally in the notice), and the date of such intended move or disposition; and

(2) The displaced person has permitted, at all reasonable times, the inspection by or on behalf of the State agency of such property at the site from

which the business or farm operation is displaced. For the purpose of this subsection, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The State agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the agency has determined that there was reasonable cause for the failure of the displaced person to give such notice, and the agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

(d) *Special requirements and limitations.*—(1) *Businesses and farm operations—general limitation on moving expenses.* Payment to a displaced person for moving expenses in connection with moving a business or farm operation shall not exceed the amount of the low bid submitted in accordance with paragraph (e) (2) of this section.

(2) *Business and farm operations—self-moves.* A displaced person electing to self-move a business or farm operation may submit a claim for his moving expenses to the State agency in an amount not to exceed an acceptable low bid obtained by the State agency, without documentation of moving expenses actually incurred.

(3) *Personal property of low value and high bulk—Business or farm operation.* Where, in the judgment of the State agency, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This subparagraph may in appropriate situations be applied to claims involving the moving of junkyards, stockpiles, sand, gravel, minerals, and metals.

(e) *Documentation in support of a claim.*—(1) *General.* Except in the case of a displaced person conducting a self-move of a business or farm operation as provided in paragraph (d) (2) of this section, a claim for a payment under paragraph (a) of this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the State agency, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the State agency, and the agency may pay the mover directly.

(2) *Businesses and farm operations.* Each claim in excess of \$1,000 for the costs incurred by a displaced person for moving his business or farm operation shall be supported by bids obtained by the displaced person at least 15 days prior to the commencement of the move from three reputable firms covering the moving costs involved. Whenever it is

not feasible to obtain three bids for any category of work, a written justification shall be submitted by the displaced person; and no relocation payment shall be allowed in such cases unless the State agency has approved the justification. Where such bid requirement cannot be complied with under State law, or where estimates in an amount of less than \$1,000 were obtained in good faith by the displaced person, such claim shall be supported by estimates in lieu of bids.

§ 42.70 Actual direct losses of tangible personal property.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the eligibility requirements of § 42.65, and this section, for actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, in an amount determined by the State agency in accordance with the provisions of this section.

(b) *Determining actual direct loss of property.* Actual direct loss of property shall be determined on the basis of the lesser of:

(1) Fair market value of the property for continued use at its location prior to displacement plus the costs of a bona fide effort to sell such property; or

(2) Estimated reasonable costs of moving such property, plus the costs of a bona fide effort to sell such property.

In every case a bona fide effort to sell such property shall first be made. The proceeds realized from any sale of all or part of such property shall be deducted from this determination. Fair market value for continued use shall be calculated and bona fide efforts to sell undertaken in accordance with HUD policies and procedures.

(c) *Documentation to support claim.* A claim for payment hereunder shall be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim.

§ 42.75 Actual reasonable expenses in searching for a replacement business or farm.

A displaced person who satisfies the pertinent eligibility requirements of § 42.65 with respect to actual reasonable moving expenses, shall be eligible for a payment in an amount not to exceed \$500, in searching for a replacement business or farm, including expenses incurred for: (a) Transportation; (b) meals and lodging away from home; (c) time spent in searching, based on the hourly wage rate of the salary or earnings of the displaced person or his representative, but not to exceed \$10 per hour; and (d) fees paid to a real estate agent or broker to locate a replacement business or farm.

§ 42.80 Alternate payments—individuals and families.

(a) *General.* A person or family, who is displaced from a dwelling and is eligi-

ble for a payment for actual reasonable moving expenses under § 42.65 may elect to receive and shall be paid, in lieu of such payment: (1) A moving expense allowance not to exceed \$300 and determined in accordance with approved Federal Highway Administration schedules established by the State in which the displacement occurred, and (2) a dislocation allowance of \$200.

(b) *Limitations—joint occupants of single-family dwellings.* If individuals (regardless of whether they are family members, or not) who are joint occupants of a single-family dwelling submit more than one claim, an eligible claimant for a payment under paragraph (a) of this section may be paid only his reasonable prorated share (as determined by the State agency) of the total payment applicable to a single individual, and the total of alternate payments made to all such claimants moving from such dwelling shall not exceed the total fixed payment applicable to a single individual, in accordance with HUD policies and procedures.

§ 42.85 Alternate payments—businesses and farm operations.

(a) *General.* A displaced person who is displaced from his place of business or farm operation and is eligible for payments under § 42.65, § 42.70, or § 42.75 and complies with the requirements set out in paragraphs (b), (d), and (e) of this section may elect to receive and shall be paid, in lieu of such payments, a payment equal to the average annual net earnings of the business or farm operation (but not including a business as defined in § 42.20(a) (4) of this part) as determined in accordance with paragraph (b) of this section, except that such payment shall be not less than \$2,500 nor more than \$10,000. For purposes of this section, the dollar limitation specified in the preceding sentence shall apply to a single business, regardless of whether it is carried on under one or more legal entities.

(b) *Requirements—businesses.* No payment shall be made under this section unless the State agency determines that:

(1) the business cannot be relocated without a substantial loss of its existing patronage, based on a consideration of all pertinent circumstances including such factors as the type of business conducted, the nature of the clientele, and the relative importance to the displaced business of its present and proposed location;

(2) the business is not part of a commercial enterprise having another establishment which is not being acquired for a project and which is engaged in the same or similar business: *Provided*, That in any case in which the sole remaining facility of a business which has been displaced from its principal location (i) had average annual gross receipts of less than \$2,000 during the two taxable years prior to displacement of the major component of the business, or (ii) average annual net earnings of less than \$1,000 during the two taxable years prior to the displacement of the major component of

the business, the remaining facility will not be considered another "establishment," for purposes of this paragraph; and

(3) the displaced business (i) had average annual gross receipts of at least \$2,000 during the two taxable years prior to displacement; or (ii) the displaced business had average annual net earnings of at least \$1,000 during the two taxable years prior to displacement; or (iii) the displaced business contributed at least 33 1/3 percent of the total gross income of the owner(s) during each of the two taxable years prior to displacement: *Provided*, That if in any case the State agency determines that the two year period prior to displacement is not representative of average receipts, earnings or income, it may make use of a more representative period.

