

# RELOCATION

## CHAPTER 6

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## RELOCATION

### 6.100 INTRODUCTION

The "UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970" and the "UNIFORM RELOCATION ACT AMENDMENTS OF 1987" insure the fair and equitable relocation and reestablishment of persons, businesses, farms and nonprofit organizations displaced as a result of federal or federally assisted programs. This is done so that displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole. It is the objective of the Right of Way Section through its Relocation Review component and of the Region Right of Way offices to assure compliance with the Uniform Act and to implement rules and regulations. No project shall be advertised for construction until all eligible displacees have either obtained or have the right of possession to comparable replacement housing, or an agent has offered them comparable replacement housing which is within their financial means and available for immediate occupancy.

### 6.120 POLICIES

#### 6.125 Dissemination of Relocation Information

Complete and correct relocation information shall be provided at project public meetings and to all potential displaced persons.

#### 6.130 Provision of Advisory Services

Relocation advisory services shall be offered and promptly provided to all eligible persons, and, when determined necessary, to persons adjacent to the project area.

#### 6.135 Offer of Benefits

All eligible displacees shall be informed of their relocation benefits and the requirements to obtain them. This shall be done verbally and in writing. Benefits offered displacees will be current.

#### 6.140 Reminder of Benefits

Displacees who are potentially eligible for relocation benefits but have not fulfilled the requirements for payment shall be sent timely written notifications of the possible loss of benefits and their expiration dates.

The agent is responsible for reminding displacees of these time limitations and assisting them in filing a timely claim.

#### 6.145 90-Day Provisional Notice to Vacate

All eligible persons lawfully occupying property within a project area who are required to relocate or have personal property to be moved will be given a 90-day notice.

#### 6.150 30-Day Notice to Vacate

All occupants required to relocate will be given a 30-day notice to vacate. This notice will not be given prior to payment for the real property. At the time the notice is delivered to residential occupants, at least one comparable replacement housing unit must be available within the financial means of the displacees.

#### 6.155 Decent, Safe, and Sanitary Housing

All residential displacees will be offered replacement housing which is decent, safe, and sanitary as defined within the glossary of this manual.

#### 6.160 Expeditious Claim Processing

All displacees shall be given assistance in securing documentation needed to support their claims for payment and in the preparation of relocation forms. Required inspections of dwellings and properties and payment of claims will be made promptly.

#### 6.165 Advance Payments

Displacees demonstrating the need for an advance relocation payment in order to avoid or reduce a hardship shall be issued such a payment, subject to the safeguards to ensure the objective of the payment is accomplished.

#### 6.170 Protective Renting

The Oregon Department of Transportation may rent a vacant dwelling unit being acquired in order to preclude the rental of the unit to a subsequent tenant who might be eligible for relocation benefits.

#### 6.175 Right of Appeal

All displacees have the right of appeal as to their eligibility for, or the amount of, payment for any relocation benefit. The right of appeal shall be described in information distributed at public meetings and to individual displacees as part of the information delivered at the initiation of negotiations. (Refer to Appeals, 6.925)

### **6.180 Reports and Records**

The Right of Way Section will maintain adequate reports and records to document all relocation efforts on any project. The reports and records shall be sufficient to indicate compliance with current relocation laws and regulations. Forms and records, including updated information shall be promptly forwarded to the Relocation Reviewer in the Right of Way Project Administration Unit.

### **6.182 Confidentiality of Relocation Records**

Current policy in the Oregon Public Records Law is that every person has a right to inspect any record of a state agency unless the record is excluded from disclosure by ORS 192.501 to 192.505. Some relocation documents may qualify for exclusion from disclosure. Any third party requests for disclosure of relocation information should be directed to the Project Administration Unit Manager or the Relocation Reviewer.

### **6.185 Title VI - Civil Rights Act**

Relocation policies and procedures under the administration of the Oregon Department of Transportation shall be non-discriminatory in accordance with Title VI of the Civil Rights Act of 1964, which states:

"Section 601: No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance."

### **6.190 Availability of Fair Housing**

Comparable replacement housing will be made available to all displacees prior to construction of a project, and replacement housing will be open to all persons regardless of race, color, religion, sex or national origin, in conformance with Title VIII of the U.S. Civil Rights Act of 1968.

### **6.195 Conflicts of Interest**

- a. The appraiser or acquisition agent on a file shall not compute the replacement housing payments on that file without the approval of the Right of Way Manager or designee.
- b. The agent who has computed a relocation benefit shall not deliver the benefit check.

There is no conflict for the agent to compute replacement housing payments and provide relocation assistance as long as this agent does not deliver the benefit check.

### **6.197 No Duplication of Payments**

No person shall receive any payment under this part if that person receives a payment under Federal, State, or local law, or from insurance proceeds, which is, determined by the right of way agent to have the same purpose and effect as such payment under this part.

The Oregon Department of Transportation is prohibited from making payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law.

The right of way agent is not required to conduct an exhaustive search for such other payments; the agent is only required to avoid creating duplication based on his or her knowledge at the time a payment under these regulations is computed.

## **6.200 RESPONSIBILITIES**

### **6.205 Right of Way Project Administration Unit Manager**

The Right of Way Manager appoints the Project Administration Unit Manager. It is the responsibility of the Project Administration Manager to:

1. Assist the Administration in any matters relating to relocation.
2. Prepare and distribute policy and procedural instructions, forms, and other materials necessary to insure the professional quality of the relocation program.

3. Coordinate relocation and relocation review policy and procedures with applicable state and federal laws to assure equitable treatment of displacees and maximum federal participation in project costs.
4. Have each relocation reviewed for accuracy, completeness, and adequacy of documentation and to see that deficiencies are corrected.
5. Recommend in-service training or other courses in relocation principles and practices for agents to the Right of Way Manager.

### **6.210 Relocation Reviewer**

The Relocation Reviewer is a senior agent in the Project Administration Unit. It is the responsibility of the Relocation Reviewer to:

1. Review environmental documents and reports to assure that relocation planning is adequate and current.
2. See that the relocation objectives of the Project Administration Unit are met.
3. Review relocation activities of region offices to assure full compliance with State and Federal policies and regulations.
4. Assist region personnel with relocation problems.
5. Keep region offices advised of any changes in the law or regulations which govern relocation.
6. Keep complete records of relocation activities on all files.
7. Coordinate the relocation appeal hearing process by informing displacees of the Section's policies and procedures, convening the appeal hearing, and advising the Hearings Officer regarding these policies and procedures.
8. Serve as a liaison between the Federal Highway Administration and the Oregon Department of Transportation, such as by requesting interpretations of the Act or regulations, and handling citations issued by the Federal Highway Administration.

### **6.220 Region Right of Way Manager**

The Manager shall designate a project manager to coordinate the provision of relocation services within the scope of the project. The Region Right of Way Manager also has sub delegated authority to review and approve moving claims, storage of personal property, and protective rent agreements up to \$10,000 without approval from the Project Administration Manager.

### **6.230 Project Manager Responsibility**

The project manager is a senior agent in a region office responsible for region review of relocation claims prepared by agents before they are sent to the Relocation Reviewer for processing. Project managers are also responsible for providing guidance in relocation matters.

### **6.240 RIGHT OF WAY CONSULTANTS**

On a given project, Right of Way Consultants may be used to perform some or all of the field relocation functions performed by Right of Way Agents and/or Right of Way Project Managers and discussed in this chapter. The extent of Consultant use and level of responsibility will be detailed in the Consultant Contract. When Consultants are used, they are expected to follow the policies and procedures detailed in this chapter for the particular functions they are performing unless otherwise directed within the terms of the contract.

### **6.250 Project Relocation Offices**

When the Right of Way Manager believes a project relocation office is justified on any Federal-aid project, the manager may establish a project office and determine the location, hours of operation and staffing.

## **6.300 PROCEDURES**

### **6.302 Relocation Planning**

During the early stages of development, Federal and Federal-aid programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by the Oregon Department of Transportation which will cause displacement, and should be scoped to the complexity

and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

1. An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable.
2. An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.
3. An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.
4. An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.
5. Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

The planning information gathered in the survey or study is generally incorporated in the EIS or the EA document and the right of way cost estimate developed.

### **6.305 Relocation Information During Project Development**

Information regarding relocation benefits must be provided by the Region staff at project public meetings and hearings and to any interested persons who inquire about relocation benefits. This is done by:

1. Reading into a public meeting record information regarding the relocation program.
2. Answering questions regarding the relocation program.
3. Providing copies of the brochure "Moving Because of the Highway or Other Public Project?"
4. Provision of Advisory Services.

### **6.310 General Information Notice**

After project authorization the Region Right of Way staff must deliver a general information notice, acquisition and relocation brochures, and a copy of the right of way map, marked "Preliminary", showing the parcel(s) to be purchased to property owners; contract purchasers; displacees; or other persons determined to be directly affected by the acquisition.

In order to avoid duplication of effort, this is generally done by the project manager at the initiation of the appraisal phase. If the occupant will be displaced, it must be mailed by CERTIFIED mail.

A copy of the General Information Notice may be found in the R/W Automated Information Network, RAIN, and in the general Forms Appendix in the back of this manual.

### **6.312 Notice of Intent to Acquire**

In rare instances, the Right of Way Administration may establish a displacee's eligibility for relocation benefits prior to initiation of negotiations for the parcel. At such times, the relocatee is given a Notice of Intent To Acquire, qualifying that person for relocation benefits.

As a rule, this practice is discouraged, because serious problems could result should the acquisition process be delayed or the project cancelled. The preferred procedure, where the displacee may suffer a hardship, is to obtain an appraisal and initiate negotiations as soon as possible.

However, in those few cases where the agent determines that a Notice of Intent to Acquire is

necessary, approval for the notice must be obtained from the Project Administration Unit Manager. Conditions for approval of a Notice of Intent include, but may not be limited to the following:

1. The project, including the subject file, has already been approved for acquisition.
2. The displaced person can show a real need for the Letter of Intent to Acquire.
3. It is not possible to initiate negotiations in time.
4. Negotiations will be initiated in a reasonable and timely manner.

### **6.315 Relocation Responsibilities at Initiation of Negotiations**

#### **6.320 General**

The agent must carry out several relocation responsibilities at initiation of negotiations, including:

1. Delivering to the owner and any tenant occupants to be displaced as a result of the acquisition, the appropriate Offer-Benefit Letter, the brochures "Moving Because of the Highway or other Public Projects?" (Form 734-3772), "Acquiring Land for Highways and Public Projects" (Form 734-3773), and the blue relocation booklet, Your Rights and Benefits as a Displaced Person (734-2544).
2. Providing detailed information regarding all available benefits, including time limitations for claims and other restrictions.
3. Informing all displaced persons in writing of the specific comparable dwelling(s) used, advising if it has or has not been inspected, and the price or rent used to establish the maximum replacement housing benefit.
4. Offering all displaced persons transportation to inspect housing to which they are referred.
5. Explaining to displacees eligible for replacement housing payments the necessity of a replacement housing inspection, the requirements for decent, safe, and sanitary housing, and the possibility of a relocation carve-out.
6. Entering Eligibility Listing information and generating Offer-Benefit letters through the R/W Automated Information Network (RAIN).

#### **6.325 The Offer-Benefit Letter**

Eligibility for relocation assistance shall begin on the date of the initiation of negotiations for acquiring the occupied property or the receipt of notice of intent to acquire the property.

The agent may either meet in person with the owners or affected tenants to deliver their offer-benefit letters or send the letter and brochures by certified mail. (Please refer to 5.470 regarding the initiation of negotiations by certified mail.) The letter to tenants must be delivered as soon as possible after initiation of negotiations. The agent must follow up by attempting to make a personal contact with any displacees as soon as possible after initiation of negotiations.

The agent must be certain that the date on the offer-benefit letter to the owner is the date of initiation of negotiations. The letter to the tenant should be dated the date of delivery.

The offer-benefit package should be assembled in the following combinations by type of displacee:

#### **Residential Owner-Occupant**

Offer Benefit Letter and Summary Statement  
Benefit Summary, Residential (Form 734-1715)

#### **Residential Tenant-Occupant**

Tenant Offer Benefit Letter with 90-day Notice  
Benefit Summary, Residential (Form 734-1715)

#### **Non-Residential Owner-Occupant**

Offer Benefit Letter and Summary Statement  
Benefit Summary, Non-Residential (Form 734-1717)

#### **Non-Residential Tenant-Occupant**

Tenant Offer Benefit Letter with 90-day Notice  
Benefit Summary, Non-Residential (Form 734-1717)

In unusual situations where the standard letter does not appear appropriate, the agent may prepare an individualized offer-benefit letter with the approval of the Region Manager.

#### **6.330 90-Day Notice to Vacate**

Lawful occupants shall not be required to move unless they have received at least 90 days advance written notice of the earliest date by which they may be required to move.

Notices to vacate are not required when the property being acquired is vacant and unused or if the occupants' move of their own volition prior to the time the notice would have been given. Notices are required for any acquisition from which personal property must be relocated, or if the occupants of the larger parcel must make alterations on the remainder, such as constructing fencing or implementing costs to cure.

If the agent determines that the notice is not necessary, the offer-benefit forms should be modified to delete the notice language. If the agent determines that the notice is necessary, the following 90-day notice must be included in the offer-benefit letter delivered to owners on the date of initiation of negotiations:

**NOTICE TO VACATE:**

"The State will not require you to vacate the property being acquired earlier than 90 days following the date of this letter or within 30 days after payment (less deposits), whichever is later. You will be given the specific date to vacate the area acquired when payment is made to you."

