



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

# Advisory Circular

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**Subject:** Land Acquisition and Relocation  
Assistance for Airport Improvement Program  
(AIP) Assisted Projects

**Date:** 7/10/2017  
**Initiated By:** APP-400

**AC No:** 150/5100-17  
**Change:** 7

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1 **Purpose.**

This change is made to update the subject advisory circular for amendments to the Uniform Relocation Act (Section 1521 of the Moving Ahead for Progress in the 21st Century Act; MAP-21). This AC contains the Federal Aviation Administration's (FAA) standards and requirements for airport land acquisition and relocation procedures in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pl 91-646, as amended), also known as the Uniform Relocation Act (URA). Title 49 Code of Federal Regulations Part 24 (49 CFR 24), Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs implements the Uniform Relocation Act on AIP assisted projects and programs. This advisory circular (AC) provides guidance to airport owners and operators (sponsors) for Airport Improvement Program (AIP) assisted projects to develop their land acquisition and relocation assistance procedures in conformance to the Uniform Relocation Act and its implementing regulations.

The URA provides minimum real property acquisition policies, and requires uniform and equitable treatment of persons displaced as a result of a federally-assisted program or project. The stated purpose of the URA is to ensure that affected persons do not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons. The provisions of the URA and 49 CFR Part 24 apply to all AIP projects with federal funds in any phase or portion of the project, i.e., the planning, design, land acquisition, or construction phases.

2 **Cancellation.**

AC 150/5100-17, *Land Acquisition and Relocation Assistance for Airport Improvement Program (AIP) Assisted Projects*, change 6, dated November 7, 2005, is cancelled.

**3 Application.**

The FAA requires the procedures and documentation standards described in this AC for use in implementing land acquisition and relocation assistance measures on AIP programs and projects. The FAA on AIP programs has the responsibility to ensure uniform and equitable treatment to persons affected by federally-assisted airport land acquisition programs, within the provisions and entitlements of the 49 CFR 24. Use of the AC is mandatory for all projects funded with federal grant monies through the Airport Improvement Program (AIP). These procedures are recommended and reimbursable but are not mandatory for projects where all work and phases are locally funded under the Passenger Facility Charges (PFC) Program.

**4 Principal Changes.**

Changes are marked with vertical bars in the margin. The AC incorporates the following principal changes:

1. The MAP-21 eligibility and payment amendments listed below are inserted in the AC to replace the former requirement:
  - a. The maximum statutory benefit for replacement housing payments for displaced homeowners is increased from \$22,500 to \$31,000 and replacement housing payments for displaced tenants from \$5,250 to \$7,200. Note this is a change to the statutory limit as a threshold amount for Housing of Last Resort Procedures (per 49 CFR 24.404, see Section 6.5 of this AC). There is no change in the eligible calculation of the replacement housing payment amount.
  - b. The length of occupancy requirement for homeowners was reduced from 180 days to 90 days in occupancy before the initiation of negotiations.
  - c. The MAP-21 also amended the maximum statutory benefit for business reestablishment benefits from \$10,000 to \$25,000, and the fixed payment for nonresidential moves from \$20,000 to \$40,000.
  - d. By law, these changes became effective on October 1, 2014.
2. Technical corrections have been made to Appendix D Sponsor Certification of Title.
3. This AC is formatted to the current style template that results in updated paragraph numbering (see table of contents of change 7).

**5 Feedback on this AC.**

If you have suggestions for improving this AC, you may use the Advisory Circular Feedback form at the end of this AC.



Elliott Black  
Director, Office of Airport Planning and Programming

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## CHAPTER 1. UNIFORM ACT REQUIREMENTS

### 1.1 **Applicability to Airport Improvement Program (AIP)**

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

The Uniform Act (42 USC 4601 et seq.) was enacted January 2, 1971. This law applies to any federal project or program that requires real property acquisition and displacement of people from their acquired home, business, farm, or nonprofit organization real property. The purpose of the Uniform Act is to ensure the following:

- 1.1.1.1 Fair and consistent treatment for owners of real property to be acquired for federal and federally-assisted projects, in order to encourage and expedite acquisition by agreements with such owners, minimize litigation and relieve congestion in the courts, and promote public confidence in federal and federally-assisted land acquisition programs
- 1.1.1.2 Fair, consistent, and equitable treatment for persons displaced as a direct result of federal or federally-assisted projects, so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole
- 1.1.1.3 Efficient and cost-effective federal agency implementation of these regulations.

#### 1.1.2 AIP Grant Requirements, Airport Land Projects

- 1.1.2.1 Appendix Q and related sections of FAA Order 5100.38, the “*Airport Improvement Program (AIP) Handbook*,” describe the sponsor grant requirements and eligibility for land acquisition and relocation costs. As described in the AIP Handbook, grant agreements require that the sponsor will:
  1. Comply with the land acquisition policies in Subpart B of 49 CFR Part 24 (described in Chapters 2 and 3), to the greatest extent practicable under State law, in acquiring real property.
  2. Pay or reimburse property owners for necessary expenses, as specified in 49 CFR 24.10.
  3. Provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24, and provide fair and reasonable relocation payments and assistance to displaced persons, as required in Subparts D and E of 49 CFR Part 24. (See Chapters 4, 5, and 6)
  4. Make comparable replacement dwellings available to displaced persons within a reasonable period prior to displacement, in accordance with Subpart E of 49 CFR Part 24.

1.1.2.2 FAA Order 5100.37B provides guidance to FAA Airports field offices regarding review and acceptance of sponsor certification, and compliance with FAA and other regulatory requirements. This Advisory Circular (AC) supplements the Order with detailed procedural and documentation guidance to airport sponsors to conform to 49 CFR 24.

1.1.2.3 The FAA's Acquisition, Relocation, and Certification (ARC) instructional application provides guidance for airport sponsors to apply 49 CFR 24 requirements for small airport land projects that involve only a few properties and little, if any, relocation. ARC is available on a CD from APP400.

### 1.1.3 Application of Voluntary Transaction Exemption - 49 CFR Part 24.101(b)

1.1.3.1 The regulation at 49 CFR 24.101(b) states that a property owner's sale may be considered a voluntary transaction and exempt from the land acquisition requirements (described in Chapters 2 and 3) when the owner's sale to the airport meets all of the qualifications listed below:

5. The acquisition and possession of the property is not a necessity to complete the airport project (e.g., airport purchase of a home under a sales assurance program). The sponsor should treat all selling property owners similarly when purchasing more than one property for such a project.
6. The owner's property is not part of an intended, planned, or 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 to the airport for an airport expansion or noise buy-out project does not meet this qualification criterion.
7. The sponsor informs the property owner in writing that the airport will not purchase the owner's property if negotiations fail to result in an amicable agreement for the purchase.
8. The sponsor informs the property owner in writing of the market value of the property.

1.1.3.2 Table 1-1 applies these qualifying criteria to typical land acquisitions related to airport projects, in order to determine whether an owner's sale qualifies as a voluntary transaction. Please forward specific questions to your FAA project manager.

1.1.3.3 Under the regulation, the owner of property sold as a qualified Voluntary Transaction is not a displaced person and is not eligible for relocation assistance and payment benefits (described in Chapters 4 through 6). However, any tenant in occupancy when agreement is reached to purchase the property is displaced for the project and is eligible for all applicable relocation payments and assistance provided for under the Uniform Act.

**Table 1-1. Is the Owner's Sale to an Airport Project a Voluntary Transaction Exception?**

<b>Property is Purchased For:</b>	<b>Is Owner's Sale a Voluntary Transaction?</b>	<b>Is Selling Owner Displaced?</b>
<b>Current or Planned Airport Expansion Project</b>	<b>No</b>	<b>Yes</b> , and entitled to relocation payments
<b>Airport Noise Compatibility Program</b> <ul style="list-style-type: none"> <li>• Buy-Out of Homes</li> <li>• Change in Land Use</li> </ul>	<b>No</b>	<b>Yes</b> , and entitled to relocation payments
<b>Airport Noise Compatibility Program</b> <ul style="list-style-type: none"> <li>• Purchase /Sales Assurance</li> <li>• No Change in Land Use</li> </ul>	<b>Yes</b> , if owner advised in writing that no purchase of the property would occur failing amicable agreement	<b>No</b>
<b>Open Market Sale for AIP-Eligible Airport Standards</b> (At the time of sale, property was not required for a current or planned FAA Assisted Expansion.)	<b>Yes</b> , if owner advised in writing that no purchase of the property would occur failing amicable agreement	<b>No</b>

#### 1.1.4 Planning and Federal-Aid Programming

Airports included in the National Plan of Integrated Airport Systems (NPIAS) are eligible to receive AIP grant funding. In order to receive funding, a project must meet the "General Requirements for Project Funding" as established in FAA Order 5100.38. The sponsor may confirm the planning status of a proposed project by consulting with the FAA project manager.

#### 1.1.5 NEPA and FAR 150 Coordination

1.1.5.1 The sponsor must evaluate each federally funded project for compliance with the National Environmental Policy Act (NEPA) prior to commencing work. NEPA level of review may range from a categorical exclusion to a full Environmental Impact Statement (EIS) depending on the impacts of the proposed action. FAA Order 5050.4B, "*National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*," provides guidance on NEPA requirements for AIP-assisted projects. The sponsor should consult the FAA project manager regarding any questions concerning completion of the environmental reviews.

1.1.5.2 Additionally, a land acquisition project for noise compatibility must be included as an FAA-approved measure of the airport's Title 14 Code of Federal Regulations (CFR) Part 150 Airport Noise and Land Use Compatibility Program. See Appendix R of the AIP Handbook (FAA Order 5100.38) for eligibility requirements for Noise Compatibility Programs.

### 1.1.6 Project Definition

The grant agreement with the FAA requires the airport sponsor to prepare and maintain a current Property Inventory Map (i.e., Exhibit “A”) of airport owned land. The Exhibit “A” indicates land acquired for noise mitigation purposes and redeveloped to airport and/or aviation use, as well as land not retained for airport use (see Figure 1-1).

Through the grant application and approval process, the FAA project manager will provide assistance and specific requirements for the development of the Exhibit “A” (also see FAA Order 5100.38).

#### **Figure 1-1. Exhibit “A” Property Inventory Map**

Applicants must submit the Exhibit “A” property inventory map as part of the project application. The primary intent is to identify all land that is designated airport property and to provide an inventory of all parcels that make up the airport. It is not an Airport Layout Plan (ALP) and, therefore, should be limited to only those elements that will assist in the identification of property. The Exhibit A must conform to standard drafting requirements and, at a minimum, should include identification of the following:

- Outside airport property boundary
- All property parcels of the entire airport (numbered on the property map), including parcels that were once, but are no longer, airport property
- Parcel information, including grantee (i.e., selling owner), type of interest acquired, acreage, public land record references (e.g., book and page, date of recording)
- For each property parcel, FAA project number (if acquired under a grant; Surplus Property Transfer, or AP 4 Agreement, if applicable), type of easement (e.g., clearing, aviation, utility, ROW, etc.), and date of FAA approval (if released)
- Purpose of acquisition (i.e., current aeronautical, noise compatibility, or future development) and current use (if different or in interim use pending development)
- Runway protection zones, runway configurations, and building restriction lines
- Magnetic and true north arrows per standard drafting practices
- Parcels being acquired, if submitted as part of a land acquisition project
- Changes to any airport property, dated and amended as necessary

### 1.1.7 Real Property Interest to be Acquired

On AIP-assisted projects, the sponsor must acquire real property rights of such nature and extent that are adequate for the construction, operation, and maintenance of the grant-assisted project. Normally the sponsor will acquire fee title to all land within the airport boundaries and for the runway protection zone (RPZ). If fee acquisition for the RPZ is not practical, then an aviation easement is required. This easement must secure the right of flight with inherent noise and vibration above the approach surface, the right to remove existing obstruction, and a restriction against the establishment of future obstructions. Generally, where less than fee title is proposed to be acquired, the property rights acquired must be sufficient to encumber the remaining real estate with provisions that will ensure full use of the property as needed for airport construction and/or for safe airport operations, conforming to FAA requirements. The FAA project manager should be consulted to assure adequate interest is acquired. As requested, the

sponsor will provide evidence of adequate title to the FAA. (See Chapter 8 for Sponsor Certification requirements.)

## 1.2 **Project Clearance under 49 CFR Part 24 Requirements**

The section provides an overview of the tasks necessary to clear a project successfully under the Federal regulatory (49 CFR Part 24) and FAA real property acquisition and relocation assistance requirements. Figure 1-2 (in Section 1.2.1) provides an overview of the typical process with the major tasks described in the following paragraphs. Subsequent chapters of this AC, as referenced through the remainder of this chapter, provide detailed procedural guidance.

### 1.2.1 Required Lead Time

For any airport land project, adequate lead time is required to accomplish land acquisition and provide any needed relocation assistance, in conformance to the Federal requirements (49 CFR Part 24). Lead Time<sup>1</sup> is estimable by scheduling the regulatory tasks to acquire needed property for a project. The actual purchase of property and payment of relocation claims will typically incur most of the eligible project expenses. However, the majority of the work required for AIP cost reimbursement or conformance to 49 CFR 24 must occur in advance of actual expenditures. Therefore, when acquiring land and relocating displaced persons for an AIP-assisted project or program, the sponsor must ensure Uniform Act compliance before any grant reimbursement or authorization of grants AIP funded construction (see Chapter 8 for Sponsor Certification requirements).

### 1.2.2 Title Reports, Land Surveys, and Studies

#### 1.2.2.1 **Land titles and surveys:**

1.2.2.1.1 Accurate ownership information and property descriptions are required to initiate the appraisal process and negotiations. After securing adequate property descriptions (property needed for the project), the sponsor should order title insurance commitments in anticipation of delivery of these by the initiation of negotiations. Appraisal work may commence with preliminary title searches and abstracts that identify the fee interest, leaseholds, and any encumbrances or easements on the property to be acquired. For properties with tenant occupants, the sponsor must secure leases and other documents indicating ownership, and identify tenant-owned improvements. The cost of title work to ensure marketable title is acquired and supporting the sponsor's assurance of title (see Chapter 8 of this AC) is eligible for reimbursement as part of the AIP grant.

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<sup>1</sup> Lead Time, which is the basis of a project clearance schedule, can be estimated by application of the following scheduling formula: Project Lead Time Estimate = (Total Parcels / Parcel Start Capacity per Agent) / (Agents X Parcel Time) + Contingency Time.

- 1.2.2.1.2 Property surveys and plats may be required for the acquisition of partial takes and for condemnation purposes. In addition, local customs and laws may necessitate the preparation of plats for the conveyance of needed property.
- 1.2.2.2 **Investigation of hazardous materials and contamination**
- 1.2.2.2.1 Avoidance of contaminated property:  
As part of the project planning and environmental assessment phases, the sponsor should perform an environmental audit of hazardous material and contamination on any property needed for a project. The sponsor must avoid, or minimize the use of, contaminated property as feasible, to reduce project costs for cleanup and remediation of hazardous materials.
- 1.2.2.2.2 Appraisal of contaminated property:  
Prior to the appraisal of any potentially contaminated land, the sponsor should provide the results of the environmental audit to the appraiser for inclusion in the appraisal report. Prior to completion of the appraisal, appraisers should report to the sponsor any actual property conditions that exist at a site warranting further environmental investigation. The appraiser may not condition the appraisal report with an assumption that the property is free of contamination. See Chapter 2 of this AC for further guidance on the appraisal of contaminated property.
- 1.2.2.2.3 Acquisition of contaminated property:  
Where use of contaminated property is determined necessary, the sponsor should first secure a binding agreement with the property owner, and other identified responsible parties, assigning liability for property cleanup cost before acquiring title to such property. An offer to acquire contaminated property must be conditioned on the property owner's remediation of the contamination threat to public health and safety. Section 2.2.10 provides guidance on the proper consideration of contamination in appraising the fair market value of property.
- 1.2.2.2.4 The sponsor must rely on the environmental audit (Phase I and Phase II site studies) to identify the scope of contamination and other responsible parties who have cleanup liability. The sponsor must not undertake site remediation (Phase III), without first securing adequate assurances and indemnification from other responsible parties, and securing agreement from the regulatory agency or agencies fixing the extent of the sponsor's cleanup responsibility. A qualified environmental consultant will likely be required to assure adequate protection of the sponsor's interests in developing the remediation requirements for the use of the site in the project, and limiting any future cleanup liability. The sponsor must consult with the FAA project manager to determine if proposed site remediation costs are reimbursable under the AIP grant.

### 1.2.3 Preliminary Relocation Assistance Planning (see Chapter 4)

#### 1.2.3.1 **Project planning stage:**

Early in project development, a sponsor must identify relocation assistance measures sufficient to minimize the impact of displacement on individuals, families, businesses, farms, and nonprofit organizations. Relocation planning at this stage is typically conducted as part of the NEPA approval process. The relocation plan at the project planning stage must provide an estimate of the number of displaced persons, business, farms, and non-profit organizations, and the characteristics and needs of the displaced persons (e.g., elderly, handicapped, minority, low income, etc.). The plan will relate the available supply of comparable replacement housing and suitable replacement business and farm sites, to the needs of the displaced persons. The plan will result in an estimate of the cost and time requirements for an orderly and humane relocation program as part of project development. Generally, secondary sources of information are sufficient to adequately prepare this plan.

#### 1.2.3.2 **Acquisition stage:**

Prior to the initiation of negotiations, the sponsor must prepare a plan for acquisition stage relocation that will provide the necessary information and specific requirements for relocation of the identified displaced persons. The acquisition stage plan is prepared through interviews of displaced persons prior to the initiation of negotiations for the acquisition of a property. Additionally, the acquisition stage plan must be sufficient to establish the payment eligibility offer and ensure that adequate time is scheduled for successful relocation of any displaced persons. See Chapter 4 of this AC for detail regarding the planning requirements during the property acquisition stage.

#### 1.2.3.3 **Realty/personalty determination:**

For complex acquisitions of improved commercial/industrial property, where a business (e.g., farm or non-profit organization) is being displaced for the project, a realty/personalty determination must be made and provided to the appraiser. The valuation must include all real estate items while items of personalty are not appraised. A formal realty/personalty determination is necessary for complex appraisals and must be developed in consultation with the property owner and any displaced tenants. Some items may require advice of legal counsel to determine whether the item is real estate or personalty. Generally, an item is considered a fixture and real estate if removal of the item would destroy the item or would substantially damage the real estate.

#### 1.2.4 Real Property Appraisal (see Chapter 2).

The sponsor must appraise the fair market value of the real property to be acquired before negotiations with an owner are initiated. The property owner must be given the opportunity to accompany the appraiser on the inspection of the property.

##### 1.2.4.1 **Appraiser selection:**

The sponsor must establish qualification criteria to evaluate potential appraisers. When selecting appraisers, the sponsor must review the experience, education, training, and other qualifications, and use only those professionals determined to be qualified. The appraiser must be certified under applicable state law for all appraisal assignment.

##### 1.2.4.2 **Review of the appraisal:**

A secondary qualified review appraiser must validate each appraisal and ensure compliance with FAA requirements. The appraisal review, as required by the Uniform Act, is critical to evaluate whether the report is valid and its conclusion of valuation is reasonable. The ultimate intent of the review is to produce an adequately documented appraisal with a sound and valid recommendation for unbiased compensation to be offered to the property owner.

#### 1.2.5 Real Property Acquisition (see Chapter 3)

##### 1.2.5.1 **Just compensation:**

Before initiating negotiations for the property, the sponsor must establish an amount considered as just compensation for the real property. The amount must not be less than the appraised fair market value approved by the review appraiser.

##### 1.2.5.2 **Written offer to purchase:**

Promptly following the appraisal review and the establishment of just compensation, the sponsor must make a written offer to acquire the property for the full amount of just compensation. The Uniform Act defines the date of this written offer as the initiation of negotiations. The initiation of negotiations typically establishes eligibility of relocation payments for displaced persons who were occupants on the property as of this date. The sponsor's negotiator must personally contact each owner with the sponsor's written offer of just compensation. Nonresident owners may be contacted by certified mail.

##### 1.2.5.2.1 **Required Negotiations Procedure:**

The goal of negotiations is to secure an amicable purchase agreement with the property owner for the just compensation of the needed property. The airport must not undertake coercive measures to force agreement. Instead, the airport's negotiator must fully explain the airport offer and help the property owner evaluate the airport offer. The airport must also consider

property value information provided by the property owner during negotiations. If the property owner's information is creditable and/or the circumstances of the proposed acquisition change, the airport must update its offer of just compensation.

1.2.5.2.2 Settlement/condemnation:

Should negotiations fail to secure an agreement, an airport with eminent domain authority may proceed to take the needed property through condemnation. Airports also have discretion to enter administrative settlements when the public interest in a proposed settlement is apparent.

1.2.5.2.3 Possession of the property:

After reaching an agreement, the airport must pay the agreed purchase price to the owner. In the case of condemnation, the airport must deposit with the court, for the benefit of the owner, an amount not less than the approved appraisal before requiring possession of the needed property. The property owner is not required to surrender possession of their real property until just compensation is paid or deposited with the condemnation court.

1.2.6 Relocation Assistance (see Chapters 4 through 6)

1.2.6.1 **Sponsor obligations:**

It is the sponsor's obligation under the Uniform Act to provide an adequate relocation assistance program that ensures the prompt and equitable relocation and reestablishment of persons displaced as a result of the federally-assisted airport project(s). The term "person" as defined in the Uniform Act (and as used in this AC) refers to any individual (residential or business occupant), family, partnership, corporation, or association. Sponsors must provide assistance and conduct the relocation program so that displaced persons receive uniform and consistent services and payments regardless of race, color, sex, or national origin. The sponsor must maintain documentation to show compliance to the Uniform Act and its grant assurances.

1.2.6.2 **Types of relocation assistance:**

Relocation assistance activities involve relocation planning, information and notices, advisory services, relocation assistance payments (e.g., replacement housing payment, incidental closing costs, increased interest costs, residential moving costs), nonresidential (e.g., business, farms, nonprofit organizations) relocation payments (e.g., reestablishment expenses, moving costs), replacement housing of last resort, and mobile homes. Later chapters of this AC provide detail regarding specific procedural requirements for the sponsor to provide the required assistance and payments.

### 1.2.7 Property Management (see Chapter 7)

Property management activities include disposal or demolition of improvements, clearing of trees and vegetation, and interim use or rental of the property until needed for a subsequent construction project, if applicable. Additionally, specific grant assurances apply to the ongoing use or disposal of airport property. The airport must maintain its Exhibit “A” (refer to Figure 1-1) to ensure it has a current inventory of airport property.

### 1.2.8 Sponsor Certification (see Chapter 8)

The sponsor must certify that real property was acquired in conformance with the Uniform Act. The sponsor must also certify, as applicable, that all persons displaced from their homes for the project were offered comparable replacement housing and that all persons in occupancy at the initiation of negotiations had vacated the property and were provided reimbursement of their moving expenses to a replacement site in accordance with the requirements of the Uniform Act. This certification must be provided concurrently with a sponsor’s request for reimbursement and must cover the specific parcels for which the sponsor is requesting reimbursement of costs.

## 1.3 **Sponsor Program Requirements.**

### 1.3.1 Sponsor Organization and Staffing Requirements.

1.3.1.1 Conformance to Uniform Act requirements necessitates sufficient professional staff and operational procedures to assure property owners and displaced persons are provided all entitlements and protections contained in the Uniform Act. This AC provides detailed procedural guidance, sample documentation formats, and quality control requirements to assist sponsor compliance and AIP reimbursement eligibility. Sponsor staff and/or their consultant must demonstrate an adequate working knowledge of 49 CFR Part 24 requirements and the capability and expertise to complete the work proposed in conformance to applicable requirements.

1.3.1.2 Where the sponsor does not have sufficient qualified staff available for a project, the sponsor may secure qualified property acquisition and relocation consultant services. When soliciting consultants,<sup>2</sup> land acquisition and relocation assistance are considered professional program management services and should be selected based on adequate qualifications. Sponsors should include the following qualification requirements in their request for proposals/qualifications:

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<sup>2</sup>For AIP funded projects, the hiring of appraisers, acquisition and relocation consultants must conform to requirements of AC 150/5100-14. Appraisal and acquisition/relocation services are included in “certain other related areas” as described within that document. Eligibility requirements for contracting professional services are detailed in Chapter 9 of the AIP Handbook (FAA Order 5100.38).

- An understanding of the governing regulations provided at 49 CFR Part 24, FAA policies described in AC 150/5100-17A and other applicable law and regulation provided under state and local law
- Experience and expertise to undertake real property acquisition and relocation assistance functions as prescribed under the governing regulations and this AC
- Ability to undertake and complete the required work within your proposed project schedule<sup>3</sup>
- A listing of references for current jobs and completed projects that the Sponsor may contact
- Education and training evidencing expertise and competence to perform professional real property acquisition and relocation assistance work
- Professional designation, license, or certification
- Quality control system to ensure Uniform Act compliance and adequate documentation to ensure maximum FAA reimbursement<sup>4</sup>

### 1.3.2 Sponsor Must Keep Acceptable Acquisition and Relocation Records.

The airport sponsor must maintain adequate records, including real estate appraisals, acquisition, relocation, and property management records, and other documentation necessary to show compliance to 49 CFR Part 24. Documentation must be in an easily retrievable format, available during regular business hours for inspection by representatives of the FAA, Department of Transportation (DOT) Office of the Inspector General, and the Government Accountability Office (GAO). The airport sponsor must keep records for at least three years after FAA grant closeout. Chapter 8 provides guidance on required documentation to support the sponsor's grant assurance and certifications to FAA. Refer to Figure 8-2 a documentation checklist for sponsor parcel or project files.

### 1.3.3 Required Appeal Procedure to Address Grievances under 49 CFR 24.

#### 1.3.3.1 **Appealable actions.**

Any aggrieved person may file a written appeal with the sponsor for any case in which the person believes that the sponsor has failed to consider the person's application or claim for payments or assistance properly under the Uniform Act. This assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment of closing costs and incidental expenses as provided in Section 3.2.2, certain litigation

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<sup>3</sup> Sponsor project schedule must be realistic and correspond to the availability of qualified resources.

<sup>4</sup> Appendix C of this AC describes minimum quality control criteria and sample documentation formats. Quality control may be separately contracted or provided by qualified sponsor staff.

expenses described at Section 3.2.7, or relocation payments described in Chapters 5 and 6. The sponsor must consider a written appeal regardless of form and must promptly review appeals. The appeal process is intended for determinations of disputed eligibility or payment that may not be resolved by the sponsor's staff or agent. However, where a request for relief is reasonable and has merit for resolution at the agent level, it is not necessary to pursue the formal appeal process in order to resolve the problem or dispute. Sufficient discretion within program guidelines is available at the agent level to respond to special and individual circumstances and needs.

**1.3.3.2 Time limit for initiating an appeal.**

The sponsor may set a reasonable time limit for a person to file an appeal. The time limit must not be less than 60 days after the person receives written notification of the sponsor's determination on the person's claim or application for a payment.

**1.3.3.3 Right to representation.**

A person has the right to legal counsel or representation in connection with an appeal, but solely at his/her own expense.

**1.3.3.4 Review of files by appellant.**

The sponsor must permit a person to inspect and copy all materials pertinent to the appeal, except materials that are classified as confidential by the sponsor. The sponsor may impose reasonable conditions on a person's right to inspect records, consistent with applicable laws.

**1.3.3.5 Scope of appeal review.**

In deciding an appeal, the sponsor must consider all pertinent justification and other material submitted by the person, and all other information needed to ensure a fair and full review of the appeal.

**1.3.3.6 Determination and notification after appeal.**

Promptly after receipt of all information submitted by a person in support of an appeal, the sponsor must make a written determination about the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the sponsor must advise the person of their right to seek judicial review of the sponsor's decision. Normally, the person would be advised to consult their legal counsel to pursue judicial review.

**1.3.3.7 Sponsor official for conduct of appeal review.**

The official conducting the review of an appeal must be the sponsor's chief executive officer (CEO) or his/her authorized designee. The reviewing official must not have been directly involved in the action appealed.

#### 1.3.4 No Duplication of Payments

No person will receive any payment required under the Uniform Act, as described in this AC, if that person receives a payment under federal, state, or local law that is determined by the sponsor to have the same purpose and effect as the payment provided under the Uniform Act. Persons eligible for and opting for publicly assisted housing as their replacement dwelling may only claim replacement housing payments to the monetary extent necessary, if any, to occupy the assisted housing (see Chapter 6). The FAA is available to clarify applicability of this provision should there be apparent conflict between the Uniform Act and another federal program or mandate.

## CHAPTER 2. REAL PROPERTY APPRAISAL

### 2.1 Requirements.

#### 2.1.1 Required Sponsor Appraisal Process (49 CFR 24.103-104).

On AIP projects, the Uniform Act obligates the sponsor to provide an appraisal process that, at a minimum provides for the following:

2.1.1.1 The sponsor must appraise fair market value of the real property to be acquired before initiation of negotiations with an owner. The sponsor may waive this requirement for an appraisal where the sponsor determines that an appraisal is unnecessary on a particular parcel because the appraisal is non-complex and the estimated fair market value is \$10,000 or less, based on a review of available market data (see Section 2.2).

2.1.1.2 The sponsor's appraiser must afford the owner or designated representative an opportunity to accompany the appraiser during inspection of the property. The sponsor should send the property owners letters via certified mail offering them an opportunity to accompany the appraiser during inspection.

2.1.1.3 As stated in Chapter 3, the sponsor must maintain an adequate appraisal review process to establish just compensation prior to the initiation of negotiations. The amount of just compensation established must not be less than the sponsor's approved appraisal of the fair market value of the property to be acquired.

2.1.1.4 The appraisal of the property to be acquired must disregard any change in fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project, other than changes due to physical deterioration within the reasonable control of the owner. In the case of partial acquisitions, project influence is disregarded in the appraisal of conditions before the project (e.g., "before condition") but the effects of the project must be considered in the appraisal of conditions after the project (e.g., "after condition") [see Section 2.13].