(c) *Determination of number of "businesses."* In determining whether one or more legal entities, all of which have been acquired constitute a single business, the following factors, among others, shall be considered:

(1) The extent to which the same premises and equipment are shared;

(2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled;

(3) The extent to which such entities are held out to the public, and to those customarily dealing with such entities, as one business; and

(4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

(d) *Requirements—farms.* (1) In the case of a farm operation, no payment shall be made under this section unless the State agency determines that the farm met the definition of a farm operation prior to its acquisition; (2) if the displacement is limited to only part of the farm operation, the operator will be considered to have been displaced from a farm operation if: (i) The part taken met the definition of a farm operation prior to the taking; or, (ii) the taking caused the operator to be displaced from the farm operation on the remaining land; or (iii) the taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement; (3) Each farm operation shall be subject to the requirements of paragraph (b) (3) of this section, regarding income.

(e) *Requirements—nonprofit organizations.* In the case of a nonprofit organization, no payment shall be made under this section unless the State agency determines that (1) the nonprofit organization cannot be relocated without a substantial loss of its existing patronage (the term "existing patronage" as used in connection with a nonprofit organization includes the membership, persons, community, or clientele served or affected by the activities of the nonprofit organization); and (2) the nonprofit organization is not a part of an enterprise having at least one other establishment not being acquired which is

engaged in the same or similar activity. A payment to a nonprofit organization shall be limited to \$2,500.

(f) *Net earnings.* The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the head of the State agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period. The term "owner" as used in this paragraph includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the State agency. For purposes of determining a principal stockholder, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(g) *Documentation in support of a claim.* A claim for payment under paragraph (a) of this section shall be supported by such reasonable evidence of earnings as may be approved by HUD.

§ 42.90 Replacement housing payments for homeowners.

(a) *General.* A State agency shall make to a displaced person who is displaced from a dwelling and who satisfies the pertinent eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed a combined total of \$15,000 for:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired for the project equals the reasonable cost (as determined in accordance with paragraph (c) (1) of this section) of a comparable replacement dwelling: *Provided*, That such amount shall not exceed the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling. *And provided further*, That in the case of any person displaced as the result of demolition of a dwelling pursuant to code enforcement or voluntary rehabilitation in accordance with § 42.55(f) of the regulations in this Part, the amount of residual value of the real property following such demolition and prior to redevelopment shall be deemed its 'acquisition cost' for purposes of this subparagraph. In all cases of displacement by code enforcement or voluntary rehabilitation not involving demolition of a dwelling, the fair market value of the real property at the time of displacement shall be deemed its 'acquisition cost' for purposes of this subparagraph.

(2) The amount, if any, to compensate the displaced person for any increased interest costs, as determined in accordance with paragraph (c) (2) of this section, which such displaced person is required to pay for financing the acquisition

of a replacement dwelling: *Provided*, That no such payment shall be made unless the dwelling acquired by the State agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling.

(3) Reasonable expenses, determined in accordance with paragraph (c) (3) of this section, incurred by the displaced person incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) *Eligibility conditions.* (1) A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person (i) is displaced from a dwelling that (A) is acquired for a project, or (B) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as overcrowding, and is deemed acquired under the regulations in this Part, (ii) has actually owned and occupied such dwelling for not less than 180 days prior to the initiation of negotiations for its acquisition; (iii) purchases and occupies a replacement dwelling which is decent, safe, and sanitary, within 1 year subsequent to the date on which he received final payment from the State agency of all costs of the acquired dwelling or the date on which he moves from the acquired dwelling, whichever is later.

(2) For the purpose of this paragraph (b), a person has "owned" a dwelling if he (i) held fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from date of acquisition of the property for the project; (ii) held an interest in a cooperative housing project which includes the rights of occupancy of a dwelling unit therein, (iii) was the contract purchaser of any of the foregoing estates or interest, or (iv) had a leasehold interest with an option to purchase.

(3) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (A) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135; (B) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentified properties, the date of the initial written offer for each property by the developer to the owner or the date of the

contract between the developer and the State agency, whichever is later;

(iii) In the case of displacement arising pursuant to the housing assistance payments program, the date specified in § 42.55(d) (3).

(4) The term "Purchases," for the purpose of this paragraph (b), includes the acquisition, construction or rehabilitation of a dwelling, the purchase and rehabilitation of a substandard dwelling, the relocation or relocation and rehabilitation of an existing dwelling, or the entering into a contract to purchase, or for the construction of, a dwelling to be constructed on a site to be provided by a builder or developer or on a site which the displaced person owns or acquires for such purpose. Where completion of construction, rehabilitation, or relocation of a replacement dwelling is delayed, for reasons beyond control of the displaced person, beyond the date by which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date the displaced person enters into a contract for such construction, rehabilitation, or relocation or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated, if, in fact, the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

(5) Where, for reasons of hardship and beyond the control of the displaced person, such person is unable to occupy the replacement dwelling by the date by which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date on which the displaced person became entitled to possession of such dwelling: *Provided*, That the displaced person occupies the replacement dwelling within such reasonable period of time as shall be determined by HUD.