The agent includes the following 90-day notice to **tenants** in the offer-benefit letter when appropriate:

**NOTICE TO VACATE:**

"The State will not require you to vacate the property being acquired earlier than 90 days from the date of this letter or within 30 days after final payment to the property owner, whichever is later. You will be notified at least 30 days before you must vacate."

These notices can only be given if the displacees are advised of the dollar amount of their replacement housing benefits. In some cases, it may be desirable to make the offer to purchase prior to completion of the relocation study. This may be done as long as the 90-day notice is not included in the offer letter.

The appropriate notice must be given upon presentation of the replacement housing benefits.

In unusual circumstances, where there is an urgent need to protect their health and safety, occupants may be required to vacate the property on less than 90 days advance written notice, if the Project Administration Unit Manager determines that a 90-day notice is impractical. Such cases would be when

continued occupancy would constitute a substantial danger to the health or safety of the occupants. A copy of this determination must be documented in the file.

**6.335 30-Day Notice To Vacate**

The 30-day notice to vacate to **owners** will be included in the closing letter accompanying final payment sent by the Central Office or the letter notifying the owner of the date of deposit into court.

The agent must deliver a written 30-day notice of final payment for the property to **tenants** (Form 734-3972) as soon as the region receives notice of payment. This notice must contain the specific date by which the tenant must vacate the property.

For residential displacees, it is vitally important that the agent ascertain if the comparable dwelling on which the replacement housing benefit study was based or equally comparable replacement dwellings in the same price range are available on the date the 30-day notice is given. If the original dwelling on which the replacement housing benefit was based or equally comparable dwellings in the same price range are not available, then a new replacement housing study shall be prepared. If a new study is necessary, the 30-day notice must be given in writing as of the date comparable replacement housing is made available to the displacee.

The agent shall bear in mind the amount of time necessary to close the purchase of a replacement property and monitor the availability of replacement dwellings in order that the displacee is given enough time to close the purchase of the replacement property and move before the required vacation date.

**6.340 Availability of Replacement Dwelling Before Displacement**

No displacees shall be required to move from their dwelling unless at least one comparable replacement dwelling has been made available to them. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling is considered to have been made available to the displacees if:

1. The displacees are informed of its location, and

2. The displacees have sufficient time to negotiate and enter into a purchase agreement or rental/lease agreement for the property, and
3. The displacees are assured of receiving the acquisition and relocation assistance payments to which they are entitled in sufficient time to complete the purchase or rental/lease of that property, subject to reasonable safeguards.

### **6.345 Protective Renting**

When residential improvements to be acquired are vacant at the initiation of negotiations or are occupied by tenants that vacate after initiation of negotiations but prior to the Oregon Department of Transportation obtaining possession, the Department of Transportation may enter into a rental agreement with the owner to prevent subsequent tenancies. This process is to be used to insure that the Department's purchase and possession will not be hampered by the need to relocate a less than 90-day occupant.

The Protective Rental Agreement, Form 734-3643, has been specifically prepared for protective renting. The rental amount to be paid for the premises will be the lesser of economic rent or contract rent. The agreement calls for payment in arrears in order to facilitate the proration of payment without reimbursement from the owner. Protective Rental agreements committing ODOT to costs up to \$10,000 are approved by the Region Right of Way Manager. Agreements with anticipated costs in excess of \$10,000 must be approved by the Project Administration Manager.

The agreement will not be applied to every residential rental unit that fits the above description. Protective renting is not to be used in cases of hardship acquisitions. Region offices must assess the likelihood of new tenants before entering into a rental agreement. Rental agreements that are submitted to headquarters must be accompanied by written justification. Rental agreements approved in the Region should have a written justification letter in the file with a copy sent to the main file in Headquarters.

Rental by the **Oregon Department of Transportation** will generally not exceed 180 days. Beyond this period very little is saved on relocation payments and the logistics of management can become a problem.

In cases in which a new tenant can possibly create an extremely difficult relocation problem, the payment

paragraph can be modified if that is all that prevents an agreement.

### **6.350 RELOCATION REPORT OF PERSONAL INTERVIEW**

An entry into the report of personal interview is to be made each time an agent makes a personal contact with landowners, displacees, or their representatives. All relevant discussions regarding the acquisition or relocation transaction should be recorded. The time spent in relocation discussions should be charged to the relocation activity code. Relocation interviews conducted subsequent to submission of a Final Report packet or Recommendation for Condemnation must also be documented and forwarded to the Relocation Reviewer.

### **6.355 ADVISORY ASSISTANCE**

#### **6.360 Benefit Description Residential**

The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to determine the relocation needs and preferences of each person to be displaced and to explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

The agent must provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings and explain that the displacee cannot be required to move until at least one comparable replacement dwelling is made available.

As soon as feasible, the agent shall inform displacees in writing of the specific comparable replacement dwelling, the price or rent used for establishing the upper limit of the replacement housing payment and the basis for the determination, so that the displacees are aware of the maximum replacement housing payment for which they may qualify.

Where feasible, the agent shall inspect the replacement housing prior to its being made available to assure that it meets applicable standards. If such

an inspection is not made, the displacees shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings not located in the area of minority concentration, that are within their financial means. This policy, however, does not require a larger payment than necessary to enable a person to relocate to a comparable replacement dwelling.

The agent should be aware of the individual needs of the different groups of people - minority and non-minority - and use methods which will ensure that highway program services, benefits, and opportunities are provided equally to persons affected by the programs.

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

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

### **Non-Residential**

The agent shall assist non-residential displacees in the following manner:

Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each business. (See section 6.556) At a minimum, interviews with displaced business owners and operators should include the following items:

1. The business's replacement site requirements, current lease terms and other contractual

obligations and the financial capacity of the business to accomplish the move.

2. Determination of the need for outside specialists in accordance with Section 6.575 that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
3. For businesses, an identification and resolution of personality/realty issues. Every effort must be made to identify and resolve personality/realty issues prior to, or at the time of, the appraisal of the property.
4. An estimate of the time required for the business to vacate the site.
5. An estimate of the anticipated difficulty in locating a replacement property.
6. An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.
7. Provide current and continuing information on the availability, location, purchase prices, and rental costs of comparable and suitable commercial and farm properties and assist any person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location.

### **Both Residential and Non-Residential**

The agent shall assist both residential and non-residential displacees by:

Minimizing hardships to persons in adjusting to relocation by providing counseling advice as to other sources of assistance that may be available, and such other help as may be appropriate.

Supplying persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans, and other federal and state programs offering assistance to displaced persons.

### **In General**

Relocation activities shall be coordinated with project work and other displacement causing activities to ensure that, to the extent feasible, persons displaced

receive consistent treatment and that duplication of functions is minimized.

Any person, who occupies property acquired by ODOT, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the ODOT.

### **6.365 Eligibility - advisory assistance**

All displacees from public projects are eligible for advisory assistance. In addition, those who occupy property adjacent to real property being acquired are eligible for advisory assistance if the Region Right of Way Manager and the Project Administration Manager determine that there may be substantial economic injury because of their proximity.

### **6.367 No Waiver of Relocation Assistance/Benefits**

ODOT may not propose or suggest that a displaced person waive their rights or entitlements to relocation assistance and benefits as provided in the Uniform Act and detailed in this Chapter. After having been fully advised in writing by the department of all eligible payments and benefits to which they are entitled, a displaced person may, by written statement, refuse some or all of those benefits on their own initiative.

### **6.370 Applicability**

These requirements apply to the relocation of any displaced person as defined in glossary. Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and these procedures.

## **6.375 GENERAL REQUIREMENTS FOR CLAIMS OF RELOCATION BENEFITS**

### **6.380 Documentation**

Any claim for relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as a bill or invoice, certified prices, appraisals, or other evidence of such

expenses. A displaced person must be provided the reasonable assistance necessary to complete and file any required claim for payment.

### **6.385 Expeditious Payments**

The Relocation Reviewer shall review claims in an expeditious manner. The displacee making the claim shall be promptly notified as to any additional documentation required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

### **6.390 Advance Payments and Assignment of Relocation Benefits**

#### **6.392 Advance Payments**

In order to facilitate a displacee's relocation, the Relocation Reviewer will make advance payments of housing benefits into escrow.

In order to apply for advance payment, the agent should assist the displacee in filling out the appropriate claim forms with the estimated cost shown as the amount claimed and an assignment of relocation benefit (Form 734-3816) to the selected escrow agent. The claim will be processed and forwarded as usual with the appropriate supporting documentation. Advance payments will usually not be paid directly to the displacee but will be sent to the Escrow Company with appropriate escrow instructions.

Advance partial payments for moving expenses may be made when necessary to assist the displacees in moving. If the total move payment the relocatee is eligible for exceeds \$10,000, payments are approved and made by the Relocation Reviewer. The agent must use judgment in determining the prudence of making a partial payment for moving in order to assure that the payment will be applied toward the move. If warranted, the agent can recommend that the payment be made to a third party such as a new landlord or utility company for deposits rather than directly to the displacees. The Assignment of Relocation Benefit Form (Form 734-3816) may be modified to initiate the request for advance payment.

#### **6.395 Assignments**

Except when circumstances require otherwise, assignments of relocation benefits must be made on Form 734-3816.

The agent should explain to the displacees that they do not have to assign their benefits, that the assignment process is a service provided by the Oregon Department of Transportation for the displacees' convenience to help them relocate.

Assignments of replacement housing payments can not be used for any purpose other than to provide replacement housing. Assignments of moving expense payments are not restricted.

#### **6.400 Deductions From Relocation Payments**

The agent shall deduct the amount of any advance relocation payment from the relocation payments. Similarly, the agent shall deduct from relocation payments any rent that the displaced person owes the Oregon Department of Transportation, provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling. The agent shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

#### **6.405 Time Limitations For Benefit Claims**

Except as provided in 6.445 and 6.450 all claims for relocation benefit payments must be submitted by the claimant within 18 months of:

1. For tenants, the date of displacement.
2. For owners, the date of displacement or the date of the final payment for acquisition of the real property, whichever is later.

The time period shall be waived if the Project Administration Manager determines there is good cause to do so.

In order to claim a replacement housing payment or receive a payment from escrow, a displaced tenant-occupant must purchase or rent, and occupy a decent, safe, and sanitary dwelling within 12 months after displacement. An owner-occupant must purchase or rent, and occupy such a dwelling within 12 months after displacement or after the date of payment for the realty, whichever is later. The deposit into court is considered "payment" in the case of condemnation.

#### **6.410 Notice of Denial of Claim**

If the Relocation Reviewer, or when allowed, the Region Manager, disapproves all or part of a payment

claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, the claimant shall be promptly notified in writing of the denial of approval of that claim, the basis for that determination, and the procedures for appealing that determination.

The agent shall provide the displacee with Form 734-3623, Appeal of Relocation Assistance, in such cases where the displacee may be dissatisfied with the relocation benefits offered.

#### **6.413 Aliens not Lawfully Present in the United States**

Relocation payments and relocation advisory services, pursuant to State and Federal law, may not be provided to an alien unless the alien is lawfully present in the United States, except in cases of exceptional or extreme hardship. Displacees will be asked to sign a "Certification of Legal Residency in the United States".

This certification shall be obtained by having the displaced person complete and sign the Certification of Legal Residency in the United States (Form 734-2521). This should be done at initiation of negotiations or, for a tenant, as soon as possible after initiation of negotiations. The completed form shall be sent to the Relocation Reviewer prior to relocation assistance or the payment of relocation claims.

Criteria for certification:

- (1) In the case of an individual, that he or she is either a citizen or national of the United States or an alien who is lawfully present in the United States.
- (2) In the case of a family, that each family member is either a citizen or national of the United States or an alien who is lawfully present in the United States. The head of the household may make the certification on behalf of other family members.
- (3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.
- (4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is

authorized to conduct business within the United States.

If the agent determines that **any** member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) ineligible because of an unlawful presence in the United States, the agent shall contact the Relocation Reviewer for direction and approval before proceeding with relocation activities. Direction from the Relocation Reviewer will be based on individual situations and whether denial would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child when such spouse, parent, or child is a citizen or an alien admitted for permanent residence.

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

If a person who is a member of a family being displaced is in the United States unlawfully, that person's income shall not be excluded from the computation of the family income unless the agent is certain that the ineligible person will not continue to reside with the family. To exclude the ineligible person's income may result in a windfall by providing a higher relocation benefit to the remaining members of the household.

The agent shall consider the signed certification to be valid, unless an impartial review of the documentation or other information indicates otherwise. Any review by the displacing agency of the certifications provided shall be conducted in a nondiscriminatory fashion. Each displacing agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

If, based on a review of the documentation or other credible evidence, the agent has reason to believe that

an alien is not lawfully present in the United States, the agent shall contact the Relocation Reviewer. If, after discussion with the Relocation Reviewer, it is determined that the certification is questionable, the Relocation Reviewer shall obtain verification of the alien's status from the local Immigration and Naturalization Service (INS) Office, pursuant to the provisions of 24 CFR 208.

If ODOT has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, ODOT shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

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

There is no obligation to report to the INS any alien believed to be in the United States illegally.

