Appendix A to Chapter 111

Uniform Manual

Real Property Acquisition and Relocation Assistance

Rules and Policy

Section III

This Appendix provides additional information to explain the intent of certain provisions of these Rules.

Subpart A
General Application

111.2(*2*) Appraisal – The definition of "Appraisal" recognizes that the written statement should be commensurate with the nature and complexity of the appraisal problem. A written statement which does not value the whole parcel on a before and after basis complies with this rule where the statement otherwise complies with the criteria for appraisals in rule 111.103.

111.2(*3*) Appraiser – This definition identifies the two basic functions of an appraiser which are to determine the value of land or rights in land acquired and also damages, if any, caused to remaining land.

111.2(6) Comparable replacement dwelling – The requirement in subrule 111.2(6) that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means it must perform the same function and provide the same utility as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in the garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms, or consequently, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling.

The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing.

A housing program subsidy that is paid to a person (not tied to the building), such as a HUD Section 8 Housing Voucher Program, may be reflected in an offer of a comparable replacement dwelling to a

person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits a displacing agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the displacing agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing assistance program, the rules of that program governing the size of the dwelling apply, and the rental assistance payment under rule 111.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the displacing 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 displacing agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

111.2(9) Displaced person. Subparagraph 111.2(9)(c)(iv) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend one year before the person is returned to his or her previous unit or location. The displacing agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expense or must be determined to be displaced at the displacing agency's option.

Any person who disagrees with the displacing agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with rule 111.6.

111.2(14) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see the Federal Highway Administration, Office of Real Estate Services Web site. If there is a question on whether or not to include income from a specific program contact the federal agency administering the program.

111.2(16) Initiation of negotiations. Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility

for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the displacing agency must make a good faith effort to provide these notifications and document its efforts in writing.

111.2(17) Mobile home. The following examples provide additional guidance on the types of mobile home and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the "primary" place of residence; it is located on a purchased or leased site and connected to or has available all necessary utilities for functioning as a housing unit on the date of the displacing agency's inspection; and, the dwelling, as sited, meets all local, state, and federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

111.2(*23*) Program or project – The definition of "Program" illustrates that the law and these rules may apply even if no federal funds are used to acquire the parcel or in the acquisition of right of way for the project, or in the construction of the project. Compliance with these rules is necessary when land is acquired in advance of planned or scheduled projects in order to remain eligible for future federal funding for the improvement or the project. A policy to acquire all right of way on all programs and for all projects in a manner which conforms with these rules will prevent disputes over eligibility for future federal funding.

Land acquired prior to the effective date of the Relocation Assistance Law (April 2, 1989) will be presumed to have been acquired without any intention to deny persons benefits of the law and these rules for a project that will receive federal financial assistance.

Land acquired for a non-federally aided program before the program became a part of a federally aided program will be presumed to have been acquired without any intention to deny persons benefits of the law and these rules for a project which will receive federal financial assistance.

111.2(*25*) Review appraisal – The definition of a review appraisal identifies the administrative and the acquisition-related aspects of the review appraisal. The review appraisal ensures that fair market value determinations are realistic and consistent with the real estate market. The review appraisal assures valuation consistency among the parcels on the project. The review appraisal may also serve as a determination that the total amount to be offered will justly compensate for all damages caused by the project. Damages which are not included in the appraisal and which are not cured by the construction of the project must be included in the amount offered by the agency as just compensation.

111.5(2) Confidentiality of records – This subrule is a restatement of department policy. The policy was in effect prior to the passage of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646). These rules recognize and protect the interests of both the state agency and the property owner. Disclosures made in litigation through the discovery process are subject to the discretion of the district court.

111.5(3) Reports – This subrule allows federal agencies to require the submission of a report on activities under the federal Uniform Relocation Act no more frequently than once every three years. The report, if required, will cover activities during the federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on agencies implementing this subrule, a basic report form has been developed which, with only minor modifications, may be used in all federal and federally-assisted programs or projects.

111.6 Appeals – That part of a relocation assistance payment which is in dispute is nearly always too small to justify litigation. This rule provides displaced persons and agencies with a fair, prompt informal and one-step fact-finding process. These appeals are not contested cases requiring an administrative

hearing as a contested case under the Iowa Administrative Procedures Act. Persons aggrieved by the final determination made as a result of the appeal may appeal directly and immediately to the district court without any further administrative review.