(c) *Computation of replacement housing payment.*—(1) *Cost of comparable replacement dwelling.* The cost of a comparable replacement dwelling for purposes of paragraph (a) (1) of this section, shall be determined by the method specified in paragraph (c) (1) (i) except as provided in paragraph (c) (1) (ii) or (iii);

(i) *Comparative method:* On a case-by-case basis by determining the sales price of one or more dwellings which have been selected by the State agency and which are most representative of the acquired dwelling unit and meet the definition of "comparable replacement housing" set out in § 42.20 (b);

(ii) *Schedule method:* By the use of a schedule as described in § 42.160, in cases in which a State agency determines that the use of a schedule is desirable.

(iii) *Alternative method:* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Interest payments.* Interest payments shall be equal to the difference between (i) the aggregate interest ap-

pliable to the amount of the principal of the mortgage on the acquired dwelling over its remaining term at the time of acquisition, and other debt service costs, and (ii) the aggregate interest paid on the mortgage on the replacement dwelling, and other debt service costs: *Provided*, That the term and amount of the mortgage on the replacement dwelling for purposes of this paragraph shall be the lesser of (iii) the remaining term and amount of the mortgage on the acquired dwelling, or (iv) the actual term and amount of the mortgage on the replacement dwelling: *And provided further*, That such differential shall be reduced to discounted present value. In making such computation, the aggregate interest and other debt service costs with respect to the replacement dwelling shall not exceed the prevailing interest rate currently charged by the mortgage lending institutions in the general area in which the replacement dwelling is located. The discount rate for computing the present worth of future payments of increased interest shall be computed at the prevailing interest rate paid on savings deposited by commercial banks in the general area in which the replacement dwelling is located: *And provided further*, That the amount of the debt service cost with respect to the replacement dwelling shall be the lesser of (v) the debt service cost based on the cost required for a comparable dwelling, or (vi) the debt service cost based on the actual cost of the replacement dwelling.

(3) *Expenses incident to the purchase of the replacement dwelling.* Such payments shall be the amount necessary to reimburse the displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling, including (i) legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incident to recording. (ii) Lender, FRA or VA appraisal. (iii) FHA or VA application fee. (iv) Certification of structural soundness. (v) Credit report. (vi) Owner's and mortgagee's evidence or assurance of title. (vii) Escrow agent's fee. (viii) Sales or transfer taxes: *Provided*, That no payment for any such expenses shall exceed the amount attributable to the purchase of a comparable dwelling, as defined by § 42.20 (b) and selected in accordance with this section. No reimbursement shall be made for any fee, cost, charge, or expense which is determined to be a part of the debt service or finance charge under Title I of the Truth in Lending Act (Pub. L. 90-321), and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Limitation—joint owner-occupants of single-family dwellings.* The total amount of payment under this section to individuals (regardless of whether they are family members or not) who were joint owner-occupants of a single-family dwelling acquired as a result of

the project shall be subject to the limitation of § 42.80 (b).

(e) *Descent and distribution of replacement housing payments.* A replacement housing payment computed in accordance with this section or with § 42.95 shall be personal to the displaced person claiming such payment, and shall not be paid to his heirs or assigns to the extent to which such payment, or any portion thereof, has not been disbursed prior to the death of such displaced person (except as to the amount attributable to such displaced person's actual period of occupancy of comparable replacement housing): *Provided*, That such payment shall be fully disbursed in any case in which the displaced person was a member of a family living with him in the dwelling or dwelling unit from which he was displaced, which continues to occupy together the comparable dwelling selected in accordance with the regulations in this Part; *And provided further*, That so much of a replacement housing payment as will satisfy the legal obligation of an estate in connection with the selection of a comparable dwelling by or on behalf of a deceased displaced person shall be disbursed to the estate.

(f) *Mobile Homes.*—(1) *Acquisition of mobile homes.* Any person displaced as the result of the acquisition of a mobile home (actually owned and occupied by such person in accordance with paragraph (b) of this section or actually occupied in accordance with § 42.95 (b)) who otherwise meets the eligibility requirements of the regulations in this Part shall be eligible for a payment under this section or under the provisions of § 42.95: *Provided*, That payments shall be computed in accordance with paragraph (c) (1) of this section or § 42.95 (c) based upon the reasonable cost of a comparable mobile home.

(2) *Displacement from mobile homes not caused by acquisition.* For purposes of this section and § 42.95, any person required to move a mobile home (actually owned and occupied by such person in accordance with the provisions of paragraph (b) of this section or actually occupied in accordance with § 42.95 (b)) from real property acquired for a project as defined by the regulations in this Part shall be deemed displaced by reason of acquisition, notwithstanding the fact that the mobile home cannot be acquired as real property pursuant to State law, if:

(i) The mobile home cannot be moved without substantial damage or unreasonable cost as determined by the State agency; or

(ii) The mobile home is not a decent, safe and sanitary dwelling, as determined by the State agency.

The State agency shall determine the salvage value of the mobile home and shall deem such value the "acquisition cost" in computing a payment under paragraph (c) of this section.

(3) The displaced person must be determined to have moved to a comparable dwelling as defined by § 42.20 (b) of the regulations in this Part.

(4) Payments shall be computed in accordance with paragraph (c) (1) of this section or § 42.95(c) based upon the reasonable cost of a comparable mobile home.

(g) *Presidentially-declared Disasters.* Notwithstanding any other provision of the regulations in this Part, no person otherwise eligible for a payment under this section or under § 42.95 shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set forth in the regulations in this Part.

§ 42.95 Replacement housing payments for tenants and certain others.