For purposes of this section, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

- (1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;
- (2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or
- (3) Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

#### **6.415 Relocation Payments Not Considered As Income**

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security act or any other Federal law, except for any Federal law providing low-income housing assistance.

Further, expenditure of relocation funds by displacee does not constitute Federal financial assistance.

Displacees who are **on public assistance** should be advised to keep all Oregon Department of Transportation correspondence to present as verification of their displacement and receipt of their relocation payments. The agent must make every effort to assist displacees in contacts with their caseworkers during the relocation process.

#### **6.425 Rent of State-Owned Dwellings**

Although it is not encouraged, housing owned by the Oregon Department of Transportation within the new right of way may occasionally be made available for the convenience of displacees for temporary rental. This is not displacement as set forth in federal and state relocation laws and regulations, which require agencies to assist displacees in finding permanent decent, safe, and sanitary replacement housing.

The agent must, in writing, inform displacees who want to rent other Oregon Department of Transportation-owned housing within any right of way that:

1. Any relocation benefits, other than moving expenses, will not be due them until they move into a permanent decent, safe, and sanitary dwelling outside of the right of way; and
2. The 12-month period within which they must occupy a decent, safe, and sanitary house begins with the day they vacate their dwelling purchased for right of way.

#### **6.427 Subsequent Tenants**

Any person who occupies property **subsequent to initiation of negotiations** by the Oregon Department

of Transportation, shall be eligible for advisory assistance, reimbursement of moving expenses, **and, if replacement housing is determined to be not within their financial means, may be eligible for replacement housing under Last Resort.**

If they are still in occupancy on the date of acquisition and/or they are given written notice that they are required to move, they will be eligible to submit claims for the relocation benefits named above. **(See 6.760).**

#### **6.430 Fair Housing Concerns and Complaints**

Whenever agents discover or suspect that they might have difficulty in fulfilling the obligations of Title VIII of the Civil Rights Act of 1968, they are to notify their immediate Manager in writing at once.

Two brochures "Fair Housing – It's Your Right" and "Are You a Victim of Housing Discrimination?" are available through local HUD offices. They explain coverage by the 1968 Fair Housing Act and Amendments of 1988 and the steps to be taken if the displacee has experienced discrimination.

Fair housing complaints may be handled on a more local basis. ORS 659.045 provides that any person alleging discrimination regarding housing may file a complaint, in writing, with the Commissioner of the Bureau of Labor and Industries. An investigation and hearing will follow receipt of the complaint, and an appropriate cease and desist order will be filed against any person found to have been engaged in any unlawful practice.

#### **6.435 Certification of Residential Displacement to Other Agencies**

When low-income individuals or families are required to relocate because of a public project; they may receive preferential admittance to subsidized housing administered by other public agencies. If requested, the agent shall prepare a letter verifying the fact that the low-income individual or family is indeed being displaced for a public project.

#### **6.440 GENERAL ELIGIBILITY ISSUES FOR RELOCATION BENEFITS**

#### **6.445 Occupancy Requirements for Displacement or Replacement Dwelling**

No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal Agency funding the project, or the Oregon Department of Transportation; or
2. Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Relocation Manager.

#### **6.450 Purchase of Replacement Dwelling**

A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

1. Purchases a dwelling; or
2. Purchases and rehabilitates a substandard dwelling; or
3. Relocates a dwelling which he or she owns or purchases; or
4. Constructs a dwelling on a site he or she owns or purchases; or
5. Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.
6. Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

#### **6.455 Replacement Housing of Last Resort**

Whenever a \$22,500 replacement housing payment or a \$5,250 maximum rental assistance payment would be insufficient to ensure that a comparable replacement dwelling is available on a timely basis to a person, the agent shall provide additional or alternate assistance under the Housing of Last Resort provisions of the Uniform Act, which may include increasing the replacement housing payment so that a replacement dwelling is within the displaced person's financial means. (See 6.880 for Replacement Housing of Last Resort Procedures.)

#### **6.460 Eviction for Cause**

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

1. The tenant received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or
2. The tenant is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and
3. In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this manual.

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

#### **6.465 Payment To An Estate (Relocatee Deceased)**

A replacement housing payment is personal to the displaced persons and, upon their death, the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

1. The amount attributable to the displaced persons occupancy of the replacement housing shall be paid.
2. The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family members(s) continue to occupy a decent, safe, and sanitary replacement dwelling.
3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

#### **6.470 DECENT, SAFE, AND SANITARY (DSS) HOUSING**

### **6.475 Standards**

Before making payment to the displacee, an agent must have inspected the replacement dwelling and determined that it meets local housing and occupancy codes (if more stringent) or the standards for decent, safe, and sanitary (DSS) housing. The inspecting agent must know what codes are in effect and should be able to ascertain whether the dwelling complies with the codes. Additional inspections may be required to properly assess the replacement dwelling.

### **6.477 DSS Requirements for Size and Number of Bedrooms**

Occupancy requirements with respect to number of bedrooms and dwelling size are determined by local housing and occupancy codes.

As discussed in 6.475, the agent should check with both the local and State agencies to determine the decent, safe, and sanitary requirements (housing and occupancy codes) for each jurisdiction.

If DSS standards are stricter than applicable minimum housing and occupancy codes, DSS standards shall apply unless waived for good cause by Right of Way Administration. (See glossary for definition of Decent, Safe and Sanitary Dwelling ( DSS).)

### **6.480 Replacement Dwelling Inspection Requirements**

The agent should emphasize to displacees that they may buy or rent any dwelling, but, before they can receive replacement housing payments, the replacement dwelling must pass a DSS inspection performed by the agent who completes the Replacement Dwelling Inspection Form 734-3622. The agent should advise the displacee that the DSS inspection is for the purpose of this relocation program only. The agent should also advise displacees not to commit themselves to a replacement dwelling before the DSS inspection, unless that commitment is made subject to DSS approval by the inspection agent.

If the dwelling conforms to DSS standards, the completed inspection form must be included with the claim for relocation benefit payment. The agent then notifies the displacees of the inspection results.

If the dwelling does not qualify, the agent will notify the displacees of the deficiencies found as a result of the inspection. The claimant may attempt to have the

defects corrected to claim the benefits or may select and qualify another dwelling within the one-year time limit.

### **6.485 Additional Inspections**

Inspection by another agency might be required due to new construction, major renovation and/or new or revised electrical or sewer connections.

If the inspecting agent is uncertain as to compliance, the agent should arrange for an additional inspection by a specialized private contractor. The agent should arrange for such additional inspections if there are questions regarding the adequacy of the dwelling or any of its components, such as wiring, plumbing, or heating system.

When a code inspection of a dwelling or a component of a dwelling has to be performed by an agency other than the Oregon Department of Transportation or by a private contractor, the right of way agent will not complete the DSS inspection until:

1. The local agency has performed its final inspection and approved the dwelling; or
2. The private contractor reports that no deficiencies exist or reported deficiencies have been corrected.

### **6.490 INITIATION OF BENEFIT DETERMINATION**

The completion of an appraisal of a residential property signals the project manager to determine whether displacement is anticipated. On files requiring displacement, the project manager assigns an agent to determine replacement-housing benefits.

The agent does this by:

1. Interviewing the members of the household to determine who occupies the displacement dwelling and what their needs will be upon displacement.
2. Completing the Residential Occupant Interview Form 734-3600.
3. Calculating the appropriate benefits as explained in: 6.670 through 6.850. The Replacement Housing Differential Payment should not be calculated until the appraisal has been reviewed, except in case of designated hardships when

benefits can be calculated subject to an appraisal review at the amount used in the study.

4. Submitting the completed benefit study to the Right of Way Project Manager for review and submittal to the Relocation Reviewer for review and approval.

#### **6.495 INSTRUCTIONS FOR COMPLETING OCCUPANT INTERVIEW FORM**

The agent completes the Residential Occupant Interview Form 734-3600 during the occupant interview. See Chapter 6.360 for details of Advisory Assistance. Special needs of occupants, desired relocation assistance, information needed for rent supplement determination and determining household income are some of the elements that need to be recorded on the Occupant Interview form. See 6.498, 6.501, 6.502 and 6.503..

#### **6.498 Special Needs of Occupants**

Any health problems, special school needs, or other requirements that might affect the displacees' choice of a replacement dwelling should be noted on the interview form. These needs should be addressed in the replacement housing study.

#### **6.501 Relocation Assistance Desired**

If the displacee desires any special relocation assistance, such as transportation, this should be noted on the interview form. Such requests should be addressed by the agent.

#### **6.502 Information Needed for Rent Supplement Determination**

The gross income of a tenant is sometimes used in the calculation of the Rental Assistance Payment. Therefore it is important to accurately obtain this information. If the Department determines the tenant to be a "low income" person based on the applicable HUD schedule, then income is a consideration in the calculation of the "base monthly rental for the displacement dwelling" and ultimately may affect the amount of rental payment due the tenant.

(See Glossary and 6.744 for discussion of "base monthly rent".)

HUD Low income limitations can be found at:  
<http://www.fhwa.dot.gov/realestate/index.htm>

#### **6.503 Determination of Average Gross Monthly Household Income**

The average gross monthly income is defined as the average monthly income, before taxes and deductions, from all sources of the household, excluding unmarried dependents under 18 years of age.

Information on the average gross monthly household income should be obtained by the agent at the time of the occupant interview, and is only required if the displacee is considered low-income by HUD standards. Income verification information is necessary from all renter occupants and is recorded on Form 734-2331. All people in the household should be questioned, except for unmarried dependents and full-time students less than 18 years of age.

If the household has been steadily employed in the twelve months preceding the occupant interview, use the current income. If the head of the household or other members who earn wages are unemployed at the time of the occupant interview, or if the household income is from seasonal or fluctuating income, the agent conducting the interview should use the average monthly income during the twelve months prior to the occupant interview.

In cases where income information is required, each wage earner or person contributing to household income from any source must certify to the total amount by signing at the bottom of the interview form. If displacees are unwilling to do so the agent may assume that the base rent is within the displacees' financial means. Displacees should be informed of the effect of such a refusal to report and certify to monthly income. This notification must be documented in the file.

In cases where the average gross monthly household income is used in determining the rent supplement, the displacees must provide verification of income, such as a pay receipt or income tax return.

#### **6.505 Contract Rent**

Contract rent reported by a renter must be supported by evidence, such as a copy of a rent receipt, a cancelled check, or a written statement from the landlord. This evidence should be attached to the interview form. The interviewing agent must determine and document what amenities are included for rent paid, such as utilities, parking, cable TV, etc., to accurately analyze comparable units.

#### **6.516 Occupant of Less Than 90 Days**

When the displacee has not been in occupancy 90 days prior to initiation of negotiations, the agent shall check the box, "Less than 90 day occupancy" at the top of the Residential Occupant Interview Form 734-3600.

### **6.520 BENEFIT CALCULATION REVIEW PROCEDURE**

After completing the benefit determination (as covered in: 6.670 through 6.850), the agent forwards it to the project manager for preliminary review.

After preliminary review, the Project Manager sends the determination to the Relocation Reviewer.

The Relocation Reviewer examines all aspects of the determination, signs it if approved, retains the original and returns a copy to the region. If there are questions about the determination, the Relocation Reviewer may do a field examination or request additional information from the region.

An approved determination is ready to be incorporated by the agent into the offer-benefit letter.

### **6.525 PAYMENTS FOR MOVING AND RELATED EXPENSES**

#### **6.527 Moves of Personal Property Only**

Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or non-profit organization include those expense described in 6.581 and 6.532 - 6.544.

Move options available for moves of personal property only are: Common Carrier Move (Section 6.640); Self move based on Estimates & Move Cost Finding (Section 6.645); and/or Self move based on Actual Cost (Section 6.650). A combination of two or more of these moves may be used if appropriate and reasonable and necessary. Agents are to follow normal procedures for each of these types of moves as outlined in the Sections noted above.

### **6.530 RESIDENTIAL MOVES - BASED ON ACTUAL REASONABLE MOVING AND RELATED EXPENSES**

Displaced owner-occupants or tenants of dwellings who qualify as displaced persons are entitled to payment of their actual moving and related expenses as determined to be reasonable and necessary. Actual cost moves may be accomplished by use of a commercial mover (Common Carrier Move - see 6.640)) or with advance approval, by a self-move (Schedule Move (see 6.550) or Actual Cost Move) or a combination of each. See 6.550. Receipts are required for reimbursements based actual costs moves. A self-move based on the lower of two bids is not eligible for reimbursement on residential moves. Either the Relocation Reviewer or the Region Right of Way Manager (for costs below \$10,000) can determine the expenses as reasonable and necessary.

### **6.532 Eligible Transportation of Personal Property and displaced persons**

Transportation costs for a distance beyond 50 miles are not eligible, unless the Relocation Reviewer determines that relocation beyond 50 miles is justified.

The move can be accomplished by several available relocation moving benefits, or a combination of such. See, 6.530 – Self move by actual costs, 6.550 – Residential Move based on a Schedule, and 6.640 - common carrier for moving procedures

### **6.534 Packing**

Packing, crating, unpacking, and uncrating of the personal property.

### **6.536 Utility Reconnection Charges**

Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property are reimbursable expenses except under the Schedule Move Option (see 6.550).

Reconnection fees may be paid separately from the moving expense claim. Reconnection can not exceed the number of nor differ in kind from the connections found in the acquired improvement unless the hook-up is necessary to provide the same level of utility service as found in the displacement building.