2.1.1.5 Appraisers must not consider, or include in the appraisals, any allowance for relocation assistance benefits.

#### 2.1.2 Appraisal Waiver.

An appraisal is not required under the following situations:

2.1.2.1 The owner is donating the property and releasing the sponsor from its obligation to appraise the property.

2.1.2.2 The sponsor determines that an appraisal is unnecessary because a review of available data estimates the market value at \$10,000 or less and the valuation is non-complex. When an appraisal is determined to be unnecessary, the sponsor must prepare a waiver valuation of the proposed acquisition to document the determination.

2.1.3 Appraiser and Review Appraiser Qualifications.

The sponsor must establish qualification criteria that, at a minimum, assure the competency of its appraiser is consistent with the level of difficulty for the appraisal assignment. The sponsor must review the experience, education, training, and other qualifications of appraisers and review appraisers, and must use only those determined to be qualified. Figure 2-1 presents generalized criteria for evaluating appraisers and reviewing appraiser qualifications for a particular assignment or AIP-assisted project. The sponsor may obtain referrals for qualified appraisers and reviewers from other airport sponsors, the local offices of the state highway department, or local housing agencies.

2.1.3.1 **Certification.**

All states now license or certify private appraisers in accordance with Title XI of the *Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (FIRREA), providing minimum education and experience requirements for real estate appraisers. Private fee appraisers hired to prepare complex appraisals must be certified under applicable state law in conformance with FIRREA requirements. Generally, an active state licensed or certified appraiser will have adequate qualifications and is bound by ethics and state law to only accept work for which they are competent. However, a sponsor should actively solicit the most qualified appraisers available and not simply rely on the license or certification. Government agency appraisers may be acceptable for AIP work if adequately qualified regardless of state licensing and state certification requirements.

2.1.3.2 **Soliciting Professional Appraisal and Review Appraisal Services.**

On AIP-funded projects, the hiring of appraisers must conform to requirements of AC 150/5100-14 “Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.” Optimally, the appraiser and review appraiser should be from different appraisal organizations. The sponsor should also contract with the review appraiser before hiring appraisers, since the review appraiser may assist in defining the appraiser’s scope of work (see Section 2.8) for subsequent parcel assignment to appraisers. The review appraiser may also assist in many administrative aspects, such as application of legal opinions, accurate property descriptions, and guidance on needed appraiser qualifications. FAA Forms 5100-116 “Appraisal Contract” and 5100-121, “Appraisal Review Contract” provide acceptable contract documents (see Appendix A).

**Figure 2-1. Appraiser and Review Appraiser Qualifications**

The qualifications of an appraiser and review appraiser must be adequate for the proposed appraisal assignment. The sponsor should seek to hire the best-qualified appraiser for the type of property, the complexity of the acquisition (i.e. whole or partial taking), familiarity and expertise in the local real estate market, and as applicable experience with acquisitions subject to eminent domain. Also, the appraiser must not have any apparent conflict of interest in the property to be acquired, or potentially with a current or prior client relationship with property owners. An appraiser under consideration for an assignment should be able to submit a resume' of qualifications citing some or all of the following qualification criteria.

**Professional Designations:**

- o *American Institute of Real Estate Appraisers: Member Appraisal Institute (MAI) and Residential Member (RM)*
- o *National Association of Independent Fee Appraisers: (IFA)*
- o *American Society of Appraisers: (ASA)*
- o *International Right-of-Way Association: (SR/WA)*
- o *American Society of Farm Managers and Rural Appraisers: (ASFRM)*
- o *National Association of Master Appraisers*
- o *Other National and local appraisal organization which grant designations upon completion of educational and experience requirements.*

**Licensing and Certification under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA):** State laws implementing FIRREA will require appraisers to

meet the mandated educational and experience requirements to secure either a license or certification. State law may only require the license or certification for FIRREA mandated transactions (i.e. typically federally insured real estate loans), or may be required for all appraisal activity within the state. The Appraisal Qualification Board of the Appraisal Foundation established by FIRREA, instituted appraiser qualifications for a state license or certification. A licensed or certified appraiser may only perform appraisals consistent with the Uniform Standards of Professional Appraisal Practice (USPAP) as required under FIRREA. Adherence to USPAP requires appraisers to meet specific appraisal standards and a code of ethics in accepting and performing appraisals. The appraisal requirements contained in 49 CFR 24.103 have been determined to meet the requirements of USPAP, (Appraisal Foundation Determination, September 1990).

**Educational Background:** Completion of recognized course work in professional real estate appraisal principles, processes, and practices. Course providers may be colleges and universities, professional appraisal organizations, and accredited business and professional schools.

**Experience:** Verifiable experience in the types of property to be appraised. Experience and acceptance as an expert appraisal witness in eminent domain and other court proceedings. Experience with the before and after appraisal process for determining just compensation.

**Client References:** Verifiable listing of appraisal clients.

**Geographic Area of Expertise:** Area where the appraiser has an established practice. Some appraisers and appraisal firms may have a national scope, while often appraisers limit their work to specific local areas where they have developed adequate market databases and are fully familiar with the local markets and real estate trends.

**Confidentiality and Certification:** The appraiser must be able to execute the certification form.

#### 2.1.4 Appraisal Management.

- 2.1.4.1 On larger projects or programs, the sponsor should solicit a sufficient number of qualified appraisers to ensure: (1) contracted fee appraisers are independent and (2) a single appraiser does not become dependent upon airport work, whether real or perceived. For the case when the sponsor uses internal appraisal staff or a consultant for appraisal functions, reliance on the professional qualifications and adequate organizational separation of the appraisal function from conflicting activities will assure independence of the appraisal process.
- 2.1.4.2 The selection and assignment of multiple appraisers to a project must also consider project efficiencies and recognize that individual appraisers will normally provide slightly different valuations. Therefore, individual appraiser assignments should allow multiple appraisers to operate efficiently while minimizing valuation inconsistencies on a particular project. To this end, it is recommended that individual appraisers be assigned logical groupings of similar and proximate properties.

#### 2.1.5 Conflict Of Interest.

- 2.1.5.1 No appraiser, review appraiser, or other person making an appraisal or a waiver valuation for the sponsor should have any interest, direct or indirect, in the real property being appraised that would in any way conflict with the preparation of the appraisal, waiver valuation or appraisal review. Compensation for preparing an appraisal or a waiver valuation must not be based on the amount of the valuation estimate.
- 2.1.5.2 The sponsor must ensure an adequate separation of functions in its project organization to preclude any conflict of interest in the performance of professional and independent real property appraisal. On complex and high-value acquisitions, and on large or long-term projects, persons functioning as the property negotiator may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for the project. On any real property acquisition for a FAA-assisted project, no person should 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.<sup>5</sup>
- 2.1.5.3 No appraiser or other person making an appraisal or a waiver valuation should act as a negotiator for real property for which that person has made

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<sup>5</sup> 49 CFR 24.102(n)(2)

an appraisal or a waiver valuation, except when permitted by the sponsor for acquisitions of property valued at \$10,000 or less.

#### 2.1.6 Non-Allowable Land Cost.

State law may require a sponsor to include additional compensation with its market value appraisal for items required under state law. These costs may exceed compensable payments as prescribed in Title 49 CFR, Part 24. Items generally held to be non-compensable in eminent domain include loss of business, payment for goodwill, frustration of development plans, and other limitations described in the Uniform Appraisal Standards for Federal Land Acquisitions as ineligible for federal reimbursement. The sponsor's review appraisal report must identify such items separate from the appraised market value for the real property to be acquired.

### 2.2 **Appraisal Procedures.**

#### 2.2.1 Appraisal Assignment Scope of Work.

Appraisals are to be prepared according to the requirements described in this chapter and consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). The sponsor's appraisal assignment (e.g., solicitation) must contain a scope of work statement to ensure that an acceptable appraisal is secured for the FAA-assisted project. Figure 2-2 provides a sample scope of work statement. The scope of work should be commensurate with the complexity of the appraisal problem and, at a minimum, include the following:

1. The purpose and/or function of the appraisal (e.g. appraise fair market value)
2. A "Self-Contained" or "Summary" appraisal report as determined necessary by the sponsor for the assignment (see Chapter 3 and note that "Restricted Appraisal Reports" allowable under USPAP are not acceptable for FAA-assisted airport projects)
3. The definition of the estate being appraised (e.g. fee simple, easement, leased fee)
4. In developing and reporting the appraisal, the appraiser must disregard any change in fair market value of the real property caused by the project for which the property is to be acquired, or the likelihood that the property would be acquired for the project, other than changes due to physical deterioration within the reasonable control of the property owner (note that, if necessary, the appraiser may cite "Jurisdictional Exception" or "Supplemental Standards" under USPAP to ensure application of this regulatory requirement)
5. The appraiser must provide an opportunity for the property owner to accompany the inspection of the property
6. Assumptions and limiting conditions affecting the appraisal
7. The data search requirements and parameters
8. Identification of the technology requirements including approaches to value that will be used to analyze the data

## 9. Other specifications required to adequately appraise the property and meet FAA and regulatory requirements

**Figure 2-2. Sample Scope of Work Statement**

<p>This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment.</p> <p><b>SCOPE OF WORK:</b> The appraiser must, at a minimum:</p> <ol style="list-style-type: none"> <li>1. Provide a complete appraisal and self-contained or summary (as determined necessary by sponsor) appraisal report in accordance with USPAP and FAA requirements.</li> <li>2. Perform a complete visual inspection of the interior and exterior areas of the subject property. The appraisal report shall contain an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.</li> <li>3. The property owner will be afforded the opportunity to accompany the appraiser on the inspection of the property.</li> <li>4. Inspect the neighborhood and proposed project</li> <li>5. Inspect each of the comparable sales from at least the street.</li> <li>6. Research, analyze, and verify comparable sales with public sources and with a party to the transaction, buyer, seller, or broker or attorney.</li> <li>7. The appraiser in developing and reporting the appraisal shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. If necessary, the appraiser may cite Jurisdictional Exception or Supplemental Standards under USPAP to ensure application of this regulatory requirement.</li> <li>8. Report his or her analysis, opinions, and conclusions in this appraisal report.</li> <li>9. The appraisal report must include a sketch of the property and provide the location and dimensions of the improvements. The appraisal shall include adequate photographs of the subject property and comparable sales and provide location maps of the property and comparable sales.</li> </ol> <p><b>INTENDED USE:</b> The intended use of this appraisal is to provide an appraised current fair market value of the property for the proposed acquisition of the property in fee simple for a Federally assisted airport project.</p> <p><b>INTENDED USER:</b> The intended user of this appraisal report is the Airport Sponsor.</p>	<p><b>DEFINITION OF MARKET VALUE:</b> The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is, the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:</p> <ol style="list-style-type: none"> <li>1. Buyer and seller are typically motivated.</li> <li>2. Both parties are well informed or well advised, acting in what they consider their own best interest.</li> <li>3. A reasonable time is allowed for exposure in the open market.</li> <li>4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto.</li> <li>5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.</li> </ol> <p><b>CERTIFICATION:</b> In addition to the appraiser's certification required under USPAP, the appraisal shall provide the attached certification (attach <a href="#">FAA form 5100-111</a> or comparable). Modifications or deletions to the certifications are not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization are permitted.</p> <p><b>ASSUMPTIONS AND LIMITING CONDITIONS:</b> The appraiser shall state all relevant assumptions and limiting conditions necessary. In addition, the sponsor may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:</p> <ol style="list-style-type: none"> <li>1. The data search requirements and parameters that may be required for the project.</li> <li>2. Identification of the technology requirements, including approaches to value, to be used to analyze the data.</li> <li>3. Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.</li> <li>4. Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.</li> <li>5. As applicable, include any information on property contamination to be provided and considered by the appraiser in making the appraisal.</li> </ol> <p><small><sup>1</sup> Or comparable definition, as may be defined under the state eminent domain code.</small></p>
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### 2.2.2 Appraisal Report Requirements.

The sponsor must assure that the appraisal report reflects established and commonly accepted federal and federally-assisted program appraisal requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). The appraisal report must also conform to applicable state eminent domain laws and requirements. Figure 2-3 generally describes acceptable report content and related regulatory requirements. Details of the appraisal report must reflect the value and complexity of the appraisal assignment. For low-value and non-complex appraisals, a summary appraisal report form may suffice (see Section 2.10). At a minimum, among other professional appraisal requirements (e.g. USPAP report standards, UASFLA), the appraisal report must include the following:

1. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, (if any), title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property

2. All relevant and reliable approaches to value consistent with established federal and federally-assisted program appraisal practices (note that if the appraiser uses more than one approach, there must be an analysis and reconciliation of approaches to value use that is sufficient to support the appraiser’s opinion of value)
3. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction
4. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits (if any) to the remaining real property, where appropriate
5. The effective date of valuation, date of appraisal, signature, and certification of the appraiser

**Figure 2-3. Appraisal Report Requirements**

<i>APPRAISAL PROCESS</i>	<i>DETAILED REPORT CONTENT</i>	<b>49 CFR 24</b>
<b>DEFINE THE APPRAISAL PROBLEM</b> Identify and Locate the Real Estate Identify the Property Rights to be Valued Establish Date(s) of Value Estimate Identify the Use of the Appraisal Define Value to be Estimated Identify Limiting Conditions and Limitations	Parcel Number as shown on Exhibit "A" Project Influences Disregarded Existing Ownership: fee, easement, tenant Options/contracts Date of Value, Date of Inspection Statement of Owner Accompaniment Statement of Limiting Conditions	49 CFR 24.103(a) 49 CFR 24.103(a)(1)
<b>PRELIMINARY ANALYSIS &amp; DATA COLLECTION</b> <b>General:</b> Geographic Social Economic Govt. Environ. <b>Specific:</b> Subject Site & Imps. Costs/Income Interest Rates Use/Ownership <b>Market (Supply&amp;Demand):</b> Applicable Sub-market Competing Supply Sales Listings Vacancies/Absorption Demand Studies	Area, Zoning, Utilities, Improvements Identification of Special Features Identification of Adverse Influences Market Analysis Neighborhood Analysis 5 Year Sales History of Property Encumbrances	49 CFR 24.103(a)(2), (4)
<b>HIGHEST AND BEST USE ANALYSIS</b> As Vacant & Available As Improved	Support and Analysis Presented	49 CFR 24.103(a)(2)
<b>LAND/SITE VALUE ESTIMATE</b>	Sales Comparison, Subdivision Approach, Income Capitalization (Land Residual)	49 CFR 24.103(a)(3)
<b>APPLICATION OF THE THREE APPROACHES TO VALUE</b> Sales Comparison, Income, Cost Approaches (As Applicable)	Comparable Sales Verified Adjustments Explained Data and Analysis Presented for Each Sale Income & Expense Data Verified Capitalization Rate Support Provided Cost Source, Depreciation Supported	49 CFR 24.103(a)(3)
<b>RECONCILIATION</b>	Reasoning presented, relative strengths and weaknesses of the approaches discussed	49 CFR 24.103(a)(5), (6)
<b>REPORT OF DEFINED VALUE</b>	Self-Contained Appraisal Report Appraisers Certification Before & After Analysis (Partial Acquisitions)	49 CFR 24.103(a)(5)(6)

2.2.3 Short Form Appraisal Report for Low Value and Simple Acquisitions.

A short-form appraisal report is acceptable for low-value and non-complex acquisitions. Examples of non-complex acquisitions include single-family residences, unimproved

residential or small commercial lots, and strips taken from a large parcel not involving significant benefits or damages to the remaining property. Acceptable summary report forms include common use appraisal forms, which include Federal National Mortgage Association (FannieMae), Federal National Home Loan Bank (FreddieMac) or comparable appraisal report forms. FAA Form 5100-112 URAR provides a cover sheet for summary appraisal reports citing the applicable FAA requirements to include with the form report.

#### 2.2.4 Appraiser and Review Appraiser Certification.

Each appraisal and review appraisal report must contain the appraiser's certification, which states that, to the best of his or her knowledge and belief, the appraisal was conducted in an objective manner and that the conclusions are correct. A new certificate will be prepared when there is a change in the appraisal report that affects the estimate of just compensation or changes the date of valuation. FAA Form 5100-111, "Certificate of Appraiser," provides an example of a certificate in an acceptable format. Note that this certificate is required in addition to the certification that may be required of the appraiser in accordance with the USPAP.<sup>6</sup>

#### 2.2.5 Number of Appraisals Needed.

Unless waived at least one appraisal is necessary for each parcel to be acquired. Generally, a property with potential fair market value over \$500,000 may require a second appraisal. Complex appraisal assignments may also require two appraisals to ensure adequate market research and analysis is secured to support appraised values.

#### 2.2.6 Partial Acquisitions – "Before and After" Valuation.

A partial acquisition is a situation in which only part of a property parcel is acquired or only some property rights are to be conveyed, leaving the property owner with the fee simple interest. Examples of typical partial acquisitions include the taking of a portion of a residential property's front yard for a road widening or the acquisition of an avigation easement over an owner's property to protect approach slopes. The sponsor must use the "before and after" method to appraise partial acquisitions, except where there is clearly no damage to the remaining land or improvements due to a relative minor acquisition of real property. Generally, the value of a partial acquisition (i.e., the part taken) is appraised as the difference in the "before and after" value of the property. The "before" value is the pre-project value of the real property disregarding any project influence. The "after" value is the appraised value of the remaining real property without the acquired part or rights and subject to project impacts.

#### 2.2.7 Realty / Personalty Determination.

2.2.7.1 On complex acquisitions of improved commercial or industrial property where a business (e.g., farm or non-profit organization) is displaced for the

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<sup>6</sup> This certification is required in addition to the certification that may be required of the appraiser in accordance with USPAP.

project, a realty/personalty determination must be made and provided to the appraiser. Items of personalty are not appraised, and real estate items must not be excluded from the valuation. A formal realty/personalty determination is necessary for complex appraisals and should be developed in consultation with the property owner and any affected displaced tenants. Some items may require advice of legal counsel to determine whether the item is real estate or personalty. Generally, an item is considered a fixture and real estate if removal of the item would destroy the item or would substantially damage the real estate.

2.2.7.2 Where tenant ownership of real estate items is established, the inventory of tenant-owned improvements is provided to the appraiser for a valuation of the contributory value of this property to the real estate to be acquired. Specific regulatory and procedural requirements apply to the acquisition of tenant owned improvements (see Section 3.13).

## 2.2.8 Appraisal of Avigation Easements Acquired for Airport Operations and Standards.

### 2.2.8.1 **Appraisal requirement.**

2.2.8.1.1 An appraisal is usually required for the purchase of avigation easements necessary for airport approaches. If the underlying land is improved or if the easement restrictions may significantly affect the highest and best use of the property, then typically the easement acquisition is considered complex and an appraisal is required. Even though the value appraised may often be nominal (i.e., under \$10,000) an appraisal is required to evaluate the property and the effect of the proposed easement on its market value. Where the easement acquisition will not affect the remainder land or improvements (e.g., approach easement over agricultural land), the appraiser may apply a “part taken” approach, citing their supported finding that the easement conveyance and use has no effect on remainder property.

2.2.8.1.2 Note that the appraisal waiver may be applied for an uncomplicated easement acquisition (i.e., no impact on land use and reasonable value is apparent and the market value is estimated at \$10,000 or less). However, when the appraisal waiver is applied, the compensation value must not be set arbitrarily at the \$10,000 maximum value. The easement compensation must be reasonable and relate to the actual value range for the non-complex easement acquisition.

### 2.2.8.2 **Description of easement.**

2.2.8.2.1 When a fee title is deemed unnecessary, an avigation easement may be used to secure airspace for airport and runway approach protection, and for noise compatibility programs (NCPs). An avigation easement is a conveyance of airspace over another property for use by the airport. The

owner of an easement-encumbered property (i.e., servient property) has restricted use of their property subject to the airport sponsor's easement (i.e., dominant property) for overflight and other applicable restrictions on the use and development of the servient parcel. Easement rights acquired typically include the following: the "right-of-flight" of aircraft; the right to cause noise, dust, etc.; the right to remove all objects protruding into the airspace together with the right to prohibit future obstructions or interference in the airspace; and the right of ingress/egress on the land to exercise the rights acquired. The aviation easement on the property must "run with the land" and any future owner's use of the servient parcel is restricted as described in the aviation easement.

2.2.8.2.2 Figure 2-4 generally identifies the property rights that may be acquired by easement from a property. It is imperative that the easement and the appraisal reflect the specific easement estate proposed for acquisition. Where right of flight is required, lesser rights, such as clearance easements, are insufficient to protect an airport owner from future claims of property owners due to over flights. In developing easement language, a sponsor should secure legal advice and confirmation that the easement is sufficient to provide the property rights needed.

#### 2.2.8.3 **Airspace.**

Aviation easements are typically acquired for airspace requirements as indicated on the airport layout plan, including the approach area and approach protection zone (APZ) layout. The airport layout plan depicts, among other things, the imaginary surfaces for the airport based on FAR Part 77 criteria, the existing and ultimate approaches, height and slope protection, a plan and profile for approach protection zones and approach areas, and location and elevation of obstructions to air navigation as identified by the imaginary surfaces. Airport imaginary surfaces are established in relation to the airport and each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that particular runway.

#### 2.2.8.4 **Runway Protection Zone (RPZ).**

The RPZ is trapezoidal in shape and centered along the extended runway centerline, beginning 200 ft. beyond the end of the area usable for takeoff and landing. FAA AC 150/5300-13, "*Airport Design*," provides details regarding the dimensions, configuration, and location of an RPZ to the associated airport runway. It is recommended that the RPZ be acquired in fee; however, if this is impractical, an easement must be acquired that adequately restricts land use. The easement acquired must account for the height restrictions required to protect FAR Part 77 surfaces and restrict current and future use of the land surface to preclude incompatible uses. Incompatible uses within the RPZ include land use for residences and places of public assembly (e.g., churches, schools, hospitals, office

buildings, shopping centers, and other uses with similar concentrations of persons) and other uses inconsistent with airport operations. An effective easement prevents introduction of new or expansions of incompatible land use or development into the RPZ.

**2.2.8.5 Airport compatible land use restrictions.**

Easements may be acquired to prevent incompatible land use or development that may conflict with airport development or operations. To prevent future incompatible land use or development, the sponsor should also retain an easement on any sale of noise land or released airport land. See FAA AC 150/5190-4A, "Airport Compatible Land Use," for additional guidance on compatible and incompatible land use types, as well as needed easement and deed restrictions to protect against incompatible use and development.

**Figure 2-4. Avigation Easements**

<b>Easement Scope</b>	<b>Property Rights Acquired</b>	<b>Duration</b>
<i>Model Aviation and Hazard Easement</i>	<ol style="list-style-type: none"> <li>1. <i>Right of flight at any altitude above acquired surfaces.</i></li> <li>2. <i>Right to cause noise, vibrations, fumes, dust, fuel particles.</i></li> <li>3. <i>Prevent erection or growth of all objects above acquired surfaces.</i></li> <li>4. <i>Right of entry to remove, mark, or light any structures or growth above acquired surfaces.</i></li> <li>5. <i>Prohibit creation of electrical interference or directed lighting or glare from the property.</i></li> <li>6. <i>Others as necessary.</i></li> </ol>	<i>Until Airport is Abandoned</i>
<i>Limited Avigation Easement</i>	<ol style="list-style-type: none"> <li>1. <i>Right of flight at any altitude above acquired surfaces.</i></li> <li>2. <i>Prevent erection or growth of all objects above acquired surfaces</i></li> <li>3. <i>Right of entry to remove, mark, or light any structures or growth above acquired surfaces</i></li> </ol>	<i>Until Airport is Abandoned</i>
<i>Clearance Easement</i>	<ol style="list-style-type: none"> <li>1. <i>Prevent erection or growth of all objects above acquired surfaces</i></li> <li>2. <i>Right of entry to remove, mark, or light any structures or growth above acquired surfaces.</i></li> </ol>	<i>Until Airport is Abandoned</i>

**2.2.9 Appraisal of Noise Avigation Easements.**

Outright purchase of an avigation easement for an airport’s NCP, or as mitigation for an expansion project, may require an appraisal. An appraisal is not required for easements conveyed in exchange for other noise mitigation measures provided under an airport’s

NCP, such as soundproofing, purchase/sales assurance, or transaction assistance. The general considerations that the sponsor and their appraiser should make when appraising the market value of a proposed easement acquisition for noise compatibility are as follows:

**2.2.9.1 Before value appraisal.**

The appraisal of aviation easements to be acquired for a NCP must consider the existing noise impact, as indicated by the noise contour for the location of the participating property. The existing noise impact is not an influence of the NCP and must be properly considered in the “before condition” appraisal. Therefore, comparable sales to value the “before condition” would be selected from the same noise contour as the property appraised. In contrast, for an airport expansion project that proposes or requires acquisition of noise easements, the resulting new or increased noise impacts would be disregarded in the appraisal of the “before condition.” Therefore, sales selection for expansion projects may be properly made from areas that represent the pre-project noise condition (i.e., “before condition) not affected by project development.

**2.2.9.2 After value appraisal.**

Where there is not a significant physical effect or a proposed change in proximity of airport operations from the before condition, the task of the appraiser is to measure and report the effect of the easement conveyance on a subsequent market sale. Typically, this will be the measure of market value of an easement acquired as a mitigation measure of an airport’s NCP. Specific market data corresponding to and indicating this value may be difficult to find. Market data sources and techniques that should be investigated by the appraiser include the following:

1. Sales of similar property encumbered with aviation easements when compared directly with the subject property will yield the after value. Recent resale of properties that had formerly conveyed easements for noise compatibility purposes will provide the best indication of the after value.
2. Airport NCPs may jointly offer sales assurance or easement acquisition as an approved mitigation measure. The sales assurance option involves the sponsor assisting homeowners to move from noise-impacted areas by ensuring the owner the appraised fair market value of their property on a timely sale. In exchange for this assistance, the property is listed on the open market as being subject to the airport’s aviation easement and is purchased by a buyer with full knowledge of the easement restrictions on the property. The actual experience of properties sold subject to easements under a sponsor’s sales assurance option will provide a good indication of aviation easement value. For NCPs, the property is appraised “as is” subject to the existing noise impact and any loss in value from the appraised value may then be

attributed directly to the imposition of the avigation easement on the property.

3. Sales of easement encumbered properties adjacent to a comparison airport to analyze the influence of those easements on affected properties at that site. This analysis can then be related to the properties currently being encumbered with easements at the subject airport. Although sales near different airports may involve variations in airport type, size, and use, all available sales data should be investigated, included in the appraisal, evaluated by the appraiser, and either assigned appropriate consideration or disregarded.
4. Given the lack of specific market experience with avigation easements, statistical analysis of relevant market activity for appraisal techniques may provide insight to the purchase of avigation easements. For Part 150 noise projects, the appropriate factor to be isolated for analysis is the effect on property value due to the imposition of an easement on a property owner's title, and not the pre-existing effects of airport proximity and noise exposure. Sales of properties that are subject to other type of confiscatory easements (e.g., high-voltage power transmission lines, high-pressure gas lines, highway slope, and public open space) should also be considered and analyzed as a source of appropriate market information.
5. Lacking sufficient specific data to draw reliable conclusions from the above analysis, general market-wide analysis of the typical marketing time of comparable properties – both unencumbered and encumbered title (e.g., easements, deed restrictions, encroachments, liens, or other title imperfections) may provide useful information to conclude a reasonable market discount, which may be necessary to attract a buyer for timely sale of a property subject to the proposed easement. Local assessor files and title companies in an area may be able to provide comparable information on property encumbrances.

#### 2.2.10 Appraisal of Properties Containing Hazardous Materials.

Cleanup or waste disposal costs are normally reflected in a property's salability, thereby generally affecting the market value. In appraising such property for airport project purposes, the impact of any hazardous materials affecting the property and the level of treatment needed to control or cleanup the property needs to be considered and reflected in the appraised market value.

##### 2.2.10.1 **Identification of hazardous materials sites.**

Prior to commencing work for preparation of the appraisal, the real estate appraiser must be given specific instructions to consider the impacts on value of the parcel to be appraised. The appraiser is not a specialist or expert on handling hazardous materials or in the costs of control, cleanup, or removal, and should not be expected to make these determinations. Therefore, these matters and related costs should have already been

determined by adequate environmental audit (see Section 1.13) during earlier project development, and the findings given to the appraiser for consideration in valuing the affected property. The degree to which the hazardous materials affect the value of the property is a matter that the appraiser must determine.

#### 2.2.10.2 **Commercial and industrial properties.**

In appraising commercial and industrial properties impacted with hazardous materials, the following situations may be encountered:

1. The property contains hazardous materials that must be cleared before any further use or activity, existing or otherwise, can be carried out on the property. In these instances, where the airport acquires the property prior to hazardous materials clearance, the appraised value must be made on the potential highest and best use, less the cost of clearing the materials in compliance with existing regulatory criteria.
2. The property contains hazardous materials, but clearing or disposal may be delayed until a future date. In such instances, the property should be valued as unimpaired, less the present worth of the estimated cost to clean up at a future date. Full consideration must be given to any existing hazardous material that may influence the value of the property.
3. The property has building components and/or site improvements that contain hazardous materials, which will require removal and disposal upon demolition or refurbishing to meet environmental pollution and health regulations, (e.g. non-friable asbestos containing materials, polychlorinated biphenyls [PCBs], lead paint, acid sludge, or other regulated toxic and hazardous materials). The appraiser's estimate of accrued depreciation must consider the removal and disposal costs for these items and cost to cure or replace worn components.
4. The property contained hazardous materials that the property owner has cleared or disposed of prior to acquisition by the sponsor. If the cleanup is in accordance with applicable government requirements, the property may be appraised and valued for sale on the open market. However, recognize the extent of site remediation completed and any future risk of additional cleanup liability. Comparable sales of remediated property would be the best indicator of value, if available.

#### 2.2.10.3 **Residential property.**

Residential properties that may contain hazardous materials in building components should be appraised "as is," subject to the following conditions:

1. If the real estate market indicates a value adjustment for the presence of the hazardous materials on the property, the appraiser should incorporate this market factor in the appraisal.