(a) *General.* A State agency shall make to a displaced person who satisfies the eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed \$4,000 for either:

(1) An amount, computed in accordance with paragraph (c) (1) of this section, necessary to enable such displaced person to lease or rent a comparable replacement dwelling for a period not to exceed 4 years; or

(2) An amount, computed in accordance with paragraph (c) (2) of this section, necessary to enable such displaced person to make a downpayment (including incidental expenses described in § 42.90(a) (3), on the purchase of a comparable dwelling: *Provided*, That if such amount exceeds \$2,000, such displaced person shall equally match any such amount in excess of \$2,000 in making the downpayment.

(b) *Eligibility conditions.* A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person:

(1) Has actually and lawfully occupied the dwelling from which he is displaced for a period of not less than 90 days prior to the initiation of negotiations for acquisition of such dwelling; and

(2) Is not eligible to receive a replacement housing payment for homeowners under § 42.90; and

(3) Where such displaced person was the owner of the dwelling, such dwelling is (i) acquired for a project or (ii) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as overcrowding and is deemed acquired under the regulations in this Part; and

(4) In cases in which a payment specified in paragraph (a) (2) of this section is sought such displaced person shall within one year from the date of displacement purchase and occupy a replacement dwelling. For purposes of this paragraph, the term "purchase" shall be defined in accordance with § 42.90(b) (4).

(5) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement

of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (A) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135, and (B) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentified properties, the date of the initial written offer for each property by the developer to the owner or the date of the contract between the developer and the State agency, whichever is later.

(iii) In the case of displacement arising pursuant to the housing assistance payments program, the date specified in § 42.55(d) (3).

(c) *Computation of payment.*—(1) *Rentals.* The amount of payment necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a) (1) of this section, shall be computed by subtracting 48 times the base monthly rental of the displaced person (as determined in accordance with paragraph (c) (1) (i) of this section), from 48 times the comparable monthly rental for a replacement dwelling (as determined in accordance with paragraph (c) (1) (ii) of this section): *Provided*, That in no case may such amount exceed the difference between 48 times the base monthly rental as determined in accordance with this paragraph and 48 times the monthly rental actually required for the comparable dwelling occupied by the displaced person.

(i) *Base monthly rental.* The base monthly rental shall be the average monthly rental paid by the displaced person for the 3-month period prior to initiation of negotiations: *Provided*, That where the displaced person was the owner of the dwelling from which he was displaced, the base monthly rental shall be the average monthly rental during such three month period for similar dwellings in an area not generally less desirable than that of the dwelling from which the person was displaced. (Hereinafter referred to as the economic rent.) *And provided further*, That where necessary to satisfy the definition under § 42.20(b) (5) of comparable replacement housing as being within the financial means of the displaced person, the amount of such base monthly rental shall not exceed 25 percent of such person's monthly income.

(ii) *Comparable monthly rental.* The comparable-monthly rental shall be the amount of rental determined by the State agency by the method specified in paragraph (a), except as provided in paragraph (b) or (c);

(A) *Comparative method.* On a case-by-case basis by determining the average month's rent for one or more dwellings which have been selected by the State agency and which are most representative of the acquired dwelling and meet the definition of "comparable replacement dwelling" set out in § 42.20 (b);

(B) *Schedule method.* By the use of a schedule as described in § 42.160, in cases in which a State agency determines that the use of a schedule is desirable.

(C) *Alternative method.* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Downpayment.* The downpayment for which a payment specified under paragraph (a) (2) of this section may be made, together with any matching share which may be required, shall not exceed (i) the amount ordinarily required for a downpayment for the purchase of a comparable dwelling where such purchase is financed by a conventional loan, and (ii) expenses incident to the purchase of a replacement dwelling computed in accordance with § 42.90(c) (3) (including purchaser's points and loan origination charges, where customary): *Provided*, That if the amount actually required of the displaced person as a downpayment for the purchase of a comparable dwelling is more than the amount specified in paragraph (c) (2) (i) of this section, such amount shall be the amount which the State agency determines to be necessary for such downpayment. The full amount of a downpayment under this section shall be applied to the purchase price of the replacement dwelling and shall be shown on the closing statement.

(d) *Limitation on payments and disbursement of payments.*—(1) *Joint occupants of single-family dwellings.* The total amount of payment under this section to individuals (regardless of whether they are family members or not) who were joint occupants of a single-family dwelling acquired for the project shall be subject to the limitation of § 42.80(b).

(2) *Rental replacement housing for displaced owner-occupant.* A displaced person who is not eligible for a replacement housing payment under § 42.90 because he elects to rent rather than purchase a replacement dwelling, and who meets the eligibility conditions specified in paragraph (b) of this section, is eligible for the payment specified in paragraph (a) (1) of this section.

(3) *Rental replacement housing payments for dependents.* Notwithstanding the provisions of paragraph (c) of this section, the amount of payments necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a) (1) of this section, shall, in the case of displaced persons designated dependents in accordance with this subparagraph, be limited to the difference between 48 times the rental actually paid for the unit previously occupied by the displaced person and 48 times the monthly rental actually required for the

comparable dwelling occupied by the displaced person. For purposes of this subparagraph, a "dependent" shall be any person who derives fifty-one percent or more of his income in the form of gifts from any private person or any academic scholarship or stipend. Full-time students and persons residing in hospitals, sanitariums and similar institutions shall be presumed to be dependents: *Provided*, That any displaced person presumed to be a dependent may rebut this presumption by demonstrating that fifty percent or more of his income is derived from sources other than gifts from another private person or academic scholarships or stipends.

(e) *Disbursement*. The Secretary shall have the authority to prescribe the manner for the disbursement of payments under this section and may from time to time establish procedures governing such disbursements.

Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing

§ 42.100 Purpose.

The purpose of this Subpart is to set forth requirements with respect to the development and implementation of a relocation assistance advisory program for the provision of specified services and to prescribe the obligation of the State agency not to displace or cause the displacement of any person from his dwelling without adequate notice and unless adequate replacement housing is available.

§ 42.105 Relocation assistance advisory program.

State agencies shall develop and implement a relocation assistance advisory program which satisfies the requirements of § 42.115 and of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Such program shall be administered so as to provide advisory services which offer maximum assistance to minimize the hardship of displacement and to assure that (a) all persons displaced from their dwellings are relocated into housing meeting the criteria described in § 42.120, and (b) all persons displaced from their places of business or farm operations are assisted in reestablishing with a minimum of delay and loss of earnings.

§ 42.110 Eligibility for services.

Relocation assistance advisory services shall be available to:

(a) Any person who occupies property from which he will be displaced for a project or whose personal property will be so displaced: *Provided*, That whenever the State agency determines that the project will result in substantial economic injury to any person, the State agency may offer such person relocation advisory services; and

(b) Any person who moves from real property or moves his personal property from real property, because he is displaced from other real property on which he conducts a business or farm operation.

§ 42.115 Minimum requirements of relocation assistance advisory program.

Each relocation assistance advisory program undertaken pursuant to § 42.105 shall include, at a minimum, such measures, facilities or services as may be necessary or appropriate in order to:

(a) Fully inform eligible persons under this Subpart at the earliest possible date as to the availability of relocation payments and assistance and the eligibility requirements therefor, as well as the procedures for obtaining such payments and assistance;

(b) Through direct personal interview, determine the extent of the need of each such eligible person for relocation assistance;

(c) Provide current and continuing information on the availability, prices, and rentals of comparable sales and rental housing, and of comparable commercial properties and locations;

(d) Assure that, within a reasonable period of time prior to displacement, there will be available adequate replacement housing meeting the criteria described in § 42.120 equal in number to the number of, and available to, such eligible persons who will be displaced;

(e) Assist any such eligible person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(f) Supply to such eligible persons information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal or State programs, offering assistance to displaced persons;

(g) Provide any services required to insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, or source of income.

§ 42.120 Requirement of adequate replacement housing prior to displacement; notices to displaced persons.

(a) *Availability*. No person shall be required to move from his dwelling on account of a project unless within a reasonable period of time prior to displacement there are available to such person replacement dwellings which are:

(1) Decent, safe, and sanitary;

(2) Demonstrated to be open to all persons regardless of race, color, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968, and available without discrimination based on sex or source of income;

(3) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and in an area not generally less desirable nor less accessible with regard to public utilities and services, schools, churches, recreation, transportation, and other public and commercial facilities;

(4) Reasonably accessible to the displaced person's place of employment or potential employment;

(5) Adequate in size, facilities and amenities to accommodate the needs of the displaced person and his family; and

(6) Available on the market at a rental or price within the financial means of the displaced person;

(b) *Reasonable offer of replacement housing*. The requirements of this paragraph shall be deemed to have been satisfied if a person is offered and refuses without justification reasonable choices of specifically identified replacement dwellings which fully meet the criteria set forth in this paragraph.

(c) *Notice*. No person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation, without at least 90 days' written notice from the State agency acquiring the real property or ordering its demolition: *Provided*, That a shorter period of notice may be given when the State agency determines, with HUD concurrence, that a 90-day period is impracticable. In addition, State agencies shall simultaneously notify each individual tenant to be displaced as well as each owner. Where persons are expected to be displaced by code enforcement, voluntary rehabilitation or the improvement of private properties as defined in § 42.55 (f) and (g), the State agency shall take all reasonable steps to urge and assure that owners of real property give tenants to be displaced at least 90 days' written notice that the activities will take place or that the premises must be vacated (except where the continued occupancy of the dwelling constitutes a substantial danger to the health or safety of the occupants). This policy shall be included by the State agency in all notices served on property owners requiring that code enforcement work be done.

(d) *Waiver*. The requirement in paragraph (a) of this section may be waived only by the Secretary of Housing and Urban Development under the following circumstances:

(1) When displacement is necessitated by a major disaster as defined in section 102(2) of the "Disaster Relief Act of 1974" (88 Stat. 143, 42 U.S.C. 5121); or

(2) During periods of Presidentially declared national emergencies; or

(3) Such other extraordinary or emergency situations where immediate possession of real property is of crucial importance.

§ 42.125 Coordination of relocation activities.

State agencies shall contact other Federal, State, and local governmental agencies to determine the extent of present and proposed governmental actions in or affecting the locality (or localities) which may affect the carrying out of their relocation assistance program and the availability of housing resources. State agencies shall be required to stage the project activities in a manner which assures the availability of a sufficient supply of adequate replacement housing

meeting requirements of § 42.120(a), giving consideration to the relocation needs of other programs being carried out in a locality and the progress of construction or rehabilitation of replacement dwellings or other relocation accommodations. In addition, State agencies should cooperate with other displacing agencies to insure that relocation assistance and relocation payments will be administered in a manner consistent with the promotion of uniform treatment of displacees from all such programs.

Subpart D—Real Property Acquisition

§ 42.130 Purpose.

The purpose of this Subpart is to set forth the practices to be followed with respect to acquisition of real property for a project, and to provide for payments to property owners for expenses incidental to transfer of title and, in limited situations, payments for litigation expenses (see § 42.25(a)(2) for applicability of this Subpart to the low-rent public housing program).

§ 42.135 Real property acquisition practices.