Reimbursement of these expenses will be on an actual and reasonable cost basis only, requiring submittal of an invoice or paid receipt with the Utility Reconnection Cost Claim Form 734-3616.

Deposits and/or costs incurred in extending services from the right of way to the replacement building are not reimbursable.

If a connection problem arises, and it is not clearly eligible, the Relocation Reviewer or Project Administration Manager should be consulted for a decision regarding eligibility for payment in advance of incurring the expense.

### **6.538 Storage of Personal Property**

Residential displacees not claiming a Schedule Move may be eligible for reimbursement of actual and reasonable expenses for the costs of interim off-premise storage of personal property for a maximum of 12 months if it is determined that storage is necessary in affecting a move of the displacees. This determination is made by the Region Right of Way Manager for storage costs up to \$10,000 and by the Project Administration Manager if estimated costs exceed \$10,000.

Proper written justification and the length of storage must always be included in the file both in Region and in Headquarters as a requirement for approving storage costs. Storage will normally only be approved when its denial would cause a hardship to the displacee.

Displacees may be entitled to storage expenses for a period greater than 12 months upon written application on Form 734-3624, Storage Expense Application to and with prior approval of the Project Administration Manager.

Storage may be in a licensed and bonded warehouse, a mini-storage facility, or other rented space. Boarding of animals is not considered to be storage of personal property.

The costs for initial move into storage and the final move out of storage are eligible for reimbursement, but each move requires an inventory and monitoring by the agent. For monitoring requirements, see 6.660.

To request an interim storage benefit, the agent provides Form 734-3624, Storage Expense Application for the displacees to complete. The agent reviews the application to determine whether storage is required by the move. If it is required, the agent signs the application, forwards it to the Relocation Reviewer, or the Region Right of Way Manager when \$10,000 or

less for approval, and notifies the displacees of eligibility.

### **6.540 Insurance**

An insurance premium for the replacement value of the property in connection with the move and necessary storage is eligible for reimbursement.

### **6.542 Replacement Value of Uninsured Property**

The replacement value of property lost, stolen, or damaged in the process of moving (but not through the fault or negligence of displacees, their agents, or employees) where insurance covering such loss, theft, or damage is not reasonably available is eligible for reimbursement.

### **6.544 Other Moving-Related Expenses**

Other moving related expenses that are not listed as ineligible in 6.665, as the Project Administration Manager determines to be reasonable and necessary are also eligible for reimbursement.

### **6.550 Residential Moves Based on a Schedule**

Any person displaced from a dwelling or a seasonal residence is entitled to receive, as an alternate to reimbursement for actual moving and related expenses, a payment determined from a schedule based on the number of rooms of items to be moved.

The agent performs a room count with the occupant. Large rooms or rooms with an unusual amount of possessions may be counted as more than one room. Outbuildings and other storage buildings may be added to the room count within reason. The room count for the displacement dwelling is as follows:

#### Unfurnished (Occupant owns furniture)

1 rm - \$400; 2 rms - \$ 550; 3 rms - \$750; 4 rms - \$950;  
5 rms - \$1125; 6 rms - \$1300, 7 rms – \$1475, 8 rms – \$1650.

Each additional rm. - \$175.

#### Furnished (Occupant does not own furniture)

\$350 for the first room + \$50 for each additional room

The moving expense allowance to a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons or a person whose residential move is performed by an agency at no cost to the person is limited to \$50.

This moving payment is claimed on Form 734-3615, Schedule Move Claim, which is filled out by the agent and the displacee. The agent must inspect the displacement property and complete the inspection report before the claim is processed.

Payment will be made after the dwelling has been vacated.

The Schedule Move includes allowances for all moving costs, therefore displacees choosing the schedule move may not apply for reimbursement of utility reconnection charges or any other moving or moving related expenses.

#### **6.552 Residential Combination Moves – Schedule / Actual Cost**

The Actual Cost Move based on reasonable moving and related expenses (See 6.530) can also be used in combination with an adjusted Schedule Move. For example, a residential displacee may use a Schedule Move to cover the personal property in the home and use a Self-Move based on actual reasonable moving costs and expenses supported by receipted bills and expense statements to cover the cost of relocating yard improvements such as a satellite dish, wood pile or lawn ornaments, or large household items such as a piano or large appliances.

#### **6.555 NONRESIDENTIAL MOVES - BASED ON ACTUAL REASONABLE MOVING AND RELATED EXPENSES**

##### **6.556 Non-Residential Interview Instructions**

The agent completes the Non-Residential Interview Form 734-3601 during the Non-Residential Interview and provides the necessary advisory assistance required to determine the relocation needs and preferences of each Business, Farm or Non Profit Organization (NPO) to be displaced. See Section 6.360 for detail of expected Advisory Assistance. This shall include a personal interview with each Business, Farm, and NPO. At a minimum, interviews

with displaced business owners and operators should include the following items:

(A) The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.

(B) Determination of the need for outside specialists in accordance with Section 6.575 that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(C) For businesses, an identification and resolution of personality/realty issues. Every effort must be made to identify and resolve personality/realty issues prior to, or at the time of, the appraisal of the property.

(D) An estimate of the time required for the business to vacate the site.

(E) An estimate of the anticipated difficulty in locating a replacement property.

(F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.

#### **6.560 Eligible Actual Moving Expenses**

Any business, farm operation or non-profit organization which qualifies as a displaced person (See glossary) is entitled to payment for such actual moving and related expenses as the Relocation Manager determines to be reasonable and necessary.

#### **6.562 Transportation of Personal Property.**

Transportation costs for a distance beyond 50 miles are not eligible for reimbursement, unless the Project Administration Manager determines that relocation beyond 50 miles is justified.

The move can be accomplished by hiring a common carrier, or displacees may move themselves and be paid based on move estimates, or, in special circumstances, based on actual receipted expenses incurred by the displacee.

See 6.640 for common carrier move procedures.

See 6.645 for self-moves based on estimates.

See 6.650 for self-moves based on actual costs.

#### **6.564 Packing**

Packing, crating, unpacking, and uncrating of the personal property.

### **6.566 Utility Reconnection and Personal Property Adaptation**

Business, farm, and non-profit organization displacees may claim reimbursement for the cost of disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in 6.586.

This includes connection to utilities available nearby.

It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. Expenses for correcting faulty existing equipment or bringing non-code items up to code are not eligible for reimbursement unless grandfathered at the displacement site.

Reimbursement for such modifications shall be limited to actual, reasonable and necessary expenses and will not be allowed if a more suitable replacement property was available where such modifications were not required.

Modifications to personal property mandated by Federal, State, or local law, code, or ordinances which are necessary to reassemble or reinstall the personal property or adapt it to the replacement structure, the replacement site, or the utilities at the replacement site are eligible for reimbursement as a moving expense. These modifications must be clearly and directly associated with the reinstallation of the personal property and cannot be for general repairs or upgrading of equipment because of the personal choice of the business owner. Finally, the expenditures for authorized modifications must be reasonable and necessary.

Reconnection fees may be paid as a separate moving expense claim. Reconnections can not exceed the number of nor differ in kind from the connections found in the acquired improvement unless the hook-up is necessary to provide the same level of utility service as found in the displacement building.

Reimbursement of these expenses will be on an actual and reasonable cost basis only, requiring submittal of a paid receipt with completed Form 734-3616, Utility Reconnection Claim. If a connection problem arises and it is not clearly eligible, the Project Administration Manager should be contacted for a decision regarding

eligibility for payment in advance of incurring the expense.

### **6.568 Storage of Personal Property**

Non-residential displacees not claiming a Fixed Payment (In-Lieu Payment) are eligible for reimbursement of actual and reasonable expenses for the costs of interim off-premise storage of personal property for a maximum of 12 months, if it is determined that storage is necessary in affecting a move of the displacee. This determination is made by the Region Right of Way Manager for storage costs of \$10,000 or less or by the Project Administration Manager for costs higher than \$10,000. Approval will only be given after receipt of proper justification and a suggested period of storage. Storage will normally only be approved when its denial would cause a hardship to the displacee.

Displacees may be eligible for storage expenses for a period greater than 12 months in exceptional circumstances or in cases of extreme hardship.

Storage may be in a licensed and bonded warehouse, a mini-storage facility, or other rented space.

The costs for initial move into storage and the final move out of storage are eligible for reimbursement, but each move requires an inventory and monitoring by the agent. For monitoring requirements, see 6.660.

To request an interim storage benefit, the agent provides Form 734-3624, for the displacees to complete. The agent reviews the application to determine whether storage is required by the move. If it is required, the agent signs the application, gives it either to the Region Right of Way Manager, or when required forwards it to the Project Administration Manager for approval, and notifies the displacees of their eligibility.

### **6.570 Insurance**

An insurance premium for the replacement value of the personal property in connection with the move and necessary storage is eligible for reimbursement.

### **6.572 License Fees**

Any license, permit, or certification fees required of the displaced person at the replacement location are eligible for reimbursement. These apply to the

business, for example a business license required by the county. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

These do not include general occupancy licenses, occupancy permits, building permits, or one-time assessments that any business would have to pay for occupancy of a property.

#### **6.574 Replacement Value of Uninsured Property**

The replacement value of property lost, stolen, or damaged in the process of moving (but not through the fault or negligence of displacees, their agents, or employees) where insurance covering such loss, theft, or damage is not reasonably available is eligible for reimbursement.

#### **6.575 Professional Move Services**

Professional costs necessary for planning the move of the personal property, moving the property, and installing the relocated property at the replacement location are eligible for reimbursement. **Prior approval of the Project Administration Manager is required.**

#### **6.578 Relettering of Signs**

Actual and reasonable costs in relettering signs, excluding major modifications, are eligible for reimbursement as long as this does not constitute a double payment.

#### **6.580 Overprinting or Replacing Stationary**

Actual and reasonable costs of overprinting or replacing stationary, business cards, invoices, or other printed materials to reflect the replacement address are eligible for reimbursement.

If materials are to be replaced, the agent must verify the quantity of supplies, which are to be replaced and must also document the file.

Reimbursement for replacement supplies may not include a premium paid for smaller than normal orders. Instead, the amount reimbursed will be that portion of the bill for a normal order, which corresponds, to the quantity of supplies being replaced.

#### **6.581 Low Value/High Bulk Items**

When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value, the allowable moving cost payment shall not exceed the lesser of:

1. The amount which would be received if the property were sold at the site; or
1. The replacement cost of a comparable quantity delivered to the new business location.

Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel minerals, metals and other similar items of personal property as determined, on a case by case basis, by the Project Administration manager.

#### **6.582 Loss of Tangible Personal Property**

A non-residential displacee is eligible for a payment for the actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment will consist of the lesser of:

- a. The fair market value of an item for continued use at the displacement site, less the proceeds from its sale. To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Relocation Manager determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of goods to the business, not the potential selling price; or
- b. The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site. If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

Loss of Tangible Personal Property or Purchase of Substitute Claim, Form 734-3802, is used to claim this benefit.

#### **6.584 Sales Expenses On Items Not To Be Relocated**

The reasonable cost incurred in attempting to sell an item that is not to be relocated is eligible for reimbursement. The displacee must provide documentation of the costs.

#### **6.586 Purchase of Substitute Personal Property**

If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the payment will consist of the lesser of:

- a. The cost of the substitute item, including installation costs at a replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
- b. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Project Administration Manager's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate (Form 734-3802).

#### **6.588 Search for a Replacement Site**

A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Relocation Reviewer determines to be reasonable, which are incurred in searching for a replacement location, including:

- a. Transportation costs. Public carriers based on actual receipts; private vehicle-mileage shall be the same as the prevailing federal IRS rate.
- b. Meals and lodging away from home, supported by receipts.
- c. The owner's or employee's time spent searching for a replacement location based on actual and reasonable salaries or earnings.
- d. Fees paid to real estate agents or brokers who assist in the search, exclusive of any fee or commission related to the purchased of a site.

- e. Owner's or agent's time spent in obtaining permits and attending hearings.
- f. Owner's or agent's time spent in negotiating the purchase or lease of replacement site.

Site search costs are to be claimed on Form 734-3803.

#### **6.590 Other Moving-Related Expenses**

Other moving-related expenses that are not listed as ineligible in 6.665 are also eligible for reimbursement as determined to be reasonable and necessary. This decision will be made on a case-by-case basis by the Project Administration Manager.

#### **6.591 Additional Non-residential Moving Costs Resulting from the January 2005 CFR Update**

The following items were listed as reestablishment benefits and therefore capped at the \$10,000 limit. With the January 2005 update of federal regulations, these items have been moved to actual moving cost expenses for businesses, and they can now be considered for reimbursement without a defined dollar limitation. (See a, b, and c below.) The Agent shall submit to the Relocation Reviewer any plan for reimbursement under these regulations. The plan must be approved by the Project Administration Manager prior to the actual cost benefits being offered to the occupant(s) in question.

These costs include actual, reasonable, and necessary costs for:

- a. Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
- b. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced Person's business operation including but not limited to soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Relocation Reviewer a reasonable pre-approved hourly rate may be established. Conceptual building or site layouts intended for construction/reconstruction at the

replacement property are **not** considered eligible expenses under this **section**.

- c. Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Relocation Reviewer. Normally this would include impact fees for electric, gas, water, or sewer.