2. Exposure to existing hazardous conditions that require correction or remediation prior to property sale must be considered (e.g., friable asbestos or chipping lead paint) and the cost to cure these conditions must be properly accounted for in the appraised fair market value. This situation is analogous to normal property condition considerations in an appraisal (e.g., defective plumbing, depreciated roofing components, worn carpeting), for which the appraiser would properly adjust for and reflect in the appraised market value.
3. The expected demolition costs to remove the improvements and adequately dispose of the hazardous materials should be considered in the appraisal of interim use properties and properties with highly depreciated improvements with a relative short term remaining economic life (e.g., less than 5 years).

## 2.3 **Appraisal Review.**

### 2.3.1 Responsibility of Airport Sponsor.

For any acquisition of real property for an AIP project, the sponsor must have an appraisal review process and, at a minimum, satisfy the following criteria:

- 2.3.1.1 A qualified review appraiser must examine the presentation and analysis of market information in all appraisal reports to ensure they:
1. Conform to the following regulatory definition of appraisal [per 49 CFR 24.2(a)]: note that The term appraisal means a written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value of an adequately described property, as of a specific date, supported by the presentation and analysis of relevant market information.
  2. Meet applicable FAA and 49 CFR 24 appraisal requirements (described in Chapter 2).
  3. Provide adequate documentation and support of the appraiser's opinion of value.
  4. Prior to acceptance, the review appraiser must seek necessary corrections or revisions.
  5. The review appraiser must report the approved appraised value as the recommended amount of just compensation to be offered to the property owner.
  6. The review appraiser must identify each appraisal report reviewed as one of the following classifications:
    - a. *Recommended*, as the basis for the establishment of the amount is believed to be just compensation
    - b. *Accepted* and meets all requirements, but not selected as approved

- c. *Not Accepted*, as the appraisal failed to meet requirements for acceptance and the opinion of value is not considered correct or supported.

2.3.1.2 If the review appraiser is unable to approve an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the sponsor that it is not practical to obtain an additional appraisal, the review appraiser may develop appraisal documentation in accordance with FAA requirements to support an estimate of just compensation. The review appraiser report must include the additional analysis and documentation required to supplement the reviewed appraisals and support the approved appraised value. No further appraisal review is required.

### 2.3.2 Review Appraisal Report.

The review appraiser must prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). The appraisal review report must, at a minimum, include the following:

1. Identification of any damages or benefits to any remaining property
2. Identification of any damage items compensable under state law, but not generally held to be compensable under eminent domain, and not eligible for federal reimbursement (if applicable)
3. A statement that the approved appraised value is the basis for the sponsor's offer of just compensation

## CHAPTER 3. REAL PROPERTY ACQUISITION

### 3.1 Requirements.

#### 3.1.1 Sponsor Offer of Just Compensation.

The sponsor must meet certain minimum requirements to present an acceptable purchase offer to a property owner for their real property or an interest in their real property. To prepare its offer of just compensation to initiate the purchase negotiations with the property owner, the sponsor should plan and schedule the acquisition process in accordance with the following steps:

##### 3.1.1.1 **Expeditious acquisition.**

The sponsor must make every reasonable effort to acquire the real property expeditiously by negotiation of an amicable purchase agreement. The sponsor will need to provide sufficient time prior to project need (i.e., lead-time) to allow for an adequate appraisal and appraisal review, and sufficient time for the property owner to consider the sponsor's just compensation offer.

##### 3.1.1.2 **Adequate property survey and description.**

Whole property may be acquired by deed description, as supported by adequate title investigation. Partial acquisitions must be described by adequate survey of the part required and description of the remaining tract.

##### 3.1.1.3 **Property title search.**

The sponsor must determine the legal property owner and the condition of marketable title for acquisition. Typically, a title insurance commitment is secured to evidence marketable title and any exceptions to be cleared.

##### 3.1.1.4 **Notice to owner.**

As soon as feasible (i.e., no later than the appraisal assignment), the sponsor must notify the owner in writing of the sponsor's interest in acquiring the real property and the basic protections provided to the owner by law. The FAA brochure, "Land Acquisition for Public Airports," may be used as a resource to provide this general information notice.

##### 3.1.1.5 **Appraisal requirement.**

Before the initiation of negotiations, the real property to be acquired must be appraised, unless the appraisal waiver is applicable (see Chapter 2) or the owner is donating the property and releases, in writing, the sponsor from its obligation to appraise the property.

##### 3.1.1.6 **Appraisal review and sponsor just compensation offer.**

Before the initiation of negotiations, the sponsor must establish an amount that it believes is just compensation for the real property. The just

compensation offered at the initiation of negotiations must not be less than the amount of the appraised market value of the property approved by the review appraiser. In the case of a partial acquisition, the approved market value will take into account the value of allowable damages or benefits to any remaining property.

**3.1.1.7 Written offer.**

Promptly after the review appraiser approves the appraisal, the sponsor must make a timely written offer to the owner to acquire the property for the full amount of just compensation. A sample offer letter is shown in Figure 3-1. The written offer must present a summary statement of the basis for the just compensation offer, which must include the following:

1. A statement of the amount offered as just compensation
  - a. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property must be stated separately.
2. A legal description or adequate location identification of the real property and the interest in the real property to be acquired
3. An inventory of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) to be acquired by the sponsor's offer of just compensation
  - a. To comply with 49 CFR, Part 24, any building, structure, fixture, or other improvement that would be real property if owned by the owner of the land will be considered to be real property, notwithstanding the right or obligation of a tenant, such as against the owner of any other interest in the real property, to remove such improvement at the expiration of the lease term.
4. Where appropriate, identification of any other separately held ownership interest in the property (e.g., a tenant-owned improvement) and indication that this offer does not cover such interest

**Figure 3-1. Example of an Offer Letter and Summary Statement**

Dear Property Owner:

The Orville Airport Authority is undertaking a project for construction of improvements to the Orville Municipal Airport. The proposed project has been designed to minimize the disruption to the community and especially to minimize the need to acquire private property. However, sound design and cost efficiency require the acquisition of some private property to accomplish the project, including (a portion of) your property located at 123 Main Street, Orville and as further described below. The airport may only acquire your property upon payment of just compensation to you for the fair market value of the property required and any resulting damages to your remainder property due to the acquisition for the subject project. To this end we have had your property appraised by qualified real estate appraisers and have determined the amount of just compensation to be \$87,500.

The airport authority is therefore offering you \$87,500 for the purchase of the needed property and compensation for all resulting damages. Enclosed are a proposed purchase agreement contract, survey plat of the needed property, and exact legal description of the property to be acquired for your review. Also, enclosed is a brochure entitled "Land Acquisition for Public Airports" which explains your rights and benefits for the conveyance of your property and (as applicable) relocation to a replacement property.

The amount offered as just compensation is fair and full compensation for the proposed acquisition, and we sincerely wish to come to amicable agreement with you for the acquisition of your property. The airport representative presenting this offer to you will explain the offer and proposed acquisition to you, and is available to answer any questions and concerns you have now and throughout the negotiations process.

Thank you for your consideration.

Sincerely,  
Airport Director

**SUMMARY OF JUST COMPENSATION:**

**Dwelling, garage and 12000 sq.ft. of land -\$87,500**

### 3.1.2 Excess Land.

When the sponsor acquires a parcel of land (other than an uneconomic remnant) that is in excess of airport needs, or contains improvements not needed for aeronautical purposes, the grant reimbursement may be based on the full value of the parcel, including that part which is excess, provided that the land or improvements will be

immediately disposed. The net proceeds from the sale of the excess property will be deducted from the grant amount before project closeout. In cases where the sponsor does not intend to sell the excess property immediately after acquisition, the amount of the purchase price attributable to such excess property should not be included in the grant. The cost of acquiring uneconomic remnants, as required under Section 3.9.e, may be submitted for federal reimbursement. The remnant parcel may be incorporated into airport property or, upon disposal for non-airport purposes, sales proceeds will be credited to AIP grant funds.

### 3.1.3 Donations.

Property owners whose real property is to be acquired for an airport project may make a gift or donation of the property, or any part of it, or any of the just compensation amount, to the airport sponsor. A donation may be made at any time during the development of a project or during the acquisition phase of the project. At the time of the donation, the property owner must be informed of his or her right to receive just compensation. In addition, the sponsor has the obligation to perform an appraisal of just compensation and disclose the amount to the property owner, unless the owner releases the sponsor from this obligation. The sponsor must document in writing the owner's acknowledgment and waiver of the right to just compensation. The sponsor is cautioned that prior to accepting a donation, ownership of the property must be verified and adequate title assured, and assurance secured that the property is not subject to hazardous waste contamination and/or cleanup liability that may exceed the value of the property.

### 3.1.4 Purchase of Life Estates.

A life estate, in lieu of full fee title, may be considered an eligible project expense with concurrence of FAA. A life estate may be desirable for a property owner and an acceptable acquisition where possession of the property may be deferred indefinitely. Property owner requests to convey life estates have been found acceptable for 14 CFR Part 150 projects. Where life estates may be acceptable, the following terms and conditions should be included in life estate transactions:

1. The life use occupant must not add to or materially alter the character of existing improvements or structures, initiate any new construction, or change the topography of the land without first having obtained permission of the airport owner.
2. Any building or structure damaged or destroyed by fire or other casualty, deteriorated by the elements, or wear and tear may be maintained, repaired, renovated, remodeled, or reconstructed, as long as the basic character of the building or structure is not materially altered.
3. The life use occupant must keep the grounds of the property in a clean and neat condition and must maintain all structures and improvements in good repair. The occupant is responsible for all costs of maintenance, repair, and utility charges.
4. The life use occupant is responsible for the payment of any taxes or assessments that may be levied against the occupant's interest in the reserved property.

5. The life use occupant must hold the airport owner harmless for any liability arising out of the use of the reserved property. The occupant must carry such public liability insurance as is customary by homeowners in the vicinity, provided such insurance is available. The occupant is also responsible for insuring his or her interest in the reserved property.

### 3.1.5 Acquisition of Property Containing Hazardous Materials.

- 3.1.5.1 The sponsor must not acquire property contaminated with hazardous materials without adequate prior investigation and proper contractual and valuation safeguards. As feasible, the sponsor should not acquire the property in its contaminated state and cleanup should be completed prior to acquisition. It is necessary that hazardous material contamination problems be dealt with at the earliest stage of the project development (also see FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects*).
- 3.1.5.2 If hazardous materials are discovered during the appraisal or negotiations process, at a minimum the sponsor should take the following measures to determine the extent of contamination and cleanup costs:
  1. Determine legal responsibility for any identified problem and the required time for remediation under applicable federal, state, and local regulations. If not done previously, initiate consultation with the appropriate state environmental protection agency concerning action required on the contaminated property to be acquired.
  2. Consult with and advise the property owner of the identified problem and request that the owner resolve any problems within a specified time.
  3. As appropriate and in accordance with applicable law or regulation, alert the responsible enforcement agency of the contaminated property to secure site cleanup.
  4. If the property owner agrees to a remediation plan, include in the purchase agreement contractual obligation for the control or cleanup to occur at the property owner's expense, compliant with applicable requirements, and subject to an agreed cleanup schedule. The sponsor should retain a portion of the acquisition price of the subject property to sufficiently cover the testing and control and/or cleanup costs of the contaminants. After the government agency with enforcement jurisdiction has certified property as adequately mitigated, the net amount of the acquisition price withheld may be paid to the property owner.
  5. If any proposed acquisition requires a Phase II or Phase III environmental site assessment (ESA), coordinate with the FAA prior to initiating the next phase in the ESA process and, more importantly, prior to continuing the negotiation process.

### 3.1.6 Minimum Payment Negotiations.

- 3.1.6.1 The minimum payment procedure provides an equal monetary offer to all similarly affected property owners where the appraisal waiver provision is invoked (see Section 2.2). This procedure recognizes that, given the nominal value appraisal waiver, it is also unnecessary to establish an exact just compensation amount specific to each property. Therefore, a single amount may be established from the market or project analysis to be offered as just compensation for similar nominal acquisitions. This procedure is an expedited negotiations process to efficiently provide payment of the indicated nominal compensation. However, just compensation may only include fair market value considerations, and the project cost savings secured by this procedure may not be added to the just compensation amount offered to property owners.
- 3.1.6.2 To ensure that adequate compensation is provided under this procedure, the value range established for minimum payment negotiations should reflect a range of pessimistic to optimistic assumptions based on the value of a proposed nominal acquisition. For example, suppose adequate market and project analysis indicates that imposition of an aviation easement on a homogeneous group of properties participating in a sales assurance/easement acquisition project of an airport's approved NCP is determined to result in a 2-4% loss in market value of participating properties, with current fair market values ranging from \$45,000 to \$60,000. This analysis then yields a dollar value range for the easement to be conveyed from this group of property of \$900 to \$2400. With this information, the sponsor may determine that a minimum offer of up to \$2400 is adequate to compensate all these property owners for the conveyance of the proposed aviation easement. As this amount is within the appraisal waiver requirement, no further appraisal documentation is necessary to establish the minimum amount of just compensation to be offered.
- 3.1.6.3 The minimum payment procedure, by its nature, is conducted strictly on a one price and single offer basis. Under these procedures protracted negotiations should not be conducted, nor administrative settlement criteria be applied to secure individual settlements. Successful sponsor use of this procedure relies on a concise negotiations effort involving well-developed written offers and presentation to property owners that assure and convince the property owner that the offer reflects sound valuation considerations and represents the airport's best offer for the acquisition of the aviation easement. In addition, these provisions would not be applicable to a project where there is a diverse mix of residential property types and values where a consistent market standard cannot be determined, or where value in excess of nominal value is indicated. The appraisal waiver and minimum payment negotiations procedure are

optional methods, and a sponsor, at its discretion, may opt for the traditional approach with full FAA participation.

### 3.1.7 Utility Relocation.

In the development of an airport project there are times when a utility (e.g., electric, gas, telephone, sewer, water) must be relocated to accommodate the proposed airport work and use of a property. If the utility company owns an interest (either fee or easement) in the utility right-of-way to be acquired, and the utility must be moved to another location as a result of the project, the relocation, adjustment, and resulting costs can be reimbursed to the utility company as an eligible project cost. The sponsor should enter into a reimbursable agreement with the utility company in order to establish the total costs involved in the relocation, including a new right-of-way, if necessary. The agreement requirements are fully described in Federal Highway Administration (FHWA) regulations<sup>7</sup>, which the FAA project manager will provide upon request.

## 3.2 **Purchase Negotiations.**

### 3.2.1 Basic Negotiation Procedures.

The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses (see Section 3.10). The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In order to satisfy this requirement, sponsors must allow owners time for analysis, research and development, and compilation of a response, including perhaps the owner obtaining an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would normally be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded the opportunity to fully evaluate the airport's purchase offer.

#### 3.2.1.1 **Updating Offer of Just Compensation.**

The sponsor must consider the owner's presentation of valuation information. If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the sponsor must have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information warrants a change in the purchase offer, the sponsor must promptly reestablish just compensation and offer the updated amount to the owner in writing.

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<sup>7</sup> 23 CFR 645, Subpart A, "Utility Relocation, Adjustments and Reimbursements."

**3.2.1.2 Coercive Action.**

The sponsor must not advance the time of condemnation; defer negotiations, condemnation, or the deposit of funds with the court; or take any other coercive action in order to induce an agreement on the price to be paid for the property.

**3.2.1.3 Administrative Settlement.**

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and the sponsor approves such administrative settlement as being reasonable, prudent, and in the public interest. When federal funds pay for or participate in acquisition costs, a written justification must be prepared, which states what available information, including trial risks, supports such a settlement (see Section 3.3).

**3.2.1.4 Payment Before Taking Possession.**

Before requiring the owner to surrender possession of the real property, the sponsor must pay the agreed purchase price to the owner. In the case of a condemnation and for the benefit of the owner, the sponsor must deposit with the court an amount not less than the approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the sponsor may obtain a right-of-entry for construction purposes before making payment available to an owner.

**3.2.1.5 Uneconomic Remnant.**

If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the sponsor must offer to acquire the uneconomic remnant along with the portion of the property needed for the project. As defined in 49 CFR 24.2(a), an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the sponsor has determined has little or no value or utility to the owner.

**3.2.1.6 Fair Rental.**

If the sponsor permits a former owner or tenant to occupy the real property after acquisition for a short term or a period, subject to termination by the sponsor on short notice, the rent must not exceed the fair market rent for such occupancy.

**3.2.1.7 Inverse Condemnation.**

If the sponsor intends to acquire any interest in real property by exercise of the power of eminent domain, it must institute formal condemnation proceedings and not intentionally make it necessary for the owner to

institute legal proceedings to prove the fact of the taking of the real property.

**3.2.1.8 Conflict of Interest.**

No appraiser or other person making an appraisal or a waiver valuation must act as a negotiator for real property for which that person has made an appraisal or a waiver valuation, except if the sponsor permits such a person to negotiate an acquisition where the offer to acquire the property is \$10,000 or less.

**3.2.1.9 Negotiations Contact Record.**

To document compliance, the sponsor's negotiator must maintain adequate records of the negotiation contacts with the property owner and/or the owner's representative. The record must be written in permanent form and completed within a reasonable time after each contact with the property owner. Contact entries should indicate the date, place of contact, persons present, offers made (in Dollar amounts), counteroffer, and the sponsor's response to any valuation information provided by the property owner. When negotiations are successful, the negotiator will certify that the written agreement embodies all considerations agreed to between the negotiator and the property owner and that agreement was reached without coercion. When negotiations are unsuccessful, the negotiator must record recommendations for whatever action is considered appropriate, along with any additional information essential to further processing of the acquisition. The report will be signed and dated by the sponsor's negotiator.

**3.2.2 Expenses Incidental to Transfer of Title.**

**3.2.2.1** As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding, whichever is earlier, the airport owner will reimburse the property owner for all reasonable expenses necessarily incurred for the following:

1. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the airport owner (The airport owner is not required to pay costs solely required to perfect the property owner's title to the real property.)
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property
3. The pro rata portion of any prepaid real property taxes that are allocable to the period after the airport owner obtains title to the property or effective possession of it, whichever is earlier

3.2.2.2 Whenever feasible, the airport owner must pay these costs directly so that the property owner will not have to pay such costs and then seek reimbursement later. The above expenses may be set forth on the closing statement furnished to the property owner. The claim for these expenditures may be submitted on FAA Form 5100-119, "Claim for Reimbursement of Expenses Incidental to Conveyance of Real Property."

3.2.3 Closing on Acquired Land.

The sponsor must provide evidence to the FAA that the sponsor had acquired adequate title to the needed land for project and airport development. Fee title is generally required for project purposes, although easement acquisition may be sufficient for some airport land uses. In any event, the property interest obtained must be sufficient to allow the airport owner to carry out the obligations and covenants in the grant agreement and be free of encumbrances that might deprive the airport of possession or control for public airport purposes. Appendix D provides a sample sponsor title certification.

3.2.4 Acquisition of Easements or Other Partial Interests in Real Property.

The sponsor must acquire property rights sufficient for the operation and maintenance of the AIP project. Eligible land acquisition for airport development and noise compatibility is described in the AIP Handbook. Consistent with AIP eligibility, fee simple acquisition is generally required for airside development and the RPZ. If fee simple acquisition is determined to be impractical for the RPZ, the sponsor may acquire an avigation easement that adequately restricts land use and precludes incompatible land use (see FAA AC 5190-4, *Airport Compatible Land Use*).

3.2.5 Acquisition of Tenant-Owned Improvements.

When acquiring any interest in real property, the sponsor must offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or determines will be adversely affected by the intended use. This offer must include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

3.2.5.1 Any building, structure, or other improvement that would be considered real property if owned by the owner of the real property on which it is located, must be considered real property for purposes of acquisition.

3.2.5.2 No payment must be made to a tenant-owner for any real property improvement, except when all of the following conditions are met:

1. The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the airport owner all of the tenant-owner's right, title, and interest in the improvement
2. The owner of the real property on which the improvement is located disclaims all interest in the improvement

3. The payment does not result in the duplication of any compensation otherwise authorized by law

3.2.5.3 Just compensation for a tenant-owned improvement is the amount that the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. When estimating the value of tenant-owned improvements, value in place and contributory value are essentially the same. The following procedure is used to estimate the value of tenant-owned improvements:

1. Determine the highest and best use of the property and then allocate the value of tenant-owned improvements from the value of the whole.
2. Consider the full value or interim-use value of tenant owned improvements as follows:
  - a. Full contributory value in place of building, structure, or other improvements for their remaining economic life is applicable when such building, structure, or other improvements are consistent with the highest and best use of the land.
  - b. Interim use is applicable when the value of the buildings, structure, or other improvements is not the highest and best use of the land for a specific time period longer than the lease term (include present worth of salvage value).
  - c. Value in place of the building, structure or other improvement, plus the present worth of the salvage value at the end of the lease term.
  - d. Valuation of items not readily measured in the marketplace are provided in specialty reports.
  - e. In instances when a situation may not fit accepted appraisal guidelines/techniques, an administrative settlement may be used with a written justification and explanation.

3.2.5.4 Nothing should be construed to deprive the tenant-owner of any right to reject payment under this paragraph to obtain payment for such property interests in accordance with other applicable law concerning the purchase or condemnation of the tenant's interest.

### 3.2.6 Protective Lease Agreements.

Where shown to be cost effective, the sponsor may enter into agreements with a property owner to preclude leasing of the property in anticipation or during purchase negotiations. The protective lease agreement will preclude new or additional tenants from entering occupancy on the property and possibly becoming eligible for relocation payments. Any protective leasing of needed property must be on a short-term basis (i.e., less than six months) in anticipation of closing or filing condemnation for a property. There is no obligation or need to compensate for rental income subsequent to the sponsors purchase of a property. The rental rate on a protective lease should also

recognize the property owner's reduced cost in leasing vacant space to the sponsor. A protective lease agreement may be cost-effective to preclude subsequent occupants on residential property, as well to maintain commercial property vacant in anticipation of acquisition for a project. The FAA project manager may be contacted to discuss the merits of specific proposals.

### 3.2.7 Eligible Litigation Expenses Under 49 CFR 24.107.

3.2.7.1 There is no obligation under 49 CFR 24 for the sponsor to reimburse the property owner for legal, appraisal, or other expenses of condemnation necessary to secure possession for an AIP project. However, if any one of the three following conditions exist, the sponsor is required under 49 CFR 24.107 to reimburse the property owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees for necessary services that were actually incurred:

1. The acquiring airport starts a condemnation action but the court decides that the airport owner does not have authority to acquire the property by condemnation.
2. The acquiring airport owner starts a condemnation action and abandons it, other than under an agreed-upon settlement.
3. The property owner successfully maintains, by judgmental award or by settlement, an inverse condemnation suit, or similar proceeding.

3.2.7.2 Federal participation in settlement and litigation expenses will be handled on a case-by-case basis, depending on the airport owner's compliance with its commitments to accomplish airport development under a project receiving federal financial assistance and documentation that the airport has followed proper action in the processing of the case. The AIP Handbook further references procedures for reimbursement of condemnation and litigation expenses. See Section 3.4 for information regarding FAA acceptance of condemnation awards of just compensation.

## 3.3 **Acceptance of Administrative Settlement.**

### 3.3.1 Administrative Settlement.

3.3.1.1 Administrative settlements are agreed upon settlement made in excess of the sponsor's offer of just compensation for acceptable administrative reasons to reflect the public interest. During negotiations, an administrative settlement may be proposed to preclude more costly and unfavorable litigation and/or to settle a disputed acquisition at reasonable cost. Under the Uniform Act, reasonable attempts to expedite acquisitions by agreements with owners to avoid litigation and relieve congestion in the courts are encouraged. Significant cost savings may be documented in

the use of administrative settlements versus condemnation or terminating stalemated negotiations.

3.3.1.2 There is no need to inflate or diminish the airport's appraisal as support for an administrative settlement. If the owner presents creditable documented appraisal information, then the just compensation offer is updated to complete negotiations (see Section 3.9.a). An administrative settlement however is a judgmental matter to be carefully considered by the sponsor as an option to condemnation or termination of a proposed acquisition where negotiations have reached an impasse on the amount of just compensation. Sound project management requires administrative settlements to reflect the public interest, not merely as a matter of convenience. Adequately supported settlements are an eligible property acquisition cost.

3.3.2 Adequate Written Documentation Required for FAA Acceptance of an Administrative Settlement.

3.3.2.1 The sponsor must prepare and maintain adequate written justification that the settlement is prudent and in the public interest. The written explanation must be commensurate with the settlement amount involved. Small settlements, or within 10% of the appraised value, may only require brief discussion noting the amounts involved and evidencing the sponsor's approval. Settlements that involve substantial amounts or large increases require full analysis and discussion to verify the settlement amount is clearly cost effective and reflects the public interest. Amounts attributed to noncompensable items under federal law, should be excluded from federal participation (see Chapter 2, Non Allowable Land Cost). At a minimum, the sponsor must cite the items listed below (as applicable) to support a settlement amount:

1. The probable range of testimony in litigation, including the airport's approved appraisals and the property owner's appraisals
2. The type of property involved and damages, if any
3. Recent court awards in the vicinity (particularly involving similar property)
4. A summary of the negotiation effort and the recommendation of the negotiator to conclude the purchase with a settlement
5. The estimate of trial cost, including preparations
6. The advice and opinion of the sponsor's legal counsel

3.3.2.2 The appropriate airport official having management responsibility for the acquisition project will ultimately approved the administrative settlement.

### 3.4 **Condemnation Awards.**

#### 3.4.1 Condemnation.

When negotiations conforming to this Chapter for an amicable purchase agreement are not successful, the sponsor may apply its eminent domain authority and file condemnation for possession of needed property. The sponsor's legal counsel represents the sponsor in condemnation and is responsible for subsequent negotiations, the selection of trial witnesses, and settlement and appeal determinations. Legal counsel must consult with the sponsor and its project management prior to the settlement of the condemnation case for an amount substantially different from the established just compensation or any other legal decision that affects the cost for possession of the needed property. Prior to requiring an owner to surrender possession of the real property, the sponsor must deposit with the court, for the benefit of the owner, an amount not less than the sponsor's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property.

#### 3.4.2 Mediation and Condemnation Settlements.

3.4.2.1 At any time prior to court trial, the sponsor's legal counsel may secure a settlement in lieu of trial. An administrative settlement may be made if justified as described in Section 3.3. Where the sponsor's legal counsel makes settlement, the settlement justification described in Section 3.3 should be supplemented by the following:

1. A signed statement by the attorney who handled the case describing reasons that the settlement is in the sponsor's interest with supporting data and analysis as appropriate
2. A signed statement by the sponsor management indicating concurrence in the proposed settlement and explanation of any reservations on the proposed settlement

3.4.2.2 Amounts attributed to noncompensable items under federal law, should be excluded from federal participation (see Section 2.1.6).

#### 3.4.3 Condemnation Awards.

A condemnation award is eligible for reimbursement with federal funds provided that the amount of the award is reasonable. Amounts attributed to noncompensable items under federal law should be excluded from federal participation (see Section 2.6). The condemnation award must be supported by adequate trial report citing the range of value testimony, major issues, and any comments and recommendations on possible legal error and possible success in requesting a new trial, remittitur, and/or appeal. The sponsor should indicate their concurrence and/or acceptance in the trial report and any legal recommendations.

### 3.4.4 Acquisition of Public Streets, Highways, Roads and Other Public Use Property.

#### 3.4.4.1 **Public streets, highways, and roads.**

Only nominal compensation is owed for closed or vacated streets. For example, the streets that had served an acquired neighborhood would be closed and vacated under applicable law to preclude continued public access to the acquired property. When the airport acquired the subdivision lots, the property owners were already compensated for the value of the street access to their lot. If there were a necessity for the governmental unit from which the street had been acquired to replace the street, then the cost of replacing the street with a functionally equivalent would be just compensation for the taking. Therefore, appraisals are seldom needed, nor should they be prepared, because streets that do not need replacement require only nominal compensation, and compensation for streets that require replacement is generally measured by the replacement cost.

#### 3.4.4.2 **Other public use property.**

Condemnation of property in prior public use may not be authorized under state law. The sponsor may need to rely on other state law or procedures to secure needed property for the airport project.

## CHAPTER 4. RELOCATION ASSISTANCE

### 4.1 Requirements.

#### 4.1.1 Sponsor Relocation Program (49 CFR 24, Subpart C).

Under the Uniform Act, the sponsor must provide an adequate relocation assistance program, ensuring prompt and equitable relocation and reestablishment of persons displaced as a result of its federally-assisted airport projects. As defined in the Uniform Act and used in this AC, the term “person” refers to any individual (i.e., residential or business occupant), family, partnership, corporation, or association. Sponsors must provide advisory assistance and conduct the relocation program so that displaced persons receive uniform and consistent services and payments, regardless of race, color, sex, or national origin. Sponsors must maintain adequate documentation to evidence compliance with the Uniform Act and their grant assurances provided to FAA.

#### 4.1.2 Eligibility for Relocation Payments.

All persons that are displaced from or for an AIP-assisted project may be eligible for relocation assistance and payments.

##### 4.1.2.1 **Displaced persons.**

As defined in the Uniform Act, the term “displaced person” refers to any person who moves from the real property, or moves personal property from the real property, as a direct result of (1) a written notice of intent to acquire, (2) the initiation of negotiations for, or (3) the acquisition of such real property, in whole or in part, for a project. Additionally, “displaced person” refers to any person who moves personal property from non-acquired real property, as a direct result of (1) a written notice of intent to acquire, or (2) the acquisition of other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such “displaced person” applies only for purposes of obtaining relocation assistance advisory services and moving expenses.

