



Federal Aviation Administration

Memorandum

Date: September 30, 2014

To: 600's, 610's, 620's, ADO Managers.

From: Danielle Rinsler, Acting Manager, APP-400 

Prepared by: Rick Etter, Airport Realty Specialist, APP-400

Subject: Interim Guidance Memorandum for Changes to the Uniform Relocation Act, effective October 1, 2014

The Federal Highway Administration (FHWA), lead agency for implementing regulations of the Uniform Relocation Act (49 CFR 24), has provided Federal agencies guidance on the effective date of required increased relocation payments. Following is an excerpt from this FHWA guidance:

“The purpose of this memorandum is to provide guidance concerning the October 1, 2014 effective date for several of the amendments to the Uniform Relocation Act in Section 1521 of the Moving Ahead for Progress in the 21st Century Act (MAP-21). The MAP-21 amended the maximum statutory benefit for replacement housing payments for displaced homeowners to \$31,000 and replacement housing payments for displaced tenants to \$7,200. The length of occupancy requirement for homeowners was reduced from 180 days to 90 days in occupancy before the initiation of negotiations. The MAP-21 also amended the maximum statutory benefit for business reestablishment benefits to \$25,000, and the fixed payment for nonresidential moves to \$40,000. By law, these changes become effective on October 1, 2014.

On and after October 1, 2014, the higher benefit limits apply to an individual who qualifies as a displaced person under the definition in 49 CFR 24.2(a)(9)(i) if:

- For relocation benefits other than replacement housing payments for homeowners: The individual is not required to move from the acquired property before October 1, 2014, and has not moved before that date.

- For replacement housing payments for homeowners: On or after October 1, 2014, the displaced person holds title to the real property to be acquired.”

https://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/policy_and_guidance/map212014.cfm .

Change 7 to FAA AC 150/5100-17, Land Acquisition and Relocation Assistance for AIP Assisted Airport Projects.

Change 7 to the subject FAA AC will be issued soon for the revised payment amount and eligibility requirements. The updated AC will be posted on the FAA Airports webpage when issued. Attached are excerpts from the AC with the changed eligibility and payments amounts indicated.

As advised by FHWA, the FHWA is in the process of drafting a Notice of Proposed Rulemaking (NPRM) to incorporate the MAP-21 statutory changes into 49 CFR Part 24, as well as other proposed changes. Once an final rule is issued we will make additional changes to the FAA AC for any modification of 49 CFR 24 regulations. It is expected the NPRM will be issued in the spring 2015 and that the final rule for the 49 CFR 24 changes will be issued in the summer 2015. FHWA is to provide a Frequently Asked Question (FAQ) section on the FHWA website to provide continuing update on the NPRM process.

Notification to Sponsors with Airport Land Acquisition Projects.

The statutory changes require that airport sponsors with ongoing land acquisition project modify their relocation payment procedures. The statutory changes and corresponding procedural requirements are summarized in the table below.

Replacement Housing Payments for Displaced Homeowners and Tenants	
Statutory Change	Procedural Change
1. Increase to statutory Replacement Housing Payment Amounts to \$31,000 for Homeowners and \$7,200 for Residential Tenants. Current statutory payment limit was \$22,500 and \$5250.	Threshold for Housing of Last Resort Procedures increased to new levels. No change in required payment calculation.
2. Occupancy requirement for Displaced Homeowners reduced to 90 days prior to the Initiation of Negotiations (ION). Current eligibility occupancy requirement is 180-days.	Relocation offers and payment claims need to be increased. Homeowners holding title to their property as of October 1, and in occupancy for 90 days or more prior to ION are eligible for increased cost to purchase a comparable replacement home.

3. Eligibility for increased mortgage interest NOT changed. To be eligible the mortgage lien must have been in place on the property 180 days prior to ION.	None.
Non-residential Moving Expense Payments (displaced businesses, farms, non-profits)	
Statutory Change	Procedural Change
4. Fixed Payment Statutory Limit increased to \$40,000 from \$20,000. Re-establishment expense payment increased to \$25,000 from \$10,000.	Relocation offers and eligible payment claims need to be increased. Displaced business, farms, non-profits who are in occupancy and had not completed a move by October 1 are eligible to claim the higher amounts.

Please advise your sponsors of the following recommended procedures in order to meet new requirements effective October 1.