### **6.595 Notification and Inspection**

The displaced person must provide the agent reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Relocation Reviewer may waive this notice requirement after documenting the file accordingly.

The displaced person must permit the agent to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

The agent shall inform the displaced person, in writing, of the above requirements of this section, as indicated on the various moving claim forms, as soon as possible after initiation of negotiations. This provides notification to the displaced person of their responsibilities in completing the optional move types.

### **6.600 Transfer of Ownership**

Upon request and in accordance with applicable law, the displacee shall transfer to the State ownership of any personal property that has not been moved, sold, or traded in, pursuant to Chapter 9.135, Taking Possession.

### **6.602 Reestablishment Expense - Non-residential Moves**

In addition to the payments for actual reasonable moving and related expenses, a small business, farm, or nonprofit organization may be eligible to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

#### **1. Eligible Expenses**

Reestablishment expenses must be reasonable and necessary, as determined by the Relocation Manager. They may include, but are not limited, to the following:

- a. Reasonable and necessary repairs or improvements to the replacement real property as required by law, code, or ordinance.
- b. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business, such as partitions or walls.
- c. Construction and installation costs for exterior signing to advertise the business.
- d. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting. This is what is reasonable to bring up to what the displacee had before or what is appropriate for the business.
- e. Licenses, fees and permits when not paid as part of moving expenses. These include occupancy permits, building permits and other fees related to the replacement business site not eligible as moving expenses. These are costs that would be incurred by any business entity occupying the real estate and are not directly related to the business operation being displaced.
- f. Advertisement of replacement location. This would include new location ads in the newspaper and mailings sent out.
- g. Estimated increased costs of operation during the first two (2) years at the replacement site for such items as:
  - 1. Lease or rental charges
  - 2. Personal or real property taxes
  - 3. Insurance premiums
  - 4. Utility charges, excluding impact fees
- h. Other items that the Relocation Manager considers essential to the reestablishment of the business.

A change in the nature or type of business conducted at the replacement site does not affect eligibility for those actual, reasonable and

necessary reestablishment expenses incurred by the small business operator.

## 2. Claiming Reestablishment Expenses

Claims for these expenses shall be made using Form 734-2171, Reestablishment Claim. All claims shall be supported by actual receipts. Estimates are to be supported in writing. In all cases claims shall be verified by the agent. Estimated increased costs of operation shall be supported by the best available information. For example, a claim for increased operating expenses should be documented by the most current tax statements from the acquired site and the new site. Increased insurance premiums should be documented by statements from the insurance company, signed by the insurance agent.

## 3. Ineligible Expenses

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

- a. Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
- b. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- c. Interest on money borrowed to make the move or purchase the replacement property.
- d. Payment to a part-time business in the home which does not contribute materially to the household income.
- e. Mortgage payments on a replacement property that is greater than the lease payments on the displacement property.
- f. The cost of constructing a new replacement building for a displaced small business, farm, or non-profit organization is considered a capital expenditure and is ineligible for reimbursement as a reestablishment expense. This includes costs of construction permits related to new construction.

### **6.605 FIXED PAYMENT FOR MOVING EXPENSES (In-Lieu)**

### **6.610 Benefit Description**

A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses provided by: 6.560 through 6.602. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with 6.625, but not less than \$1,000 nor more than \$20,000. Those who choose the fixed payment are not eligible for any other relocation payment.

### **6.615 Eligibility - fixed payment**

The displaced business is eligible for the payment if the agent determines that:

1. The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site.
2. The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the agent determines that it will not suffer a substantial loss of its existing patronage; and
3. The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Oregon Department of Transportation, and which are under the same ownership and engaged in the same or similar business activities.
4. The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.
5. The business is not operated at the displacement site solely for the purpose of renting such site to others.
6. The business contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement. (See glossary for definition of "contribute materially")

There is no requirement that a displaced business must be discontinued to receive this payment. The

fixed payment is an alternative to the payments for moving a business.

### **6.620 Determining the Number of Businesses**

In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors must be considered, including whether:

1. The same premises and equipment are shared.
2. Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled.
3. The entities are held out to the public, and to those customarily dealing with them, as one business, and:
4. The same person or closely related persons own, control, or manage the affairs of the entities.

### **6.622 Farm Operations**

A displaced farm operation, as defined in the glossary, may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with 6.625, but not less than \$1,000 nor more than \$20,000.

In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the agent determines that:

1. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
2. The partial acquisition caused a substantial change in the nature of the farm operation.

### **6.624 Nonprofit Organizations**

A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the agent determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet

this test, unless the agent demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used is the average of two (2) years' annual gross revenues less administrative expenses.

Gross revenues may include membership, class fees, cash donations, and tithes, receipts from sales and other forms of fund collection that enables the nonprofit organization to operate.

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

The monetary receipts and expenses amounts must be verified with certified financial statements or financial documents required by public agencies.

A non-profit organization must, in addition to have tax-exempt status under the Internal Revenue Code, be appropriately incorporated under the laws of Oregon as a non-profit organization.

### **6.625 Benefit Calculation for Fixed Payment**

The average annual net earnings of a business or farm operation are calculated as one-half of its net earnings before federal, state, and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced.

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

Net earnings are the same as reported to the IRS, before state and federal taxes, and after deduction of all allowed business expenses, including depreciation.

When a business suffers a net loss for any of the years under consideration in the computation of average annual net earnings, the actual net loss figure should be considered as zero for the negative year.

Average annual net earnings may be based upon a different period of time when the Relocation Manager determines it to be more equitable. If the business or farm was not in operation for the full two

taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the taxable years prior to displacement projected to an annual amount. As an example, a business which operated nine months in the tax year prior to displacement and had a net income of \$6,200 would be projected to have an annual income of \$8,267 and would be entitled to a fixed payment of that amount.

To be eligible for a payment, a business or farm operation must make its **State income tax returns** and its financial and accounting records available for audit for confidential use to determine the payment authorized. (Oregon Revised Statutes 35.515)

The minimum payment will not be less than \$1,000

### **6.630 Requesting and Claiming a Fixed Payment**

The agent prepares three copies of the application part of Form 734-3603, Fixed Payment Application and Claim. Two copies are given to the business; farm or non-profit organization at the start of negotiations and a copy is retained in the region files.

The displacee completes the first part of the form and returns it to the agent. The agent submits the completed form, along with recommendations and supporting documentation, to the Project Administration Manager for approval of the applicant's eligibility.

If the displacee is eligible for the fixed payment, the agent returns the application Form 734-3603 to the displacee, who completes the claim part of the form for payment. To support the amount being claimed, the displaced person must include proof of net earnings through **State income tax returns**.

## **6.635 MOVE OPTIONS**

### **6.640 Common Carrier Move Procedures**

Residential and nonresidential displacees may choose a PUC licensed common carrier to move personal property by following the instructions on Form 734-3614, Common Carrier Move Claim. This form and the accompanying Instructions for Moving Companies (Form 734-3625) must be given to the carrier in advance of the move so the carrier will understand the required procedures to provide a written estimate.

The following are details that the agent must consider and be aware of when advising the displaced person and the common carrier providing the service:

1. The order in which the move is to occur (to minimize down time and facilitate move monitoring).
2. The timing of the move should be specifically addressed (is a weekend or a night move justified; how many days will the move take).
3. Items requiring special handling, packing, detachment and/or reinstallation need to be identified.
4. An inventory of the items to be moved needs to be developed prior to the move and adjustments, if any, to the inventory need to be made prior to the move.
5. A specific replacement site needs to be identified.
6. Unique circumstances of the move need to be addressed, such as whether convenient loading docks or elevators will be available during the move.

The agent is to monitor the move to the extent necessary to assure that the items moved are eligible for relocation. On this type of move the billing from the mover should be only for those items actually moved, and should meet the criteria of actual and reasonable.

Displacees should instruct the carrier to present the unpaid invoice to the region right of way office for payment.

A review of the estimate and bill may then be sufficient for monitoring and should reveal if any non-eligible items have been included. Questions about specific items should have been resolved with the owner prior to the move. Reasons for significant amounts billed over the estimates must be documented and forwarded with the claim.

### **6.645 Self-Move Based on Estimates & Move Cost Finding**

Non-residential displacees may choose to move all or any part of their personal property and claim payment on the basis of a signed self-move agreement for the portion they move. The agreement must be made prior to the move, contain the specifications of the planned move, (See 6.655 regarding specifications)

and be based on estimates prepared by qualified personnel whether done by commercial movers or region right of way staff. Qualified region personnel are those who have specific knowledge of rates charged by commercial moving firms, plus familiarity with equipment and trade skills required for the move. When two or more estimates are being prepared, only one of these move estimates may be prepared by a staff estimator.

On moves costing less than \$2500 (Move Cost Finding), the agent is only required to obtain one moving estimate. In most cases this estimate will be prepared by qualified region personnel. Where direct comparisons can be made to prior moves (goods and costs) this will be sufficient for the move cost finding. Should there be no information of this nature a complete Move Cost Finding based upon rates charged by commercial moving firms and dealing with items such as time, wages, number of people, and vehicle costs must be submitted.

On moves greater than \$2500 the agent is to obtain two acceptable moving estimates, and payment is not to exceed the lower of the two estimates. In the event there is a wide disparity between the two estimates they should be closely scrutinized to be sure they are based on the same set of circumstances. Should there be no apparent technical error, omission, etc. causing the disparity a third estimate may be obtained to assist in arriving at a reasonable moving payment.

The agent must advise the displacees that once they have moved under this method of reimbursement, they cannot later claim a larger payment based on actual cost. However, a new moving agreement may be made prior to the move to reflect changes in the move plans.

In advance of the move the agent obtains the estimate(s) by providing Form 734-3762, Move Estimate Request to the estimators. Displacees must submit an inventory of items to be moved on which the estimates are to be based. The agent is to provide the estimators with further instructions, in writing, regarding the move. The agent should request the estimators to prepare the estimates as though they would be required to do the work. The agent should also request a commercial estimator to bill the region right of way office for the cost to prepare the estimate.

The estimates developed for a Self-Move Based on Estimates Business, Farm, or NPO must be approved by the Project Manager or the Region Manager prior to development of an agreed upon moving amount. The

agreed upon moving amount shall not exceed the Move Cost Finding or be greater than the lower of two commercial estimates.

The agent is to see that the move is sufficiently monitored to assure the inventory the estimates are based upon is actually moved to the location specified. If the inventory has changed significantly by moving time, the agent must obtain new estimates.

Claims for payment under the Self-Move Based on Estimates method are to be submitted on Form 734-3922. The agent or a designee must inspect the subject property and complete the inspection report before the claim may be processed.

### **6.650 Self-Move Based on Actual Costs**

**With prior approval** from the Project Administration Manager, displacees may move themselves and be reimbursed their actual reasonable expenses. Generally this is allowed only when the agent can not obtain acceptable moving estimates, or in cases in which there are specialized move requirements. **In advance of the move the agent must advise the displacee that move monitoring for actual cost self moves will be extensive and that this move option is only available under special circumstances.**

Businesses, farms and non-profit organizations may claim reimbursement for actual costs of a self-move. This kind of move requires careful monitoring by the agent to be certain that claims are valid. The monitor must confirm that hours claimed for each employee are reasonable, the move was conducted in a workman-like manner, and that no ineligible expenses are included.

Form 734-3620, Actual Cost Non-Residential Move Claim, is used to claim reimbursement. The agent must inspect the subject property and complete the inspection report before a self-move actual cost claim may be processed.

Eligible expenses may include truck or cargo trailer rental, special moving equipment rental, and wages for hired movers. All expenses must be supported by paid invoices, prior written agreement on move specifications or other documentation. No payment may be made for the time of the displacee or the displacee's family. If the displacee's own equipment is used, payment may be made for gasoline, oil, depreciation, or other expense incurred by the use of the equipment during the move, provided such expense is actual, reasonable, necessary,

documented, and approved by the Project Administration Manager.

### 6.655 Move Specifications

Move specifications are instructions as to how the move is to be performed. **They are contained in a detailed, written agreement** between the displacee and the Right of Way Unit on what is to be moved, how it is to be moved, and where it will be moved. Further, it becomes the basis for preparation of the estimates because it informs the estimator of what must be done to accomplish the move and **must be reviewed by the Relocation Reviewer prior to commencement of the move.**

Following are some of the details that must be included in the specifications:

1. The order in which the move is to occur (to minimize down time and facilitate move monitoring).
2. The timing of the move should be specifically addressed (is a weekend or a night move justified; how many days will the move take).
3. Items requiring special handling, packing, detachment and/or reinstallation need to be identified.
4. An inventory of the items to be moved needs to be developed prior to the move and adjustments, if any, to the inventory need to be made prior to the move.
5. A specific replacement site needs to be identified.
6. Unique circumstances of the move need to be addressed, such as whether convenient loading docks or elevators will be available during the move.

The move specifications should be developed in consultation with the displacee. In specialized or complex moves the specifications may require the assistance of a consultant who has expertise in the type of property or business being moved. The specifications should be developed and have the concurrence of the and Project Administration Manager before move estimates are secured or an actual cost move is started.

### 6.660 Move Monitoring and Monitoring Report

Moves are monitored to assure that the inventory the estimates were based on is moved to the specified location and that the charges are actual and reasonable. All moves require monitoring, but it is the self-move based upon estimates or actual which requires the most extensive monitoring. The amount of monitoring done on a move is determined by the Region Manager, the agent, and the move monitor, if a third person is chosen to carry out this activity. Some moves may require only one visit, while others may require the full time presence of a monitor.