##### 4.1.2.2 **Persons not displaced.**

The following is a non-exclusive listing of persons who do not qualify as displaced persons under the Uniform Act:

1. A person who moves before the initiation of negotiations, unless the sponsor determines that the person was displaced as a direct result of the program or project
2. A person who initially enters into occupancy of the property after the date of its acquisition for the project
3. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act
4. A person who is not required to relocate permanently as a direct result of a project

- a. Care must be exercised to ensure that occupants in this category are treated fairly and equitably on the sponsor's AIP-assisted programs because they are not necessarily considered displaced persons. Tenants on airport property (e.g., fixed base operators, terminal tenants) that is being renovated or demolished under an AIP-assisted project may or may not be considered displaced persons depending on their existing lease terms for the right of continued occupancy. An increase in rent corresponding to improved facilities is not considered sufficient justification to consider an existing tenant "displaced," even though the tenant may decline the opportunity to re-lease property from the airport.
5. An owner-occupant who moves as a result of a "voluntary" acquisition
6. A tenant displaced as a direct result of this type of "voluntary" transaction is a "displaced person" and is entitled to the relocation assistance and payments that he/she may be eligible for under the Uniform Act.
7. A person whom the sponsor determines is not displaced as a direct result of a partial acquisition
8. A person who, after receiving a notice of relocation eligibility, is notified in writing that displacement from the project will not occur
  - a. The notice of relocation eligibility should only be issued if (i) the displaced person has not yet moved, and (ii) the sponsor agrees to reimburse any expenses that the person would incur due to relocation, in order to satisfy existing contractual obligations.
9. A person who retains the right of use and occupancy of the real property for life following its acquisition by the sponsor
10. A person who is determined to be in unlawful occupancy prior to the initiation of negotiations, or a person who has been evicted for cause under applicable law.
  - a. Eviction for cause must conform to applicable state and local law. Any person in lawful occupancy at the start of negotiations is entitled to relocation assistance and payments, unless the sponsor discovers the following:
    - i. Either the person received an eviction notice prior to the start of negotiations and was later evicted as a result of that notice, or the person was evicted after the initiation of negotiations for serious and repeated violation of material terms of the lease agreement.
    - ii. The eviction was not undertaken to evade the relocation payment obligations.

11. A person who is not lawfully present in the United States and who has been determined as ineligible for relocation benefits, in accordance with Section 4.1.3 of this AC.

#### 4.1.3 Denial of Federally Funded Relocation Assistance and Payments to Illegal Aliens.

No relocation payments or relocation advisory assistance will be provided to any 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 the airport sponsor’s satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to his/her spouse, parent, or child who is a U.S. citizen, or is an alien lawfully admitted for U.S. permanent residence. (See Section 4.1.3.e for qualifying hardship criteria.)

##### 4.1.3.1 **Definition.**

An alien who is not “lawfully present” in the United States is defined in 8 CFR 103.12, including the following:

1. An alien present in the U.S. who has not been admitted or paroled into the U.S. pursuant to the Immigration and Nationality Act, and whose stay in the U.S. has not been authorized by the U.S. Attorney General
2. An alien who is present in the U.S. after the expiration of the period of stay authorized by the U.S. Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the U.S.

##### 4.1.3.2 **Self-certification.**

4.1.3.2.1 As a condition of eligibility, each person seeking relocation payments or relocation advisory assistance must certify that they meet the following requirements:

1. In the case of an individual, he or she must be either a U.S. citizen or U.S. national.
2. In the case of a family, each family member must be either a U.S. citizen or U.S. national, or an alien who is lawfully present in the U.S., which may be certified individually or by the head of the household on behalf of other family members.
3. In the case of an unincorporated business, farm, or non-profit organization, each owner must be either a U.S. citizen or U.S. national, or an alien who is lawfully present in the U.S., which may be certified individually or 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 non-profit organization, the corporation must be authorized to conduct business within the U.S.

4.1.3.2.2 These certifications are provided on FAA Form 124, “Non-Residential Relocation Claim” and on FAA Form 125, “Residential Relocation Claim Form.”

4.1.3.3 **Certification acceptance.**

The sponsor must consider the certification provided as valid unless the sponsor determines it is invalid based on a review of a person’s documentation or other information that the agency considers reliable and appropriate. Any review by the sponsor of the certifications provided must be conducted in a nondiscriminatory manner. Each airport sponsor must apply the same review standards to all such certifications but these standards may be revised periodically.

4.1.3.4 **Verification procedure (required if certification is not accepted).**

After reviewing a person’s documentation or other credible evidence, if the sponsor determines that his/her certification is invalid and, as a result, he/she may be an alien not lawfully present in the U.S., the sponsor must obtain verification through the following means before making a final determination:

1. For a person who has certified that he/she is a U.S. citizen or U.S. national, if the sponsor determines that the certification is invalid, the displacing agency must request evidence of U.S. citizenship or nationality from the person and verify the accuracy of this evidence with the issuer if considered necessary.
2. For a person who has certified that he/she is an alien lawfully present in the U.S., if the sponsor determines that the certification is invalid, the displacing agency must verify the person’s status through a field office of the U.S. Citizenship and Immigration Service (USCIS).<sup>8</sup>

4.1.3.5 **Exceptional and extremely unusual hardship.**

A spouse, parent, or child of a person determined to be not lawfully present in the U.S. is considered under “exceptional and extremely unusual hardship” if the displacing determines that the denial of relocation payments and advisory assistance to the person would result in the following:

1. A significant and demonstrable adverse impact on the health or safety of a spouse, parent, or child;

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<sup>8</sup> For a list of local USCIS offices, refer to the “USCIS Service and Office Locator”: [https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office\\_type=LO](https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO). If an agency is unable to contact the USCIS field office, it should contact FAA for referral. All requests for USCIS verification must include the alien’s full name, date of birth, alien number, and a copy of the alien’s documentation.

2. A significant and demonstrable adverse impact on the continued existence of the family unit, of which a spouse, parent, or child is a member; or
3. Any other significant and/or demonstrable adverse impact on a spouse, parent, or child as determined by the displacing agency.

#### 4.1.4 Qualified Voluntary Transaction – Selling Owner Not Displaced.

Owner-occupants who sell their property under the voluntary transaction exemption are not considered “displaced persons” and are not eligible for relocation payments. The airport owner may offer selling owners relocation advisory services (as noted in Chapter 4). However, eligible tenant occupants are considered “displaced persons” and entitled to relocation assistance and payments.

#### 4.1.5 Eviction for Cause.

Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations is presumed as entitled to relocation payments and other assistance set forth in Section 4.1 of this AC, unless the sponsor determines the following:

1. Either the person received an eviction notice prior to the initiation of negotiations and was later evicted as a result of that notice, or the person was evicted after the initiation of negotiations for serious and repeated violation of material terms of the lease agreement.
2. The eviction was not undertaken to evade the relocation payment obligations.

#### 4.1.6 Property Adjacent to Acquired Project Property.

If the sponsor determines that acquisition of the project property causes substantial economic injury to a person occupying adjacent property, it may offer advisory services to that person (as noted in Chapter 3) but that person is not considered a “displaced person” or eligible for relocation payments.

#### 4.1.7 No Waiver of Relocation Assistance.

The sponsor must not propose or request that a displaced person waive his/her rights or entitlements to relocation assistance and payments, as provided by the Uniform Act and 49 CFR Part 24.

#### 4.1.8 Qualified Relocation Personnel.

For each airport project where relocation will occur, the sponsor should assign qualified individuals with the primary responsibility of administering the relocation assistance program.

#### 4.1.9 Advance Payments.

If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the sponsor must issue the payment, subject to appropriate safeguards that ensure the objective of the payment is accomplished.

#### 4.1.10 Deductions from Relocation Payments.

The sponsor must deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The sponsor must not withhold any part of a relocation payment to a displaced person in order to satisfy an obligation to any other creditor.

#### 4.1.11 Claims for Relocation Payments.

4.1.11.1 A displaced person must place claims for relocation payments within 18 months of the move-out date or the date of final payment for the acquired property, whichever occurs later. The sponsor may extend this time period for good cause. Relocation payment claims must be signed, dated, and supported by relevant documentation that may be reasonably required to support expenses incurred (e.g., lowest approved bid or estimate, bills, certified prices). The sponsor must provide a displaced person any reasonable assistance that is necessary to complete and file any required payment claim. FAA Forms 5100-124 and 5100-125 may be used as claim forms.

4.1.11.2 If the sponsor disapproves all or part of a payment claimed, or refuses to consider the claim on its merits because of untimely filing or other grounds, it must promptly notify the claimant of its determination in writing, including the basis for the determination and procedures for appeal.

### 4.2 **Relocation Planning and Advisory Assistance.**

#### 4.2.1 Project Planning Stage.

4.2.1.1 Early in project development, a sponsor must identify sufficient relocation assistance measures to recognize and minimize adverse impacts of displacement on individuals, families, businesses, farms, and non-profit organizations. Such planning must precede any action by the sponsor that will cause displacement. These measures should be commensurate with the complexity and nature of the anticipated project and include an evaluation of available program resources needed to conduct timely and orderly relocations.

4.2.1.2 Relocation planning in early project development is normally conducted as part of the NEPA approval processes, as described in FAA Order 5050.4. However, the sponsor's relocation staff should develop a separate relocation plan to serve as a working document throughout the relocation process. This relocation plan may be developed by secondary sources, based on a relocation survey or study that includes the following types of information:

1. An estimate of the number of households to be displaced, including owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of impacts on minority groups, elderly persons, large families, and persons with disabilities
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
  - a. When an adequate supply of comparable housing is not expected to be available, the Sponsor should consider actions for housing of last resort.
3. An estimate of the number, type, and size of businesses, farms, and non-profit organizations to be displaced, as well as the approximate number of employees that may be affected
4. An estimate of the availability of replacement business sites
  - a. 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.
  - b. Planning for displaced businesses that are 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 from the sponsor and other cooperating agencies that may be necessary

#### 4.2.2 Acquisition Stage Relocation Plan / Interview of Displaced Person (Residential and Business).

- 4.2.2.1 Prior to initiation of negotiations on a property, and as is feasible for business displacement prior to defining the appraisal scope of work, an acquisition stage relocation plan should be prepared based on personal interviews of the identified displaced persons (residential occupants and businesses, including farms and non-profit organizations). This interview must be conducted prior to developing the relocation eligibility offer (see Section 4.3.4). The sponsor should conduct this interview in person at the displaced residence or place of business. If not already provided, the sponsor must provide the displaced person the General Information Notice (see Section 4.3.3) at this interview and advise them to contact the sponsor's relocation agent for any subsequent questions.
- 4.2.2.2 The following paragraphs describe the regulatory requirements for sponsor interviews of displaced persons and businesses, as well as subsequent determination of necessary relocation assistance and eligible relocation

payment eligibility notices and offers. Figures 4-1 and 4-2 provide sample interview forms for displacement of residents and businesses, respectively.

4.2.2.2.1 Displacement interview/questionnaire – residential.

For each residential displaced person, the sponsor must conduct a personal interview to determine his/her relocation needs and preferences. The sponsor must then provide information about relocation payments and other assistance for which the person may be eligible, and explain any related eligibility requirements and procedures for obtaining such assistance.

4.2.2.2.2 Displacement interview/questionnaire – business or non-profit organization.

For each displaced business, the sponsor must conduct a personal interview to determine its relocation needs and preferences. The sponsor must then provide information about relocation payments and other assistance for which the business may be eligible, and explain any related eligibility requirements and procedures for obtaining such assistance. At a minimum, interviews with displaced business owners and operators must include discussion of the following topics, as applicable:

1. Replacement site requirements, current lease terms, other contractual obligations, and the financial capacity of the business to accomplish the move
2. Requirements for any outside specialists to assist in planning and executing the move, including reinstallation of business equipment (e.g., heavy machinery, complex technologies) and other property
3. For businesses, an identification and resolution of realty/personalty issues
  - a. To ensure an acceptable and orderly relocation, every effort must be made to provide the appraiser an acceptable realty/personalty determination prior to, or at the time of, the appraisal of the property.
4. Estimate of the time required for the business to vacate the site
5. Estimate of the anticipated difficulty in locating a replacement property
6. Identification of any advance relocation payments required for the move, including the sponsor's legal capacity to provide them



**Figure 4-2. Sample Displaced Occupant Questionnaire – Business or Non-Profit Organization**

Project# _____; AIP #: _____, Parcel#: _____.
Name: _____ Owner: _____ Tenant: _____ Address: _____ How long at this address: _____ =====
Business/NPO Name: _____
Description of Business: _____ _____
Estimated Average Annual Net Income: \$ _____, Source: _____ Number of Employees on site: _____
<p>Acquired Property Data: Major Building: (Appraisal and on site verification) Owned</p> <p>Structure Type: _____ Age: _____ Condition: _____; Floors: _____ Total Sq.Ft: _____ Office SqFt: _____ Warehouse/Plant SqFt: _____; Loading dock: _____; Bays: _____; Floor Spans: _____; Flooring: _____ HV/AC: _____, Furnace: _____; Cold stg. _____; etc.: _____</p> <p>Exterior: Parking Area: _____; %Paved: _____; Storage: _____ Garages/Sheds/StorageBldgs: _____</p> <p>Tanks: _____ Ponds: _____ Excess land: _____</p> <p>Utilities: Elec: _____, _____, _____ Gas: _____, _____; Oil: _____,</p> <p>Water: _____ (gal cap.); Sewer: _____ (gal.cap.) On-site tanks: Fuel: _____, chemical: _____, Waste: _____.</p> <p>Business Site features:</p> <p>Street/highway Access: _____ - Visibility: _____ Rail: _____; Airport: _____</p> <p>Phone/Communications/Computer Facilities: _____ _____</p> <p>Zoning: _____, Licenses/Permits:(operational, zoning, waste disposal): _____ Other features: _____ _____</p> <p>=====</p> <p>Customer/Trade Area Description: _____ _____</p> <p>=====</p> <p>Personal Property:(General Description/Volume): _____ Machinery; Lists types _____ _____</p> <p>=====</p>

**Figure 4-2 (cont.) Sample Displaced Occupant Questionnaire – Business or Non-Profit Organization**

<b>Business/NPO Owner/Operator's Interview:</b>	
<b>Date:</b>	
<b>Place of Discussion:</b>	
1. What are 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. Is there a need for outside specialists 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. What is the estimated length of time required for the business to vacate the site?	
	Anticipated Move Start Date:
4. Replacement Property Requirements:	
	Locations: _____
	Zoning: _____ Utilities: _____
	Buildings: _____
	Site: _____
	Purchase/Rental Range: \$ _____ to \$ _____
5. Is there a need for any advance relocation payments (deposits, equipment rental, etc)?	

#### 4.2.3 Replacement Property Listings to Be Maintained.

4.2.3.1 On a project-wide basis, the sponsor must maintain current listings of comparable replacement dwellings available, without discrimination of race, color, religion, national origin, etc. These listings must be drawn from various sources and suitable in price, size, and condition for displaced individuals and families. Listings should be procured from Multiple Listing Services (MLS) of local realtor boards, newspapers and other publications, including private listings. The sponsor must maintain current listings information, as it will be relied upon to identify and select the most comparable property for determining the replacement housing payment eligibility (see Chapter 6). The listings information will also document the thoroughness of the sponsor's relocation assistance efforts.

4.2.3.2 To assist displaced businesses, farms, and non-profit organizations, the sponsor must maintain available listings and contacts with commercial and agricultural real estate brokers, commercial lenders, and government economic development agencies, in order to assist selection of suitable relocation sites.

#### 4.2.4 Eligibility for Relocation Advisory Services.

Relocation assistance advisory services must be offered to all persons occupying property to be acquired. Additionally, such services may be offered to persons occupying property immediately adjacent to the real property acquired if the sponsor determines that such persons are caused substantial economic injury because of the acquisition.

#### 4.2.5 Minimum Advisory Services Requirements.

At a minimum, the sponsor's relocation advisory services program must include such measures, facilities, and services as may be necessary or appropriate to meet the following requirements:

1. Determine the relocation needs and preferences of each person to be displaced and provide information about relocation payments and other assistance for which the person may be eligible, related eligibility requirements and procedures for obtaining such assistance (see Section 4.2.2).
2. Provide current and continuing information on availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that a person cannot be required to move unless at least one comparable replacement dwelling is made available.
3. For residential displacement, as soon as feasible, must inform the displaced person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment. When feasible, selected replacement housing must be inspected prior to being made available in order to assure that it meets comparability requirements and decent, safe, and sanitary (DSS) standards. If such an inspection is not made, the person to

be displaced must be notified that a replacement housing payment may not be made unless the replacement dwelling to be purchased is subsequently inspected and determined to meet DSS standards (see Chapter 6).

4. Whenever possible, minority persons must be given reasonable opportunities to relocate to DSS replacement dwellings, which are within their financial means and not located in an area of minority concentration. However, the sponsor is not required to provide a person a larger payment than is necessary to enable that person to relocate to a comparable replacement dwelling.
5. Offer transportation to all persons, especially the elderly and handicapped, as needed in order to inspect replacement dwellings.
6. Provide current information on availability, purchase prices, and rental costs of suitable commercial and farm properties, for displacement of business, farm, or non-profit organizations. Additionally, the sponsor must assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.
7. Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans, programs administered by the Small Business Administration (SBA), and other federal and state programs assisting displaced persons, including related technical assistance for application.
8. Provide counseling, advice about available sources of assistance, and other appropriate help in order to minimize adjustment hardships for relocated persons.
9. Ensure advisory services for any person deemed eligible by the sponsor who occupies property acquired by the sponsor, 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.

#### 4.2.6 Coordination With Other Agencies Offering Assistance To Displaced Persons.

To conduct a successful relocation program, relocation staff should maintain personal contact and exchange information with other agencies providing services useful to persons being relocated. Such agencies may include urban renewal agencies, redevelopment authorities, public housing authorities, the Department of Housing and Urban Development (HUD), Department of Veterans Affairs (VA), and the SBA. Personal contacts should also be maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and residential construction contractors.

### 4.3 **Relocation Notices.**

#### 4.3.1 Relocation Information Provided at a Public Hearing.

The sponsor should provide an information brochure that describes the relocation program developed for its AIP-assisted projects. The FAA brochure entitled *Land Acquisition for Public Airports* is available for use on sponsor projects.

#### 4.3.2 Manner of Notices.

Relocation notices must be served personally or sent by certified or registered first-class mail, with return receipt requested and documented in the sponsor's files. The sponsor must provide notices with appropriate language translation and adequate interpretative assistance to displaced persons who may be unable to read English. Each notice must indicate contact information (e.g., names, telephone numbers, email addresses) for the sponsor's relocation staff. Sections 4.3.3 – 4.3.5 describe the types of notices that sponsor is required to provide.

#### 4.3.3 General Information Notice.

As soon as feasible, persons scheduled for displacement must be given a general written description of the sponsor's relocation program. A relocation brochure (see Section 4.3.1) may be used for this purpose if it is personally presented and explained concerning the displaced person's case. This notice must state that any alien not lawfully present in the U.S. is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see Section 4.1.3).<sup>9</sup>

#### 4.3.4 Notice of Relocation Eligibility.

The sponsor must notify all occupants (owners and tenants) in writing of their eligibility for applicable relocation assistance and payments at the initiation of negotiations, or promptly thereafter. This notice must cite the specific relocation payment eligibility for the displaced person, and must identify and offer relocation assistance to the displaced person. Specific notification requirements related to tenant occupants are as follows:

4.3.4.1 Tenant occupants are entitled to relocation payments as of the initiation of negotiations, and a tenant occupant must be advised of relocation payment eligibility on or promptly after this date. During delivery of this notice, tenant occupants should be advised that they remain liable to their existing lease with the property owner until the sponsor acquires possession of the property.

4.3.4.2 For qualified voluntary transactions [see Section 4.1.2(b)(5)], tenant occupants should be further advised that the property may not be acquired if agreement is not secured with the property owner. Additionally, tenants

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<sup>9</sup> 49 CFR 24.208(i)

should be advised to not initiate a move from the property until advised by the sponsor that the property will actually be acquired.

- 4.3.4.3 After initiation of negotiations, but prior to any occupant moving from the property, if the sponsor decides not to acquire the property, the owner and/or tenant occupants must be advised in writing that the property will not be acquired and that they will not be displaced from the property. Occupants may claim payment for actual, reasonable, and necessary relocation expenses that they may have incurred prior to notification that they will not be displaced (see Section 4.1.2(b)).

4.3.5 90-Day Notice to Vacate.

- 4.3.5.1 No lawful occupant will be required to move unless he/she has received at least 90 days written notice in advance of the earliest required move date. The 90-day notice must either state a specific date as this earliest date, or state that the occupant will receive a further notice indicating the specific date to vacate the property at least 30 days in advance. For residential property, if the 90-day notice is issued before a comparable replacement dwelling is made available (see Chapter 6), the notice must state that the occupant will not be required to move earlier than 90 days after such a dwelling is made available. For residential property, it is typically recommended that the 90-day notice be provided along with the notice of relocation eligibility.
- 4.3.5.2 Figures 4-3 and 4-4 provide sample notice of eligibility letters to residential property owner-occupants and tenants, respectively, including 90-day notices to vacate (see Section 4.3.5). Figure 4-5 provides an example of a notice to a displaced business occupant, noting eligible cost for a non-residential move (see Section 5.2.2.b). This sample reflects a somewhat “simple” business move and, for more complex moves, several and separate notices may be required to adequately notify the displaced person of their payment eligibility.

### Figure 4-3. Notice of Eligibility (Owner) and 90-Day Notice to Vacate

Dear Mr. & Mrs. Homeowner:

As you are aware, the Airport Authority is currently acquiring property needed for the proposed expansion of the Orville Municipal Airport and has initiated negotiations to acquire your property. As an owner-occupant for at least 90 consecutive days prior to the initiation of negotiations for the property, you are eligible for the certain relocation assistance payments to assist your relocation to a replacement property. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows.

1. Moving expenses. The actual reasonable and necessary expenses for moving personal property, accomplished by a commercial mover and supported by receipted bills, or a fixed payment of \$\_\_\_\_, based on a schedule of payments for the number of rooms of personal property you are required to move.

2. Replacement Housing Payment. A survey and study of the property available to replace your dwelling finds that you are eligible for a maximum replacement housing payment of \$\_\_\_\_, provided you purchase and occupy a decent, safe, and sanitary dwelling with a total cost of \$\_\_\_\_, or more. This replacement housing payment eligibility is based on a property located at (address) which is listed for sale at \$\_\_\_\_. You will be reimbursed actual and reasonable expenses incurred on closing the purchase of a comparable replacement dwelling. This amount is estimated to be \$\_\_\_\_.

4. Increased Mortgage Interest. You are eligible for the increased interest cost you incur for a conventional mortgage on a replacement property to the extent of the remaining balance and term of the mortgage on the acquired property. This payment is estimated to be \$\_\_\_\_, which compensates the increased interest cost of a replacement mortgage (maximum\*) interest rate of X% versus the X% rate of your current mortgage, for a loan amount equal to your current mortgage balance of \$\_\_\_\_, and a remaining term of X months. This payment will reduce the replacement mortgage balance to an amount where the monthly payment at the higher current (potential\*) interest rate will not exceed the monthly amortization payment on the pre displacement mortgage. In addition, loan origination fees incurred on a replacement mortgage, not to exceed cost corresponding to the amount of the mortgage balance on the acquired dwelling, are reimbursable.

RELOCATION CONTACT NAME is the Airport Authority's representative assigned as needed to assist your relocation. NAME will further explain the relocation process and answer your questions concerning your relocation payments. In order for you to maintain eligibility for subsequent relocation payments, please advise and consult with Ms. Wilson before committing to or taking any action regarding purchasing a replacement property or moving your personal property.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30-day notice citing a specific date for you to vacate the acquired property. NAME phone number is given below, and please do not hesitate to contact her should have any questions or concerns regarding your potential relocation.

Airport Manager

**Figure 4-4. Notice of Eligibility (Tenant) and 90-Day Notice to Vacate**

Dear Mr. Tenant:

As you may be aware, the Airport Authority is currently acquiring property needed for the proposed expansion of the Orville Municipal Airport and has initiated negotiations to acquire the property you currently are renting. As a tenant-occupant for at least 90 consecutive days prior to the initiation of negotiations for the property, you are eligible for the certain relocation assistance payments to assist your relocation to a replacement property. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows.

1. Moving expenses. Actual reasonable and necessary expenses for moving personal property, accomplished by a commercial mover and supported by receipted bills, or a fixed payment of \$\_\_\_, based on a schedule of payments for the number of rooms of personal property you are required to move.

2. Replacement Housing Payment. A survey and study of the property available to replace your dwelling finds that you are eligible for a maximum replacement housing payment of \$\_\_\_, provided you lease and occupy a decent, safe, and sanitary dwelling with monthly rent and utilities of \$\_\_\_, or more. This replacement housing payment eligibility is based on a property located at (address) which is available for rent at \$\_\_\_, and estimated monthly utility cost of \$\_\_\_. The amount of the replacement housing payment is the additional cost of a comparable replacement dwelling for a period of 42 months following your displacement from the acquired property.

3. Downpayment Option. You may, at your option, apply your replacement housing payment eligibility as a "required" downpayment for the purchase of a replacement dwelling. If the amount of the required downpayment is greater than the rental replacement housing payment eligibility above, the higher amount will be paid not to exceed \$7,200.00. The "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing on the decent, safe, and sanitary dwelling you actually purchase. The full amount of the downpayment must be applied to the purchase price of the dwelling and related incidental expenses.

RELOCATION CONTACT NAME is the Airport Authority's representative assigned as needed to assist your relocation. RELOCATION CONTACT NAME will further explain the relocation process and answer your questions concerning your relocation payments. In order for you to maintain eligibility for subsequent relocation payments, please advise and consult with Ms. Wilson before committing to or taking any action regarding purchasing a replacement property or moving your personal property.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30 day notice citing a specific date for you to vacate the acquired property. However, please be advised that prior to the Airport Authority acquisition of your leased property you remain obligated to your present lease for payment of rent and other terms and conditions of your lease. NAME phone number is given below, and please do not hesitate to contact him/her should have any questions or concerns regarding your potential relocation.

Airport Manager

### Figure 4-5. Sample Notice of Eligibility, Non-Residential Move

Dear Ms. Business Operator:

When the airport acquires your present business site, you will be entitled to certain payments and assistance to move your personal property to a replacement property, and certain costs of reestablishing your business at the replacement site. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows, as subject to the cited conditions.

**1. Moving and Storage expenses.** You may claim payment for your actual, reasonable, and necessary eligible expenses for moving your personal property to the replacement site, and for the reconnection and reinstallation of machinery and equipment relocated to the replacement site. Your payment eligibility is estimated as follows, depending on your choice of COMMERCIAL MOVER or SELF MOVE or feasible combination:

COMMERCIAL MOVER and other required services supported by receipted bills, not to exceed \$\_\_\_\_\_, which is the lower of two bids received to perform eligible work.

SELF MOVE, and upon completion of a move you may claim an amount negotiated based on the estimated cost of the work you propose to assume. A separate self move agreement will be executed that lists all or some of the required work, for which you are assuming responsibility. The moving costs estimates are based on the inventory of personal property items to be moved as of (DATE), and ultimate reimbursable costs will be affected by any substantial change in this inventory or changes to other specifications of the work required.

**2. Loss of Tangible Personal Property and Substitute Item.** At your option, you are entitled to be paid the lesser of moving cost, or the value in place of items that you choose not to relocate. Also, for eligible items that you choose not to move but promptly replace at your new location, you may claim the lesser of moving costs or the cost of the substitute items. Items claimed under this option will be deleted from the above eligibility for moving costs. All items claimed under this category must be sold or bona fide attempt made to sell a marketable item, and sale proceeds verified and deducted from your relocation payment claim to the airport.

**3. Reestablishment Expenses.** You may be eligible for up to \$25,000 for cost to reestablish your business at the new location. These costs may include certain costs not eligible for reimbursement as moving cost. Eligible reestablishment expenses are enumerated in the brochure provided.

**4. Search Expenses.** You may be eligible for up to \$2,500 to reimburse your eligible expense to search for a replacement site.

**5. High bulk low value items.** The airport agrees to pay you \$\_\_\_\_\_ for the attached listing of items and stockpiled goods. (For items where the cost of a move exceeds their current value.)

To assure your eligibility for moving payments you must advise the airport at least 5 working days prior to commencing your move. The airport is required to monitor your move and verify cost claimed represent actual, necessary, and reasonable costs incurred on your move. Attached is a moving cost claim form for your use in claiming your eligible moving costs reimbursement. The airport requires adequate documentation of all cost incurred which you will want to claim for reimbursement. Your Airport Relocation Representative, who has previously worked with you to secure needed inventory and moving cost bids, may be contacted throughout the moving process to

assist your move and assure you have sufficient cost documentation to support your claims for eligible relocation payments.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30 day notice citing a specific date for you to vacate the acquired property. (AS APPLICABLE FOR TENANTS) However, please be advised that prior to the Airport Authority acquisition of your leased property you remain obligated to your present lease for payment of rent and other terms and conditions of your lease. Please do not hesitate to contact NAME should you have any questions or concerns regarding your relocation.

Airport Manager

## CHAPTER 5. PAYMENTS FOR MOVING AND RELATED EXPENSES

### 5.1 Requirements.

#### 5.1.1 Eligibility.

Any owner-occupant or tenant who qualifies as a “displaced person” and moves from a dwelling (including a mobile home), or from a business, farm, or non-profit organization, is entitled to payment of his/her actual moving and related expenses, as the sponsor determines to be reasonable and necessary.

#### 5.1.2 Ineligible Moving and Related Expenses.

A displaced person is not entitled to payment for the following expenses:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership
  - a. This requirement does not preclude replacement housing payment eligibility for a displaced homeowner who chooses to retain and move the acquired dwelling as their replacement dwelling, if the sponsor determines this to be feasible (see Section 5.2.3).
2. Interest on a loan to cover moving expenses
3. Loss of good will
4. Loss of profits
5. Loss of trained employees
6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location, except as an eligible reestablishment expense (see Section 5.3.11)
7. Personal injury
8. Any legal fee or other cost for preparation of relocation payment claims or for representation of the claimant before the sponsor
9. Expenses for searching for a replacement dwelling
10. Physical changes to the real property at the replacement location of a business or farm operation except as an eligible reestablishment expense (see Section 5.3.11)
11. Costs for storage of personal property on real property already owned or leased by the displaced person
12. Refundable security and utility deposits

#### 5.1.3 Moving Claims and Payments.

- 5.1.3.1 A displaced person may claim moving expenses within 18 months following the move-out date or the date of final acquisition payment, whichever occurs later. Claims must be supported by documentation of

actual costs (e.g., bids, paid invoices, certified inventories of moved personal property, other evidence of actual and reasonable costs). FAA Forms 5100-124 & 5100-125 provide acceptable claim forms (see Appendix A).

