

Changes to 49 CFR Part 24

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

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Administration**



Topics - Changes to 49 CFR Part 24

- ✓ Purpose and Applicability of Uniform Act / 49 CFR Part 24
- ✓ Update of FAA Guidance – FAA Order 5100.37B & Advisory Circular (AC) 150/5100-17 Change 6
- ✓ Top Ten Regulatory Changes that Affect Airport Projects.
- ✓ Where to Get More Information.



Purpose of Uniform Act



Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)

Uniform Act Purpose (42 USC 4601 et seq)

- ✓ Treat property owners fairly and consistently.
- ✓ Treat persons displaced from their homes and businesses fairly, equitably, consistently.
- ✓ Minimize litigation.
- ✓ Act efficiently and in a cost-effective manner.

Applicability of 49 CFR 24 to Airport Projects

- **Uniform Act Regulation Applies to Any Real Property Acquired FOR an AIP Project or Program:**
 - With or Without AIP Reimbursement of the Land Cost
 - Grant Assurance of 49 CFR Part 24 Compliance Required
 - Sponsor's Certification Required
 - ✓ Appraise FMV of the Needed Land
 - ✓ Offer in Writing @ No less than Approved Appraisal
 - ✓ Provide Relocation Assistance and Payments to Displaced Persons
 - ✓ Assure Comparable Replacement Housing is Available for Persons Displaced from their Homes



Update of FAA Guidance

FAA Airports Land Acquisition & Relocation Guidance

http://www.faa.gov/airports_airtraffic/airports/environmental/relocation_assistance/

- **FAA Order 5100.37B – Issued August 1, 2005**
 - FAA Acceptance Rules
 - Applicability
 - Voluntary Transactions
 - Waivers
- **FAA AC 150/5100-17 CHG 6 – Issued November 7, 2005**
 - Process / Procedural Guidance
 - Documentation Formats
 - Sponsor Certification / Quality Control



Changes to 49 CFR Part 24

My Top Ten Changes that Affect Airport Projects

1. Relocation Planning for Business Displacement – AC Paragraph 4-13 / 4-14
2. No Waiver of Relocation Assistance – AC Paragraph 4-7
3. New Non-residential Eligible Moving Expenses – AC Paragraph 5-17
4. New “Low Income” Qualification to Compute Rental Assistance Payments – AC Paragraph 6-14(b).
5. Replacement Housing Payments:
 - Owner Rental Option - AC Paragraph 6-10
 - Tenant Downpayment Option – AC Paragraph 6-15
6. Cost of Comparable Dwelling, List Price Adjustment No Longer Allowed.
7. Subsequent Occupants – AC Paragraph 6-28
8. Appraisal Waiver Increased to \$10,000 - AC Paragraph 2-2
9. Conflict of Interest Prohibition Strengthened – AC Paragraph 2-5
10. Voluntary Transaction Exemption Criteria – AC Paragraph 1-3





Effective Date of Changes

- **49 CFR 24 Final Rule - January 4, 2005.**
- **Changes effective -- February 3, 2005.**
- **FAA guidance updated.**
 - **FAA Order 5100.37B – August 1, 2005**
 - **FAA Advisory Circular AC 150/5100-17 CHG 6- November 7, 2005**

Relocation Planning for Business Displacement



Relocation Plan @ Project Development Stage

49 CFR 24.204(a)(4) / AC paragraph 4-13

Relocation Planning must:

- **Indicate Availability of replacement business sites**
- **Discuss impacts of any shortage**
- **Consider complexity and length of moving process in developing lead time estimate.**
- **Discuss displacement impact on small financially constrained businesses (e.g. Mom & Pop, Neighborhood dependent business)**
- **Secondary Sources Allowed to Survey Needs.**



Relocation Planning for Business Displacement



Relocation Plan @ Acquisition Stage 49 CFR 24.204(c)(2)(I) / AC paragraph 4-14

- **Personal interview with displaced business required to determine:**
 - ✓ Replacement Site requirements.
 - ✓ Need for Outside specialists.
 - ✓ Personalty/realty issues.
 - ✓ Time required to vacate.
 - ✓ Site availability.
 - ✓ Advance payment needs.

No Waiver of Relocation Assistance or Benefits



New 49 CFR 24.207(f) / AC Paragraph 4-7

- **A sponsor shall not solicit a waiver of relocation assistance or benefits from the displaced person.**
- **Offer of “Global Settlement” inclusive of relocation payments not allowed.**
 - Sponsor Must offer Relocation Assistance and Payments
 - AIP reimbursement limited to eligible and documented relocation cost.

