

administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public Agencies.

**Section 24.305(e) Average annual net earnings.** If the average annual net earnings of the displaced business, farm, or non-profit organization are determined to be less than \$1,000, even \$0 or a negative amount, the minimum payment of \$1,000 shall be provided.

**Section 24.306 Discretionary Utility Relocation Payments.**

Section 24.306(c) describes the issues that the Agency and the utility facility owner must agree to in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

### Subpart E—Replacement Housing Payments

**Section 24.401 Replacement Housing Payment for 180-day Homeowner-Occupants.**

**Section 24.401(a)(2).** An extension of eligibility 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, or physical modifications required for reasonable accommodation of a replacement dwelling, or other like circumstances causes a delay in occupying a decent, safe, and sanitary replacement dwelling.

**Section 24.401(c)(2)(iii) Price differential.** The provision in § 24.401(c)(2)(iii) to use the current market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the market value may be used.

**Section 24.401(d) Increased mortgage interest costs.** The provision in § 24.401(d) sets forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

The Agency must know 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 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

<b>Old Mortgage:</b>	
Remaining Principal Balance	\$50,000
Monthly Payment (principal and interest) .....	458.22
Interest rate (percent) .....	7
<b>New Mortgage:</b>	
Interest rate (percent) .....	10
Points .....	3
Term (years) .....	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee.) However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.  
Amount to be financed to maintain monthly payments of \$458.22 at 10%—\$42,010.18

<b>Calculation:</b>	
Remaining Principal Balance .....	\$50,000.00
Minus Monthly Payment (principal and interest) ...	– 42,010.18
Increased mortgage interest costs .....	7,989.82
3 points on \$42,010.18 .....	1,260.31
Total buydown necessary to maintain payments at \$458.22/month .....	9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were \$35,000, the buydown payment would be \$7,706.57 (\$35,000 / by \$42,010.18 = .8331; \$9,250.13 × .83 = \$7,706.57).

The Agency is obligated to inform the displaced person of the approximate amount of this payment and that the displaced person 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 this payment. The Agency must advise the displaced person of the interest rate and points used to calculate the payment.

**Section 24.402 Replacement Housing Payment for 90-day Occupants.**

The down payment assistance provisions in § 24.402(c) limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering down payment assistance that exceeds the computed rental assistance payment, up to the \$5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy that affords equal treatment for displaced persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For the purpose of this section, should the amount of the rent supplement exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

**Section 24.403 Additional Rules Governing Replacement Housing.**

**Section 24.403(a) Determining Cost of Comparable Replacement Dwelling.** The payment for increased real estate taxes, if any, for displaced 180-day owner occupants displaced as a result of a Federal or federally-funded project, would be based on the difference between the monthly real estate tax on the acquired dwelling, and the monthly real estate tax on the replacement dwelling at the time of purchase, but not to exceed the real estate tax on a comparable replacement dwelling.

The increase dollar amount, if any, would be provided for a 24 month period. If the displaced person elects to purchase a replacement dwelling whose real estate tax exceeds that of the comparable dwelling, the increased tax payment would be limited to the increased monthly tax on the comparable replacement dwelling at the time of purchase for 24 months. Should the displaced person elect to purchase a replacement dwelling for less than the cost of a comparable replacement dwelling, the increased tax calculation would be based on the 24 month increase, if any, in the tax cost of the acquired dwelling and that of the replacement dwelling at the time of purchase.

**24.404 Replacement Housing of Last Resort.**

**Section 24.404(b) Basic rights of persons to be displaced.** This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under § 24.401, to 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 § 24.2(a)(21). The 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 Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

**Section 24.404(c) Methods of providing comparable replacement housing.** This Subpart emphasizes the use of cost effective means of providing comparable replacement housing. The term "reasonable cost" is used to highlight the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, 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.