The agent should prepare a signed monitoring report and submit it. This is a written report stating, at a minimum, the date(s) the monitoring was done, the monitor's observations whether or not the move was done according to the move specifications described in 6.655, and actions taken or recommended to resolve any inconsistencies between the planned move as estimated and the actual move. Deviations from the planned move may require an adjustment in the payment.

### 6.665 Ineligible Moving and Related Expenses

A displaced person is not entitled to payment for:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this part does not preclude the computation under 6.695; or
2. Interest on a loan to cover moving expenses; or
3. Loss of goodwill; or
4. Loss of profits; or
5. Loss of trained employees; or
6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in 6.602 regarding reestablishment expenses; or
7. Personal injury;
8. Any legal fee or other cost for preparing a claim for relocation payment or for representing the claimant before the Oregon Department of Transportation; or
9. Expenses for searching for a replacement dwelling; or

10. Physical changes to the real property at the replacement location of a business or farm operation except as provided in 6.566 regarding utility reconnection and personal property adaptation and in 6.602, regarding reestablishment expenses; or
11. Costs for storage of personal property on real property already owned or leased by the displaced person; and
- 12 Refundable security and utility deposits.

**6.670 REPLACEMENT HOUSING PAYMENTS**

Replacement housing payments involve a variety of benefits available to assist displacees in obtaining comparable replacement dwellings. Certain owner-occupants may be eligible for a replacement housing payment, which includes a housing price differential payment, which when added to the acquisition payment for the displacement dwelling provides for the purchase of a comparable replacement dwelling. This payment also includes compensation for increased costs for financing the replacement dwelling and actual closing costs incidental to the purchase of the dwelling.

Other replacement housing payments include a rental assistance payment for eligible displacees electing to rent replacement housing; or, a payment to assist eligible displacees in making a down payment on the purchase of a replacement dwelling, plus closing costs incidental to the purchase of the replacement dwelling.

The benefits are more fully described in: 6.675 through 6.850.

**6.675 Replacement Housing Price Differential Payments for 180-Day Owner Occupants**

**6.680 Benefit Description**

This Replacement Housing Price Differential Payment is a payment made to certain displaced owner-occupants to assist them in acquiring a replacement dwelling.

For an owner-occupant who purchases a decent, safe and sanitary replacement dwelling, the amount of the total payment shall not exceed \$22,500, which is the combined sum of:

1. The Replacement Housing Price Differential is an amount, if any, by which the cost of a replacement dwelling exceeds the acquisition cost of the

displacement dwelling. The cost of the replacement shall be the lower of:

- a. The cost of a comparable replacement dwelling found by the agent, or
  - b. The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.
2. The amount necessary to compensate the displaced person for any increased interest cost and other debt service costs to be incurred in connection with the mortgage on the replacement dwelling. (See 6.715 for an explanation of this benefit.)
  3. Reasonable expenses that are incidental to the purchase of the replacement dwelling. (See 6.725 for an explanation of this benefit.)

**6.682 Eligibility (180 Day Owner Occupant)**

To be eligible for a Replacement Housing Price Differential a displaced person must have owned and occupied the acquired dwelling for at least 180 days immediately prior to the initiation of negotiations.

Also see Time Limitations For Benefit Claims, 6.405.

**6.684 Benefit Calculation**

The agent in the region researches the local housing market and computes the upper limit of the housing price differential based on the cost of a comparable replacement dwelling. Selection of comparables and calculation of the payment may not be done by the agent who appraised or will negotiate for the subject property without the approval of the Right of Way Project Administration Manager.

A definition of "comparable replacement dwelling" may be found in the glossary of this manual.

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

If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly

representative of, and equal to, or better than, the displacement dwelling

If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. See 6.793 for more details on determining such a displacement carve-out.

The agent describes on Form 734-3601, Replacement Housing Worksheet, page 1, the major characteristics of the subject property and the for-sale offerings found in the market. The agent must view the interior of the displacement dwelling and the interior of the comparables whenever possible. Interior inspection of comparables is especially important if they appear only marginally DSS. The agent attaches photographs to Replacement Housing Worksheet Photo Record pages (Form 734-3601).

After choosing a replacement comparable, the agent completes the applicable portion of the Replacement Housing Worksheet. The agent subtracts the value of the subject shown on the appraisal review from the price of the selected comparable. The difference, if any, is the maximum amount of the replacement housing price differential payment.

The replacement dwelling selected, as the basis of the benefit calculation must be available for purchase on the date the acquisition agent gives the 90-day notice. The agent will need to make a new benefit calculation if the comparable unit is no longer available. The agent should advise the displacee to make the earnest money deposit on any replacement dwelling subject to its inspection and approval by the Oregon Department of Transportation as decent, safe, and sanitary. The agent must also advise displacees of the possibility of a relocation carve out.

The agent should monitor the availability of replacement units up to the date of the 30-day notice. If the selected comparable is no longer available, the agent must verify that an equal comparable is available, or if a more comparable dwelling becomes available, the agent should request a new benefit study. A new benefit study may increase or decrease the housing price differential payment. However, if a displacee has already found a replacement, which will require the full amount of the original price differential, the benefit should not be decreased. The intent is to

be fair to displacees without unnecessarily large benefit payments.

### **6.686 Claiming a Replacement Housing Price Differential Payment**

The agent provides the displacee with Form 734-3608, Replacement Housing Claim and Worksheet, on which the maximum benefit is stated. The claimant must return the completed form with proof of ownership, such as a copy of the executed deed or contract of sale.

### **6.690 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 replacement housing payment.

### **6.695 Owner Retention of the Displacement Dwelling**

If owners retain ownership of their dwelling, move it from the displacement site, and re-occupy it on the replacement site, the purchase price of the replacement dwelling shall be the sum of:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and
2. The cost of making the unit a decent, safe and sanitary replacement dwelling; and
3. The value of the replacement site as determined by "a" or "b" below:
  - a. For residential use, if the displacee owned the displacement site and owns or acquires the replacement site. In determining fair market value of the replacement site an appraisal report is not necessary, any reasonable method of arriving at the value may be used.

OR

- b. The amount of the rental assistance benefit calculation for the site if the displacement site was rented and

4. The retention value of the dwelling. (The retention value is the salvage value reflected in the acquisition documents).

#### **6.700 Multiple Occupancy of A Dwelling Unit**

If two or more occupants of an acquired dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share of any relocation payment based on the occupants moving together to a comparable replacement dwelling.

Prorations of this nature are based upon the number of occupants of the household, not on the size of the financial contributions made by each to the maintenance of the household.

If the Project Administration Manager determines that two or more occupants maintained separate households within the same dwelling, such occupants will be treated separately, and benefits computed on a carve-out of each person's living quarters. To be considered a separate household, individuals or families occupying the same residence should have separate rental agreements or pay rent separately and share a minimal amount of common areas (bathrooms, living room, kitchen, etc.).

#### **6.705 Mutual Ownership Payments**

When a single family dwelling is owned by several persons and occupied by only some of the owners, the replacement housing payment will be the lesser of:

1. The difference between the owner-occupant's share of the acquisition cost of the acquired dwelling and the actual cost of the replacement dwelling, or
2. The difference between the total acquisition cost of the acquired dwelling and the amount determined by the agent as necessary to purchase a comparable dwelling.

Partial owner-occupants who cannot afford to purchase comparable DSS replacement housing may be treated as tenants and may be entitled to receive a rent supplement payment if they rent and occupy a comparable DSS replacement dwelling. If the application of this procedure, because of unusual circumstances, creates an undue hardship on occupants with a partial ownership, an explanation of the situation, along with a recommended solution should be submitted to the Project Administration Manager.

#### **6.710 Owner-Occupant of a Multiple Dwelling**

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 actual cost when computing price differential.

In other words, the owner-occupant of a multiple dwelling unit is entitled to the same benefits as any other owner-occupant. However, the comparable dwelling should have the same number of units as are in the acquired structure. If no similar structures are available, a building with fewer units must be used. The value of the owner's unit, not the value of the entire subject property, is used to determine the replacement housing payment. The replacement housing payment is the difference between the value of the owner's living unit as determined by a carve-out and the value of a comparable living unit in the most comparable property. (See Relocation Appendix A – Guidelines for Carveouts).

The increased interest and closing costs payments for an owner-occupant unit in a multiple dwelling are to be based upon the value this unit contributes to the value of the entire property. For example, if the value of a unit is 30 percent of the entire property, then the payment would be based on 30 percent of the increased interest and closing cost payments.

#### **6.715 INCREASED INTEREST PAYMENT**

##### **6.716 Benefit Description**

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 initiation of negotiations.

### 6.718 Eligibility - increased interest

A displaced 180-day owner-occupant is eligible for this payment under the following conditions:

1. The acquired dwelling must have been encumbered with a bona fide financing instrument(s) for not less than 180 days before initiation of negotiations.
2. The replacement dwelling when acquired by the displacee must be burdened with a bona fide financing instrument with a higher rate of interest than that which existed on the displacement dwelling.
3. The interest rate on the replacement dwelling must be adjusted if it exceeds prevailing rates for the area in which it is located.
4. The principal amount of either financing instrument may exceed the other without voiding eligibility.

Also see Time Limitations For Benefit Claims, 6.405.

### 6.720 Claiming an Interest Differential Payment

To claim an interest differential payment, the agent should provide displacees with Replacement Housing Claim Form 734-3608 if they are also claiming a housing price differential payment. The claimant must supply documentation of financing instruments on the displacement and replacement dwellings, as well as a statement in writing from the lender indicating:

1. Payoff amount applied to the principal,
2. Payoff amount applied to interest, and
3. Legal remaining term and interest rate of the financing instrument at the time of payoff.

Reimbursement of interest differential payments should only be made based on certified final closing statements and financing instruments, deeds, or real estate contracts signed by all necessary parties.

### 6.722 Computation of the Increased Mortgage Interest Costs Payment

Set forth below are the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the down payment) to an amount which can be amortized at the same monthly payment for principal and interest over the

same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

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

The increased interest payment can be calculated by using a financial calculator. The results of the computation are entered in the Increased Interest Worksheet, Form 734-2302. (See also Appendix B - Mortgage Interest Differential Payment, for further discussion and examples).

#### Sample Computation

Old Mortgage:

Remaining Principal Balance.....\$50,000  
 Monthly Payment (**principal and interest only**).....\$458.22  
 Interest rate (percent).....7

New Mortgage:

Interest rate (percent).....10  
 Points.....3  
 Term (years).....15

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

Remaining principal balance of old mortgage.....\$50,000.00

Less amount to be financed to maintain monthly payments of \$458.22 at 10%.....-42,010.18

Increased interest costs..... 7,989.82

3 points on \$42,010.18=  
.....+1,260.31

Total buydown necessary to maintain payments at \$458.22/month..... 9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18), the buydown shall be prorated accordingly.

If the actual mortgage obtained in our example were \$35,000, the buydown would be \$7,706.57 (\$35,000 divided by \$42,010.18 = 0.8331 and \$9,250.13 X 0.8331 = \$7,706.57).

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.

The mortgage rate to be used to compute the increased interest costs payment when the property is secured with an adjustable rate mortgage is the interest rate that is current on the property as of the date of acquisition.

In the case of a home equity loan, the unpaid balance shall be that balance which existed 180 days prior to initiation of negotiations or the balance on the date of acquisition, whichever is less.

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.

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

1. They are not paid as incidental expenses;
2. They do not exceed rates normal to similar real estate transactions in the area;

3. The Project Administration Manager determines them to be necessary.
4. The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

The agent calculates the benefit amount, based on the documentation supplied by the claimants; then sends the completed forms and documents to the Relocation Reviewer for review and payment. The agent should discuss any unusual mortgage situations (e.g. balloon payments or adjustable interest rates) with the Relocation Reviewer for direction in calculating the benefit.

As soon as the facts relative to the person's current mortgage(s) are known, the agent shall advise the displaced person of the approximate amount of this payment and the conditions that must be met to receive the payment. The displacee is also to be advised of the interest rate and points used to calculate the payment. This can be done by using Form 734-2302, Increased Interest Worksheet.

Payment shall be made available at or near the time of closing in order to reduce the new mortgage as intended. This payment is contingent upon a mortgage being placed on the replacement dwelling.

If the interest differential payment on a replacement dwelling results in the total housing price differential payment exceeding the \$22,500, then the replacement housing falls into the category of Housing of Last Resort. In such cases, the agent should explore alternatives to the housing price differential super payment. Housing of Last Resort procedures are discussed further in 6.880.

**6.725 Incidental Expenses Payment**

**6.726 Benefit Description**

An eligible displacee is entitled to a payment for those necessary and reasonable costs incurred incident to the purchase of a replacement dwelling and customarily paid by the buyer, including:

1. Legal, closing and related costs including fees for title search, preparation of conveyance contracts, notary services, surveys, preparation of drawings or plats, and charges paid incident to recording.

2. Lenders, FHA or VA application and appraisal fees.
3. Loan origination or services fees, that do not represent prepaid interest, actually paid by the displaced person but not to exceed an amount which would have been paid if the original mortgage balance was refinanced. These fees shall not exceed the prevailing rate for real estate transactions in the area.
4. Certification of structural soundness and termite inspection. This includes reimbursement for a Professional home inspection.
5. Credit report.
6. Owner's and mortgagee's title policy or abstract of title.
7. Escrow agent's fee.
8. State revenue stamps.
9. Sales or transfer taxes.