Related Non-Residential Eligible Moving Expense



New 49 CFR 24.303 / AC paragraph 5-17 Formerly Under Reestablishment Expense and Capped @ \$10,000

- **Actual, reasonable, and necessary cost for:**
 - Utility connection from right of way to replacement building (Not related to personal property).
 - Professional services prior to purchase/lease to determine suitability of replacement site:
 - Soil testing, feasibility, and marketing studies to determine site suitability.
 - Impact fees and one-time assessments for utility usage.

Eligible Reestablishment Expenses



Reestablishment @ 24.304 / AC Paragraph 5-18 Expenses that are Still subject to \$10,000 Cap

- **Actual, reasonable, and necessary costs, NTE \$10,000 Total for:**
 - Repairs or improvements required by Federal, state, or local law, code, or ordinance.
 - Modifications to the replacement property to accommodate the business operation or make the replacement structures suitable for conducting business.
 - Construction and installation costs for exterior signing to advertise the business.
 - Redecoration or replacement of soiled or worn surfaces, such as paint, paneling, or carpeting.
 - Licenses, fees, and permits when not paid as a moving expense.
 - Advertisement of replacement location.

Replacement Housing Payment - Low Income Qualification



Change in Who is Qualified as “Low Income” Household to Compute Rental Assistance Payment 49 CFR 24.402(b)(2)(ii) / AC paragraph 6-14(b)

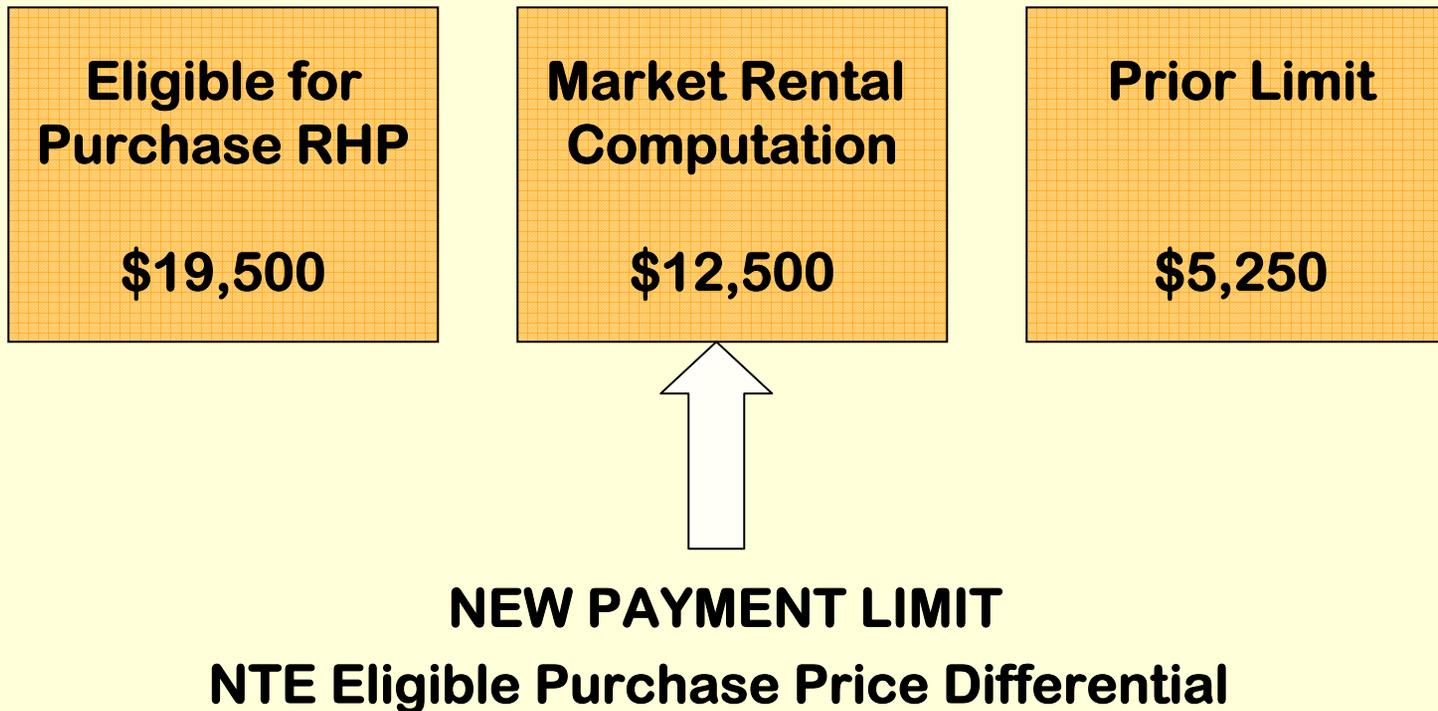
- Rental Assistance Payment is the increase in rent (over 42 months) for a replacement dwelling above the **LESSER OF:**
 - Actual Rent At the Acquired Dwelling, or
 - 30% of monthly household income, if “Low Income” Household.
- NOW, the U.S. Department of Housing and Urban Development’s (HUD) Annual Survey of Income Limits for the Public Housing and Section 8 Programs identifies “Low Income” levels by state and county or metropolitan area. See the HUD tables at:
<http://www.huduser.org/datasets/ura/ura05/RelocAct.html>