1. Increase in Statutory Limits of Replacement Housing Payment Amounts.

The increase in the statutory replacement housing amounts do not affect the computation of the portion of the replacement housing payment for a displaced homeowner’s purchase of a comparable replacement dwelling or displaced residential tenant’s lease of a comparable dwelling or down payment. The only procedural effect is that housing of last resort procedures and documentation (see AC 150/5100-17, Chapter 6, Section 4) will not be necessary below the new threshold payment amounts of \$31,000 for homeowners and \$7,200 for residential tenants.

2. Occupancy Requirement for Displaced Homeowners Reduced to 90 Days.

As of October 1, homeowners still in occupancy and holding title to their home, that were in occupancy at least 90 days prior to the initiation of negotiations (ION) are eligible for a replacement housing payment for increased cost to purchase a comparable dwelling. Therefore, for relocation eligibility notices and 90-day notices to vacate under 49 CFR 24.203 (AC Chapter 4, Section 2), the airport sponsor should now compute the homeowners eligibility based on the current 180-day owner procedure in 49 CFR 24.401(b), see attached change to AC Chapter 6, Section 2, paragraph 6-8.

Generally, the occurrence of an ION where an owner is in occupancy less than 180 days prior to October 1, or less than 90 days is not typical on airport projects and significant disruption of a relocation process conforming to the new payment and eligibility requirements is not anticipated.

Homeowners and tenants in occupancy less than 90-days prior to ION are subsequent occupants and provided eligible payments under Housing of Last Resort Procedures described at 49 CFR 24.404, see attached AC Chapter 6, Section 4 Paragraph 6-28.

3. Increased Mortgage Interest Payment Eligibility Not Changed.

Please note that the increased mortgage interest payment eligibility per 49 CFR 24.401(c) (see FAA AC Chapter 6, Paragraph 6-11), retains the payment eligibility requirement that the mortgage be a valid lien on the homeowner's property at least 180 days prior to the ION date. Therefore even subsequent to October 1, 2014 eligible displaced 90-day homeowners, with a mortgage lien on the acquired property less than 180 days prior to the ION date are not eligible for the mortgage differential payment.

4. Non-residential fixed moving expense payment and re-establishment expense payments.

Relocation eligibility notices and 90-day vacate notices to non-residential displaced persons (business, farm, non-profit organization) should contain reference to the new payment amounts that may be claimed effective Oct 1, 2014, see attached AC Chapter 5, paragraphs 5-19 and 5-20. Persons that have not completed their move by October 1 may claim the higher payment amount of eligible reestablishment expenses or fixed moving expense.

It is not expected that implementation of the statutory changes will have significant impact on AIP project funding or completion schedules. Should there be any questions or concerns about the increased relocation payments and changed homeowner eligibility requirement effective October 1, 2014 please contact Rick Etter, APP 400 at 202-267-8773, rick.etter@faa.gov.

Attachment

CHAPTER 5. PAYMENTS FOR MOVING AND RELATED EXPENSES

SECTION 3. NON-RESIDENTIAL MOVING PAYMENTS

5.19 REESTABLISHMENT EXPENSES — NON RESIDENTIAL MOVES.

In addition to the eligible moving expense payments, a displaced small business, farm or nonprofit organization is entitled to receive a payment, not to exceed \$25,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

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5-20. FIXED PAYMENT FOR MOVING EXPENSES — NON RESIDENTIAL MOVES.

a. Business. A displaced business may be eligible to choose a fixed payment in lieu of payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§ 49 CFR 24.301, 24.303 and 24.304 (described at paragraphs 5-31, 5-34 and 5-36). 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 paragraph (e) of this section, but not less than \$1,000 nor more than \$40,000. The displaced business is eligible for the payment if the Sponsor determines that:

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c. Farm operation. A displaced farm operation (defined at § 24.2(a)(13)) 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 paragraph (e) of this section, but not less than \$1,000 nor more than \$40,000. 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 Sponsor determines that:

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d. Nonprofit organization. A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$40,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Sponsor 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 Sponsor 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 for the payment is the average of 2 years annual gross revenues less administrative expenses. (See appendix A, § 24.305(d).)

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CHAPTER 6. REPLACEMENT HOUSING PAYMENTS

SECTION 2. 90 DAY OWNER OCCUPANTS

6-6. PAYMENT ELIGIBILITY.