In order to carry out the purpose of the regulations in this Part, as set out in § 42.10(b) with respect to the acquisition of real property, the State agency shall, to the greatest extent practicable under State law, be guided by the following policies in acquiring real property for any project:

(a) The State agency shall make every reasonable effort to acquire such real property expeditiously by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his representative designated in writing shall be given an opportunity, by reasonable advance written notice or otherwise, to accompany the appraiser during his inspection of the property. HUD shall designate the minimum required number of appraisals to be so obtained.

(c) Before the initiation of negotiations for the acquisition of such real property, the State agency shall establish an amount it believes to be just compensation therefor. Such amount shall be (1) the State agency's review appraiser's determination of the fair market value of the property, or (2) if HUD concurrence is required, the fair market value as concurred in by HUD, or (3) if required by specific HUD program regulations, the amount determined by HUD to be just compensation. The date of valuation ordinarily will be the date of the appraisal review.

(d) Promptly after the amount of just compensation is established in accordance with this section, the State agency shall offer to acquire the property for the full amount so established, and shall provide the owner with a written Statement of the Basis for Determination of Just Compensation (the Statement). The Statement shall include, as a minimum, the following:

(1) An accurate legal description and location identification of the real prop-

erty and the interest therein to be acquired.

(2) An inventory identifying the buildings, structures, fixtures, and other improvements, including appurtenant removable building equipment, which are considered to be part of the real property for which the offer of just compensation is made, and an identification of the owner of each item of the inventory not owned by the owner of the land.

(3) A recital of the amount of the offer and a statement that such amount:

(i) Is the full amount believed by the State agency to be just compensation for the property;

(ii) Is not less than the approved appraisal of the fair market value of the property;

(iii) Disregards any decrease or increase in the fair market value caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner;

(iv) Does not reflect any consideration of or allowance for any relocation assistance and payments which the owner is entitled to receive under the regulations in this Part or of the State agency's agreement to pay certain settlement costs.

(4) The recognized definition of the term "fair market value" shall be set forth by the State agency in the Statement.

(5) If only a portion of the property is to be acquired, the Statement shall include an apportionment of the total estimated just compensation for the partial acquisition between: (i) An amount representing estimated just compensation for the real property to be acquired, which compensation shall be the amount considered to be the fair market value of the part or interest to be acquired as part of the whole property, and (ii) an amount representing any net damages or benefits to the remaining property.

(6) If any building, structure, fixture, or other improvement, comprising part of the real property, has been identified as being the property of a tenant who has the right or obligation to remove it at the expiration of his term, the total just compensation for the real property, including the property of such tenant, shall be apportioned to the land owner and to the tenant so that the amount apportioned to each of the tenant's improvements to the real property will be the greater of:

(i) The amount which the tenant's improvement contributes to the fair market value of the real property to be acquired; or

(ii) The fair market value of the tenant's improvement for removal from the real property.

The basis of such apportionment shall be included in the statement.

(e) If the State agency acquires any interest in real property, it shall offer to acquire at least an equal interest in all buildings, structures, fixtures, or other improvements located thereon and which

it requires to be removed from the real property or which it determines will be adversely affected by the use to which the real property will be put.

(f) Payment under this section shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the real property involved disclaims all interest in the improvements of the tenant and the tenant assigns, transfers, and releases to the State agency all his right, title, and interest in and to such improvements. Nothing in this section shall deprive the tenant of the right to reject payment thereunder and to obtain payment of just compensation for his property interest as otherwise provided for by applicable law.

(g) If the acquisition of a portion of a property would leave the owner with an uneconomic remnant, the State agency shall offer to acquire such uneconomic remnant. For purposes of the regulations in this subpart an "uneconomic remnant" shall be a parcel of real property in which the owner retains an interest after partial acquisition of his property and which has little or no utility or value to such owner.

(h) If arrangements are made to rent the property to the owner, or his tenant, for a short term, or for a period subject to termination by the State agency or short notice, the rental shall not exceed the lesser of:

(1) The fair rental value of the property to a short-term occupier;

(2) The pro rata portion of the fair rental value for a typical rental period.

If the owner or his tenant is an occupant of a dwelling, the rental for such dwelling shall not exceed twenty-five (25) percent of his income.

(i) The State agency shall make reasonable efforts to discuss with the owner its offer to purchase his real property. The owner shall be given reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the State agency shall carefully consider the owner's presentation.

(j) If the evidence presented by an owner or a material change in the character or condition of the property indicates the need for new appraisal evidence, or if a significant delay has occurred since the time of an appraisal the State agency shall have the appraisal updated or obtain a new appraisal. If a modification in the State agency's determination of just compensation is warranted, an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner.

(k) No owner shall be required to surrender possession of real property before the State agency pays the agreed purchase price, or deposits with the court in which the State agency has instituted a condemnation proceeding for such property, for the benefit of the owner, an amount not less than the fair market

value of such property, determined in accordance with paragraph (c) of this section, or the amount of the award of compensation in the condemnation proceeding for such property.

(1) In no event shall the State agency advance the time of condemnation or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action which is coercive or misleading in nature in order to compel or induce an agreement on the price to be paid for the property.

(m) If any interest in real property is to be acquired by exercise of the power of eminent domain, the State agency shall institute formal condemnation proceedings to prove the fact of the taking of real property.

(n) In any case in which a notice is served by the State agency of its intention to acquire real property, initiation of negotiations shall occur within 90 days of the service of such notice of intention.

§ 42.136 Notice of intent to acquire real property.