See Handout for Sample Payment Calculation

Replacement Housing – 180-day Owner Who Rents Replacement



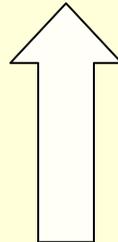
Revised 24.401(f) allows 180-day Owner to Apply Full Computed Purchase Eligibility to Rent Option (e.g. Assisted Care / Downsize / Relocate Out of Area)



Replacement Housing – Downpayment



Revised 24.402(c) Full Computed Rental Eligibility May be Applied as Downpayment



Entire Computed Payment may now be applied for downpayment.

Replacement Housing – No List Price Adjustment



Appendix to Revised 49 CFR 24.403 – Cost of Comparable

- **Adjustment of asking price no longer necessary or allowed.**
- **Former FAA requirement no longer applicable.**

Replacement Housing – Subsequent Occupants



Change to Definition of Financial Means, Subsequent Occupants May Be Paid Replacement Housing Payment

- **A Subsequent Occupant is a displaced person who is not eligible to receive a replacement housing payment because of failure to meet the length of occupancy requirement (less than 90-days).**
- **Prior to the regulation change, such a person was only eligible for a replacement housing payment if the monthly rent of a comparable replacement dwelling was greater than 30% of income.**
- **The regulatory change removed the 30% criteria and subsequent occupants are now eligible for the increased rental cost of a comparable dwelling regardless of income. (Rent to Rent Calculation).**

Appraisal Waiver



Appraisal Waiver Limit Increased to \$10,000 49 CFR 24.102(c)(2) / AC paragraph 2-2

An appraisal or appraisal review is not required if:

- ✓ The owner is donating the property and releases the Sponsor from its obligation to appraise the property, or
- ✓ The Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the market value is estimated at \$10,000 or less, based on a review of available data. When an appraisal is determined to be unnecessary, the sponsor shall prepare a waiver valuation of the proposed acquisition to document its determination.
- ✓ The FAA may approve a Sponsor exceeding the \$10,000 appraisal waiver threshold, up to a maximum of \$25,000.





Acquisition Under \$10,000. Is it Uncomplicated?

- Approach Avigation Easement over Farmland?
- Approach Avigation Easement over Land Zoned for Industrial Development?
- Acquire 10 foot Strip along Frontage of 20 ac Farm field?
(Farmland value at \$1000/ac, taking of 60,000 sq.ft or ~ 1.4ac @\$1000 =\$1400)
- Acquire 3 acres from Georgia-Pacific Land Co., listed - sales @ \$5000/ac. Can FAA approve increase in waiver threshold?

Conflict of Interest



Conflict of Interest Prohibition Strengthened 49 CFR 24.102(n) / AC paragraph

- ✓ The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency. Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate. (*Standard for all acquisitions.*)
- ✓ On any real property acquisition for a FAA assisted project no person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation.
- ✓ An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Sponsor to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is \$10,000, or less.

Voluntary Transaction Exemption- 49 CFR 24.101(b)(1)

Sponsors With Eminent Domain Authority – AC Paragraph 1-3

The owner's sale may qualify as a “voluntary transaction” if the:

- ✓ Possession of that specific property is not a necessity to complete the airport project (e.g. Airport purchase of a home under a Sales Assurance program or Purchase Assurance), AND;
- ✓ The owner's property is not part of an intended, planned, or within a designated project area where all or substantially all of the property within the areas is eligible and proposed for purchase within specific time limits. **(An owner's sale for an airport expansion or noise buy-out project does NOT meet this qualification criterion.)**

If Sold as a Voluntary Transaction, the Selling Owner is Not a Displaced Person and Is Not Entitled to Relocation Payments.