- 5.1.3.2 The sponsor must promptly pay acceptable claims and provide displaced persons any technical assistance necessary to claim all eligible actual, reasonable, and necessary moving expenses. The sponsor will not pay a moving claim until all personal property is removed from the acquired property. Under unusual hardship, a partial moving payment may be advanced to assist a displaced person to initiate a move. In accordance with sponsor appeal procedures, a displaced person may appeal moving claims denied by the sponsor, as described at Section 1.3.3.

## 5.2 **Residential Moving Payments.**

### 5.2.1 Eligible Moving Expenses for Displaced Residential Occupants.

A displaced person is entitled to payment for the following expenses:

1. Transportation of the displaced person and personal property for a distance of 50 miles or less, unless the sponsor determines that transportation over 50 miles is justified
2. Packing, crating, unpacking, and uncrating of the personal property
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property
4. Storage of personal property for a period of 12 months or less, unless the sponsor determines that a longer period is necessary
5. Insurance for the replacement value of the property in connection with the move and necessary storage
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his/her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available
7. Other moving-related expenses that are not listed as ineligible under 5.1.2, as the sponsor determines to be reasonable and necessary

### 5.2.2 Moving Expense Payment Options.

A displaced person's actual, reasonable, and necessary expenses for moving personal property from a dwelling may be determined by different methods depending upon the type of move:

#### 5.2.2.1 **Self-move.**

A self-move may be performed by the displaced person in one or a combination of the following methods:

1. *Fixed residential moving cost schedule:* Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses. This payment must be determined according to the most recent edition of the Fixed Residential Moving Cost Schedule (approved by the FHWA and published in the Federal Register on a periodic basis).<sup>10</sup> Payment to a person with minimal personal possessions who is in occupancy of a dormitory style room, or a person whose residential move is performed at no cost to the person, must be limited to the amount stated in the Fixed Residential Moving Cost Schedule.
2. *Actual cost household move:* The actual costs of a move are eligible for repayment if supported by receipts for labor and equipment. Hourly labor rates and equipment rental fees should not exceed the cost paid by a commercial mover.
3. *Move cost agreement:* In some cases where a displaced homeowner has significant non-household personal property located on the acquired residence the fixed schedule or commercial move options may not be feasible. For example, such items as numerous automobiles, large lots of automotive parts, extensive machinery and equipment, or an extensive collection (antiques, memorabilia, etc.) may require special handling that a commercial move cost may exceed the value of items to be moved. For such moves, the sponsor and displaced person may enter into a move cost agreement prior to initiating the move to establish the limits on cost eligibility for reimbursement. The agreement amount would reflect the moving costs anticipated and require actual cost receipts for reimbursement of the needed truck and equipment rental and packing material purchases. The agreement should cite the date the property will be cleared and provide that failing to complete all or any part of the move precludes payment for the work not performed. The payment for accepted work prescribed in the self-move agreement may be claimed in addition to the commercial or fixed schedule expense of moving household items.

#### 5.2.2.2 **Commercial move.**

A professional moving service may be used on behalf of the displaced person if it follows certain guidelines, as follows:

1. The sponsor may estimate the eligible cost based on the lower of two acceptable bids, or estimates, prepared for the move.

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<sup>10</sup> FHWA, "Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended": [http://www.fhwa.dot.gov/real\\_estate/practitioners/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/relocation/moving_cost_schedule.cfm).

2. The payment claim must be supported by an inventory of items of personal property actually moved, and invoices of the actual costs incurred.
3. The moving cost bid and invoice must be of sufficient detail to assure that all eligible moving expenses are claimed.
4. Payment for a low-cost or uncomplicated move may be based on a single bid or estimate. If the move is complex, the sponsor should develop the move specifications and two bids or estimates must be secured.
5. The displaced person may obtain one or more move estimates and present them to the sponsor for review as to the reasonableness of the estimated cost. Alternatively, for complex or high-cost moves, the sponsor may secure the move cost bid to base the offer of relocation eligibility to the displaced homeowner.

### 5.2.3 Moving a Mobile Home.

The following conditions apply for moves of mobile homes depending on a displaced person's ownership and occupancy relationship with regard to the property, as described below:

#### 5.2.3.1 **Owner-occupants.**

Eligible expenses for moving personal property from an acquired mobile home or mobile home site include those actual, reasonable, and necessary expenses (described in Section 5.2.1). In addition, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling is also eligible for the following moving expenses:

1. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home (e.g., porches, decks, skirting, awnings), which were not acquired, anchoring the unit, and utility "hook-up" charges
2. The reasonable cost of repairs and/or modifications so that a mobile home can be moved, and/or improved to meet DSS standards
3. The cost of a non-refundable mobile home park entrance fee, to the extent that it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the sponsor determines that payment of the fee is necessary to effect relocation

#### 5.2.3.2 **Non-occupant owner of a rented mobile home.**

A non-occupant owner of a mobile home that is not acquired as real estate (personal property) is eligible for actual expenses (described in Section 5.2.1) to move the mobile home and to move personal property from an acquired mobile home site.

- 5.2.3.3 **Personal property mobile home not relocated:** If the mobile home is personal property, but the sponsor determines the owner-occupant is displaced and eligible for a replacement housing payment (see Chapter 6), the owner is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

### 5.3 **Non-Residential Moving Payments.**

#### 5.3.1 Eligible Moving Expenses for Displaced Businesses, Farms, or Non-Profit Organizations.

Eligible expenses for non-residential moves include the following:

1. Transportation of the displaced person and personal property for a distance of 50 miles or less, unless the sponsor determines that transportation over 50 miles is justified
2. Packing, crating, unpacking, and uncrating of the personal property
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated appliances, business machinery, equipment, and other personal property; including substitute personal property, as applicable; including connection to utilities available within the building, modifications to personal property; including modifications in adherence with mandates by federal, state or local law, code or ordinance, necessary to adapt to replacement structure, the replacement site, or the utilities at the replacement site; and including modifications necessary to adapt the utilities at the replacement site to the personal property
4. Storage of the personal property for a period of 12 months or less, unless the sponsor determines that a longer period is necessary
5. Insurance for the replacement value of the property in connection with the move and necessary storage
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his/her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available
7. Other moving related expenses not listed as ineligible under Section 5.1.2, as the sponsor determines to be reasonable and necessary
8. Any license, permit, fees or certification required of the displaced person at the replacement location; payment may be based on the remaining useful life of the existing license, permit, fees, or certification
9. Professional services determined by the sponsor as actual, reasonable and necessary for the following:
  - a. Planning the move of the personal property
  - b. Moving the personal property

- c. Installing the relocated personal property at the replacement location
10. Re-lettering signs and replacing stationery that is existing and usable at the time of displacement but made obsolete as a result of the move

### 5.3.2 Moving Expense Payment Options.

Eligible expenses for moves from a business, farm, or non-profit organization include those expenses described Section 5.3.1. Personal property, as determined by an inventory from a business, farm, or non-profit organization, may be moved by one or a combination of the following methods:

#### 5.3.2.1 **Commercial move.**

Eligible moving expenses for professional moving service are based on the lower of two bids or estimates prepared by a commercial mover. At the sponsor's discretion, payment for a low-cost or uncomplicated move may be based on a single bid or estimate. The general procedure to be used when using a commercial mover is as follows:

1. The sponsor should inspect the displacement and replacement sites and generally determine the extent of personal property to be moved, loading, and unloading requirements, and what disconnect/reconnect work will be required. This inspection should be done in company with the displaced person or his/her agent in order to coordinate the move with the business requirements of the displaced operation. If the move is expected to be complicated or complex, the sponsor may prefer to contract with a specialist in the type of personal property being moved. The sponsor should accommodate the business concerns and needs as much as practical to minimize the impact of the relocation on the business operation.
2. Upon establishing the general eligible move requirements with the displaced person, the sponsor should arrange with qualified commercial moving companies to provide firm bids or estimates of the cost to move the personal property of the displaced business. If possible, at least two firm bids or estimates should be obtained, based on an inventory of the personal property expected to be moved and on work specifications and equipment required to load/unload, place at the replacement site, and disconnect/reconnect personal property. The sponsor should provide these move requirements to all bidding movers at the inspection of the displacement and replacement sites to assure that the bids received are comparable. The bids submitted must reference, in detail, the inventory, and moving specifications. If there is a significant amount of plumbing, electrical, carpentry, communications, computer, or other services involved in the disconnect and reconnection of personal property, it may be more cost-effective to obtain these services through separate bids arranged independent of the commercial mover.

3. Upon completion of the move, in the claim submitted for payment, the owner of the displaced business must certify that the items listed were actually relocated. The amount claimed and paid by the sponsor must only reflect the inventory actually moved. Items that a displaced business, farm or non-profit organization owner or operator elects not to relocate may be claimed under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9), as may be applicable.

#### 5.3.2.2 **Self-move option.**

A self-move payment may be based on one or a combination of the following methods:

1. *Negotiated self-move (estimated cost)*: If the displaced person elects to take full responsibility for the move of the business, farm operation, or non-profit organization, the sponsor may make a payment for the person's moving expense in an amount not to exceed the lower of two acceptable bids or estimates obtained by the sponsor. The same general procedure to secure the two bids is followed as described above in Section 5.2.2(b). Moving costs are then claimed and paid as follows:
  - a. Upon satisfactory completion of the move, the displaced person may claim payment for actual reasonable moving expenses, not to exceed the lower of two acceptable firm bids or estimates. When circumstances warrant, the sponsor may also negotiate an amount less than the lower of two acceptable bids or estimates. If not included in the bid amount secured, a displaced person may claim other removal and reinstallation expenses as actual costs upon submitting actual cost invoices or other adequate evidence of actual cost. The sponsor may accept the actual costs that are determined reasonable expenses for the move.
  - b. At the sponsor's discretion, payment for a low-cost or uncomplicated move may be based on a single bid or estimate (citing acceptable move specifications as described above) obtained by the sponsor or prepared by qualified staff. For this type of move, additional documentation (e.g., receipts of moving expenditures) is unnecessary as long as the payment is limited to the amount of the lowest acceptable supported bid or estimate.
  - c. Upon completion of the move, the owner/operator of the displaced business must certify that the items listed were actually relocated in the claim submitted for payment. The amount claimed and paid by the sponsor must only reflect the inventory actually moved. Those items that a displaced business, farm, or non-profit organization owner/operator elects not to relocate may be claimed

under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9), as may be applicable.

2. *Self-move, actual reasonable cost:* If reliable bids or estimates cannot be obtained, or if circumstances (e.g., large fluctuations in inventory) prevent reasonable bidding in the opinion of the sponsor, the displaced business may be paid for actual reasonable moving costs when the costs are supported by receipts or other evidence of actual expenses incurred. The allowable expenses of a self-move under this provision may include the following:
  - a. Amounts paid for truck and/or equipment hired
  - b. If vehicles or equipment owned by a business being moved are used, a reasonable amount to cover gas and oil, the cost of insurance, and depreciation allocable to hours and/or days the equipment is used for the move
  - c. Wages paid for the labor of persons who physically participate in the move. Labor costs should be computed based on actual hours worked at the hourly rate paid, which should not exceed the rate paid by local commercial movers or contractors.
  - d. Amount of wages spent in actual supervision of the move if the displaced business proposes to use a working foreman or group leaders, regularly employed by the business.
  - e. The inventory of items actually moved, as certified by the owner/operator of the displaced business in the claim submitted for payment. Items that are not relocated may be claimed under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9).

### 5.3.3 Personal Property Only Moves.

Eligible moving expenses for a person who is required to move personal property from real property but is not required to move from their dwelling (including a mobile home), business, farm, or non-profit organization include moving expenses described in Section 5.3.2. On a personal property only move, the displaced person is not eligible for the other payments described in Sections 5.3.5 – 5.3.12 (i.e., Actual Direct Loss of Personal Property, Purchase of Substitute Property, Low Value/High Bulk, Related Non-Residential Eligible Expenses, Search Expense, Reestablishment Expense, or a Fixed Moving Payment).

### 5.3.4 Notification and Inspection.

At or promptly after the initiation of negotiations, the sponsor must inform the displaced person, in writing, of payment eligibility requirements for a non-residential move. This

information may be included in the notice of relocation eligibility (see Chapter 4). To be eligible for moving expense payments, the displaced person must satisfy the following requirements:

1. Provide the sponsor advance notice of move dates and inventory of the items to be moved, unless the sponsor waives this requirement and documents the file accordingly.
2. Permit the sponsor to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

#### 5.3.5 Actual Direct Loss of Tangible Personal Property.

On a non-residential move, an eligible displaced person may decide not to move an item or items of personal property and instead claim payment for the actual direct loss of the item. This payment will consist of the lesser of the following values:

1. The market value of the item in its existing condition for continued use, less the proceeds from its sale
  - a. To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the sponsor decides that is unnecessary.
  - b. When claiming payment for direct loss of goods held for sale, the market value is based on the actual cost of the goods to the business, not potential sale prices.
2. The estimated cost of moving the item, including reconnection cost, based only on the actual installation of the item in its existing condition at the displacement site, and not including any allowance for storage
  - a. The payment amount will not include any cost for reconnecting a piece of equipment that is in storage or not in use at the acquired property at the time of acquisition.
  - b. If the business or farm operation is discontinued, the estimated cost of moving the item will be based on a moving distance of 50 miles.
3. The reasonable cost incurred in attempting to sell an item that will not be relocated
4. The payment amount for direct loss of an advertising sign that is personal property, which must be the lower value of the following:
  - a. the depreciated cost to reproduce the sign (as determined by the sponsor), minus the proceeds from its sale
  - b. the estimated cost to move the sign, without allowance for storage

#### 5.3.6 Purchase of Substitute Personal Property.

If an item of personal property that is used as part of a business or farm operation (i.e. machinery and equipment) is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of the following values:

1. The cost of the substitute item, including installation costs of the replacement site, less any proceeds from sale or trade of the replaced item

2. The estimated cost of moving and reinstalling the replaced item, without allowance for storage, which may be based on a single bid or estimate for a low-cost or uncomplicated move at the sponsor's discretion
3. The reasonable cost incurred in attempting to sell an item that will not be relocated

#### 5.3.7 Low-Value/High-Bulk Property.

When the personal property to be moved is of low value and high bulk (e.g., stockpiled sand, gravel, minerals, metals) and the cost of moving the property would be disproportionate to its value in the judgment of the sponsor, the allowable moving cost payment must not exceed the lesser of the following values:

1. The amount that would be received if the property were sold at the site
2. The replacement cost of the product, in a comparable quantity, delivered to the new business location

#### 5.3.8 Transfer Ownership of Personal Property Not Moved.

Upon request, and in accordance with applicable law, the displaced person must transfer to sponsor ownership any personal property that has not been moved, sold, or traded.

#### 5.3.9 Related Non-Residential Eligible Expenses.

The following expenses, in addition to those provided above for moving personal property, must be provided if the sponsor determines that they are actual, reasonable, and necessary:

1. Connection to available nearby utilities from the right-of-way to improvements at the replacement site
2. Professional services performed prior to the purchase or lease of a replacement site in order 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 the site
3. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the sponsor

#### 5.3.10 Searching for a Replacement Location.

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

1. Transportation
2. Meals and lodging away from home
3. Cost of time spent while searching, based on reasonable wages and salary
4. Fees paid to a real estate agent or broker to locate a replacement site, excluding fees or commissions related to the actual purchase of such sites

5. Cost of time spent to obtain permits and attending zoning hearings, based on reasonable wages and salary
6. Cost of time spent negotiating the purchase of a replacement site, based on reasonable wages and salary

#### 5.3.11 Reestablishment Expenses – Non-Residential Moves.

In addition to eligible moving expense payments, a displaced business, farm, or non-profit organization is entitled to receive payment, not to exceed \$25,000, for expenses actually incurred for relocation and reestablishment at a replacement site. Eligible and ineligible expenses are as follows:

##### 5.3.11.1 **Eligible expenses.**

Reestablishment expenses must be reasonable and necessary, as determined by the sponsor, including but not limited to the following:

1. Repairs or improvements to the replacement real property as required by federal, state or local law, code, or ordinance
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting operations
3. Construction and installation costs for exterior advertising signs
4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting
5. Publication of advertisements of replacement location (e.g., internet or newspaper classified ads)
6. Estimated increased costs of operation during the first two (2) years at the replacement site for items such as the following:
  - a. Lease or rental charges
  - b. Personal or real property taxes
  - c. Insurance premiums
  - d. Utility charges (excluding impact fees)
7. Any other items that the sponsor considers essential to reestablishment of the business

##### 5.3.11.2 **Ineligible expenses.**

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

1. Purchase of capital assets (e.g., office furniture, filing cabinets, machinery, trade fixtures)

2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of business operations
3. Interest on money borrowed to make the move or purchase the replacement property
4. Payment to a part-time, in-home business that does not contribute materially to the household income (see definition in Appendix B)

### 5.3.12 Fixed Payment for Moving Expenses – Non-Residential Moves.

#### 5.3.12.1 **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.<sup>11</sup> Except for payment to a non-profit organization, this fixed payment must equal the average annual net earnings of the business, as computed in accordance with Section 5.3.12(d) below, but not less than \$1,000 nor more than \$40,000. The displaced business is eligible for the payment if the sponsor determines that it meets the following criteria:

1. The business vacates or relocates from its displacement site but owns or rents personal property that must be relocated due to the displacement, for which the business would incur moving expenses.
2. The sponsor determines that the business cannot be relocated without a substantial loss of its existing clientele or net earnings, which is assumed as true unless the sponsor demonstrates otherwise.
3. The business is not part of a commercial enterprise with more than three other entities that are not being acquired by the sponsor, and which are under the same ownership and engaged in the same or similar business activities.
4. The business is not operated at the displacement site for the sole purpose of renting the site to others.
5. The business contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

#### 5.3.12.2 **Number of businesses.**

In determining whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, the sponsor must consider all pertinent factors, including the validity of the following conditions:

1. The entities share the same business premises and equipment.

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<sup>11</sup> 49 CFR 24.301, 24.303, 24.304.

2. Business functions are identical or interrelated, and operations and finances are comingled.
3. The entities are promoted by the business, and perceived by its customary clientele, as a single business.
4. The same individual(s) or closely relations own, control, or manage the affairs of all entities.

#### 5.3.12.3 **Farm operation.**

A displaced farm operation may choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses. This fixed payment must equal the average annual net earnings of the farm operation, as computed in accordance with Section 5.3.12(d) below, but not less than \$1,000 nor more than \$40,000. For partial acquisitions of land used as part of a farm operation, the fixed payment will be made only if the sponsor determines the validity one or both of the following conditions:

1. The partial acquisition caused displacement of the farm operator from operations on the remaining land that is not part of the acquisition.
2. The partial acquisition caused a substantial change in the nature of the remaining farm operation (e.g., location of critical equipment or facilities on the acquired land that cannot be easily relocated).

#### 5.3.12.4 **Average annual net earnings of a business or farm operation.**

The average annual net earnings of a business or farm operation must be one-half (1/2) of its net earnings before federal, state, and local income taxes during the two (2) taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two (2) taxable years prior to displacement, net earnings must be based on the actual period of operation at the displacement site during the two (2) taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different time period when the sponsor determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person must furnish the sponsor proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence determined satisfactory by the sponsor.

#### 5.3.12.5 **Non-profit organization.**

A displaced non-profit organization may choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses. This fixed payment must equal the average annual net earnings of the farm operation, but not less than \$1,000 nor more than \$40,000. The displaced organization is eligible for the

payment if the sponsor determines that it cannot be relocated without a substantial loss of its existing membership or clientele, which is assumed as true unless the sponsor demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two (2) 12-month periods prior to the acquisition. The payment amount must be the average of two (2) years annual gross revenues, minus administrative expenses.

## CHAPTER 6. REPLACEMENT HOUSING PAYMENTS

### 6.1 Requirements.

#### 6.1.1 Sponsor Obligation.

No person to be displaced must be required to move from his or her dwelling unless at least one comparable replacement dwelling (see Section 6.1.2) has been made available to the person. Where possible, three or more comparable replacement dwellings must be made available. A comparable replacement dwelling will be considered to have been made available to a person if all of the following conditions have been met:

1. The person is informed of its location; and
2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
3. Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled, in sufficient time to complete the purchase or lease of the property.

#### 6.1.2 Comparable Replacement Dwelling.

The term comparable replacement dwelling means a dwelling that is as follows:

1. Decent, safe and sanitary (DSS) [see Section 6.1.3]
2. Functionally equivalent to the displacement dwelling
  - a. The term “functionally equivalent” means that it performs the same function and provides the same utility. While a comparable replacement dwelling does not need to possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the sponsor may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling.
3. Adequate in size to accommodate the occupants
4. In a location that is not subject to unreasonably adverse environmental conditions
5. In a location that is not generally less desirable than the location of the displaced person’s dwelling with respect to public utilities and commercial and public facilities, and that is reasonably accessible to the person’s place of employment
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping (although it does not need to include special improvements such as outbuildings, swimming pools, or greenhouses)
7. Currently available to the displaced person on the private market (except as provided in Section 6.1.2.i. below)

8. Within the financial means of the displaced person:
  - a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs, and all incidental expenses (see Section 6.2.7), plus any additional amount required to be paid under replacement housing of last resort (see Section 6.5).
  - b. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance (see Section 6.3.2), the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling, (see Section 6.3.2.b).
  - c. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if a sponsor pays that portion of the monthly housing costs of a replacement dwelling that exceeds the person's base monthly rent for the displacement dwelling (see Section 6.3.2.b). Such rental assistance must be paid under replacement housing of last resort.
9. For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance, including application of that program's requirements related to the size of the replacement dwelling

#### 6.1.3 Decent, Safe, and Sanitary Housing Inspection.

The term "Decent, Safe, and Sanitary," or DSS, means that a dwelling meets applicable housing and occupancy codes. However, any of the following standards that are not met by an applicable code must apply unless waived by the FAA for good cause:

1. Must be structurally sound, weather tight, and in good repair
2. Must contain a safe electrical wiring system adequate for lighting and other devices
3. Must contain a heating system capable of sustaining a healthful temperature (of approximately 22 degrees C or 70 degrees F) for a displaced person, except in locations where local climatic conditions do not require such a system
4. Must be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced persons
5. Must have a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and toilet, all in good working order, and properly connected to appropriate sources of water and a sewage drainage system
6. In the case of housekeeping dwellings, must have a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage

drainage system, and adequate space and utility service connections for a stove and refrigerator

7. Must contain unobstructed egress to safe, open space at ground level.
  - a. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.
8. For a displaced person who is handicapped, must be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling.
  - a. If comparable replacement properties available are not barrier-free, adequate to the needs of the displaced persons, then the sponsor must add amounts necessary to provide a barrier-free dwelling.

#### 6.1.4 Occupancy Requirements for Displacement or Replacement Dwelling.

No person must be denied eligibility for a replacement housing payment solely because he or she is unable to meet the regulatory occupancy requirements (see Sections 6.2.1 and 6.3.1) for a reason beyond his or her control, including the following:

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 displacing Agency; or
2. Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined acceptable by the sponsor.

## 6.2 **90-Day Owner-Occupants.**

### 6.2.1 Payment Eligibility.

A displaced owner-occupant is eligible for a replacement housing payment if the displaced person satisfies both of the following conditions:

1. Has actually owned and occupied the displacement dwelling for no 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
2. Purchases and occupies a DSS replacement dwelling within one year after the later of the following dates (unless extended by the sponsor for good cause):
  - a. The date the displaced person receives final payment for the displacement dwelling
  - b. In the case of condemnation, the date the full amount of the estimate of just compensation is deposited in court (filing date)
  - c. The date the sponsor has made available to the displaced person at least one comparable replacement dwelling (see Sections 4.3.5 and 6.1.1)

### 6.2.2 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 later of either (1) the date that the displaced owner-occupant is paid for the displacement dwelling, or (2) the date that a comparable replacement dwelling is made available to such person. The payment must be the sum of the following:

1. A price differential payment, if the eligible cost of the replacement dwelling exceeds the acquisition cost of the displacement dwelling (see Section 6.2.3); and
2. A mortgage interest differential payment for the increased interest costs and other debt service costs that are incurred in connection with the purchase of the replacement dwelling (see Section 6.2.6); and
3. Payment for the reasonable expenses incidental to the purchase of the replacement dwelling (see Section 6.2.7).

### 6.2.3 Price Differential Payment.

The price differential payment is the amount, if any, which must be added to the acquisition cost of the displacement dwelling in order to provide a total amount that is equal to the lesser of either (1) the reasonable cost of a comparable replacement dwelling, or (2) the purchase price of a DSS dwelling that is actually purchased and occupied by the displaced person.

#### 6.2.3.1 **Comparable replacement dwellings.**

Comparable replacement properties must be selected from current listings of properties available for sale. If available, at least three comparable replacement dwellings must be examined and the payment must be calculated based on which dwelling is most nearly representative of, and equal to or better than, the displacement dwelling. Listed properties sold under a pending sales contract may not be used in determining the price differential. All sources of listing information available should be pursued, including Multiple Listing Services (MLS), local broker exclusive listings, and owner listings. An obviously overpriced listed dwelling should be ignored. To the extent feasible, comparable replacement dwellings must be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible at reasonable cost, in nearby comparable neighborhoods. However, particularly on buy-out acquisitions for Part 150 noise compatibility programs, dwellings chosen as comparable referrals should not be located within the airport's DNL 65 dB noise contour.

#### 6.2.3.2 **Selected comparable replacement dwelling.**

Of the comparable listings searched, the property judged the most "comparable" (see Section 6.1.2) must be used as the "selected" comparable replacement dwelling in order to calculate the replacement

housing payment eligibility for the displaced person. The sponsor must fully and systematically search the available replacement properties and select the most comparable dwelling. Table 6-1 provides a format for comparing the features of available replacement property to the comparability requirements of the acquired dwelling to determine the “selected” comparable replacement dwelling.

**Table 6-1. Comparable Dwelling Evaluation Grid**

Comparison Item	Subject Property	Comparable 1	Comparable 2	Comparable 3	Comparable 4
Habitable Living Area (sq. ft.)					
# Rooms					
# Bedrooms					
# Baths					
Location: Neighborhood, Access to Employment					
Lot Size					
Style/Construction					
Age					
Quality					
Condition					
Sewer/Water					
Heat/Fuel					
AC					
Flooring					
Fireplace					
Basement					
Storage					
Deck/Patio					
Garage/Car Port					
Appliances					
Other					
List Price					

**Selected Comparable Determination:** Applying the selection criteria contained in the definition of “comparable replacement” dwelling [49 CFR 24.2(c)], Comparable [#] is selected as the most comparable to the acquired property, including the decent, safe, and sanitary (DSS) requirements for the displaced persons.

**6.2.3.3 Documentation and certification.**

Figure 6-1 provides a sample form for determining Replacement Housing Payment (RHP) eligibility for a 90-Day Owner-Occupant. The sponsor should use this form to document the adequacy of the replacement housing payment eligibility determination. To the extent provided in this AC and, in conformance with Uniform Act mandates, the sponsor must consider reasonable costs and program economy in the determination of replacement housing payment eligibility.

**Figure 6-1. RHP Eligibility Determination Form – 90-Day Owner-Occupant**



**(SAMPLE) Replacement Housing Payment Eligibility Determination  
90-Day Owner Occupant  
Summary and Justification of Selection of "Most" Comparable Property  
(49 CFR 24.401)**

<b>Displaced person:</b>	<b># in Household:</b>	
<b>Project:</b>	<b>AIP #:</b>	<b>Parcel:</b>
<b>Displacement dwelling DSS?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		

**I. Market data source:** (check all that apply):

- MLS  Projected data  Newspaper/Published  Realtors  Private listings  
 Other: \_\_\_\_\_ Listings current to: \_\_\_\_\_

**II. Justification for Selection of Comparable (#) as the "Most" comparable replacement property available.**

(Note: The following grid will supplement file documentation to provide justification to support the sponsor's selection of the comparable dwelling judged to be the most comparable of those identified. File documentation must also be maintained on the other comparable properties evaluated.)

<b>Comparable Criteria</b> (49 CFR 24.2(d))	<b>Comparison of the Selected Comparable to the Acquired Dwelling/Displacee Needs</b> (Equal, Better, or Worse)	<b>Explanation</b> (If inferior, relate to compensating trade-off. If significantly superior provide justification, i.e. DSS need, compensates inferior feature at reasonable cost, no lesser cost alternative acceptable.)
<b>1. Location</b> (neighborhood, access to employment, community services, etc.)	<input type="checkbox"/> Equal <input type="checkbox"/> Better (Must be equal or better*)	
<b>2. Number of Rooms</b> (total/bedrooms/baths)	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>3. Size of Habitable living Area</b> (sq. ft. measured interior, excluding halls, bathrooms, and closets)	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>4. Condition</b>	<input type="checkbox"/> Equal <input type="checkbox"/> Better (Must be equal or better*)	
<b>5. Age</b>	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>6. Style/Floor Plan</b>	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>7. Quality of Construction</b> (market perception)	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>8. Other Amenities</b> (standard features such as fireplace, upgrade carpets or cabinetry, workshop, extra storage space used; and typically available on the market. Trade-off consideration is common where feature is not available at reasonable cost on available properties.)	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>9. Other features</b>	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse	
<b>10. Major Exterior Attributes</b> (Site attributes such as swimming pool, excess land, major outbuildings, etc.)	<input type="checkbox"/> Equal <input type="checkbox"/> Better <input type="checkbox"/> Worse <input type="checkbox"/> N/A*	*Attribute considered only if available at reasonable cost on comparable properties. Otherwise comparable without the attribute is used and a "carve-out" procedure is used to calculate payment eligibility. (49 CFR 24.403(a)(2))

### Figure 6-1 (cont.) RHP Eligibility Determination Form – 90-Day Owner-Occupant

**III. Access for Disabled Displaced Persons:**

**Cost estimate: \$** \_\_\_\_\_ (contractor bids attached)

N/A Items required:

**IV. Summary of Housing Availability**

(Note: All available properties considered must be indicated below. File documentation must evidence that adequate consideration was given lesser cost properties in order to evidence program economy had been secured in the search process. Listing inventories are to be retained in project records identifying the properties considered in selecting the most comparable property for payment calculation.)

