



CHAPTER SIX
RELOCATION

MAINE RIGHT OF WAY MANUAL

December 2015

2014

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CHAPTER SIX

RELOCATION

6-1 GENERAL INFORMATION

6-1.01 Introduction

On occasion, the acquisition of property for a highway on new location, or to expand an existing facility, causes the displacement of residences, businesses or farms. MaineDOT implements a comprehensive program of services and benefits to insure, to the maximum possible extent, the timely and successful relocation of residential displacees and the reestablishment of businesses in new locations. These benefits are defined in Federal law and Maine Statutes and provide assistance in addition to the just compensation paid for acquired property that is required under the U.S. Constitution's 5th Amendment.

The Department's relocation program carries out provisions of the ***Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*** (as amended in 1987). This is known as the ***Uniform Act***. The MaineDOT program also complies with 23 ***MRSA*** Sections 241 through 247. The provisions of this Chapter conform to Federal regulations implementing the ***Uniform Act*** found at 49 ***CFR*** 24.

The instructions in this Chapter will guide the administration of the relocation program in a manner that is equitable, consistent and cost effective. The objective is to insure that displaced persons and households will not suffer disproportionately as a result of MaineDOT's capital improvement program. Effective relocation program services will also encourage and expedite acquisition by agreement, minimize litigation, promote public confidence and insure that the policies are implemented in an efficient and cost-effective manner.

6-1.02 Applicability of Relocation Program Benefits

The provisions of this Chapter are applicable to any person who is displaced as a result of a program or project with Federal or State of Maine funding in any phase of the project cost. State or Federal funds need not participate in the costs associated with the payment for the property to create eligibility.

Property acquired by any State agency, county, town, or local government as a contribution to an MaineDOT-funded project will not be accepted unless all of the payments have been made and all of the assistance and assurance as required by this Chapter are provided.

Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by this Chapter, the Uniform Act, 49 CFR 24 and Maine Statute.

6-1.03 Overview of the Relocation Program

The relocation of residents who have been displaced for highway acquisition is a needs-oriented program. The program benefits achieve a replacement housing standard that is at least comparable to the housing before displacement, but that also meets needs-based criteria of cost, income and housing quality. This is in contrast to the property acquisition process, which is based on the market value of what is acquired, without regard to the financial circumstances of the owner.

The following are key provisions and assurances of MaineDOT's relocation program:

1. MaineDOT will not require any person to move until at least 1 replacement that is within the financial means of the displaced household dwelling is available for purchase or lease. The replacement must also meet specific qualitative standards of decent, safe and sanitary (DS&S) housing explained in Section 6-1.06.
2. Persons required to relocate will be provided with 90-days advance written notice of the date they are required to vacate.
3. MaineDOT will provide displaced persons with advisory assistance to help them locate a replacement and adjust to the move.
4. MaineDOT will provide payments for increased cost of comparable replacement housing and reimburse for moving costs.
5. Persons who disagree with determinations of eligibility or relocation payment amounts have the opportunity to be heard in an administrative appeal process.

6-1.04 Eligibility for Relocation Benefits

The milestone for determining that a move (displacement) is a direct result of the Department's acquisition is the initiation of negotiations for the parcel. Only displaced persons are eligible to receive relocation program benefits. A displaced person is defined as: Any person who moves from real property, or moves personal property from real property, as a direct result of the acquisition of that real property in whole or in part for a program or project undertaken by the Department. Persons who move as a result of a written notice of the Department's intent to acquire the property are also considered displaced persons.

All occupants on a property at the date that MaineDOT presents a written offer to purchase the property are eligible for relocation benefits, subject to the restrictions identified below.

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The Department may advance the date of eligibility for benefits to alleviate a hardship. This is done by issuing a letter of intent to acquire the property. See Section 6-4.03 for further information on this provision.

Displaced business or farm owners may need to relocate from adjacent property that is not acquired. An example would be MaineDOT acquisition of property containing a factory. A warehouse used to store raw material and finished product is on adjacent property that is not acquired. Reimbursement for moving costs would extend to the warehouse as well as the factory, because the facilities are dependent on each other, and the displacement of the factory causes relocation of the warehouse. The decision to approve relocation from property not acquired is based on the circumstances of each case. The key criteria are that there be a unity of use between the property acquired by MaineDOT and the facility off the right of way, and the acquisition causes the need to relocate from both.

A person who occupies real property prior to its acquisition, but who does not meet the length of occupancy requirements in Sections 6-7 and 6-8, is a displaced person and is still eligible for some relocation benefits.