Incidental expenses, which vary with the purchase price and/or the loan, such as title insurance fee, loan origination fee, etc., must be prorated when the displacee purchases a replacement dwelling costing more than the replacement comparable. Unusual or excessively high incidental costs will be paid only when there is no other comparable housing not subject to such costs.

### **6.728 Ineligible Expenses**

The following items are not considered reimbursable expenses:

1. Fees, costs, or charges, which are part of the debt service or finance charge except in the case of a down payment conversion from a rent supplement.
2. Any items paid in advance by the seller of the real property and prorated between the seller and the buyer at the close of escrow such as real property taxes, fire insurance, homeowners' association dues and assessment payments.

### **6.730 Eligibility - incidental expenses**

Eligibility for the incidental expenses payment is limited to:

1. 90-day tenant occupants,
2. 90-day owner occupants,
3. 180-day owner occupants,

who have purchased and actually and lawfully occupied the replacement DSS dwelling. Also see Time Limitations For Benefit Claims, 6.405.

### **6.732 Claiming Incidental Expense Payments**

The eligible displacee may claim reimbursement of incidental costs by submitting the Replacement Housing Claim and Housing Incidental Costs Worksheet Form 734-3608, with a certified copy of the closing statement. For down payment recipients, incidental costs are included within the rent supplement benefit.

### **6.735 RENTAL ASSISTANCE PAYMENT**

#### **6.736 Benefit Description**

An eligible displaced person renting a replacement dwelling may receive a rent supplement up to \$5,250 toward the increased rental amount of a DSS replacement unit over a 42-month period.

The payment under this section shall be disbursed in a lump sum amount, unless the Project Administration Manager determines, for good cause, that the payment should be made in monthly installments. However, except as limited by 6.465, the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing. The agent should advise the displacee that the replacement unit must meet DSS requirements before the benefit payment can be made. Any rental agreement should be made subject to the unit's inspection and approval by the inspecting agent.

#### **6.738 Eligibility - rent supplement**

Those who may be eligible for a rent supplement are displacees who have actually and lawfully occupied the displacement dwelling for at least 90 days

immediately prior to the initiation of negotiations. This may include:

1. 90-day tenant occupants.
2. 90-day owner occupants.
3. 180-day owner occupants. Calculation of this benefit for a 180-day owner occupant will only be done at the displacee's request. The rental assistance payment to 180-day owner occupants shall not exceed the determined price differential.

Also see Time Limitations For Benefit Claims, 6.405.

### **6.740 Economic Rent (Fair Market Rent)**

When an owner-occupant plans to rent a replacement dwelling, it is necessary for the agent to estimate the fair market rent of the displacement dwelling unit, by using Replacement Housing Worksheet, Form 734-3601. Three comparables are desirable, although only one is required to estimate market rent being paid for comparable dwellings. Adjustments should be made for dissimilarities between the comparables and the subject to reflect the subject's fair market rent. All adjustments should be explained.

An estimate of fair market rent on the displacement unit may also be necessary in the case of a tenant occupant who pays little or no rent. If the contract rent is substantially lower than market rent, the agent should investigate and document the reasons why it is lower and use that information in arriving at a decision with the Relocation Reviewer as to whether to base the rental assistance payment on the contract rent or on market rent. The agent should be careful to make sure that the use of fair market rent would not result in a hardship to the displacee because of the person's income or other circumstances. All displacees must be offered replacement housing that is within their financial means. (See 6.744)

### **6.742 Average Monthly Utility Costs**

The best approach for determining the average monthly cost of utilities is to contact the utility companies and obtain the average monthly utility cost for the twelve months prior to the occupant interview. In cases where it is not possible to contact the utility companies, such as in cases where the source of heat is a wood stove, a verification or projection of costs of

heat, light, water, and sewer should be obtained from other appropriate sources.

### **6.744 Rental Assistance Benefit Calculation**

The agent examines the market to find at least three DSS comparable replacement dwellings, if available, and computes the payment on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. The agent uses the Replacement Housing Worksheet, Form 734-3601, to describe the displacement dwelling and the comparable for-rent dwelling units, which the agent selects from those available in the market. The benefit is then calculated on the form. The payment available to the displacee shall be the amount of any non-refundable deposit requirement from the selected replacement dwelling comparable plus 42 times the amount obtained by subtracting the base monthly rental of the displacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
2. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary dwelling actually occupied by the displaced person.

The base rent of the displacement dwelling which is used in calculating the amount of benefits as described above is the lesser of:

1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement. For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances. All displacees must be offered a comparable replacement dwelling housing (See Last Resort Housing, 6.880); or
2. Thirty (30) percent of the person's average gross household income, if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. The base monthly rental shall be established solely on the criteria in #1 for persons with income exceeding the survey's "low income"

limits; for persons refusing to provide appropriate evidence of income; and for persons who are dependents.

A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.

HUD Low income limitations can be found at: <http://www.fhwa.dot.gov/realstate/index.htm> or

3. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

Pictures of the subject and comparables must be attached to the Photo Record on the Replacement Housing Worksheet, Form 734-3601 to accompany the calculation sheet.

#### **6.746 Claiming a Rental Assistance Payment**

The agent fills in the maximum rent supplement amount on Replacement Housing Claim and Worksheet, Form 734-3608 and gives the form to the displacees. The agent must advise the displacees that the maximum benefit can only be claimed if they will be paying in rent and average monthly utilities as much as or more than the average monthly utilities and rent of the relocation comparable on which the benefit calculation was based.

The claimants must complete the form and return it with proof of their right to occupy the replacement dwelling. Acceptable evidence would be a copy of the signed rental agreement, a rental receipt, a cancelled rent check, or a signed statement from the landlord. The agent must certify that the replacement unit has passed the DSS inspection by completing the form.

#### **6.750 Conversion of Benefit**

Displaced owner-occupants or tenant-occupants who initially rent a replacement dwelling and receive a rental assistance payment are eligible to receive replacement housing payments in the form of a housing price differential or down payment benefit if they meet the eligibility criteria for those benefits, including purchase and occupancy within the prescribed one year period. See 6.682 and 6.738 for eligibility requirements and 6.405 for time

requirements. Any portion of a rental assistance payment that has already been disbursed shall be deducted from the benefits calculated for this conversion.

#### **6.760 Less than 90-Day Occupants**

Occupants of 90 days or less are entitled to relocation advisory services and a payment for moving costs and related expenses. They are not eligible for rental assistance payments. However, if a comparable rental replacement is not available at a rate within their financial means, the relocation agent must provide a comparable rental replacement by utilizing the provisions of Last Resort Housing (6.880).

#### **6.765 DOWN PAYMENT BENEFIT**

##### **6.766 Benefit Description**

An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment, including reimbursement for incidental expenses, in the amount the person would receive under 6.744 of this manual if the person rented a comparable replacement dwelling, not to exceed \$5,250.

The agent shall advise the displacee that the replacement dwelling must meet the DSS requirements before benefit payment can be made. Any earnest money agreement should be made subject to inspection and approval by the Relocation Reviewer.

##### **6.768 Eligibility - down payment**

Eligibility for a down payment benefit is limited to displaced:

1. 90-day tenant-occupants, and
2. 90-day owner-occupants.

Displacees must purchase and lawfully occupy the dwelling for which the benefit is claimed.

Eligibility for down payment benefit does not extend to the 180-day owner-occupant.

Also see Time Limitations For Benefit Claims, 6.405.

### **6.770 Benefit Calculation for Use in Down Payment**

An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment in the amount the person would receive as a rental assistance payment calculated under 6.744 if the person rented a comparable replacement dwelling. However, the payment to a displaced homeowner shall not exceed \$5,250 or the amount of the replacement housing price differential payment the owners would receive under 6.684 if they met the 180-day occupancy requirement, whichever is less.

### **6.772 Claiming a Down Payment Benefit**

The agent presents the displacee with a completed Replacement Housing Claim and Worksheet, Form 734-3608.

The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses. The down payment and incidental expenses claimed must be shown in the closing statement.

In all cases, the reimbursement for the total of the down payment and incidental costs may not exceed the amount computed as a rent supplement for that displacee.

For example, if a displacee is eligible for a \$4,000 rent supplement benefit, puts \$4,000 down on a DSS replacement house, and the incidental costs are an additional \$1,000, he or she is eligible for reimbursement of only \$4,000.

As proof of ownership, the claimant must furnish a copy of the deed or a copy of the real estate contract properly executed along with a completed, certified signed closing statement to confirm the down payment amount and those incidental costs usually paid by the purchaser.

The agent should explain the closing cost payment so that the displacee understands the Oregon Department of Transportation cannot participate in the prepaid taxes and costs representing prepaid insurance deposits required in real estate loan transactions.

## **6.775 RELATED RELOCATION ISSUES**

### **6.780 PARTIAL ACQUISITIONS**

#### **6.783 Determining Displacement as a Result of a Partial Acquisition**

Many partial acquisitions leave residential or business improvements on the remainder. Sometimes region personnel face the problem of determining whether these occupants will be displaced from the remainder. An example of when a relocation may occur is when the impact of the acquisition will diminish the earning potential of a business or farm to such an extent that it would not be a viable economic unit.

In the case of partial acquisitions where it is not obvious that the occupants would be displaced from the remainder, such as where there may be a loss of parking, the Region Manager or Project Manager in the region shall make a preliminary determination of who is eligible for displacement as a direct result of the acquisition. Where there is no indication of displacement in the appraisal report, then determination of displacement should be supplemented by statements of justification and documentation why the occupants are eligible for displacement.

This preliminary determination of displacement shall be submitted to the Relocation Reviewer and approved by the Project Administration Manager prior to relocation assistance or benefits being offered to the occupant(s) in question.

On such properties, where the occupants are determined to be eligible for displacement from the remainder, all claims for relocation benefit payments must be submitted by the claimant within 18 months of:

1. For tenants, the date of displacement from the acquisition area, or, if no displacement from the acquisition area, the date the Oregon Department of Transportation takes physical possession of the property.
2. For owners, the date of displacement from the acquisition area, or, if no displacement from the acquisition area, the date of the final payment for acquisition of the real property, whichever is later.

## **6.786 Computing Replacement Housing Payments Resulting from Partial Acquisitions**

In cases where owner-occupants are displaced from their dwelling as a result of a partial acquisition, the agent must determine whether or not to include the value of the remaining property in the price differential computations.

If the remaining property is a buildable homesite, the Appraisal Reviewer will identify it in the appraisal review as an economic remainder. The Appraisal Reviewer will further state in the review that “the State can offer to purchase the economic remainder”. In these instances, the State will offer to purchase the economic remainder, unless there are unusual circumstances that would prohibit the State’s purchase of the remainder, such as contamination on the remainder. Regardless of whether or not the property owner chooses to sell the economic remainder to the State, the value of the remainder shall be added to the just compensation estimated for the taking and damages when determining the price differential payment.

Should the State not offer to purchase the economic remainder, the value of the remaining property shall not be added to the just compensation when determining the price differential payment.

If the Appraisal Reviewer identifies the remaining property as uneconomic, then the value of the remaining property shall be added to the just compensation only if the property owner chooses to sell the remainder to the State. If the property owner chooses to keep the remainder, then only the just compensation for the taking and damages shall be used when computing the replacement housing payment.

## **6.790 CARVE-OUT VALUES**

### **6.793 Displacement Carve-Out**

It may sometimes be difficult to find a comparable replacement dwelling in a housing price differential study because the displacement site is atypical of offerings in the area. However, only that portion of market value which is attributable to a homesite and the displacement dwelling need be considered in computing benefits. (See Benefit Calculation, 6.684) It is important that field personnel recognize the need for a carve out and request an early estimate. Examples of instances requiring carve-outs are:

1. When a dwelling is located on a tract larger in size than typical for residential use in the area.
  1. When an owner occupies one unit of a multiple dwelling. The owner is entitled to benefits based on the carved out value of a replacement unit. (See Owner-Occupant of a Multiple Dwelling, 6.710)

The value of the carve out should be based on the appraisal and approved by the Region Manager or Project Manager. If the appraisal is unclear or the use of the breakdown from the appraisal would be inequitable, a written carve-out should be obtained from the Appraisal Reviewer. (See Relocation Appendix A – Guidelines for Carveouts)

### **6.796 Replacement Carve-Out**

The carve-out procedure (See Relocation Appendix A – Guidelines for Carveouts) is used when displacees purchase a replacement property which contains attributes not intended for their residential use. These could include commercial buildings, rental units, or farmland.

The agent deducts the value of these non-residential attributes from the replacement purchase price for the purpose of benefit computation.

This could make a claimant ineligible for the maximum replacement housing payment, even though the price of the replacement, including the extra attributes, was greater than the minimum purchase price required to claim the maximum benefit.

Displacees who express an interest in acquiring a mixed-use replacement property must be cautioned in advance of the possibility of such a carve-out.

## **6.800 MOBILE HOMES**

Mobile homes, with the exception of travel trailers, are, generally, considered real property by the Oregon Department of Transportation. As such, offers to purchase are made and occupants displaced are eligible for relocation benefits.