Total available listed properties identified as comparable:

Price range of identified properties:

From \$ \_\_\_\_\_ (address/listing#: \_\_\_\_\_ )

To \$ \_\_\_\_\_ (address/listing#: \_\_\_\_\_ )

Selected comparable listed/adjusted price at \$ \_\_\_\_\_, represents (#) \_\_\_\_\_ replacement housing opportunities currently available to the displaced person at reasonable cost.

(Note: If less than 3 are currently available, the availability of the comparable properties must be verified prior to requiring vacation of the acquired dwelling. If the selected property is unavailable at displacement, recalculation of the payment eligibility will be required.)

**Comments:**

**V. Replacement Housing Payment (RHP) Eligibility Calculation**

Selected comparable property list price (adjusted, above)

**Less** acquisition cost of displacement dwelling:

**Less**, as necessary, the carve-out of the acquisition cost of major exterior attributes

**Replacement Housing Payment Eligibility:** \$ 0.00

**Plus** estimated cost to make property accessible for disabled displaced persons (above):

**Equals total RHP:** \$ 0.00

(Note: Displacee must be advised that actual payment for necessary modifications will be the lesser of the estimated cost or the actual reasonable cost of installation. A replacement housing payment may only be made following DSS certification and verification that required modifications are in place. The installation of modifications necessary should be included in the sales contract to facilitate timely payment.)

**VI. Certification:** Relying on the above referenced market information and analysis of the comparable replacement housing requirements for the displacement property and the displaced persons, comparable (#) \_\_\_\_\_ is selected as the most comparable property available at reasonable cost. This property is to be offered as the available replacement housing for the subject displaced persons with an anticipated displacement from the acquired property to occur by \_\_\_\_\_.

As of the date of this determination, this property is available and is considered to be decent, safe, and sanitary for purposes of providing replacement housing to the subject displacee. The offer of the selected property requires a replacement housing payment eligibility as calculated above in the amount of \$ \_\_\_\_\_. The undersigned has made (approved of) the required determinations and calculation of the replacement housing payment eligibility in accordance with applicable regulations and approved procedures conforming to the requirements of the Uniform Act (49 CFR 24 Subpart C &D) and FAA directives.

**Signed:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Prepared by:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

#### 6.2.4 Special Situations Affecting Calculation of Price Differential Payment Eligibility.

Various situations typically arise that will affect the calculated and actual amount of the price differential that a displaced person is eligible to receive. These situations generally result in a carve-out procedure or an adjustment of some type, as described for the following occurrences.

##### 6.2.4.1 **Administrative settlement.**

An administrative settlement is any settlement made by the sponsor for acquisition of real property that exceeds an approved amount offered as just compensation. By normal calculation of the price differential, the replacement housing payment eligibility is reduced by the amount of the increase in the acquisition cost incurred by the administrative settlement.

##### 6.2.4.2 **Condemnation award.**

An advance replacement housing payment may be calculated and paid to a property owner when the final settlement amount will be delayed pending the outcome of condemnation proceedings. Payment of such amount may only be made with the owner-occupant's agreement that, upon final determination of the condemnation proceedings, the replacement housing payment will be recalculated using the acquisition price that is determined by the court and that the displaced person will refund the amount of any excess to the sponsor.

##### 6.2.4.3 **Carve-outs.**

A carve-out procedure must be made when the acquired property has certain attributes, as discussed below, which are not available at reasonable cost on otherwise comparable available dwellings, or the acquired dwelling is part of a mixed-use property.

##### 6.2.4.3.1 Site attributes and improvements.

1. If the selected comparable replacement property does not contain a site improvement found on the displacement property, the contributory value of the improvement (e.g., garage, out-building, swimming pool) must be deducted (i.e., "carved out") from the cost of the acquired dwelling in calculating the replacement housing price differential eligibility. A carve-out is only necessary if the particular site improvement represents a significant value, as indicated in the appraisal of the acquired property. The appraisal of the acquired property should not arbitrarily assign a contributory value for site improvements that are highly depreciated and/or which the market considers only of nominal value.
2. Where a site attribute consists of a land or location feature, such as a waterfront location or golf course frontage, which is unavailable with a comparable available dwelling at reasonable cost, the contributing market value of the attribute may also be carved-out from the

acquisition cost of the property in determining the replacement housing payment eligibility. A carve-out is only necessary to the extent of the contributory value that may be derived for the attribute from the approved appraisal of the acquired property.

6.2.4.3.2 Tracts larger than typical residential size.

When the acquired tract is significantly larger than the typical residential home site lot available on comparable replacement properties, the sponsor must carve out the value of the dwelling and typical home site lot for the area from the total acquisition price and use this value as the acquisition cost to calculate the price differential eligibility. However, if comparable properties are available at reasonable cost with the larger lot feature, then a carve-out is unnecessary. Furthermore, exact one-to-one proportion between lot sizes is unnecessary due to the likelihood that local housing market values are relatively similar for a range of typical residential lot sizes (e.g., approximately ¼-½ acres, 3-5 acres, 7-15 acres, over 20 acres).

6.2.4.3.3 Dwelling on land with higher and better use.

When the acquired dwelling is located on a property where the appraised and/or final settlement value is established on a higher and better use as commercial or industrial development/use, the price differential eligibility is the price of a comparable replacement dwelling minus the greater of the following, not to exceed the actual cost of the property acquired:

1. The HBU development value of the land for an area of a typical residential lot plus the contributory value of the dwelling; or
2. The value of a typical residential lot and the dwelling for continued residential use.

6.2.4.3.4 Residential/business or farm operation properties.

When a displacement dwelling is part of an acquired “mixed-use” property containing a business or part of a significant farm operation, the value of the residence and typical home site may be carved out from the acquisition payment in calculating the price differential eligibility for purchase of a replacement dwelling. A carve-out is not necessary for small “in-home” businesses where substantial alterations have not been made to accommodate the business (e.g., bookkeeping service, small beauty salon, or small engine repair shop).

6.2.4.4 **Partial acquisition.**

When the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the sponsor may offer to purchase the entire property. If the owner refuses to sell the remainder to the sponsor, the market value of the remainder may be added to the acquisition cost of the

displacement dwelling for purposes of calculating the replacement housing payment. A sponsor must only apply this option on a project-wide basis.

**6.2.4.5 Owner-occupant of multi-family dwelling.**

When a comparable multi-family property is not available at reasonable cost, then the portion of the acquisition cost that constitutes the owner's occupied unit is used to calculate the price differential eligibility. In cases where the displaced household is occupying more than one unit of a multi-family unit, single-family replacement housing may be offered as the available replacement dwelling, however it is not necessary to replace or carve-out duplicated residential property components that may occur on the acquired occupied property (e.g., additional kitchens, heating systems).

**6.2.4.6 Occupant with partial ownership.**

When a single family dwelling is owned by two or more persons and occupied by one or more of the owners, the replacement housing payment will be the lesser of the following values:

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

**6.2.4.7 Owner retention.**

**6.2.4.7.1** If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling must be the sum of the following values:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move
2. The cost of making the unit a DSS replacement dwelling
3. The current market value for residential use of the replacement dwelling site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site
4. The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when calculating the replacement housing payment

**6.2.4.7.2** When calculated based on the cost of relocating the retained dwelling, the payment may not exceed the displaced person's calculated eligibility for the purchase of the selected comparable dwelling. Moreover, the dwelling

must be relocated to a site not within the airport's DNL 65 dB noise contour.

**6.2.4.8 Upgrading of replacement dwelling.**

As feasible, the airport may work with the displaced homeowner's purchase of a replacement dwelling that they intend to rehabilitate or improve. However, given an availability of comparable replacement dwellings at the time of displacement, there is no provision for any additional payments for cost incurred by a displaced homeowner who is undertaking home improvement if occupancy of a DSS dwelling is delayed. To conform to the payment eligibility requirements, the displaced homeowner must include any rehabilitation or home improvement work as part of the sales agreement, and/or in the mortgage financing for the purchase and improvement of the replacement dwelling. The rehabilitation or home improvement work and financing should be adequately structured with adequate building plans and specifications for the work prepared, conforming to local building codes and lender requirements; enforceable contractor guarantees; fire and hazard insurance requirements; bonding to assure satisfactory work and scheduled completion; and other requirements as deemed appropriate by the sponsor. The sponsor's obligation for replacement housing payment is met when the displaced person purchases and occupies the DSS replacement property. Costs for excessive ornamentation, or unusual and atypical features are not eligible for reimbursement on a replacement housing payment claim.

**6.2.4.9 Previously owned dwelling.**

When a displaced person relocates to a previously owned DSS dwelling the price differential eligibility is the lesser of either (1) the reasonable cost of a comparable replacement dwelling or (2) the current fair market value of the previously owned dwelling, minus the acquisition cost of the acquired property.

**6.2.5 Rental Assistance Payment for 90-Day Homeowner.**

A 90-day homeowner-occupant, who could be eligible for a replacement housing payment under Section 6.2.1 but instead 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 the market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. A rental assistance payment due to increased market rent, if any, is then calculated and disbursed in accordance with Sections 6.3, Replacement Housing Payment for 90-day Tenant (specifically Sections 6.3.1 and 6.3.3), except the statutory limit of \$7,200 for a rental assistance payment 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.

### 6.2.6 Mortgage Interest Differential (MID) Payment.

An MID is provided to a displaced person to compensate for the increased interest costs the person would otherwise incur when financing a replacement dwelling. The MID is an amount that will reduce or “buy down” the displaced person’s mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest cost. To calculate the MID, the remaining principal balance, interest rate, and monthly principal and interest payments for the pre-displacement mortgage, as well as an available replacement mortgage, must be obtained and documented. The interest rate on the acquired dwelling must be based on a valid recorded mortgage or other recorded documentation. In addition, the MID payment must (1) include other debt service costs that are normal to the area of the replacement dwelling if not otherwise paid as incidental costs, and (2) be based only on valid mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations.

#### 6.2.6.1 **MID eligibility calculation.**

The MID is the amount required to compensate for any additional interest cost necessary to purchase a replacement dwelling, not to exceed the cost of a conventional mortgage available at the prevailing fixed interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located. For acquired properties subject to a fixed rate mortgage, the pre-displacement interest rate is compared to the prevailing fixed interest rate. For acquired properties subject to an adjustable rate mortgage (ARM), the calculation of the MID eligibility is based on the lesser of the interest rate variance between the pre-displacement rate as of the date of acquisition versus the current fixed rate, or the variance between the maximum interest rate or “cap rates” of the pre-displacement and replacement ARM’s with equivalent rate index and adjustment specifications. Under conditions of falling interest rates, it would be expected that the interest rate differential before and after displacement is zero (0) percent or less and a MID payment eligibility would not exist. Under conditions of rising interest rates, a MID eligibility may be necessary given the increased interest cost of an available replacement mortgage. Figure 6-3 provides a sample MID eligibility calculation for a fixed rate mortgage using FAA Form 5100-123; Figure 6-4 provides a sample calculation for an ARM, using FAA Form 5100-123-ARM.

**Figure 6-2. Fixed Rate Mortgage Interest Differential Payment Eligibility**

	U.S. Department of Transportation Federal Aviation Administration	<b>Mortgage Maintenance Payment Computation</b> (Use with 123-Fixed.xls)
Required Information		
Displacee:	Parcel Number:	
1. Remaining principal balance on old mortgage.	1.	\$ _____
2. Remaining amortization term of old mortgage as of date of acquisition. (Calculated in Step A. of Payment Calculation section below.)	2.	_____ Months
3. Annual interest rate of old mortgage.	3.	_____ %
4. Monthly Payment: Existing monthly payment (actual payment as of date of acquisition), or; If the term of the replacement mortgage (line 6) is less than existing mortgage (line 2), use the shorter amortization term of the replacement mortgage to calculate a hypothetical monthly payment for the existing mortgage.	4.	\$ _____
5. Replacement mortgage amount. (Enter lesser of actual amount or old balance amount, line 1)	5.	\$ _____
6. Amortization term of replacement mortgage.	6.	_____ Months
7. Annual interest rate of replacement mortgage. (Shall not exceed the prevailing fixed-term interest rate for conventional (non-government insured) mortgages currently charged by lenders in the area in which the replacement dwelling is located.)	7.	_____ %
8. Purchaser's points and loan origination or assumption fees which are not paid as an incidental expense. (Not to exceed market norms.)	8.	_____ %
Payment Calculation		
A. Amortization period, LESSER OF (1) and (2)		
(1) Existing Mortgage Calculated Term $\text{\$ } \underset{\text{Line 1}}{\hspace{1cm}} \text{ with a monthly payment } \text{\$ } \underset{\text{Actual Amount}}{\hspace{1cm}} \text{ at interest rate } \underset{\text{Line 3}}{\hspace{1cm}} \% = \text{ _____ Months}$		
(2) Term of Replacement Mortgage = $\underset{\text{Line 6}}{\hspace{1cm}}$ Months		
B. Amount of reduced loan having a monthly amortization payment of $\text{\$ } \underset{\text{Line 4}}{\hspace{1cm}} \text{ for } \underset{\text{Line A}}{\hspace{1cm}} \text{ months at an annual rate of } \underset{\text{Line 7}}{\hspace{1cm}} \%$		
C. Amount of mortgage reduction $\text{\$ } \underset{\text{Line 1}}{\hspace{1cm}} - \underset{\text{Line B}}{\hspace{1cm}}$		
D. Points and fees $\underset{\text{Line 8}}{\hspace{1cm}} \% \times \text{\$ } \underset{\text{Line B}}{\hspace{1cm}}$		
E. PAYMENT $\text{\$ } \underset{\text{Line C}}{\hspace{1cm}} + \text{\$ } \underset{\text{Line D}}{\hspace{1cm}}$		
F. If the actual new mortgage is less than Line B $\text{\$ } \underset{\text{Line 5}}{\hspace{1cm}} + \text{\$ } \underset{\text{Line B}}{\hspace{1cm}} \times \text{\$ } \underset{\text{Line E}}{\hspace{1cm}}$		

**Figure 6-3. Adjustable Rate Mortgage Interest Differential Payment Eligibility**



U.S. Department of Transportation  
Federal Aviation Administration

**Mortgage Interest Differential (MID) Payment Eligibility Computation for Acquired Property Subject to an Adjustable Rate Mortgage (ARM)**

I. Interest Rate Differential					
<b>A. Existing ARM:</b>					
1. Adjusted interest rate as of the date of acquisition.					7.20%
2. Cap Rate, initial rate plus overall adjustment Cap:					10.79%
Rate Specifications: Initial Rate:	5.79%	Rate Index:	1 year T-Security	Margin:	2.75%
Periodic Rate Adjustment Cap:	2.00%	Overall Adjustment Cap:	5.00%		
<b>B. Replacement Fixed-term Interest Rate:</b>					
					8.30%
<b>C: Available Replacement ARM Cap Rate, (initial rate plus overall adjustment Cap):</b>					
					11.40%
Rate Specifications: Initial Rate:	6.40%				
To be comparable to the existing mortgage this ARM must have equivalent rate index, margin, and adjustment specifications, as noted in A2. above.					
<b>D. Rate Differential:</b>					
1. Fixed-term Rate,	8.30%	less existing mortgage rate as of acquisition date	7.20%		1.10%
	(line B)		(line A1)		
2. Replacement ARM Cap rate,	11.40%	less existing mortgage Cap rate	10.79%		0.61%
	(line C)		(line A2)		
IF D1 <= D2, Enter A1 value in line 3 of Section II. A. below and Enter B value in line 7 of Section II. A. below.					
IF D1 > D2, Enter A2 value in line 3 of Section II. A. below and Enter C value in line 7 of Section II. A. below.					
					X
II. Payment Eligibility Computation					
<b>A. Required Information/Calculations:</b>					
1. Remaining principal balance on old mortgage:					\$100,000
2. Remaining amortization term of old mortgage as of date of acquisition (months):					337
3. Applicable interest rate of old ARM for payment computation. (*From Section I.D. above)					10.79%
4. Monthly Payment:	\$100,000	@	10.79%	for	337 (months)
	Balance (line II 1)	Int. rate (line II 3)	(lesser of line 2 or 6)		
					\$945
5. Replacement mortgage amount:					\$100,000
6. Amortization term of replacement mortgage (months):					360
7. Applicable interest rate of replacement mortgage: (From Section I. D. above.)					11.40%
8. Purchaser's points and loan origination or assumption fees:					1.00%
<b>B. Amount of reduced loan having a monthly amortization payment of:</b>					
	\$945	for	337 months	at an annual interest rate of	11.40%
	(line II A.4.)	(lesser of line II A2 or II A6)		(line II A7)	
<b>C. Amount of mortgage reduction:</b>					
	\$100,000	less	\$95,410		\$4,590
	(line A1)		(line B)		
<b>D. Points and fees:</b>					
	1.00%	times	\$95,410		\$954
	(line II A8)	(lesser of line II B or II A5)			
<b>E. PAYMENT: Total of Lines C and D:</b>					
					\$5,544
<b>F. If the actual new mortgage is less than Line B:</b>					
	\$0	divided by	\$0	equals	FALSE
	New Mortgage Amount		Line II B		
				times	\$0
				Plus Points =	N/A
				Line II E	Line II D

FAA Form 5100-123-ARM (7/17)

**6.2.6.2 MID payment calculation.**

Actual payment of the eligible MID to a displaced person is contingent upon a mortgage being placed on the replacement dwelling. The MID eligibility is based on the unpaid mortgage balance and the shorter of either (1) the remaining term of the mortgage on the displacement dwelling, or (2) the term of the new mortgage. In the event that the person purchases a replacement home that requires a smaller mortgage than the reduced mortgage balance, the calculated payment eligibility is prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance used to calculate the payment is the lesser of either (1) the balance that existed 180 days prior to the initiation of negotiations, or (2) the balance on the date of acquisition.

**6.2.6.3 Reimbursable loan points.**

In addition to the calculated buy-down amount, the MID payment includes purchaser's points and loan origination or assumption fees to the extent that the following conditions apply:

1. Such points are not being paid as incidental expenses; and
2. Such points do not exceed rates normal to similar real estate transactions in the area;
3. The sponsor determines such points to be necessary; and
4. The calculation of such points and fees is based on the loan balance of displacement dwelling, minus the buy-down amount.

**6.2.6.4 Lump sum payment of additional points (if cost-effective).**

Replacement mortgage offerings typically include different interest rates and points. Of the available mortgages, the available mortgage with the lowest Annual Percentage Rate (APR) will typically prove to be the most cost-effective. The airport should base its MID eligibility on the most cost-effective loan available. If a replacement mortgage equal to the pre-displacement mortgage (interest rate and terms) is available with additional points, the airport may calculate the MID eligibility based on the higher prevailing rate at lesser points, or at the equal rate with additional points. The outstanding mortgage balance and remaining amortization term on the acquired home will determine if the payment of additional points for a lower rate is the most cost effective. The less costly payment eligibility would be the MID payment eligibility offered. FAA Form 5100-123 Fixed/ARM may be used to calculate the MID eligibility based on the regulatory requirements [49 CFR 24.401 (d)] to compare and document if the lump sum payment for additional points is cost-effective.

**6.2.6.5 Additional pre-displacement mortgage liens.**

When a displaced person has second or lesser priority mortgage liens, an overall MID eligibility is calculated based on the available conventional

mortgage financing of the total outstanding loan balance on the acquired property. Normally it would be expected that a single first lien mortgage would be secured to purchase a replacement property and an MID would be made to the extent that this mortgage interest exceeded the interest rates on the mortgage loan balances of the acquired property, not to exceed the prevailing fixed interest rate cost. When second mortgage financing is required for a displaced person to secure a replacement dwelling, the MID calculation and actual payment must be based on a comparison of the second mortgage rates.

#### 6.2.7 Incidental Expenses.

The incidental expenses to be paid are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling. Such costs, customarily paid by the buyer, may include the following items:

1. Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees, the total of which must not to exceed the costs of a normal comparable replacement dwelling
  - a. For plats, the only necessary survey information is the legal description of the property, perimeter boundaries, and metes and bounds descriptions.
2. Lender, FHA, or VA application and appraisal fees
3. Loan origination or assumption fees that do not represent prepaid interest up to the amount of the mortgage on the displacement dwelling
4. Certification of structural soundness and termite inspection (as required)
5. Credit report
6. Owner's and mortgage holder's evidence of title, such as title insurance (not to exceed the costs for a comparable replacement dwelling)
7. Escrow agent's fee
8. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling)
9. Such other costs as the sponsor determines to be incidental to the purchase

### 6.3 **90-Day Tenant.**

#### 6.3.1 Payment Eligibility.

An tenant-occupant displaced from a dwelling is entitled to a payment not to exceed \$7,200 for rental assistance or down payment assistance, if the displaced person meets the following conditions:

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

2. Has rented or purchased, and occupied a DSS replacement dwelling within one year after the following (unless extended by the sponsor for good cause):
  - a. For a tenant, the date the displaced person moves from the displacement dwelling; or
  - b. For an owner-occupant, the later of the following dates:
    - i. 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
    - ii. The date the displaced person moves from the displacement dwelling.

### 6.3.2 Rental Assistance Payment.

#### 6.3.2.1 **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 must be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of the following:

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 DSS replacement dwelling actually occupied by the displaced person.

#### 6.3.2.2 **Base monthly rental for displacement dwelling.**

The base monthly rental for the displacement dwelling is the lesser of the following:

1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency; or
  - a. For an owner-occupant, use the fair market rent for the displacement dwelling.
  - b. 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.
2. Thirty (30) percent of the displaced person's average monthly gross household income, if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development "HUD Program

Income Limits” [Section 8, Section 221(d)(3) BMIR, Section 235 and Section 236]<sup>12</sup>; or

- a. The base monthly rental must be established solely on the criteria in (b)(1) above 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.
  - b. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.
3. The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

#### 6.3.2.3 **Selected comparable replacement dwelling.**

Of the comparable listings searched, the property judged the most “comparable” (see Section 6.1.2) must be used as the “selected” comparable replacement dwelling to calculate the replacement housing payment eligibility for the displaced person. The sponsor must fully and systematically search the available replacement properties and select the dwelling that represents the most comparable property. Figure 6-1 (refer to Section 6.2.3) provides a format for comparing the features of available replacement property to the comparability requirements of the acquired dwelling to determine the “selected” comparable replacement dwelling.

#### 6.3.2.4 **Documentation and certification.**

The same process as Section 6.2.3 for a 90-day homeowner to select a comparable dwelling is applied to select a comparable replacement rental dwelling. The selected comparable rental would be the available property for rent that best conforms to the definition of comparable dwelling (see Section 6.1.2). The form entitled “Replacement Housing Payment Determination - 90 Day Tenant” (see Appendix A) is recommended for documenting the comparable rental search and calculation of the replacement housing payment eligibility.

#### 6.3.2.5 **Manner of disbursement.**

A rental assistance payment may be disbursed either in a lump sum or in installments at the sponsor’s discretion, although installment payments must be made under last resort housing procedures.

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<sup>12</sup> The U.S. Department of Housing and Urban Development’s Public Housing and Section 8 Program Income Limits are updated annually and are available annually on the Federal Highway Administration’s website at <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>.

### 6.3.3 Down Payment Assistance.

#### 6.3.3.1 **Amount of payment.**

An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment in the amount that the person would receive under Section 6.4.6 if the person rented a comparable replacement dwelling. At the sponsor's discretion, a down payment 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 must not exceed the amount the owner would receive under Section 6.2.5 if the homeowner met the 90-day occupancy requirement. If the Agency elects to provide the maximum payment of \$7,200 as a down payment, the Agency must apply this discretion in a uniform and consistent manner, so that eligible displaced persons in similar circumstances are treated equally. A displaced person who is eligible to receive a payment, as a 90-day owner-occupant (as described Section 6.2.5) is not eligible for this payment.

#### 6.3.3.2 **Application of payment.**

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.

### 6.4 **Replacement Housing Payment Claims.**

#### 6.4.1 Claims for Replacement Housing Payments.

In order to obtain a replacement housing payment, a displaced person must file a written claim with the sponsor on a form provided by the sponsor for that purpose. The claim must be filed within 18 months after the later of either (1) the date the applicant moves from the displacement dwelling, or (2) the date of the final payment for the acquisition. See Appendix A for recommended claim forms that may be used for the sponsor's program.

#### 6.4.2 Purchase/Lease of Replacement Dwelling.

A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person meets any of the following conditions:

1. Purchases a dwelling;
2. Purchases and rehabilitates a substandard dwelling;
3. Relocates a dwelling which he or she owns or purchases;
4. Constructs a dwelling on a site he or she owns or purchases;
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; or

6. Currently owns a previously purchased dwelling and site, the valuation of which must be based on current market value.

#### 6.4.3 Inspection and Sponsor DSS Certification of Replacement Dwelling.

- 6.4.3.1 Before making a replacement housing payment or releasing the initial payment from escrow, the sponsor (or its designated representative) must inspect the replacement dwelling and determine whether it is a DSS dwelling (see Section 6.1.3).
- 6.4.3.2 The sponsor must certify that the dwelling to be purchased by the displaced person is DSS. Figure 6-5 provides a sample inspection and certification statement form. The DSS certification is made solely for purposes of providing the replacement housing payment, in accordance with the Uniform Act. A displaced person may not be paid any replacement housing payments for a dwelling that does not meet DSS standards. The sponsor must advise displaced persons that the sponsor's DSS certification must be made prior to, or as a condition to be satisfied in, a purchase or sales contract for the purchase of the replacement dwelling.
- 6.4.3.3 As applicable, the sponsor should advise the displaced person that the DSS certification is based on a visual inspection and certification that the property condition prior to purchase meets the specified DSS standards. Furthermore, the displaced person should be advised that the contract to purchase a replacement dwelling might be made conditional upon a satisfactory structural inspection of the property. The sponsor should maintain referrals of qualified structural engineers or building inspector to perform these inspections. The cost of an inspection secured by the displaced person is a reimbursable incidental cost (see Section 6.2.7).

**Figure 6-4. DSS Inspection and Certification Form**

		<b>DSS INSPECTION AND CERTIFICATION</b>	
Project:		AIP #:	
Displacee Name:		Parcel:	
Displacement Address:		Displacement Dwelling DSS? <input type="checkbox"/> Yes <input type="checkbox"/> No Deficiencies:	
Replacement Dwelling Address:			
Dwelling Type: <input type="checkbox"/> Owned <input type="checkbox"/> Rented		<input type="checkbox"/> Single Family <input type="checkbox"/> Multi-Family <input type="checkbox"/> Apartment <input type="checkbox"/> Room/Dorm <input type="checkbox"/> Condo/Coop <input type="checkbox"/> Mobile Home ID/Tag #: _____	
Bedrooms required for displaced household: _____. Bedrooms provided in replacement: _____			
<b>INSPECTION REPORT</b>			
Does the replacement dwelling conform with the following standards for decent, safe, and sanitary housing?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Conforms with local housing and occupancy codes		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Structurally sound, weather tight, and in good repair		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Contains a heating system able to maintain 70°F in living area		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Has an adequate, safe electrical wiring system?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Has separate bathroom facilities that conform to DSS standards? (private, hot/cold water to sink & shower/tub, sewer connection, flush water closet, all in working order)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Has kitchen facilities that conform to DSS standards? (hot/cold water to sink, connected to sewer, range/refrig space & utility connection, all in working order)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Has adequate unobstructed egress		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Is property barrier free to accommodate disabled displaced person?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
* If No, describe property improvements to be made to provide barrier free ingress, egress, or use of property as required to accommodate disabled person(s) prior to occupancy:			
<b>CERTIFICATION</b>			
TO THE BEST OF MY KNOWLEDGE, BASED ON VISUAL INSPECTION OF THE PROPERTY, THE REPLACEMENT DWELLING MEETS THE STANDARDS FOR DECENT, SAFE, AND SANITARY HOUSING, AS ESTABLISHED IN THE RELOCATION ASSISTANCE PROCEDURES OF THE AIRPORT AUTHORITY AND CONFORMING TO 49 CFR PART 24 FOR FEDERALLY ASSISTED PROJECTS.			
THE DWELLING DOES NOT PRESENTLY CONFORM TO DSS REQUIREMENTS, BUT CAN BE MADE TO CONFORM BY ACCOMPLISHING THE FOLLOWING PRIOR TO PURCHASE AND OCCUPANCY.			
THIS DETERMINATION IS MADE ON BEHALF OF THE AIRPORT AUTHORITY, AND IS MADE SOLELY FOR PURPOSES OF DETERMINING ELIGIBILITY FOR REPLACEMENT HOUSING PAYMENTS.			
DATE: _____		INSPECTOR/AGENT: _____	

Decent, Safe, and Sanitary Certification (7/17) SUPERSEDES PREVIOUS EDITION

#### 6.4.4 Payment after Death.

A replacement housing payment is personal to the displaced person. Upon the death of the displaced person, the undisbursed portion of any such payment must not be paid to the heirs or assigns, with the following exceptions:

1. The amount attributable to the displaced person's period of actual occupancy of the replacement housing must be paid.
2. Any remaining payment must be disbursed to the remaining family members of the displaced household for any case in which a member of a displaced family dies.
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 must be disbursed to the estate.

#### 6.4.5 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 (e.g., fire, flood) must be included in the acquisition cost of the displacement dwelling when calculating the price differential.

#### 6.4.6 Deductions from Relocation Payments.

The sponsor must deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The sponsor must not withhold any part of a relocation payment to a displaced person in order to satisfy an obligation to any other creditor.

#### 6.4.7 Multiple Occupancy of One Displacement Dwelling.

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to and may claim a reasonable prorated share, as determined by the sponsor, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the sponsor determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

#### 6.4.8 Conversion of Payment.

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment, but then purchases and occupies a replacement dwelling within the prescribed one-year period, is eligible to receive a replacement housing payment not to exceed \$31,000, or a down payment not to exceed \$7,200, if the eligibility criteria for such payment is met. However, any portion of the rental assistance payment that has been previously disbursed to the displaced person must be deducted from a subsequent replacement housing payment or down payment.