The following is a listing of persons who do not qualify as displaced persons:

1. A person who moves before the initiation of negotiations, unless the Department determines that the person was displaced as a direct result of the project by issuance of a letter of intent to acquire;
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 the project. If a tenant-occupant is not displaced but will be required to move temporarily in connection with the project, the temporary housing must be DS&S. The tenant will be reimbursed for all move expenses and increased housing costs during the temporary relocation;
5. An owner occupant who voluntarily sells property to MaineDOT after being advised in writing that MaineDOT will not acquire by condemnation if the property can not be purchased by amicable agreement. This provision of 49 **CFR** 24.101(a)(1) is only applicable if MaineDOT is purchasing property for purposes other than highway right of way. This may include purchase of property for housing of last resort;

6. A person who MaineDOT 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 would not be displaced for a project. This notification will only be issued in a case where a person has not moved. MaineDOT will reimburse expenses incurred to satisfy any binding contractual obligations entered into after the effective date of the notice of relocation eligibility;
8. An owner-occupant who voluntarily sells his or her property, after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached; the Department will not acquire the property. In these cases, however, any resulting displacement of a tenant is subject to the regulations in this part;
9. A person who retains the right of use and occupancy of the real property for life following its acquisition by the Department;
10. A person who is determined to be in unlawful occupancy or a person who has been evicted for cause, under applicable law, prior to the initiation of negotiations; and
11. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation benefits as provided in 49 **CFR** 208. Also, see Section 6-1.10.

6-1.05 No Waiver of Relocation Assistance of Benefits.

Neither the MaineDOT, nor a local agency functioning under these guidelines, may propose or request that a displaced person waive his or her rights to relocation assistance or benefits. All displacees are entitled to a clear explanation of the benefits available to them and will not be pressured into foregoing these benefits.

6-1.06 Relocation Program Definitions

The following definitions are used in the relocation program:

1. **Acquisition Date:** The date the Department obtains title to the real property.
2. **Adequate Replacement Housing:** A dwelling that meets the criteria for comparable replacement housing except that it is not functionally equivalent to the displacement dwelling.
3. **Business:** Any lawful activity, except a farm operation, see definition of farm, that is conducted primarily:
 - a. For the purchase, sale, lease and rental of personal and real property;
 - b. For the manufacture, processing or marketing of products, commodities or any other personal property;

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- c. For the sale of services to the public;
 - d. For outdoor advertising display purposes, when the display must be moved as a result of the project; or
 - e. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.
4. **Comparable Replacement Dwelling:** A dwelling that is:
- a. Decent, safe and sanitary as described in Section 6-1.07 of this Chapter;
 - b. Functionally equivalent to the displacement dwelling. The term “functionally equivalent” means that it performs the same function provides the same utility. Although 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 Department may consider reasonable tradeoffs for specific features when the replacement unit is “equal to or better than” the displacement dwelling.
 - c. Adequate in size to accommodate the occupants;
 - d. In an area that is not subject to unreasonable adverse environmental conditions;
 - e. In a location that is generally not 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;
 - f. 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. (See also definition 8. Dwelling Site);
 - g. Currently available to the displaced person on the market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance;

- h. Within the financial means of the displaced person. (See also definition 12. Financial Means); **and**
 - i. 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 shall apply. (24.2(a)(6)(ix).
- 5. **Department.** The State of Maine acting through the Maine Department of Transportation (MaineDOT).
- 6. **Displacee.** Any person who meets the definition of a displaced person.
- 7. **Dwelling:** The place of permanent or customary and usual residence of a person, according to local custom or law. This may include a single-family house; a single-family unit in 2-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.
- 8. **Dwelling_Site** **The** term dwelling site means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area.
- 9. **Family.** Two or more individuals living together in a single-family dwelling unit. They may be related by blood, adoption, marriage or legal guardianship, or not be related by blood or legal ties but live together by mutual consent.
- 10. **Farm_Operation.** Any activity that is conducted solely or primarily for the production of 1 or more agricultural products or commodities, including timber, for sale or home use and is customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.
- 11. **Federal_Financial_Assistance.** A grant, loan or contribution that is provided by the United States, except any Federal guarantee or insurance and any interest reduction payment, to an individual in connection with the purchase and occupancy of a residence by the individual.
- 12. **Within the Financial_Means of a Displaced Person:**
 - a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days before 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 eligible incidental expenses that are described in Sections 6-7.03, 6-7.04 and 6.7.06, plus any additional amounts that are required to be paid in Section 6-10 Replacement Housing of Last Resort

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- b. A replacement dwelling rented by an eligible displaced person is within the displacee's financial means if, after receiving rental assistance under Section 6-8.02, 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 as defined in section 6-8.02(b).
 - c. For a displaced person who is not eligible to receive a replacement housing payment because the person does not meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if MaineDOT pays that portion of the monthly housing costs of a replacement dwelling that exceeds the person's base monthly rental for the displacement dwelling as defined in section 6-8.02(b) 2 or 3. Such rental assistance will be paid under replacement housing of last resort.
13. **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. 24.2(a)(15)
14. **Initial Occupant.** Any person who is in occupancy of real property at the initiation of negotiations for the acquisition of the property. Also, it includes a person who has been given a written notice of the Department's intent to acquire the real property by a given date. In each case, the property must be subsequently acquired, with the person moving, or moving personal property, from the real property after having established eligibility as a displaced person.
15. **Initiation_of_Negotiations_for_the_Parcel.** The date the Department initially presents the owner or representative with the written offer for acquisition of the property.
16. **Last Resort Housing Project.** A project that is authorized for the construction, purchase and/or rehabilitation of dwellings as replacement housing units for highway displacees.
17. **Mobile Home:** The term *mobile home* includes manufactured homes and recreational vehicles used as residences. A recreational vehicle may be considered a replacement dwelling if: (a) it is purchased and occupied as the primary place of residence; (b) it is located on a purchased or leased site and is connected to or has available all necessary utilities for functioning as a housing unit on the date of