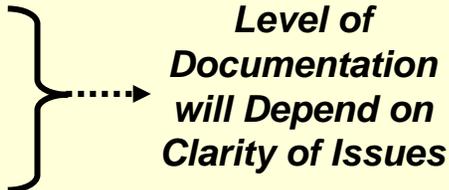
If No Sale Occurs, the Airport and the Property Owner can “Walk Away” without a loss.

Voluntary Transaction - Sponsors With Eminent Domain Authority

Is the Owner's Sale to an Airport Project a Voluntary Transaction Exception? See paragraph 1-3 FAA AC 150/5100-17 CHG 6

Property is Purchased For:	Is Owner's Sale a Voluntary Transaction?	Is Selling Owner Displaced?
Current or Planned Airport Expansion Project	No	Yes, and entitled to relocation payments.
<u>Airport Noise Compatibility Program</u> Buy-Out of Homes Change in Land Use	No	Yes, and entitled to relocation payments.
<u>Airport Noise Compatibility Program</u> Purchase /Sales Assurance No Change in Land Use	Yes, if owner advised in writing that failing amicable agreement the property would not be purchased.	No
Open Market Sale for AIP Eligible Airport Standards At the time of sale, property was not required for a current or planned FAA Assisted Expansion	Yes, if owner advised in writing that failing amicable agreement the property would not be purchased.	No

Needed Documentation that the Owner's Sale is a Voluntary Transaction

- The Property is being acquired for:
 - Standards for Existing Operations / Configuration
 - Not Staged Development – Open Market Sale
 - Purchase /Sales Assurance Measure

Level of Documentation will Depend on Clarity of Issues
- The Sponsor Informed the Property Owner in Writing of the Fair Market Value (FMV) and That Failing Agreement the Airport Will Not Acquire the Property. Appraisal/Appraisal Review Not Required.
- Selling Owner is Not a Displaced Person, however any tenants in occupancy when the property is acquired (I.e. on date of written purchase agreement) are displaced and entitled to relocation assistance and payments.

Voluntary Transaction - Sponsors Without Eminent Domain Authority

Voluntary Transaction Exemption - 49 CFR 24.101(b)(2) *Sponsor does not have Eminent Domain Authority*

Any Acquisition by a Sponsor that does not have Eminent Domain Authority, IF the Sponsor:

- Prior to making its purchase offer, informs the property owner in writing that should negotiations fail the airport will not purchase the owner's property.
- Informs the property owner in writing of the market value of the property.
- Provide any tenant occupants relocation assistance and eligible payments. Tenants who must relocate as a result of acquisition of their occupied property are entitled to relocation assistance and payments benefits regardless of the owner's voluntary participation.

Bottom Line on Voluntary Transaction Exemption

If the Acquisition Meets the Exemption Criteria, then Appraisal Review not required and Selling owner Is not Displaced and is not Entitled to Relocation Payments.

BUT, If In doubt the Owner's Sale is a Voluntary Transaction,
Err on the side of the property owner.
Relocation is Eligible.

Where to get more information

FAA Uniform Act Guidance

http://www.faa.gov/airports_airtraffic/airports/environmental/relocation_assistance/

- **FAA Order 5100.37B – FAA Acceptance Rules**
 - Applicability /FAA Acceptance
- **FAA AC 150/5100-17 CHG 6**
 - Procedural Guidance
 - Documentation Formats
 - Sponsor Certification / Quality Control
- **FAA Lesson's Learned**
 - Typical Problems and Solutions Encountered on Airport Projects
- **ARC Instructional CD – Acquisition, Relocation, Certification**



Where to get more information

Project Technical Assistance

- **Contact Your FAA Project Manager**

http://www.faa.gov/airports_airtraffic/airports/regional_guidance/

- **State Aeronautics Departments**

- **FAA Conferences**

Eastern Region – Hershey, PA February 28 – March 2, 2006

Northwest Mountain Region – Denver, CO April 10-12, 2006

Western Pacific Region – Anaheim, CA June, 2006

Central Region – Kansas City, MO October 1-3, 2006

Great Lakes Region - Chicago, IL November 14-16, 2006



Where to get more information

Other Sources of Help:

- **Uniform Act - FHWA Lead Agency Website**

<http://www.fhwa.dot.gov/realestate/index.htm>

- **International Right-of-Way Association (IRWA)**

<http://www.irwaonline.org/>

- FAA / IRWA Partnership – *Working Towards Excellence in Airport Land Programs*
- Education Offerings
- 52nd Annual International Education Conference
Denver Colorado June 18 – 21, 2006
- Public Real Estate Education Symposium - February 2007



For further Information:

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