## 6.5 **Replacement Housing of Last Resort.**

### 6.5.1 Determination to Provide Replacement Housing of Last Resort.

- 6.5.1.1 Whenever an AIP-assisted project cannot proceed on a timely basis because comparable replacement dwellings are not, or are not expected to be, available within the statutory limits of \$31,000 for owners or \$7,200 for tenants, the sponsor must provide additional or alternative assistance under the provisions of this section in order to ensure that comparable replacement housing is made available to displaced residential occupants. Any decision to provide last resort housing assistance must be adequately justified and documented in either of the following ways:
1. On a case-by-case basis, for good cause, which means that appropriate consideration has been given to the following:
    - a. The availability of comparable replacement housing in the program or project area
    - b. The resources available to provide comparable replacement housing
    - c. The individual circumstances of the displaced person
  2. On a project-wide basis, based on the following determination:
    - a. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; 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.
- 6.5.1.2 In the sponsor's determination and Last Resort Housing plan, the FAA project manager should concur to provide needed comparable housing for the project displacement (see Section 6.5.3). Contact APP-400 for assistance with development of last resort housing methods and obtaining FAA acceptance.

### 6.5.2 Basic Rights of Persons to Be Displaced.

Notwithstanding any provision of this section, no person must be required to move from a displacement dwelling unless comparable replacement housing is available to that person. No person may be deprived of any rights the person has under the Uniform Act or 49 CFR 24. The sponsor must not require any displaced person to accept a dwelling provided by the sponsor under housing of last resort procedures (unless the sponsor 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.

### 6.5.3 Methods of Providing Comparable Replacement Housing.

Sponsors must have broad latitude in implementing last resort housing procedures but implementation must be for reasonable cost, on a case-by-case basis or as justified for an entire project.

6.5.3.1 The methods of providing replacement housing of last resort include, but are not limited to, the following criteria:

1. A replacement housing payment in excess of the statutory amounts for replacement housing payments as described in Sections 6.2 and 6.3 (i.e., \$31,000 for displaced 90-day owners and \$7,200 for 90-day residential occupants), which may be provided in installments or in a lump sum, at the Agency's discretion
2. Rehabilitation of and/or additions to an existing replacement dwelling
3. Construction of a new replacement dwelling
4. Provision of a direct loan that requires regular amortization or a deferred repayment, and which may be (a) secured or unsecured and (b) interest-bearing or interest-free
5. Relocation and, if necessary, rehabilitation of a dwelling
6. Purchase of land and/or a replacement dwelling by the displacing Agency, and subsequent sale to, lease to, or exchange with a displaced person
7. Removal of barriers for persons with disabilities
8. Reimbursement of reasonable fees when incurred to secure a loan on a replacement property for a person suffering from credit difficulties or similar situations at the time of displacement
  - a. Generally, such fees should be limited to the normal amount for conventional loans near that location
  - b. In some cases, fees in excess of the norm may be reimbursed when considered necessary and reasonable in the context of the financial ability of the person to pay such fees on a purchase of a comparable dwelling.

6.5.3.2 Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort allow the consideration of space and physical characteristics that are different from those in the displacement dwelling (see 49 CFR 24, Appendix A, § 24.404), including upgraded, but smaller replacement housing that is a DSS dwelling and adequate to accommodate individuals or families displaced from marginal or

substandard housing with probable functional obsolescence. However, in no event, must a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with 49 CFR 24, § 24.2(a)(6)(ii) .

#### 6.5.4 Subsequent Occupants.

Subsequent occupants are displaced persons who either (1) occupied a dwelling acquired for a FAA-assisted project for less than 90 days before the initiation of negotiations, or (2) entered occupancy after the initiation of negotiations and are in occupancy on the date the property is acquired. If comparable replacement rental housing is not available at rental rates within the displaced person's financial means (see Section 6.2.2.h.3), then the Agency must provide assistance under this subpart to such displaced persons who are not eligible to receive a replacement housing payment due to failure to meet the length of occupancy requirement. Such assistance must cover a period of 42 months.

### 6.6 **Mobile Homes.**

#### 6.6.1 Applicability.

This section describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic payment eligibility requirements described in Chapter 6. Eligible moving expenses for owners and displaced occupants of mobile homes are described in Chapter 5.

#### 6.6.2 Determination of Displacement from the Mobile Home.

The sponsor must determine if the occupants of a mobile home are considered displaced from the mobile home for a project. This determination should be made uniformly in order to ensure an orderly and equitable relocation of all displaced residents. The sponsor's determination should consider the following factors:

- 6.6.2.1 If the mobile home is real estate under state law (i.e., bought and sold by deed, taxed as real estate, etc.) and is acquired for the project, then the owner or tenant occupants are considered displaced from the acquired dwelling (see Section 6.6.4).
- 6.6.2.2 If the mobile home is personal property under state law (i.e., not taxed as real estate, bought and sold by transfer of vehicle registration, etc.), and it can be moved to a comparable replacement site, and provide a DSS dwelling to the displaced mobile home residents, then the owner occupants are not considered displaced from their dwelling (see Section 6.6.5).
- 6.6.2.3 If the mobile home is personal property under state law (i.e., not taxed as real estate, bought and sold by transfer of vehicle registration, etc.), but the sponsor determines that either of the following conditions apply, then the

owner occupants are considered displaced from the acquired dwelling (see Section 6.6.3):

1. The mobile home is not, and cannot economically be made into a DSS dwelling; or
2. The mobile home cannot be relocated without substantial damage or unreasonable cost; or
3. The mobile home cannot be relocated because there is no available comparable replacement site; or
4. The mobile home cannot be relocated because it does not meet mobile home park entrance requirements.

6.6.2.4 Whether or not displaced from the mobile home itself, the owner or tenant occupants of the acquired mobile home site are eligible for a replacement housing payment for the purchase or lease of a comparable replacement home site.

### 6.6.3 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 (see Section 6.5), if each of the following conditions apply:

- 6.6.3.1 The person occupied the mobile home on the displacement site for at least 90 days immediately before either of the following:
1. The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;
  2. The initiation of negotiations to acquire the mobile home site, if the mobile home is personal property but the person owns the mobile home site; or
  3. The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home (see Section 6.6.2.c).
- 6.6.3.2 The person meets the other basic eligibility requirements for a 90-day owner replacement housing payment (see Section 6.2.1.b).
- 6.6.3.3 The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the sponsor determines that the mobile home cannot be relocated to a comparable site or be made into a DSS dwelling.

#### 6.6.4 Amount of Payment – Eligible 90-Day Owner.

The replacement housing payment for an eligible displaced 90-day owner must be calculated as described in Section 6.2.2, incorporating the following as applicable:

- 6.6.4.1 If the Agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to calculate the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.
- 6.6.4.2 If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment (based on Section 6.6.2.c), the eligible price differential payment for the purchase of a comparable replacement mobile home is the lesser of either (1) the displaced mobile homeowner's net cost to purchase a replacement mobile home (i.e., purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or (2) the cost of the Agency's selected comparable mobile home, minus the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.
- 6.6.4.3 If a comparable replacement mobile home site is not available, the price differential payment must be calculated based on the reasonable cost of a conventional comparable replacement dwelling.
- 6.6.4.4 If displaced from a leased or rented mobile home site, a 90-day owner-occupant is entitled to a rental assistance payment calculated as described in Section 6.6.6. This rental assistance payment may be used for either of the following purposes: (1) to lease a replacement site; (2) toward the purchase of a replacement site; or (3) toward the purchase of a replacement DSS mobile home and site or a conventional DSS dwelling (in combination with any replacement housing payment attributable to the mobile home).

#### 6.6.5 Owner-Occupant Not Displaced from Mobile Home.

If the sponsor determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner occupant elects not to do so, then the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the mobile home owner is eligible for moving costs (see Section 5.2.3.a) and any replacement housing payment for the purchase or rental of a comparable site if the owner is a 90-day site owner, or (as described in Section 6.6.6) if the owner is a site tenant or a less than 90-day owner-occupant of the acquired site.

6.6.6 Replacement Housing Payment for 90-Day Mobile Home Tenant.

A displaced tenant of a mobile home and/or mobile home site is eligible for a replacement housing payment, not to exceed \$7,200 (see Section 6.5), calculated as described under Section 6.3 if each of the following conditions apply:

- 6.6.6.1 The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;
- 6.6.6.2 The person meets the other basic eligibility requirements from Section 6.3.1.b; and
- 6.6.6.3 The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described in Section 6.6.2.c.

## CHAPTER 7. MANAGEMENT OF ACQUIRED PROPERTY

### 7.1 **Requirements.**

When the sponsor takes possession and title to acquired real property, it assumes the liabilities and obligations as a property owner. The sponsor must ensure that its property management actions comply with applicable laws and regulations that govern its ownership and the removal or demolition of acquired property improvements. This section describes the FAA requirements concerning any interim use and the cost effective removal of improvements and clearance of land for eligible project purposes. After project development the ongoing use or release and disposal of airport owned real property is subject to the FAA Compliance Program requirements as described in FAA Order 5190.6A. The AIP Handbook, FAA Order 5100.38 describes the requirements for sponsor management re-use or disposal of acquired noise land.<sup>13</sup>

#### 7.1.1 Owner Retention.

7.1.1.1 If the airport owner determines it to be practical and feasible, the owner of improvements or appurtenances on lands being acquired may be offered the option of retaining (buying back) the improvements or appurtenances at a retention (i.e., salvage) value. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount offered for interest in that property must not be less than the difference between the amount determined as just compensation for the owner's entire interest in the property and the salvage value of the retained improvement. In addition, when buying back the improvement the owner agrees to remove the improvement from its present site, leaving the former site at an at-grade level free from rubble and any hazardous substance associated with the improvement being relocated.

7.1.1.2 In lieu of a retention offer, the owner may be advised to purchase the acquired improvements under Sale of Improvements procedures described at Section 7.1.3.

#### 7.1.2 Interim Rental of Acquired Property.

The airport owner may permit a former owner or tenant, after acquisition of the property, to occupy the real property for a short term or a period subject to termination on short notice. However, before entering into a rental agreement, the airport owner should consider the liability it assumes on such property, the expenses involved in the maintenance and upkeep of the property while occupied and the possible difficulty of collecting rent from the short-term occupier. If the airport owner has decided that

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<sup>13</sup> Noise land is acquired by the airport to remove incompatible land use under an approved 14 CFR Part 150 program or as mitigation approved under an environmental document and record of approval.

continued occupancy of the property is prudent, it must adhere to the following requirements:

**7.1.2.1 Establish appropriate rental rates.**

Establish a rental rate that does not exceed the fair market rent for such occupancy. Since the airport owner has the right to terminate occupancy on short notice, it also has the flexibility to establish a lower rental rate than might be found in a longer, fixed-term situation. However, rental rates must be applied uniformly throughout the project area.

**7.1.2.2 Prepare rental agreements.**

When preparing an agreement the airport owner may grant a free rent period of up to but not more than 90 days to a former owner-occupant of a dwelling in which he or she was residing at the time of acquisition.

**7.1.2.3 Supervise property and rental collections through terms of the lease.**

The airport owner should also assure that all conditions of a lease are complied with and that improvements are vacated in time for clearance by sale and/or demolition before project construction or other needs that requires clearance.

**7.1.3 Sale of Acquired Improvements.**

The sale for removal or salvage should generate the greatest return or savings to the project. As soon as a sufficient number of improvements are vacated, they should be offered for sale and removal in accordance with the following:

**7.1.3.1 Competitive bids.**

Competitive bids must be obtained through public auction, or sealed bids whenever practicable. Established acceptable advertising and bidding procedures should be utilized, and acceptance or rejection of the high bid must be subject to approval by the airport owner. Strict accounting and fiscal controls must be incorporated into the sale procedures and provisions made for adequate performance by the successful bidder. Greater benefits are generally received when:

1. A marketing study has been initiated to ascertain the demand for the improvements available for sale.
2. There has been adequate advertising of the sale.
3. The sale includes a sufficient number of structures to attract buyer interest but not so many as to glut the market.
4. Buyers are afforded the opportunity to bid on individual improvements or based on taking the entire group offered for sale. However, the airport owner retains the right to accept bids in the manner that will yield the maximum return to the public.

#### 7.1.3.2 **Negotiated private sale.**

A negotiated private sale of the real property should only be considered when an improvement fails to sell at a public sale. In such instances, justification for the private sale must be explained and documented prior to approval of the transaction by the airport owner. However, a nonprofit organization can obtain improvements through a private sale with the airport owner for an amount not less than the approved documented salvage value of the improvement.

#### 7.1.3.3 **Contract obligation.**

Upon acceptance of a successful bid, the airport owner should follow up to see that all conditions of the sales contract are met. The cost to remove portions of improvements left by a former owner or purchaser who strips the saleable item of all salvable material, forfeits the performance bond, and leaves the airport owner to remove the remainder by force account, demolition contract, or as an item in the general contract, is not an eligible airport project cost. To prevent the airport owner from incurring additional expenses should the purchaser forfeit the bond, the amount of the bond required of the purchaser should be adequate to cover the cost of the removal.

#### 7.1.3.4 **Disposal of abandoned personal property.**

Personal property not moved by the displaced person because of simply abandoning the item, utilizing the tangible loss of personal property provision, or the purchase of a substitute item for a new location. If an item has not been sold or otherwise been disposed of, the airport owner is responsible for the removal. The manner by which personal property is disposed or transferred must be documented.

### 7.1.4 Demolition of Acquired Improvements.

#### 7.1.4.1 **Sponsor obligation.**

For proper disposal of remaining improvements on the project site, it is recommended that the airport owner.

1. Perform a survey to determine whether any hazardous materials exist on the property. If the survey reveals the presence of any hazardous materials, the airport owner must identify abatement measures that are necessary to clean up or dispose of such materials in compliance with applicable law.
2. Obtain or prepare an estimate of the cost of demolition.
3. Advertise and solicit bids for the proposed demolition using accepted contracting procedures.
4. After an award of contract, perform intermediate and final inspections to assure compliance with contract provisions.

**7.1.4.2 Timeliness of clearance.**

The airport owner should implement procedures to ensure that permanently vacated improvements are removed as early as practicable after they are vacated or otherwise kept under protective surveillance. This action is encouraged to avoid vandalism or illegal uses of the property. The prompt clearance of vacated improvements when there are no plans to reoccupy the premises is necessary to reduce the cost to an acceptable level as well as to protect the public's interest that involves public safety, aesthetics, neighborhood preservation, and public health.

**7.1.4.3 Demolition contract.**

Demolition contracts should be of sufficient size to develop maximum competition in bidding.

1. Bid proposals should provide for plus or minus bids on each structure to be included in the demolition contract. Only in this manner can the airport owner be reasonably certain that it is receiving credit for any salvage value contained within the building.
2. Except in unusual circumstances, restrictions should not be placed on the method used by the contractor to clear the improvement other than local ordinance or other statutory requirements.

**7.1.5 Rodent and Pest Control.**

On all projects, the airport owner should determine if conditions are such that rodent and pest control measures are necessary. This action should not be necessary on rural projects unless they contain a substantial number of buildings, garbage dumps, landfills, etc.

**7.1.5.1 Inspection.**

If a project inspection indicates that rodent and pest control is desirable, action should be taken to eliminate the rodents and pests prior to demolition or removal of improvements located on the project area. Where an inspection is required, the files of the airport owner should contain documentation of the inspection and the decision as to whether or not extermination is necessary. The participation of other interested agencies (e.g., state, county, or city health departments) is highly desirable and should be requested.

**7.1.5.2 Procedures.**

The airport owner should submit its proposed procedures for accomplishing the intent of this paragraph to the FAA for review and comment. This submission should state that the procedures comply with all state and local laws and regulations governing rodent and pest control. It should also explain the method the airport owner will use to assure the reasonableness of costs to be incurred.

7.1.6 Income from Property Management.

FAA project manager will provide appropriate instruction to the sponsor on the use or disposition of any proceeds derived from the management of acquired property.

Generally, income may offset against expenses, with net income properly accounted for as program income.

## CHAPTER 8. SPONSOR CERTIFICATION

### 8.1 **Requirements.**

#### 8.1.1 Title Evidence.

When requested by FAA, the sponsor is required to provide evidence that adequate title has been obtained for acquired property. As applicable the property interest obtained must be sufficient to permit possession and control for public airport purposes and allow the sponsor to carry out the obligations and covenants in the grant agreements. Adequate title evidence must be secured and certified by the sponsor's attorney to support the sponsor's certification. Appendix D entitled "Guidelines for Sponsor Certification of Title" provides guidelines that may be used by the sponsor's attorney in the preparation and submittal of the title certification when requested by the FAA.

#### 8.1.2 Compliance to the Uniform Act (49 CFR Part 24).

##### 8.1.2.1 **Certification.**

The sponsor must certify that real property was acquired in conformance to the Uniform Act. The sponsor must, as applicable, certify that all persons displaced from their homes for the project had been offered comparable replacement housing, and that all persons in occupancy at the initiation of negotiations had vacated the property and had been provided reimbursement of their moving expenses to a replacement site in accordance with the requirements of the Uniform Act. This certification must be provided concurrently with a sponsor's request for reimbursement and will cover the specific parcels for which the sponsor is requesting reimbursement of costs. Certification is also required for FAA grant approval for construction requiring the use of land previously acquired. As applicable, certification for construction operations must provide the status of possession and clearance of the acquired property to accommodate construction. The sponsor management, with authority over the acquisition and relocation process, must sign the certification statement. Figure 8-1 provides a sample certification statement.

**Figure 8-1. Sample Real Property Acquisition Sponsor Certification Form**

<p><b>U.S. DEPARTMENT OF TRANSPORTATION</b>  <b>FEDERAL AVIATION ADMINISTRATION</b></p> <p>AIRPORT IMPROVEMENT PROGRAM</p> <p>REAL PROPERTY ACQUISITION</p> <p>SAMPLE SPONSOR CERTIFICATION</p>				
<i>(Sponsor)</i>	<i>(Airport)</i>	<i>(Project Number)</i>		
<i>(Work Description)</i>				
<p>Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). Title 49, Code of Federal Regulations (CFR), Part 24 states the general requirements for real property acquisition and relocation assistance. The AIP project grant agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act), as amended.</p> <p>Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.</p>				
	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>AC References</b>
<b>1.</b> The sponsor’s attorney or other official has (will have) good and sufficient title as well as title evidence on property in the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>1.1.7</b>
<b>2.</b> If defects and/or encumbrances exist in the title that adversely impact the sponsor’s intended use of property in the project, they have been (will be) extinguished, modified, or subordinated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>1.1.7</b>
<b>3.</b> If property for airport development is (will be) leased, the following conditions have been met: <b>a.</b> The term is for 20 years or the useful life of the project, <b>b.</b> The lessor is a public agency, and <b>c.</b> The lease contains no provisions that prevent full compliance with the grant agreement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>1.1.7</b>  <i>(Also see AIP Handbook, Order 5100.38C, Chapter 7)</i>
<b>4.</b> Property in the project is (will be) in conformance with the current Exhibit A property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>1.1.6</b>
<b>5.</b> For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>1.1.7</b>  <i>(Also see AIP Handbook, Order 5100.38C, Chapter 8)</i>

<p><b>6.</b> For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces, property interest was (will be) obtained for the following:  <b>a.</b> The right of flight,  <b>b.</b> The right of ingress and egress to remove obstructions, and  <b>c.</b> The right to restrict the establishment of future obstructions.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>1.1.7</b> <b>2.2.8</b></p>
<p><b>7.</b> Appraisals prepared by qualified real estate appraisers hired by the sponsor include (will include) the following:  <b>d.</b> Valuation data to estimate the current market value for the property interest acquired on each parcel, and  <b>e.</b> Verification that an opportunity has been provided the property owner or representative to accompany appraisers during inspections.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Chapter 2</b> <b>2.1.1.b</b> <b>Figure 2-4</b></p>
<p><b>8.</b> Each appraisal has been (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals as well as review appraisal are available to FAA for review.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>2.1.3</b> <b>2.2.6</b> <b>Figure 2-3</b></p>
<p><b>9.</b> A written offer to acquire each parcel was (will be) presented to the property owner for not less than the approved amount of just compensation.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>3.1.1.g</b> <b>3.2.5</b> <b>Figure 3-1</b></p>
<p><b>10.</b> Effort was (will be) made to acquire each property through the following negotiation procedures:  <b>a.</b> No coercive action to induce agreement, and  <b>b.</b> Supporting documents for settlements included in the project files.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>3-9(b)</b> <b>3-9(i)</b> <b>Section 3.4</b></p>
<p><b>11.</b> If a negotiated settlement is not reached, the following procedures were (will be) used:  <b>a.</b> Condemnation initiated and a court deposit not less than the just compensation made prior to possession of the property, and  <b>b.</b> Supporting documents for awards included in the project files.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Section 3.4</b></p>
<p><b>12.</b> If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was (will be) established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Chapter 4</b> <b>Section 4.3</b> <b>Figures 4-3, 4-4, and 4-5</b></p>
<p><b>13.</b> Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>4.2.5</b> <b>Chapter 5</b> <b>Chapter 6</b></p>
<p>I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked “no” that is correct and complete.</p>				
<p> </p>				
<p><i>(Name of Sponsor)</i></p>				
<p> </p>				
<p><i>(Signature of Sponsor’s Designated Official Representative)</i></p>				
<p> </p>				
<p><i>(Typed Name of Sponsor’s Designated Official Representative)</i></p>				
<p> </p>				
<p><i>(Typed Title of Sponsor’s Designated Official Representative)</i></p>				
<p> </p>				
<p><i>(Date)</i></p>				

**8.1.2.2 Documentation.**

The sponsor must maintain adequate documentation to support the above certification and to evidence compliance with the Uniform Act and FAA reimbursement requirements. Figure 8-2 provides a checklist that details minimum supporting documentation to be maintained in sponsor parcel files. Documentation deficiencies may result in the loss of federal funds for costs that may be cited and/or questioned on federal audit of sponsor program billings.

**Figure 8-2. Acquisition/Relocation Records Checklist**

U.S. Department of Transportation  
Federal Aviation Administration

**ACQUISITION/RELOCATION RECORDS CHECKLIST**

Project:		Parcel:	
Displacee Name:			
New Address:			Phone No:
Name of Official Providing Relocation Assistance:			
<input type="checkbox"/> Owner (Complete Part A) <input type="checkbox"/> Tenant		Type of Use (Check One) <input type="checkbox"/> Business <input type="checkbox"/> Farm <input type="checkbox"/> Nonprofit Org. - (Complete Part B & D) <input type="checkbox"/> Residence - (Complete Parts B & C)	
<b>PART A. ACQUISITION (Owner-occupied property only)</b>			
1. Appraisal report date, amount, and certification?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
2. Owner given opportunity to accompany appraiser?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
3. Appraisal review date, amount & justification?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
4. Written offer & Summary statement with the date & amount offered?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
5. Administrative settlement date, amount, and justification?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
6. Condemnation award date, amount & documentation?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
7. Date & amount owner paid or money made available by court & date of physical possession?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
8. Date and amount owner paid for expenses incidental to transfer or title?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
9. Offer to buy uneconomic remainder made to owner?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
10. Record of each negotiation contact?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
<b>PART B. RELOCATION - GENERAL</b>			
1. Displacee given relocation brochure?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
2. Displacee offered and accepted/refused relocation advisory services?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
3. Notice of intent to acquire?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
4. Displacee provided written notice to eligibility			<input type="checkbox"/> In File <input type="checkbox"/> N/A
5. 90 day notice to vacate date required to move?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
6. Diary of personal contacts with displacee?			<input type="checkbox"/> In File <input type="checkbox"/> N/A
7. Displacee notified of right to appeal, appeal process & outcome?			<input type="checkbox"/> In File <input type="checkbox"/> N/A

**Figure 8-2 (cont.) Acquisition/Relocation Records Checklist**

8. Date on which actual relocation occurred?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
9. Relocation accomplished with/without the airport owner?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
<b>PART C. RELOCATION - RESIDENTIAL</b>	
1. Type of property-single detached, multifamily, room no.?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
2. Data on displacee-address before & after relocation, number in family, age, race, etc.?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
3. Personal property storage, location, duration, bills?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
4. If actual cost move, justification for scheduled payment?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
5. Calculation of R.H.P. & certification of individual responsible for making same?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
6. Offer of assistance for R.H.P. accepted/declined	<input type="checkbox"/> In File <input type="checkbox"/> N/A
7. Date & result of D.S.S. inspection?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
8. Fair market value of dwelling or monthly rent?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
9. Closing costs and/or increased mortgage interest differential?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
10. Date and amount of each payment claimed?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
11. Date and amount of each payment allowed?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
<b>PART D. RELOCATION - BUSINESS, FARM, OR NONPROFIT ORGANIZATION</b>	
1. Actual cost commercial move-receipted bills?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
2. Self move-bids, cost of obtaining bids, inventory, moving expenses finding?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
3. Actual direct losses of tangible personal property- advertising & sale costs, bills of sale, auction records, etc.?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
4. Searching expenses-bills, certified statement of time spent & wage rate?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
5. Fixed business in lieu of moving expenses-basis, justification, calculation of payment, tax records, etc.?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
6. Business re-establishment expenses?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
7. Date and amount of each payment claimed?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
8. Date and amount of each payment allowed?	<input type="checkbox"/> In File <input type="checkbox"/> N/A
<b>Remarks</b>	

### 8.1.3 Sponsor Compliance Review and Quality Control.

The sponsor is recommended to institute a compliance review and quality control function to assure maximum federal reimbursement of eligible costs. Appendix C provides a suggested format to develop a land project Quality Control Program (QCP) that sponsors may complete prior to billing costs for federal reimbursement. A sponsor instituted QCP will provide greater assurance of the reasonableness of cost incurred to FAA. The exact structure for this review may vary depending on the complexity of the project and of the sponsor's organization and fiscal operations. However, the review process relies on the detection and correction of errors as they may occur. Generally, a simple review process can be incorporated easily into the operational and fiscal functions of the sponsor's existing organizational structure.

### 8.1.4 FAA Program Monitoring.

8.1.4.1 FAA will perform periodic reviews of sponsor programs to assure conformance to Uniform Act mandates. Should program deficiencies be encountered the sponsor will be requested to initiate corrective action to restore compliance. These reviews will also be conducted to provide technical assistance to sponsors to facilitate compliance and program efficiency. The FAA and the sponsor share the common goals to maximize the public benefit of the sponsor's grant and to assure full accountability for the compliance of the sponsor's program to the requirements of the Uniform Act.

8.1.4.2 Appendix A provides a sample spot check review form that notes the applicable regulatory requirement for a particular work item. This form is available for use by FAA project managers and airport sponsors to review program compliance. This sample form notes the applicable regulatory requirement and AC reference to the particular work item.

**APPENDIX A. FORMS DIRECTORY****AC 150/5100-17A Forms Directory**

Forms may be downloaded from the FAA Website at

<http://www.faa.gov/airports/resources/forms/>.

<b>FAA Form</b>	<b>Title</b>
Form 5100-111	Certificate of Appraiser
Form 5100-112	Real Estate Appraisal – Short Form
Form 5100-112UR	Instructions and Attachment for Summary Appraisal Reports
Form 5100-113	Value Finding for Low Value Acquisition
Form 5100-114	Real Estate Appraiser Training and Experience Resume
Form 5100-115	Real Estate Appraisal Contract Proposal
Form 5100-116	Real Estate Appraisal Contract
Form 5100-119	Claim for Reimbursement of Expenses Incidental to Conveyance of Real Property
Form 5100-120	Land Acquisition Procedures and Payment Summary
Form 5100-121	Real Estate Appraisal Review Contract
Form 5100-122	Agreement for Acquisition and Relocation Services
Form 5100-123	Mortgage Maintenance Payment Computation
Form 5100-123-ARM	Mortgage Maintenance Payment Worksheet – Adjustable Rate Mortgage
Form 5100-123-Fixed	Mortgage Maintenance Payment Worksheet – Fixed Rate Mortgage
Form 5100-124-A	Schedule A Payment of Moving Costs – Non-Residential
Form 5100-124-B	Schedule B Direct Loss of or Purchase of Substitute Personal Property
Form 5100-124-C	Schedule C Search Expenses – Non-Residential
Form 5100-124-D	Schedule D Reestablishment Expenses – Non-Residential
Form 5100-124-E	Schedule E Related Non-Residential Expenses
Form 5100-124-Certificate	Claim for Relocation Payments – Non-Residential
Form 5100-125-A	Schedule A Payment of Moving Costs – Residential
Form 5100-125-B	Schedule B Claim for Homeowners Replacement Housing Payment
Form 5100-125-C	Schedule C Claim of Rental Replacement Housing Payments
Form 5100-125-D	Schedule D Down payment and Incidental Expenses - Residential
Form 5100-125-Certificate	Claim for Relocation Payments – Residential
Form 5100 Checklist	Acquisition/Relocation Records Checklist
Form 5100 DSSINSP	DSS Inspection and Certification
Form 5100 Pre-Audit	Sponsor Pre-Reimbursement Federal Aid Compliance Review
Form 5100 RHP Owner	(Sample) Replacement Housing Payment Eligibility Determination – 90-day Owner-Occupant
Form 5100 RHP Tenant	(Sample) Replacement Housing Payment Eligibility Determination – Tenant / occupant
Form 5100 Spot-check	Federal Aid Compliance Review

**APPENDIX B. 49 CFR PART 24****B.1 Definition of Terms**

Title 49, Code of Federal Regulations, Part 24 (49 CFR 24) defines the following terms, referenced throughout this Advisory Circular, which apply to airport sponsor land acquisition and relocation programs:

**B.1.1 Alien Not Lawfully Present in the United States.**

The phrase “alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

1. An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose stay in the United States has not been authorized by the United States Attorney General, and
2. An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

**B.1.2 Appraisal.**

The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

**B.1.3 Business.**

The term business means any lawful activity, except a farm operation, that is conducted:

1. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;
2. Primarily for the sale of services to the public;
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

**B.1.4 Citizen.**

The term citizen includes both citizens of the United States and noncitizen nationals.