111.7(2) Monitoring and corrective action by the federal agency – The federal agency which provides federal financial assistance is responsible to monitor the acquisition of land and displacement of persons for programs and projects which are not for roads or streets to assure compliance with these rules.

111.7(3) Federal road and street projects and
111.7(4) Monitoring and corrective action by the department – The department is responsible for the acquisition of right of way on federal road and street projects. The following requires that the department monitor federal road and street projects to assure compliance with these rules:

(a) 23CFR 710.201(b) – Program oversight
(b) 23CFR 710.201(c) – Right-of-way (ROW) operations manual
(c) 23CFR 710.201(h) – Use of other public land acquisition organizations or private consultants.
(d) I.C. 310.22 Right of way – how acquired.
(e) I.C. 6B.42 Eminent domain – payment to displaced persons.

111.7(5) Prevention of fraud, waste, duplication of payments and mismanagement – I.C. subsection 316.2(3) and this subrule are intended to establish a clear distinction between land acquisition, eminent domain and relocation assistance laws to prevent fraud, waste, duplication of payments and mismanagement.

This subrule also prohibits an agency from making a payment to a person under these regulations that would duplicate another payment the person receives under federal, state, or local law. The agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the agency's knowledge at the time a payment under these rules is computed.
This rule implements I.C. sections 316.2(3), 316.9(2), 316.13 and 49CFR-24.3 and 49CFR-24.4(c).

111.9 Administration of jointly funded projects – This rule is intended to promote efficient use of agency staff resources by requiring joint project agreements that establish a cognizant agency to coordinate and acquire property in a manner which complies with these rules. Title to land is to be acquired in the name of the public authority or person functionally responsible for the improvement. This coordination is required on any joint project where there is federal financial assistance for any project activity.

The rule exercises the joint use of powers and coordination authority contained in 49CFR-24.6 and I.C. sections 316.9, 316.13, 316.14, 316.15, 6B.42, 6B.54 and subsections 316.3(2) and 316.7(5).

This rule applies to non-federal aid highway projects which are a part of a joint project with state or federal financial assistance.

Agencies other than the department must determine if these rules are to be complied with on a non-federal financially assisted local program or project.

Subpart B
Real Property Acquisition

111.101(1)(a) Applicability – Complying with the acquisition requirements of these rules will assure that the agency remains eligible for future federal financial assistance for a program or project.

This rule implements department policy to comply with the acquisition requirements of these rules on all state highway projects regardless of how the project may be funded.

111.101(1)(b) Voluntary transaction – A transaction is voluntary under this paragraph if the state agency will not acquire the property for the current project or program in the event that negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

111.101(2) Less than full fee interest in real property – A state agency may apply these rules to any other less than full fee acquisition which in its judgment should be covered.

111.102(4) Establishment and offer of just compensation – The initial offer to the property owner may not be less than the amount of the agency's approved appraisal, but may exceed that amount if the agency determines that a greater amount reflects just compensation for the property.

111.102(6) Basic negotiation procedures – It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this subrule is not intended to require such contact in all cases.

This subrule also provides that the property owner be given a reasonable opportunity to consider the displacing agency's offer and to present relevant material to the displacing agency. In order to satisfy this requirement, displacing agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can ~~be~~ reasonably be expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

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In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the displacing agencies adhere to the Uniform Act ban on coercive action (section 301(7) of 42 U.S.C 4601 et seq., the Uniform Act).

If the owner expresses intent to provide an appraisal report, displacing agencies are encouraged to provide the owner and/or his/her appraiser a copy of the displacing agency's appraisal requirements and inform them that their appraisal should be based on these requirements.

111.102(9) Administrative settlement – This subrule provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimates of value for purposes of justifying such settlements. Such action would invalidate the appraisal process.

111.102(10) Payment before taking possession – It is intended that such a right-of-entry for construction purposes be obtained only in an exceptional case, such as an emergency project when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

111.102(13) Fair rental – An agency may collect rent when a former owner or tenant occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the agency. Such rent may not exceed the fair rental to a short-term occupier.

Generally, the agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

111.103 Criteria for appraisals
111.103(1) General – The purpose of this rule is to encourage the most cost effective and efficient use of appraisal resources. The only appraisal detail or documentation required is that which is necessary either to adequately appraise the property or to protect the interests of the agency.

