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primary purpose of the project or program undertaken by the displacing agency; and

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing agency is in accordance with State law.

(b) For the purposes of this section, the term *extraordinary expenses* means those expenses which, in the opinion of the displacing agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (See appendix A, of this part, § 24.307.)

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

Subpart E—Replacement Housing Payments

§ 24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less

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than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

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

(ii) The date the displacing agency's obligation under § 24.204 is met.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$22,500. (See also § 24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section; and

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential*—(1) *Basic computation.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 24.403(a); or

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

(2) *Mixed-use and multifamily properties.* If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(3) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see §24.3.)

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

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

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at §24.2); and

(iii) The current fair market value for residential use of the replacement site (see appendix A of this part, §24.401(c)(4)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

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

(d) *Increased mortgage interest costs.* The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. The payment for increased mortgage interest cost shall be the amount

which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d) (1) through (5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination the payment will be prorated and reduced accordingly. (See appendix A of this part.) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

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

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

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

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement

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

(5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

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

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

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

(4) Certification of structural soundness and termite inspection when required.

(5) Credit report.

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

(7) Escrow agent's fee.

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

(9) Such other costs as the Agency determines to be incidental to the purchase.

(f) *Rental assistance payment for 180-day homeowner.* A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed \$5,250, computed and disbursed in accordance with § 24.402(b).

[54 FR 8928, Mar. 2, 1989, as amended at 64 FR 7132, Feb. 12, 1999]

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§ 24.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

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

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

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

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

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

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment—(1) Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$5,250 for rental assistance. (See also § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

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

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

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