However, when the land underneath the mobile home is not owned by the owner of the mobile home, such as in a mobile home park, and the mobile home owner pays a licensing fee and personal property taxes, the mobile home may be treated as personal property and moved under any of the actual cost moving benefits. One of the tests involving such determination whether

the mobile home is personal or real property is the intent regarding attachment to the site. Most mobile homes are bought and sold in place. Few mobile homes are sold for removal. If the intent was for the mobile home to be moved, that mobile home may be considered personal property.

In some cases, displacees may live in campers, vacation trailers, or mobile homes that have not lost their identity as personal property, and therefore will not be acquired for a project. The mobile dwelling itself, together with its contents, may be moved under any of the actual cost moving benefits. However, if the mobile home is not acquired but the owner obtains a replacement housing payment under one of the circumstances described in 6.815(3), the owner is not eligible for payment for moving the mobile home.

Generally, persons displaced from mobile homes are subject to the same eligibility standards and may claim the same relocation benefits as displacees from conventional housing.

#### **6.805 Actual Cost Moving Expenses**

The following applies to payments for actual moving expenses:

1. A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances (such as porches, decks, skirting and awnings) which were not acquired, anchoring of the unit, and utility hook-up charges.
2. If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe and sanitary, and it has been determined that it would be practical to relocate it, the reasonable cost of such repairs and/or modifications is reimbursable.
3. A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park, or it has been determined that payment of the fee is necessary to effect relocation.

#### **6.815 Replacement Housing Payments for 180-Day Mobile Home Owner-Occupants**

A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed \$22,500, if:

1. The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations.
2. The person meets the other basic eligibility requirements of 6.682.
3. The mobile home and/or mobile homesite is acquired, or the mobile home is not acquired but the owner is displaced from the mobile home because it is determined that the mobile home:
  - a. Is not and cannot economically be made decent, safe, and sanitary;
  - b. Cannot be relocated without substantial damage or unreasonable cost; or
  - c. Cannot be relocated because there is no available comparable replacement site; or
  - d. Cannot be relocated because it does not meet mobile home park entrance requirements.

If a mobile home is not actually acquired, but it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the replacement housing payment, shall include the salvage value or trade-in value of the mobile home, whichever is higher.

#### **6.820 Replacement Housing Payments for 90-day Mobile Home Occupants**

A displaced tenant or owner-occupant of a mobile home is eligible for a rental assistance payment or a down payment benefit, not to exceed \$5,250 if:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations.
2. The person meets the other basic eligibility requirements in 6.738 for a rental assistance payment or 6.768 for a down payment benefit.
3. The mobile home and/or mobile homesite is acquired, or the mobile home is not acquired but the owner or tenant is displaced from the mobile

home because it is determined that the mobile home:

- a. Is not and cannot economically be made decent, safe, and sanitary;
- b. Cannot be relocated without substantial damage or unreasonable cost; or
- c. Cannot be relocated because there is no available comparable replacement site; or
- d. Cannot be relocated because it does not meet mobile home park entrance requirements.

**6.825 Additional Rules Governing Relocation Payments to Mobile Home Occupants**

**6.830 Replacement Housing Payment Based on Dwelling and Site**

Both the mobile home and mobile homesite must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable procedures. However, the total replacement housing payment shall not exceed the maximum payment (either \$22,500 or \$5,250) permitted under the section that governs the computation for the dwelling.

**6.835 Cost of Comparable Replacement Dwelling**

- 1. If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.
- 2. If it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, for purposes of computing the replacement housing payment, the cost of a comparable replacement dwelling is the sum of:
  - a. The value of the mobile home;

- b. The cost of any necessary repairs or modifications; and
- c. The estimated cost of moving the mobile home to a replacement site.

**6.840 Initiation of Negotiations**

If the mobile home is not actually acquired, but the occupants are considered displaced, the initiation of negotiations is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that they are displaced persons.

**6.845 Mobile Homes Moved as Personal Property**

If the owners are reimbursed for the cost of moving the mobile home they are not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. They may, however, be eligible for assistance in purchasing or renting a replacement site.

**6.850 Partial Acquisition of Mobile Home Park**

The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance.

**6.860 SIGNS - OUTDOOR ADVERTISING AND OTHERS**

**6.865 Status As Realty**

Except for outdoor advertising signs, signs located within an area of acquisition are considered to be real property and are to be acquired under acquisition procedures. (See 5.650) Outdoor advertising signs, however, are considered to be personal property and are moved under relocation procedures.

**6.875 Relocation of Outdoor Advertising Signs**

The relocation benefits available to outdoor advertising sign owners are similar to those available to other displaced businesses. An outdoor advertising sign must be included as inventory for moving, and the move of a sign must still be monitored just as any other move.

Relocation benefits for signs include the following:

1. Actual reasonable moving expenses as described in 6.555. These may be claimed in the same manner as a regular business move using the business move claim forms. Eligible reimbursable expenses may include costs for the installation of a new base including electrical wiring necessary to operate the sign. Sign move expenses, based on estimates, may be claimed by using The Sign Move Claim, and based on Schedule or Estimates, Form 734-3798.
2. Direct loss of tangible personal property: Outdoor advertising sign owners may be reimbursed for actual direct losses when they are to relocate signs but do not do so. The amount of the loss is the lesser of:
  - a. The depreciated reproduction cost of the sign as determined by qualified right of way staff or independent sign appraisers, less the proceeds from its sale; or
  - b. The estimated cost of moving the sign, but with no allowance for storage. The sign owner completes Form 734-3800, Sign Loss of Tangible Personal Property Claim to claim this benefit.
3. Expenses in searching for a replacement sign site. (See 6.588.)

An outdoor advertising sign owner is not eligible for the Fixed Payment in Lieu of Moving Expenses and is not eligible for the Reestablishment Expense benefit.

Payment for a sign move or loss of tangible personal property (sign) claim will not be made until a release of the leasehold interest in that property necessary for Oregon Department of Transportation purposes has been executed.

## **6.880 LAST RESORT HOUSING**

### **6.882 Determination to Provide Replacement Housing of Last Resort**

Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in: 6.675 and 6.735, as appropriate, additional or alternative

assistance shall be provided under the provisions of this section. Any decision to provide last resort housing assistance must be adequately justified in writing and submitted to the Project Administration Manager for approval either:

1. On a case-by-case basis, for good cause, this means that appropriate consideration has been given to:
  - a. The availability of comparable replacement housing in the program or project area; and
  - b. The resources available to provide comparable replacement housing; and
  - c. The individual circumstances of the displaced person; or
2. By a determination that:
  - a. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore last resort housing assistance is necessary for the area as a whole; and
  - b. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
  - c. The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs. (Will project delay justify waiting for less expensive comparable housing to become available?)

The amount of justification needed to support the Housing of Last Resort Payment would vary with the size of the payment and the complexity of the relocation problem. If the last resort payment is a superpayment, then the relocation agent should write an explanation of why the rent supplement or housing price differential payment is so high and what alternatives were considered.

For example, the gross family income of the renter occupants may be extremely low, or the subject may have an extremely low rent because it is non-DSS. In cases like these, the housing of last resort super payment may be the only alternative.

The agent should send a memo with the benefit determination stating that, because of the low income of the tenants, the only way that the tenants could afford DSS housing would be with assistance from the housing of last resort superpayment. It is also possible, as an alternative, to rehabilitate or add on to a non-DSS replacement dwelling and this should be explored. If the cost of making a non-DSS dwelling habitable is less than the superpayment resulting from a DSS displacement dwelling, then this would be a preferred alternative to a superpayment.

### **6.884 Basic Rights of Persons to be Displaced**

Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or 6.880 of this manual.

No displaced person shall be required to accept a dwelling provided by the Oregon Department of Transportation under these procedures (unless the Department and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

### **6.886 Methods of Providing Comparable Replacement Housing**

Implementation shall be for a reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project. The methods of providing replacement Housing of Last Resort include, but are not limited to:

1. A replacement housing payment in excess of the limits set forth in: 6.675 and 6.735. A rental assistance subsidy under this section shall be paid in a lump sum. In unusual circumstances, the Project Administration Manager may authorize this subsidy to be paid in installments.
2. Rehabilitation of and/or additions to an existing replacement dwelling.
3. The construction of a new replacement dwelling.
4. The provision of a direct loan, which requires regular amortization or deferred payment. The Project Administration Manager shall determine whether the loan would be unsecured or secured

by the real property and whether the loan may bear interest or be interest-free.

5. The relocation and, if necessary, rehabilitation of a dwelling.
6. The purchase of land and/or a replacement dwelling by the Oregon Department of Transportation and subsequent sale or lease to, or exchange with a displaced person.
7. The removal of barriers to the handicapped.
8. The change in status of the displaced person with his or her concurrence from tenant to homeowner when it is more cost effective to do so, as in cases where a down payment may be less expensive than a last resort rental assistance payment.

Under special circumstances consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling.

As an example, an upgraded, but smaller replacement unit might suffice if it is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing.

In no event, however, shall the displaced person be required to move into a dwelling that is not functionally equivalent in accordance with the definition of a comparable replacement dwelling, found in the glossary.

The variation from the usual methods of obtaining comparability should never result in a lowering of housing standards for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling, but they may never be inferior.

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

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

Assistance shall be provided to a displaced person who is not eligible to receive a replacement housing payment under: 6.675 and 6.735 because of failure to meet the length of occupancy requirement when comparable replacement housing is not available at rental rates within the person's financial means (See 6.744).

### **6.900 RELOCATION BENEFIT PAYMENT PROCEDURE**

After a relocation claim is completed by the displacee, reviewed by the agent, and any comments necessary to support approval are added, the agent signs the bottom of the form and submits the claim to the Relocation Reviewer. Documentation to support the payment must be attached.

Once it is determined that the claim meets all the standards and documentation required by State and Federal regulations, the approved claim is forwarded for processing and payment.

#### **The following relocation claims may be approved and paid by the Region Right of Way Manager:**

1. Claims for moving expenses of \$10,000 or less;
2. Storage requests and claims totaling \$10,000 or less with appropriate documentation forwarded to headquarters;
3. Protective rental agreements and payments totaling \$10,000 or less with appropriate documentation forwarded to headquarters.

All other relocation claims are to be forwarded to headquarters for payment.

#### **6.905 Relocation Miscellaneous Payment Approval Form**

In cases where a particular relocation form may not be appropriate for the claim received, such as a protective rent claim, those mentioned in 6.590, or in cases where payment of a relocation claim is assigned to multiple parties having different addresses, Form 734-3629 Miscellaneous Payment Approval, is to be used.

This form must include supporting comments and documentation, and be signed by the project manager. The claim is sent to the Appraisal/Relocation Unit.

### **6.915 DENIAL OF CLAIMS & APPEAL PROCEDURES**

#### **6.920 Denials**

If the Relocation Reviewer, or the Region Right of Way Manager when permitted, disallows all or any part of a payment claimed, or refuses to consider a claim because of untimely filing or on other grounds, the claimant shall be promptly notified by certified mail, return receipt requested. This notification should include the basis for the denial and the procedures for appealing that determination.

#### **6.925 Appeals**

The agent shall provide the displacee with Form 734-3623 Appeal of Relocation Assistance in such cases where the displacee may be dissatisfied with the relocation benefits offered.

The Relocation Appeal process is an administrative rule subject to the Administrative Procedures Act 734-001-0025.

1. Within 60 days of a final determination granting or denying eligibility for a Relocation payment, or of an amount of payment under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and any regulations adopted thereunder, any person dissatisfied with such determination may file a "request for appeal" upon forms provided by the Department of Transportation.

2. The Relocation appeal process and hearing concerning the determination of eligibility or amount of payment shall be conducted as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.310 to 183.550.

#### **3. Optional Reconsideration Conference**

Within 60 days of a final determination granting or denying eligibility for a Relocation payment or of an amount of payment under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies of 1970 (P.L. 91-646) and any regulations adopted thereunder, a person dissatisfied with such final determination may petition for a "reconsideration conference" upon forms provided by the Department of Transportation.

A reconsideration conference is an optional process, which must be agreed to by both the claimant and

the Department of Transportation, that occurs prior to the formal appeal process identified in (1) and (2) and is an opportunity for a claimant to provide additional relevant information that was not considered by the department or to correct factual errors and for the department to reconsider the claim with the new or corrected information.

The time period to file a request for an appeal pursuant to subsection (1) shall be stayed from the date of request for a reconsideration conference until ODOT either issues a decision to decline the request for a reconsideration conference or until ODOT issues a determination after the reconsideration conference.

The Department of Transportation will arrange for the reconsideration conference within 60 days of receipt of the claimant's request for the conference, or as soon thereafter as all parties can be assembled.

The final determination resulting from the reconsideration conference will be issued within 60 days of the conference. If the claimant is dissatisfied with the revised final determination, the claimant may file an appeal pursuant to subsection (1) above.

#### **6.930 RELOCATION ACTIVITY AND CLOSING REPORT**

Any file involving relocation requires that the agent complete Form 734-3837, Closing Relocation Report in RAIN and forward a hard copy to the Relocation Reviewer at the conclusion of relocation activities on the file. This checklist allows the agent to be assured that all relocation obligations on the file have been met, and requires the agent to document that the file is closed for relocation purposes.

The form provides a place for the agent to record move monitoring activities on relocations not requiring an extensive monitoring report, to summarize relocation assistance provided, or to discuss any pertinent relocation issue on the file.