Requirements for federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for federal and federally-assisted programs or projects. However, displacing agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other federal eminent domain based appraisal requirements. They are also considered be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the Uniform Standards of Professional Appraisal Practice (USPAP). Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This "consistent" relationship was more formally recognized in OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of these rules. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term "scope of work" defines the general parameters of the appraisal. It reflects the needs of the displacing agency and the requirements of federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and a displacing agency official who is competent to both represent the displacing agency's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data.

111.103(3) Number of appraisals – A second appraisal is not necessarily required. This subrule includes standards to determine when a second appraisal or a detailed appraisal is necessary either to adequately appraise the property or to protect the interests of the agency.

111.103(4) Value finding appraisal – This shorter form appraisal format is all that is required for most road or street acquisitions of strips of right of way or parts of a parcel. Effective use of this shorter form appraisal format requires that the appraisal problem be defined in advance to ensure appraisers are qualified to complete the assignment as required by subrule 111.103(10).

111.103(7) Appraisal forms – The department is directed to develop appraisal forms and formats for road and street programs and projects. Existing formats include a residential appraisal report (Fanny Mae type).

111.103(8) Influence of the project on just compensation Subrule 111.2(23) defines the term "project" to mean an undertaking which is planned, designed and intended to operate as a unit.

Because of public knowledge of the proposed project, property values maybe effected. A property owner should not be penalized because of a decrease in value caused by a proposed project nor reap a windfall at public expense because of increased value created by a proposed project. This subrule implements Article 1, Section 18 of the Iowa Constitution, I.C. subsections 316.2(1) and (2) and 49CFR-24.103(b).

111.103(10)(c) Qualifications of review appraiser – An agency that does not have experienced review appraisal staff resources may use qualified employees of another agency. A consultant may be employed to provide appraisal acceptance and fair market value appraisal review determinations

provided that the agency remains responsible for making the final determination of the amount to be offered as just compensation.

111.103(10)(d) Conflict of interest - The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, this paragraph provides that the same person may both value and negotiate an acquisition, if the value is indicated by a compensation estimate of $~~10,000~~ $25,000 or less. However it should be noted that all compensation estimates must be reviewed in accordance with rule 111.102(3)(c).

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No person who functions as a negotiator for a project or program may supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent displacing agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving federal financial assistance, the federal funding agency may waive this requirement if it would create a hardship for the displacing agency. The intent is to accommodate federal-aid recipients that have a small staff where this provision would be unworkable.

It should be noted that this exception for properties valued at $~~10,000~~25,000 or less is not mandatory, e.g., displacing agencies are not required to use those who prepare a compensation estimate or appraisal of ~~$10,000~~ $25,000 or less to negotiate the acquisition.

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111.104 Review of appraisals – This rule recognizes that agencies differ in the authority delegated to the review appraiser. In some cases the review appraiser establishes the amount to be offered to the owner and in other cases the review appraiser makes a recommendation which is acted on at a higher level. It is also within agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report(s) on a property.

Before an appraisal is accepted, the review appraiser must determine that the appraiser's documentation, including valuation data and the analysis of that data, demonstrate the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the appraiser's recommended or approved value determination depend on the complexity of the appraisal problem.

111.106 Expenses incidental to transfer of title to the agency – Generally, the agency is able to pay these incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the agency's intent to make such arrangements. In addition, it is emphasized that the expenses must be reasonable and necessary.

Subpart C
General Relocation Requirements

111.204(1) General – This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, this subrule requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus the basic standard for the number of referrals required is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the displacing agency make fewer than three referrals.

111.205(3)(b)(ii) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

111.207(1) Documentation – An agency may make a payment for a low cost or uncomplicated move without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in subrule 111.301(4).

111.207(8) No waiver of relocation assistance. While subrule 111.207(8) prohibits a displacing agency from proposing or requesting that a displaced person waive his or her rights or entitlements to relocation assistance and payments, a displacing agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the displacing agency.

Subpart D
Payment for Moving and Related Expenses

111.301(5) Personal property only. Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be acquired and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the displacing agency may obtain estimates from qualified movers to use as the standard in determining the payment.

111.301(7)(n) Direct loss of personal property. If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. The allowable in-place value estimate and moving cost estimate must reflect only the "as is" condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

111.301(7)(q) Searching for a replacement location. In special cases where the displacing agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on reasonable salary or earnings, required to apply for licenses or permits, zoning changes and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to investigate and acquire the site exceed $2,500, the displacing agency may consider waiver of the cost limitation under the waiver provision. Such a waiver should be subject to the approval of the federal-funding agency in accordance with existing delegation authority.