A displaced owner-occupant is eligible for a replacement housing payment if the displaced person:

a. Has actually owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations, or the issuance of a written notice of intent to acquire the property; and

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6-7. REPLACEMENT HOUSING PAYMENT.

The replacement housing payment for an eligible 90-day owner-occupant may not exceed \$31,000, except when under housing of last resort procedures. The payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced owner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

a. A price differential payment, if the eligible cost of the replacement dwelling exceeds the acquisition cost of the displacement dwelling, as described in paragraph 6-8; and

b. An ELIGIBLE mortgage interest differential payment for the increased interest costs and other debt service costs which are incurred in connection with the purchase of the replacement dwelling, as described at paragraph 6-11; and

c. Payment for the reasonable expenses incidental to the purchase of the replacement dwelling, as described at paragraph 6-12.

6-8. RENTAL ASSISTANCE PAYMENT FOR 90-DAY HOMEOWNER.

A 90-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph 6-6 but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is then computed and disbursed in accordance with Section 3, Replacement Housing Payment for 90-day Occupants, at paragraphs 6-14 (a) and (c) except that the limit of \$7,200 does not apply. Under no circumstance would the rental assistance payment exceed the amount that could have been received under this Section as an eligible displaced 90-day homeowner had the 90-day homeowner elected to purchase and occupy a comparable replacement dwelling.

Section 2. 90-DAY TENANT

6-13. PAYMENT ELIGIBILITY.

A tenant displaced from a dwelling is entitled to a payment not to exceed \$7,200 for rental assistance or downpayment assistance, if such displaced person:

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

b. Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year (unless the sponsor extends this period for good cause) after:

(1) For a tenant, the date the displaced person moves from the displacement dwelling, or

~~(2) For an owner-occupant, the later of:~~

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

~~(b) The date the displaced person moves from the displacement dwelling.~~

6-14. RENTAL ASSISTANCE PAYMENT.

a. **Amount of Payment.** An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed \$7,200 for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for 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 replacement dwelling actually occupied by the displaced person.

6-15. DOWNPAYMENT ASSISTANCE.

a. Amount of payment. An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph 6-21 if the person rented a comparable replacement dwelling. At the Sponsor's discretion, a downpayment assistance payment that is less than \$7,200 may be increased to any amount not to exceed \$7,200. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under Section 1 if the homeowner met the 90-day occupancy requirement. If the Agency elects to provide the maximum payment of \$7,200 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 90-day owner-occupant (as described Section 2) is not eligible for this payment.

b. Application of payment. The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

Section 4. REPLACEMENT HOUSING OF LAST RESORT

6-25. Determination to Provide Replacement Housing of Last Resort.

Whenever an AIP assisted project cannot proceed on a timely basis because comparable replacement dwellings are not or are expected not to be available within the statutory limits of \$31,000 for owners or \$7200 tenants, the sponsor shall provide additional or alternative assistance under the provisions of this section to ensure comparable replacement housing is made available to displaced residential occupants. Any decision to provide last resort housing assistance must be adequately justified and documented either:

6-26. Subsequent Occupants.

Subsequent occupants are displaced persons who occupied a dwelling acquired for a FAA assisted project for less than 90 days before the initiation of negotiations or entered occupancy after the initiation of negotiations and are in occupancy on the date the property is acquired. The Agency shall provide assistance under this subpart to such displaced person who is not eligible to receive a replacement housing payment because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means, see paragraph 6-2(h)(c). Such assistance shall cover a period of 42 months

Section 6. MOBILE HOMES

6-32. Replacement Housing Payment for 90-Day Owner Displaced From A Mobile Home or Acquired Mobile Home Site.

An owner-occupant that is displaced from a mobile home or acquired mobile home site is entitled to a replacement housing payment not to exceed **\$31,000** (also see Section 4 Last Resort Housing), if:

6-33. Amount of Payment, Eligible 90-day Owner.

The replacement housing payment for an eligible displaced 90-day owner is computed as described at Paragraph 6-7 incorporating the following, as applicable:

6-35. Replacement Housing Payment for 90-Day Mobile Home Tenant.

A displaced tenant ~~or owner-occupant~~ of a mobile home and/or site is eligible for a replacement housing payment, not to exceed \$7,200 (also see Section 4 Last Resort Housing), computed as described under Section 3 of this Chapter if:

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