The State agency shall provide the owner and each tenant in occupancy as of the date its determination to acquire an official written notice of its intent to acquire the real property. Such notice shall be given as soon as feasible after the effective date of approval of the determination to acquire the real property. The notice shall specify, as a minimum, that: (a) A specific area has been designated for inclusion within a HUD-assisted project; (b) The owner's property has been determined to be included in such area; and (c) It has been determined that the owner's property, which shall be generally described, is to be acquired in connection with such program or project. In any case in which a notice of intent to acquire is served, initiation of negotiations for the acquisition of real property which is the subject of such notice, shall commence within 90 days of the service of such notice as set forth in § 42.135(n) of the regulations in this Part.

§ 42.137 Notice of land acquisition procedures.

(a) At the time the State agency notifies an owner of its intention to acquire real property, it shall furnish him a written Notice of Land Acquisition Procedures, describing, in nontechnical terms, the State agency's acquisition procedures and the principal rights and options available to such owner.

(b) Such Notice shall include the following: (1) A description of the basic objectives of the State agency's land acquisition program and a reference to the availability of the State agency's statement covering relocation benefits for which an owner-occupant may be eligible;

(2) A statement that the owner or his representative designated in writing shall be given the opportunity to accompany each appraiser during his inspection of the property;

(3) A statement that if the acquisition of any part of real property would leave the owner with an uneconomic remnant as defined in § 42.135(g) the State agency will offer to acquire the uneconomic remnant;

(4) A statement that if the owner is not satisfied with the State agency's offer of just compensation, he may refuse to accept it and that if he can provide evidence concerning value or damage that warrants a change in the State agency's determination of just compensation, the price will be adjusted accordingly, and that if a voluntary agreement cannot be reached, the State agency will institute a formal condemnation proceeding against the property, depositing in the court the full amount of the State agency's estimate of just compensation;

(5) A statement identifying settlement and related costs that will be paid by the State agency;

(6) A statement that construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by § 42.120(a) will be available) or to move his business or farm operation, without at least 90 days' written notice from the State agency of the date by which such move is required: *Provided*, That shorter notice may be given where HUD determines that such 90-day notice is impracticable.

(7) A statement that if arrangements are made to rent the property to an owner or his tenant for a short term or for a period subject to termination by the Agency on short notice, the rental will not exceed the lesser of:

(i) The fair rental value of the property to a short-term occupier;

(ii) The pro rata portion of the fair rental value for a typical rental period; or

If the owner or his tenant is an occupant of a dwelling, the rental for such dwelling shall not exceed twenty-five (25) percent of his income.

§ 42.138 Notice of State agency's determination not to acquire.

Whenever a State agency which has issued a written notice of its intent to acquire, or a firm offer to acquire, subsequently determines not to acquire said property, the State agency shall serve a notice in writing, return receipt requested, on the owner, all persons occupying the property and any other person potentially eligible for relocation payments and assistance. This notice shall state that the State agency has determined not to acquire the property and that any person moving from the premises thereafter will not be eligible for relocation payments and assistance. This notice shall be served no later than 10 days from the date of the State agency's determination not to acquire.

§ 42.140 Payments—expenses incidental to transfer of title.

(a) *General.* The State agency, as soon as practicable after the date of payment

of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, shall reimburse the owner, to the extent the State agency deems fair and reasonable, for expenses such owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State agency;

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid and other charges for public services such as water, sewerage and trash collection, which are allocable to a period subsequent to the date of vesting of title in the State agency, or the effective date of possession of such real property by the State agency, whichever is earlier.

(b) *Documentation in support of a claim.* If real property is acquired by condemnation, a claim for payment under paragraph (a) of this section shall be submitted to the State agency and supported by such documentation as may be required by the State agency. If the real property is acquired by purchase, payment shall be made at settlement of the acquisition and accounted for in the settlement statement, on the basis of such documentation as may be required by the State agency.

(c) *Time for filing claims.* Each such claim shall be submitted to the State agency within a period of six months after the acquisition of the property.

§ 42.141 Statement of settlement cost.

A Statement of Settlement Cost shall be prepared and furnished to the owner at the settlement of the acquisition, or as soon as feasible after the award of the judgment in a condemnation proceeding. The Statement shall itemize all settlement costs regardless of whether they are actually paid at, before, or after the closing, and shall clearly separate charges paid by the owner. The Statement shall be dated and certified as true and correct by the closing attorney or other person handling the transaction.

§ 42.145 Payments—litigation expenses.

(a) *General.* The State agency shall reimburse the owner of any real property for the owner's reasonable costs, disbursements, and expenses of litigation, including attorney, appraisal, and engineering fees, actually incurred because of condemnation proceedings, if:

(1) In a condemnation proceeding instituted by the State agency to acquire such real property for a project, the final judgment of the court having jurisdiction over such proceeding is that the State agency cannot acquire the real property by condemnation; or

(2) Such proceeding is abandoned by the State agency other than pursuant to an agreed-upon settlement of the proposed acquisition of the property by direct purchase; or

(3) A court of competent jurisdiction renders a judgment in favor of the owner

as plaintiff in an inverse condemnation proceeding or the State agency effects a settlement of such proceeding.

(b) *Limitations.* No payment under paragraph (a) of this section shall be made unless the State agency is satisfied that the costs involved are reasonable and directly and necessarily related to such condemnation proceedings.

(c) *Documentation in support of a claim.* A claim for a payment under paragraph (a) of this section shall be submitted to the State agency and supported by such documentation as may be required by the State agency.

(d) *Time for filing claims.* Each claim shall be submitted to the State agency within a period of six months after final judgment in accordance with paragraph (a) (1) or (3) of this section, or the abandonment of a condemnation proceeding by a State agency, whichever is applicable.

§ 42.150 Effect upon property acquisition.