111.302 Fixed payment for moving expenses – residential moves – The residential fixed moving payment schedule is updated periodically and published by the Federal Highway Administration based on the experiences of displacing agencies. The most recent is contained in the Department's brochure "Relocation Assistance and Advisory Services." Or, copies will be provided upon request.

111.305(4) Nonprofit organization – Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enable the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items, as well as fund-raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

Subpart E
Replacement Housing Payments

111.401(1) Eligibility – The provision in paragraph (b) for extending eligibility for a replacement housing payment beyond the one-year period for good cause means that an extension may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction of a replacement dwelling or other like circumstances should cause delays in occupying a decent, safe, and sanitary replacement dwelling.

111.401(3) Price differential – The provision in subparagraph (d)(iii) to use the current fair market value for residential use does not mean the displacing agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used.

111.401(4) Increased mortgage interest costs – The provisions in this subrule set forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the down payment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgage(s). This payment is commonly known as a buydown.

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

Sample computation

Old mortgage:	
Remaining principal balance	$50,000.00
Monthly payment (principal and interest)	$458.22
Interest rate	7%
New mortgage:	
Interest rate	10%
Points	3
Term (years)	15

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

Amount to be financed to maintain monthly payments of $458.22 at 10% is $42,010.18.

		$50,000.00
	less	42,010.18
Increased mortgage interest costs		$ 7,989.82
3 points on $42,010.18 is		1,260.31
Total buydown necessary to maintain payments at $458.22/mo.		$ 9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage ($42,010.18 in the sample computation) the buydown shall be prorated accordingly. If in the example, the displaced person chose to obtain a mortgage in the amount of $35,000 instead of $42,010.18, the buydown payment would be prorated and would be $7,706.28 (35,000 divided by 42,010.18 is 0.8331; 9,250.13 times 0.8331 is 7,706.28)

The displacing agency is obligated to inform the person of the approximate amount of this payment and that he or she must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of the computed payment. The displacee is also to be advised of the interest rate and points used to calculate the payment.

111.402 Replacement housing payment for 90-day occupants – For purposes of this rule, the term "down payment" means the down payment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the down payment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the down payment may be the amount which the displacing agency determines is necessary.

111.402(2)(b) Base monthly rental for displacement dwelling.
Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with 111.402(2). One factor in this calculation is to determine if a displaced person is "low income" as defined by the U.S. Department of Housing and Urban Development's (HUD) annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the displacing agency must:

(1) Determine the total number of members in the household (including all adults and children);
(2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: http://www.fhwa.dot.gov/reestate/ua/ualic.htm);
(3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA), or Primary Metropolitan Statistical Area (PMSA) in which the displacement property is located, and;
(4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (111.2(14)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18.

If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered "low income." For example:
Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the displacing agency is as follows:

Tom Smith, employed, earns $21,000/yr.
Mary Smith receives disability payments of $6,000/yr.
Tom Smith Jr., 21 employed, earns $10,000/ yr.
Mary Jane Smith, 17, student, has a paper route, earns $3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18).
Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is $21,000 + $6,000 + $10,000 = $37,000
The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: $47,450. (2004 income limit)
This household is considered "low income."

111.404(2) Basic rights of persons to be displaced – This subrule affirms the right of a ~~180~~90-day home owner-occupant, who is eligible for a replacement housing payment under rule 111.401, a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at subrule 111.2(21). The displacing agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the displacing agency would be required to provide to such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the displacing agency may provide additional purchase assistance or rental assistance.

111.404(3) Methods of providing comparable replacement housing – The use of cost-effective means of providing comparable replacement housing is implied throughout the subpart. The term "reasonable cost" is used here to emphasize the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

111.404(3)(b) Special methods – The use of last resort housing may involve variations from the usual methods of obtaining comparability in special cases. However, it should be noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

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

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

Subpart F
Mobile Homes

111.503 Replacement housing payment for ~~180~~90-day mobile home owner-occupants – A ~~180~~90-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under rule 111.401 and a replacement housing payment for a site computed under rule 111.402. A ~~180~~90-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under rule 111.401 to assist in the purchase of a replacement site or, under rule 111.402 to assist in renting a replacement site.