**B.1.5 Comparable Replacement Dwelling.**

The term comparable replacement dwelling means a dwelling that is:

1. Decent, safe and sanitary as described;

2. Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
3. Adequate in size to accommodate the occupants;
4. In an area not subject to unreasonable adverse environmental conditions;
5. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses.
7. Currently available to the displaced person on the private market except as provided in Section B.1.5.i below.
8. Within the financial means of the displaced person:
  - a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs and all incidental expenses, plus any additional amount required to be paid under Replacement housing of last resort.
  - b. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.
  - c. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if a sponsor pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling. Such rental assistance must be paid under replacement housing of last resort.
9. For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases, any requirements of the government housing assistance program relating to the size of the replacement dwelling must apply.

**B.1.6 Contribute Materially.**

The term contribute materially means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

1. Had average annual gross receipts of at least \$5,000; or
2. Had average annual net earnings of at least \$1,000; or
3. Contributed at least 33 1/3 percent of the owner or operator's average annual gross income from all sources.
4. If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

**B.1.7 Decent, Safe, and Sanitary (DSS) Dwelling.**

The term decent, safe, and sanitary dwelling means a dwelling that meets local housing and occupancy codes. However, any of the following standards that are not met by the local code must apply unless waived for good cause by the Federal Agency funding the project. For purposes of the Uniform Act, a DSS dwelling must:

1. Be structurally sound, weather tight, and in good repair;
2. Contain a safe electrical wiring system adequate for lighting and other devices;
3. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;
4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes must not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the sponsor must follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, FAA Airports policy that separate bedrooms are allowed;
5. There must be a separate, well lighted, and ventilated bathroom that provides privacy to the user, contains a sink, bathtub or shower stall, and a toilet, all in good working order, and properly connected to appropriate sources of water and a sewage drainage system. In the case of a housekeeping dwelling, there must be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;
6. Contains unobstructed egress to safe, open space at ground level; and
7. For a displaced person with a disability, be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a

physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The sponsor must also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

#### B.1.8 Displaced Person.

##### B.1.8.1 **Displaced persons.**

The term displaced person means, except as provided in Section B.1.8.b, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act for displaced homeowners or tenants.)

1. As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
2. As a direct result of rehabilitation or demolition for a project; or
3. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this section applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

##### B.1.8.2 **Persons not displaced.**

The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

1. A person who moves before the initiation of negotiations unless the sponsor determines that the person was displaced as a direct result of the program or project;
2. A person who initially enters into occupancy of the property after the date of its acquisition for the project;
3. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;
4. A person who is not required to relocate permanently as a direct result of a project. Because occupants in this category are not necessarily considered displaced persons care must be exercised to ensure that

they are treated fairly and equitably on the sponsor's AIP assisted programs. If the occupant of a residential dwelling will not be displaced, but is required to relocate temporarily in connection with an AIP assisted project, the temporarily occupied housing must be decent, safe, and sanitary, and the occupant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary. If an airport tenant business will be shut down for any significant length of time due to rehabilitation or demolition of a leased site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses. The airport sponsor may determine that an airport tenant is displaced if the airport lease must be broken and/or tenant leasehold must be acquired to secure possession of needed land. Any person who disagrees with the sponsor's determination that he or she is not a displaced person may file an appeal with the airport sponsor.

5. An owner-occupant who conveys their property as a “Voluntary Transaction”; however, tenants in occupancy on the purchased property are displaced and entitled to eligible relocation assistance and payments.
6. A person whom the sponsor determines is not displaced as a direct result of a partial acquisition;
7. A person who, after receiving a notice of relocation eligibility is notified in writing that he or she will not be displaced for a project. Such notice must not be issued unless the person has not moved and the sponsor agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;
8. A person who retains the right of use and occupancy of the real property for life following its acquisition by the sponsor;
9. A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause. However, advisory assistance may be provided to unlawful occupants at the option of the sponsor in order to facilitate the project; or
10. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance as prescribed under the Uniform Act.

#### B.1.9 Dwelling.

The term dwelling means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a

condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

B.1.10 Dwelling Site.

The term dwelling site means a typical site upon which a dwelling is located.

B.1.11 Farm Operation.

The term farm operation means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

B.1.12 Household Income.

The term household income means total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation social security, or the net income from a business. It does not include income received or earned by dependent children and full time students less than 18 years of age.

B.1.13 Initiation of Negotiations.

B.1.13.1 The initiation of negotiations means the delivery of the initial written offer of just compensation by the sponsor to the owner or the owner's representative to purchase the real property for the project. If the sponsor should issue a Notice of Intent to Acquire, and a person moves after that notice, but before delivery of the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

B.1.13.2 In the case of permanent relocation of a tenant as result of a an Voluntary Transaction, the initiation of negotiations as described above, does not become effective for purposes of establishing the tenant eligibility for relocation assistance until there is a written purchase agreement for the real property with the property owner.

B.1.14 Mobile Home.

The term mobile home includes manufactured homes and recreational vehicles used as residences.

B.1.15 Mortgage.

The term mortgage means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

**B.1.16 Non-Profit Organization.**

The term nonprofit organization means an organization that is incorporated under the applicable laws of a State as a non-profit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

**B.1.17 Notice of Intent to Acquire.**

This is an explicit written notice the sponsor provides a person to be displaced for a project that establishes eligibility for relocation payments and assistance prior to the initiation of negotiations. This is not a required notice but when justified, may be used in lieu of the subsequently required notice of relocation eligibility. This "early" eligibility notice may be beneficial to assist the successful relocation of the displaced person or expedite project clearance. This notice should also provide the anticipated date of the initiation of negotiations, how additional information pertaining to relocation assistance payments and services can be obtained, and the effective date of the notice. If a property is tenant-occupied, both the owner and the tenant will be provided a notice of intent to acquire.

**B.1.18 Owner of a Dwelling.**

The term owner of a dwelling means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

1. Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interests or estates described above in (21)(i) or (ii) of this or,
4. Any other interest, including a partial interest, which in the judgment of the sponsor warrants consideration as ownership.

**B.1.19 Person.**

The term person means any individual, family, partnership, corporation, or association.

**B.1.20 Salvage Value.**

The term salvage value means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

**B.1.21 Small Business.**

A small business is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of

economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of reestablishment expenses.

B.1.22 State.

Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

B.1.23 Tenant.

The term tenant means a person who has the temporary use and occupancy of real property owned by another.

B.1.24 Uneconomic Remnant.

The term uneconomic remnant means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the sponsor has determined has little or no value or utility to the owner.

B.1.25 Unlawful Occupant.

A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. A sponsor, at its discretion, may consider such person to be in lawful occupancy.

B.1.26 Utility Costs.

The term utility costs means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

B.1.27 Utility Facility.

The term utility facility means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

B.1.28 Utility Relocation.

The term utility relocation means the adjustment of a utility facility required by the program or project undertaken by the sponsor. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It must also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

B.1.29 Waiver Valuation.

The term waiver valuation means the valuation process used and the product produced when the sponsor determines that an appraisal is not required, pursuant to appraisal waiver provisions.

## APPENDIX C. SPONSOR QUALITY CONTROL PROGRAM

### C.1 **General.**

The sponsor is encouraged to establish and maintain an effective Quality Control Program (QCP) that details the methods and procedures that will be taken to assure conformance to the requirements of the Uniform Act and to assure maximum reimbursement of cost with Federal funds. The following proposes guidelines and areas where a consistent and integrated review process should be initiated to support sponsor actions and costs for Federal reimbursement. The QCP will facilitate sponsor certification of compliance and allow timely Federal reimbursement of AIP project costs.

#### C.1.1 Intent.

The intent of the QCP is to enable the sponsor to establish the necessary level of control that will:

1. Adequately provide for the acquisition of property and relocation of displaced persons in compliance to the Uniform Act (49 CFR Part 24), and the sponsor's grant assurances.
2. Provide sufficient documentation to support Federal reimbursement of project costs, and to provide sponsor control over Federal-aid billings to assure only eligible costs are charged against the AIP grant.
3. Allow the sponsor as much latitude as possible to develop its own standard of control that may be fully integrated with the sponsor's existing organization and management goals.

### C.2 **Program Description.**

The sponsor should develop the QCP adequate for the workload proposed for an AIP assisted project. The QCP is not intended to require redundant review or additional level of inspection than is currently appropriate as determined by the sponsor existing management requirements. The intent of the QCP is to preclude errors in compliance and excess costs by assuring adequate standards and requirements are known and adhered to initially when work is performed. The QCP as adapted for land acquisition and relocation assistance projects is simply a means for the sponsor management and staff to evaluate work continually against requirements and goals, and to assure actions and decisions made reflect applicable requirements. The program, generally described, presents those areas where review and assurance may be made which will lead to the overall acceptability of the sponsor's program.

#### C.2.1 Objectives.

To accomplish this purpose the sponsor's QCP should be organized to address the following:

1. Organization of the QCP within the sponsor's acquisition and relocation assistance process for AIP assisted projects.

2. Federal aid pre-billing review and assurance of compliance and eligibility.
3. Documentation requirements to support sponsor certification.
4. Requirements for corrective action when instances of non-compliance are encountered.

### C.3 **Program Organization.**

It is expected that the sponsor's management goals and constraints will be a primary factor in determining the resources to devote to an effective QCP. However, these same constraints will also dictate the sponsor's ability to take on a project workload and, therefore, staff and resources are assumed available for an effective QCP on an AIP-assisted. The sponsor implementation of a QCP for land acquisition projects is not intended to require additional review or inspection than what sound management would dictate. The QCP is intended to be implemented throughout the acquisition and relocation process by the sponsor's or consultant staffs who are actually performing the work. In effect, the QCP provides a format and structure for staff to evaluate their work against requirements, and to provide the required documentation to management to approve or accept decisions and recommendations for necessary payments and costs. Therefore, project workload will be the determinant for the staffing and resource requirements of the sponsor's QCP. Smaller projects will likely not require dedicated staff to process documentation for payment approvals. Large projects will typically require some management and staff to maintain the documentation and approval system. Again, the organizational requirements are expected to be in place already and the QCP may simply be integrated into this structure.

### C.4 **Sponsor Review and Acceptance.**

The form entitled "Sponsor Pre-Reimbursement Compliance Review" provided with this appendix indicates the fundamental requirements for Uniform Act compliance and represents the cost items the sponsor will incur on AIP land acquisition and relocation assistance project. It is intended that the recommended form be used to document acceptance of work and ultimately be maintained in the sponsor' central parcel files documenting acceptable work. The following briefly describes the judgments and evaluations that the sponsor should make in reviewing and accepting the work on an AIP project. Detailed requirements may be referenced for each functional category in the provisions of this AC.

#### C.4.1 Appraisal and Appraisal Review.

The sponsor should assure that the appraised date of value and review date are proximate to assure timely just compensation recommendations are made. Acceptance should not be made if the review date is significantly later than the date of value (e.g. more than 6 months) unless adequately explained by the review appraiser. In addition, the documentation of the Uniform Act mandates the appraiser process of owner accompaniment and adequate review to be scrutinized and accepted prior to the sponsor accepting the appraisal work as complete. The review appraiser should to conduct the

review and acceptance of this work. See Figure A.3-1 for a sample review form to be used during appraisal compliance review.

**Figure C-1. Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form**

 <b>Sponsor Pre-Reimbursement Federal-Aid Compliance Review (49 CFR Part 24)</b>		
Reviewer/Agent:	Title:	
Owner (Name and Address):	Parcel:	AIP:
Property Location:	Tenant:	
<b>Appraisal and Appraiser Review</b>		
Appraiser: Date Appraised: 1 <sup>st</sup> Appraised Amount:	Review Appraiser: Review Date: <input type="checkbox"/> Amount Accepted <input type="checkbox"/> Amount Rejected	
2 <sup>nd</sup> Appraiser: Date Appraised: 2 <sup>nd</sup> Appraised Amount:	2 <sup>nd</sup> Review Appraiser: Review Date: <input type="checkbox"/> Amount Accepted <input type="checkbox"/> Amount Rejected	
Other Appraisal <input type="checkbox"/> Yes <input type="checkbox"/> No Date Appraised: Appraised Amount:	Review Appraiser: Review Date: <input type="checkbox"/> Amount Accepted <input type="checkbox"/> Amount Rejected	
Just Compensation Estimate:		
Owner provided opportunity to accompany appraiser <input type="checkbox"/> Yes <input type="checkbox"/> No	Appraisal/Appraisal Review acceptable to FAA <input type="checkbox"/> Yes <input type="checkbox"/> No*	
Remarks/Corrective action required for acceptance:		
*Corrective action complete: <input type="checkbox"/> Yes <input type="checkbox"/> No		
Reviewed By:	Title:	Date(s):



**Figure C-1 (cont.) Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form**

Relocation Assistance - Residential Displacement			
Agent:		Brochure Given: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Initial Interview Date:		Relocation Services Offered: <input type="checkbox"/> Yes <input type="checkbox"/> No Accepted: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Date Eligibility Notice:	RHP Offer Date:	Notice to Vacate Date:	Move Date:
RHP Eligibility Calculation Date:		Amount:	Mortgage Interest Differential (MID) Calculation:
List Price Adjustment Made: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A		Calculations Acceptable: <input type="checkbox"/> Yes <input type="checkbox"/> No	
RHP Claimed Date:	RHP Claimed Amount:	MID Amount:	
RHP Paid Date:	RHP Amount:	MID Amount:	
Incidental Expenses Date Claimed:	Incidental Expenses Amount Claimed:	Incidental Expenses Date Paid:	Incidental Expenses Amount Paid:
DSS Certification Date:	DSS Certification Acceptable: <input type="checkbox"/> Yes <input type="checkbox"/> No*		Replacement Housing Payments Acceptable: <input type="checkbox"/> Yes <input type="checkbox"/> No*
Moving Payment Date Claimed:	Moving Payment Amount Claimed:	Moving Payment Date Paid:	Moving Payment Amount:
Moving Payment Type: Schedule _____ (# of rooms _____)	Actual Cost		Moving Payments Acceptable: <input type="checkbox"/> Yes <input type="checkbox"/> No*
Remarks:			
*Corrective action complete: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Reviewed By:		Title:	Date(s):

**Figure C-1 (cont.) Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form**

<b>Relocation Assistance – Business, Farms, NPO</b>			
Displacee Name:		Occupancy: <input type="checkbox"/> Tenant <input type="checkbox"/> Owner	
Replacement Site Address:		Relocation Agent:	
Initial Interview Date:	Brochure Given: <input type="checkbox"/> Yes <input type="checkbox"/> No	Relocation Services Offered: <input type="checkbox"/> Yes <input type="checkbox"/> No	Relocation Services Accepted: <input type="checkbox"/> Yes <input type="checkbox"/> No
Date Eligibility Notice:	RHP Offer Date:	Notice to Vacate Date:	Move Date:
Inventory Date:	Inventory Update 1:	Inventory Update 2:	
Moving Bid Date & Amount #1:	Moving Bid Date & Amount #2:	Moving Bid Date & Amount #3:	
Self Move Eligibility Date & Amount:			
Moving Expense Claim Date & Amount #1:	Moving Expense Claim Date & Amount #2:	Moving Expense Claim Date & Amount #3:	
Moving Expense Paid Date & Amount #1:	Moving Expense Paid Date & Amount #2:	Moving Expense Paid Date & Amount #3:	
Searching Expense Paid:	Reestablishment Expense Paid:	Fixed Payment (In Lieu) Amount:	
Moving Payments Acceptable: <input type="checkbox"/> Yes <input type="checkbox"/> No*			
Remarks:			
*Corrective action complete: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Reviewed By:	Title:	Date(s):	

**C.4.2 Acquisition.**

The sponsor's negotiator must, at a minimum, provide a written offer to the property owner at the initiation of negotiations, a written log of the negotiations, as applicable an offer to acquire tenant owned improvements; and as applicable a negotiated agreement, or a proposed administrative settlement, or a recommendation for condemnation. It is intended that the negotiator will summarize his or her activities on the form provided and present this to the sponsor or acquisition management for acceptance when the negotiations effort is complete or progress is being reviewed under normal sponsor procedures.

**C.4.3 Relocation Assistance and Payments.**

The sponsor must assure that relocation payments and assistance have been adequately provided to all displaced persons. The review form summarizes the documentation required to evidence acceptable payment determinations of displacee relocation claims. It is expected that relocation assistance staff would maintain this form and submit it for acceptance with displacee claims for payments. The sponsor's acceptance would provide concurrent assurance that Uniform Act compliance had been secured and that the relocation payments provided were reasonable and eligible for reimbursement.

**C.5 Corrective Action.**

Where Uniform Act compliance deficiencies are encountered, the sponsor must document that adequate corrective action had been taken to secure compliance. Where appropriate the sponsor must indicate costs that are ineligible for Federal reimbursement.

## **APPENDIX D. GUIDELINES FOR SPONSOR CERTIFICATION OF TITLE**

### **D.1 Background.**

D.1.1 Section 47106(b)(1) of the FAA Authorization Act of 1994 (referred to subsequently as “the Act”) provides that a Federally assisted airport project cannot be approved until good title is held, satisfactory to the Secretary of the Department of Transportation, for areas of airport use for the landing, taking off, or surface maneuvering of aircraft, or gives assurance, satisfactory to the Secretary, that good title will be acquired. All land acquired under the AIP for airport development, future development, or noise purposes must be acquired in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91.646), as amended.

D.1.2 Section 47105(d) of the Act provides that the Secretary is authorized to require certification from a sponsor regarding compliance with statutory and administrative requirements imposed on such sponsor in connection with an AIP project.

### **D.2 Procedures.**

#### **D.2.1 Title.**

The sponsor will investigate the quality of the title obtained and prepare a submission for land acquired under an AIP project consisting of a title evidence package or certification of title, or both, for each parcel or tract of land included in the grant agreement.

#### **D.2.2 Title Assurance / Evidence.**

The sponsor will ensure that the title obtained is adequate for the FAA assisted project. The sponsor must have sufficient title evidence to assure it possesses or will possess sufficient right, title and interest in the property to meet project requirements (e.g. construct, operate and maintain). Typically marketable fee title is for each parcel or tract of land included in the grant agreement. The following may be included as acceptable title evidence

##### **D.2.2.1 Basis of Title Opinion.**

The title opinion and/or abstract examination is to determine the fee owner of the property and to identify any outstanding interests adverse to the fee. This not only includes encumbrances on the title, but will also identify "clouds on title." A title search and/or title insurance commitment may be used at the discretion of the sponsor's attorney, containing at least the following:

1. A legal description of the parcel.
2. A statement as to the quality of the title or other interests held.
3. A statement concerning the defects and encumbrances.

4. Copies of the following:
  - a. The grant deed for fee owned land.
  - b. The easement deed for less than fee title interest.
  - c. The lease for a long-term lease interest (public owned land only).
  - d. The title insurance commitment and policy when the title opinion is based on such policy, or the name of the title company and policy number.
  - e. The final order or court decree when land is obtained by condemnation.
  - f. Subordination agreements or letters to indicate clearing of encumbrances.

#### D.2.2.2 **Property inspection.**

The property must be inspected for evidence of unrecorded easements or occupancy interests that may affect the title and would interfere with the operation and use of the airport. These and any title exceptions must be evaluated and as necessary cleared to ensure adequate marketable title is secured. Existing encroachments encumbering the property should also be noted during the inspection and cleared as necessary.

#### D.2.2.3 **Clearance of defects and encumbrances, as necessary.**

1. If the exercise of rights granted in a retained encumbrance could adversely affect the airport, the encumbrance must be extinguished with the FEE purchase of the needed land. Full clear FEE interest is required for the landing and building area of the airport, and for any extension. Typically all land incorporated within the airport is acquired in FEE simple, with all encumbrances cleared.
2. If it is determined that the cost to extinguish and remove a retained right or encumbrance is excessive, a FEE acquisition may not be necessary because the encumbrance may be:
  - a. Modified so that the height and/or location of any surface use or access is restricted to the extent necessary to be compatible with current and planned airport operations; and
  - b. Subordinated to airport use and development. The surface use of any easement or reserved mineral or other allowable interest must be subordinated to the public airport use and applicable FAA requirements. Sample Subordination Agreements for a Utility (Figure D-2) and Oil, Gas, and Mineral Rights (Figure D-3) are shown below for the Sponsor Certification of Good Title.

3. Any retained encumbrance or right for surface use or development is subject to FAA review and approval as adequate title for airport and compatible land use. Any defect in title or outstanding encumbrances such as leases, easements, mortgages, liens, mineral rights, etc., must be set forth in the certification to permit a determination by the FAA as to whether they will interfere with the accomplishment of the project and the use and operation of the airport.

A STATEMENT BY THE SPONSOR'S ATTORNEY TO THE EFFECT THAT THERE ARE NO OUTSTANDING EXCEPTIONS/DEFECTS TO TITLE THAT WILL INTERFERE WITH THE AIRPORT IS NOT ACCEPTABLE WITHOUT EXPLANATION.

**ANY DEFECTS IN THE TITLE REQUIRING CORRECTION AFTER ACCEPTANCE OF GOOD TITLE BY THE FAA WILL BE AT THE SPONSOR'S EXPENSE.**

**D.2.2.4 Sponsor Certification of Title.**

1. **Submittal to FAA.** The sponsor will submit good title certification to the appropriate FAA office as part of the grant application and approval process. The FAA Airports Region or District/Program office will advise the sponsor of the needed submittals. The certification must be signed by the sponsor official authorized to sign the grant agreement and by the sponsor's attorney. A sample Certification of Title (Figure D-1) is provided following this section.
2. **FAA Acceptance.** Acceptance of certification does not relieve the sponsor of the requirement to obtain the necessary title documents/evidence nor the clearing of encumbrances that may affect the use and operation of the airport.
3. **Rescission.** The acceptance of a certification will be rescinded if it is determined by the FAA that the sponsor has not, in fact, complied with the requirements of the certification. If such determination is made after the grant agreement has been accepted, acceptance of the certification may be rescinded and the grant may be suspended.

**Figure D-1. Sample Certificate of Title**

**CERTIFICATE OF TITLE**

[Address to Appropriate Airports District Office Manager]

Dear:

The \_\_\_\_\_ (hereinafter referred to as the "sponsor"), pursuant to Section 47105(d) of the Federal Aviation Administration Authorization Act of 1994 (and amendments), hereby certifies that satisfactory property interest to the land indicated herein is vested in the sponsor under the terms and conditions of a Grant Agreement with the Federal Aviation Administration, Federal Project No. \_\_\_\_\_.

In the opinion of \_\_\_\_\_, Attorney for the sponsor, the sponsor has full legal title to the property interest indicated and, as shown on the Exhibit "A" as of the time and date stated in the title documents, has adequate title to satisfy local laws and ordinances:

Quality of Interest

Parcel Number (Per Exhibit "A")	(Fee, Easement, etc.)
_____	_____
_____	_____

The land interest acquired meets the requirements of the Federal Aviation Administration, except for easements, liens, separate mineral estate, leases, or other encumbrances on the parcels noted below. However, such encumbrances, which are described on the attachment, do not affect the use of the land for airport purposes.

Parcel(s) \_\_\_\_\_

The evidence of title is based on an: (Check One)

\_\_\_\_\_ An abstract and record examination conducted on \_\_\_\_\_, or

\_\_\_\_\_ Title Insurance Policy No. \_\_\_\_\_ issued on \_\_\_\_\_ by

the \_\_\_\_\_ Title Insurance Company.

RECORDATION DATA: Recorded \_\_\_\_\_ (date) in the land records of \_\_\_\_\_ (County/City), \_\_\_\_\_ (State), in Book \_\_\_\_\_ Page \_\_\_\_\_.

The sponsor recognizes and accepts full responsibility for the clearing of any outstanding encumbrances, defects, and exceptions to the title that may in any way affect the future use and operation of the land for airport purposes as may be determined by the FAA. It is understood that the FAA reserves the right to cancel this certification at any time. Although specific title evidence documents are not submitted herewith, copies of deeds and other appropriate evidence of title for the land are on file with the sponsor and are available for inspection by the FAA.

Sincerely,

\_\_\_\_\_  
Name of Sponsor

\_\_\_\_\_  
Signature of sponsor official authorized to sign Grant Agreement

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Sponsor's Attorney  
(For use when there is a co-sponsor)

\_\_\_\_\_  
Name of Sponsor

\_\_\_\_\_  
Signature of sponsor official authorized to sign Grant Agreement

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Sponsor Attorney

**Figure D-2. Sample Subordination Agreement - Utility**

**SUBORDINATION AGREEMENT**

**Utility**

THIS AGREEMENT made and entered into the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, by and between \_\_\_\_\_(Utility), \_\_\_\_\_ County, State of \_\_\_\_\_, hereinafter referred to as Company," and the City of \_\_\_\_\_, a municipal corporation, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the City is the owner of that certain Municipal Airport located in \_\_\_\_\_ County, State of \_\_\_\_\_, and

WHEREAS, Company is the owner of (facility) and an easement for (facility) across a tract of land X feet in width lying in that part of Section , Township , Range (or refer to Legal Description), \_\_\_\_\_ County, State of \_\_\_\_\_, the centerline of which is described as follows: Beginning at a point . . . . . as shown by that certain Right of Way Easement recorded in Book , Page of the land records of, \_\_\_\_\_ County, State of \_\_\_\_\_, which said line and easement are located in under, upon and across a part of said Municipal Airport real estate, and,

WHEREAS, for the City to acquire adequate real property for public airport purposes it is required that District agree with the City that Company will subordinate its rights under said easement to airport use and development and will not, in the maintenance, repair, removal, relocation, or replacement of its said (facility), go upon the City's said airport property or in any manner interfere with or interrupt the use or operation of said airport or its attendant facilities, without prior coordination with, and the approval and/or issuance of permit by the City.

NOW THEREFORE, the parties hereto agree, each with the other, that Company will not, in the maintenance, repair, removal, relocation, or replacement of its above described facility, or in the exercise of any other easement right, go upon the City's said airport property or in any manner interfere with or interrupt the use or operation of said airport or its attendant facilities, without the prior approval of the City; and the City must not unreasonably withhold such approval.

This agreement is and must be binding upon and inure to the benefit of the parties and their successors and assigns. IN WITNESS WHEREOF, we hereunto set our hands and seals on the day and year below our signatures indicated.

ATTEST: \_\_\_\_\_  
 \_\_\_\_\_ COMPANY  
 \_\_\_\_\_ County, \_\_\_\_\_ State

BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
 CITY OF \_\_\_\_\_, \_\_\_\_\_ STATE  
 A MUNICIPAL CORPORATION  
 BY: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 ---NOTARIZED--- City Clerk

**Figure D-3. Sample Subordination Agreement – Oil, Gas, and Mineral Rights**

**SUBORDINATION AGREEMENT**

**Oil, Gas, and Mineral Rights**

THIS AGREEMENT made and entered into the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between Owners name residing at \_\_\_\_\_ County of \_\_\_\_\_, State of \_\_\_\_\_, and the \_\_\_\_\_ of \_\_\_\_\_, a municipal corporation and owner of the \_\_\_\_\_ airport, hereinafter referred to as "sponsor".

WHEREAS, Owners name is the owner of an undivided interest in and to all of the oil, gas and other minerals in, under or that may be produced from a certain \_\_\_\_\_ acre tract of land as further described in Exhibit "A", attached hereto; and, also a certain \_\_\_\_\_ acre tract of land as further described in Exhibit "B", attached hereto; and,

WHEREAS, the sponsor has purchased the tract of land described in Exhibit "A" for airport purposes and has acquired an avigation easement over the tract of land described in Exhibit "B"; and,

WHEREAS, the sponsor is the owner of the \_\_\_\_\_ airport constructed on the above described property, and the safe and efficient use, operation, maintenance, development and control of the airport requires the subordination of said mineral interests as provided herein;

NOW, THEREFORE, for and in consideration of the sum of ONE AND NO/100 (\$1.00) DOLLARS and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and confessed by Owners name the parties hereto agree as follows:

That the right to use the surface of the lands described in the attached Exhibit "A" and Exhibit "B" to explore for and produce oil, gas and other minerals will not be exercised in any manner that would, in the opinion of the sponsor or the Federal Aviation Administration, , their successors and nominees, adversely affect the safe and efficient use, operation, maintenance, development and control of said described property as an airport or for airport purposes; nor will such rights be exercised contrary to the rules and regulations of the sponsor or the Federal Aviation Administration, , their successors or nominees; but, otherwise this agreement must in no way limit or alter the right of Owners name to the full use and enjoyment of such undivided interest in and to such oil, gas or other minerals.

It is understood and agreed that the covenants contained in this agreement are and must be binding upon and inure to the parties and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set our hands and seals on the day and year below our signatures indicated.

\_\_\_\_\_  
Mineral owners typed name                      Mineral owners signature

ATTEST

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_ COMPANY  
\_\_\_\_\_ County, \_\_\_\_\_ State

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY OF \_\_\_\_\_, \_\_\_\_\_ STATE  
A MUNICIPAL CORPORATION

BY: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk  
---NOTARIZED---

## Advisory Circular Feedback

If you find an error in this AC, have recommendations for improving it, or have suggestions for new items/subjects to be added, you may let us know by—

- Mailing this form to the FAA Office of Airports, Airport Planning and Environmental Division (APP-400) at FAA, APP-400, Room 615, 800 Independence Ave SW, Washington DC 20591; or
- Calling (202) 267-3263 to request an email address to which you can send it; or
- Faxing it to (202) 267-5383.

**Subject:** AC 150/5100-17 Change 7

**Date:** \_\_\_\_\_

*Please check all appropriate line items:*

An error (procedural or typographical) has been noted in paragraph \_\_\_\_\_ on page \_\_\_\_\_.

Recommend paragraph \_\_\_\_\_ on page \_\_\_\_\_ be changed as follows:

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In a future change to this AC, please cover the following subject:  
*(Briefly describe what you want added.)*

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Other comments:

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I would like to discuss the above. Please contact me at (phone number, email address).

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_