(a) The provisions of this Subpart D create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in these regulations shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or of damage not in existence immediately prior to January 2, 1971, the date of enactment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Subpart E—Administration

§ 42.155 Purpose.

The purpose of this Subpart is to set forth the provisions relating to the overall administration of the regulations in this Part.

§ 42.160 Schedules of prices of comparable replacement dwellings.

In cases in which a State agency determines that the use of a schedule is desirable, it may make use of schedules of representative price ranges of comparable replacement dwellings in the locality. Such schedules shall be used for determining the amount of replacement housing payments under §§ 42.90(a) (1) and 42.95(a) (2) and a separate schedule shall be used for determining the amount of payments under § 42.95(a) (1) of this Part. The schedules shall be consistent with the regulations in § 42.120 of this Part; shall be kept current; shall, to the maximum extent possible, reflect the costs set forth in schedules used by other State agencies in the locality; and shall be available in written form to all persons in the office of the State agency. If

there is an insufficient supply of comparable replacement housing meeting the definition of § 42.20(b), new, rehabilitated or more recently constructed housing, including publicly assisted housing, shall be used in developing the schedules.

§ 42.165 Notice to persons in project area.

The State agency shall furnish, at the earliest possible date, to all persons who own or occupy property within a project area (or the area of the federally-assisted activities) and who are anticipated to be displaced, a notice or information statement (not a notice of intent to acquire as described in § 42.136 of the regulations in this Part) advising them of (a) the availability of payments under these regulations to eligible persons, (b) the office where the conditions under which such payments will be made are available for inspection, (c) the earliest date on which such person may move and still qualify as a displaced person, (d) the availability of the grievance procedures appearing at Subparts F and G of this Part, and (e) such other information as may be required by HUD. The State agency shall take reasonable steps to publicize this information in language(s) and in a fashion most likely to be understood by the persons to be affected, such as by using the local media, posters in public places and other forms of public communication.

§ 42.166 Manner of notice.

Any notice required by this Part shall be personally serviced or sent by certified or registered first-class mail (return receipt requested).

§ 42.170 Review of claims.

The State agency is initially responsible for determining the eligibility of a claim for, and the amount of, any payment under the regulations in this Part and shall maintain in its files complete and proper documentation including HUD concurrences where required supporting the determination. The determination on each claim shall be made or approved either by the governing body of the agency or by the principal executive officer of the agency or his duly authorized designee.

§ 42.175 Prompt payment.

A payment shall be made by the State agency as promptly as possible after a person's eligibility has been determined in accordance with the regulations in this Part. Advance payments may be made in hardship cases where the State agency determines such advances are appropriate under the regulations in this Part.

§ 42.180 Accounts and records.

Accounts and records shall be subject to inspection or audit at all reasonable times by HUD. Records pertaining to eligibility for payments, including all claims, receipted bills, or other documentation in support of a claim, and records pertaining to action on a claim, shall be retained by the State agency for not less than 3 years after the completion of the project; or, in the case of the community development block grant program, not less than 3 years after the receipt by a displaced person of final payment pursuant to the regulations in this Part. Timely and complete reports shall be submitted in accordance with HUD requirements.

§ 42.185 Payments not to be considered as income.

No payment received under Subpart B of these regulations by a displaced person shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

§ 42.190 Displacement in connection with more than one project.

No person shall be entitled to more than one payment under each of §§ 42.65-42.95 and §§ 42.140 and 42.145 on account of a single displacement or a single acquisition, notwithstanding that the displacement or acquisition is in connection with more than one Federal or federally-assisted project.

§ 42.195 Policies and requirements of HUD.

All determinations or other actions by the State agency provided for under the regulations in this part shall be undertaken in accordance with the policies and requirements of HUD as issued from time to time.

§ 42.200 Waivers.

A waiver of any section of these regulations not required by law may be authorized only with respect to a particular claim and by the Secretary of Housing and Urban Development or his authorized designee after such claim has been reviewed by HUD: *Provided*, That the limitations provided in §§ 42.60, 42.140 and 42.145 with respect to the time of filing of claims may be waived by the State agency for good cause.

Effective date. These regulations shall be effective on March 31, 1975.

JAMES L. MITCHELL,
Under Secretary of Housing
and Urban Development.

[FR Doc.75-4595 Filed 2-19-75;8:45 am]

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House. Volumes for the following years are now available:

HERBERT HOOVER

1929----- \$13.30

HARRY S. TRUMAN

1945----- \$11.75	1949----- \$11.80
1946----- \$10.80	1950----- \$13.85
1947----- \$11.15	1951----- \$12.65
1948----- \$15.95	1952-53----- \$18.45

DWIGHT D. EISENHOWER

1953----- \$14.60	1957----- \$14.50
1954----- \$17.20	1958----- \$14.70
1955----- \$14.50	1959----- \$14.95
1956----- \$17.30	1960-61----- \$16.85

JOHN F. KENNEDY

1961----- \$14.35	1962----- \$15.55
1963----- \$15.35	

LYNDON B. JOHNSON

1963-64 (Book I)----- \$15.00	1966 (Book I)----- \$13.30
1963-64 (Book II)----- \$15.25	1966 (Book II)----- \$14.35
1965 (Book I)----- \$12.25	1967 (Book I)----- \$12.85
1965 (Book II)----- \$12.35	1967 (Book II)----- \$11.60
	1968-69 (Book I)----- \$14.05
	1968-69 (Book II)----- \$12.80

RICHARD NIXON

1969----- \$17.15	1971----- \$18.85
1970----- \$18.30	1972----- \$18.55

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

INCORRECT ISSUE NUMBER
SHOULD READ ISSUE 36

36