- inspection by the acquiring agency; (c) it meets all local, State and Federal requirements for a decent safe and sanitary dwelling.
18. **Mortgage.** A lien to secure advances on, or the unpaid purchase price of real property, under the laws of Maine, together with the credit instruments, if any, secured thereby.
19. **Nonprofit Organization.** An organization that is recognized under Maine law as a nonprofit organization and so is exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (28 **USC** 501).
20. **Owner.** A person who purchases or holds any of the following interests in real property:
- a. Fee title, a life estate, a 99-year lease, or a lease including any option for extension with at least 50 years to run from the date of acquisition;
 - b. An interest in a cooperative housing project that includes the right to occupy a dwelling;
 - c. Purchaser of installment purchase contract, or bond for deed, by which title passes to the buyer on completion of payments; and
 - d. Any other interest, including a partial interest that in the judgment of the department warrants consideration as ownership.
21. **Person.** A partnership, company, corporation or association as well as an individual or family.
22. **Rent Supplement.** The amount in addition to present rent that is necessary to enable a displaced person to lease or rent a comparable replacement dwelling.
23. **Replacement Housing Payment.** The amount, when added to the amount MaineDOT pays for the displacement dwelling, will enable the owner displacee to purchase a comparable replacement dwelling.
24. **Small Business.** A business having 500 or fewer employees working at the site that is being acquired or being permanently displaced by a program project. The site must be the location of economic activity. Sites occupied solely by outdoor advertising signs or devices do not qualify as businesses for purposes of reestablishment expenses.
25. **Tenant.** An individual or family who rents, or is temporarily in lawful possession of, a dwelling unit, including a sleeping room.

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26. **Utility Costs.** The term *utility costs* means expenses for **electricity, gas, other heating and cooking fuels**, water and sewer.
27. **90-Day Owner.** An initial occupant who has owned and occupied the dwelling from which he or she is being displaced for less than 180 days, but not less than 90 consecutive days immediately prior to the initiation of negotiations.
28. **180-Day Owner.** An initial occupant who has owned and occupied the dwelling from which he or she is being displaced for at least 180 consecutive days immediately prior to the initiation of negotiations.

6-1.07 Standards for Decent, Safe and Sanitary Housing

Decent, Safe and Sanitary (DS&S) is the term used to indicate basic health and safety standards that are applicable in referring replacement housing to displacees. Also, residential displacees must occupy DS&S replacement housing to qualify for Rent Supplement or owner RHP. It is important that this key term is understood in order to apply it accurately and consistently.

The term “DS&S dwelling” means a dwelling that meets applicable local housing occupancy codes. The following are minimum criteria if any of the following standards are not exceeded by the local code. The dwelling shall:

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 that is capable of sustaining a healthful temperature (approximately 70°f) for a displaced person;
4. Be adequate in size with respect to the number of rooms and living space needed to accommodate the displaced person. Have an adequate number of rooms to provide separate bedrooms for children of the opposite gender and meet the requirements of local codes.
5. 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 to a sewerage disposal system;
6. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink properly connected to potable hot and cold water that is properly

- connected to a sewage drainage system and adequate space and utility service connections for a stove and refrigerator;
7. Contain unobstructed egress to safe, open space at ground level. 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 2 means of egress;
 8. For a displaced person who is disabled, be free of barriers to accommodate reasonable ingress, egress or use of the dwelling by such displaced person. This includes doors of adequate width, ramps, or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks. Maine DOT will consider other items that may be necessary, including physical modifications, based on the displaced person's needs.

6-1.08 Relocation Records and Files and Reports

Complete and accurate records are essential to a successful relocation program. They are important in computing relocation payments, providing advisory services, issuing required notices and supporting audit reviews and claims for Federal reimbursement. Records should be developed concurrently to the activity being recorded. They should be maintained in a well-organized manner on a parcel basis.

Relocation records may contain personal and financial information that must be kept confidential. Therefore, store relocation records and files in a locked facility when not in personal control of the Agent responsible for the case. Do not share information from files with any other person, including other MaineDOT employees, except by authorization by management. Refer public or media requests for records to MaineDOT's Chief Legal Counsel. The relocation records on federally assisted projects will be available for inspection by representatives of the Federal Highway Administration. Persons who are appealing a MaineDOT relocation action will be provided reasonable access to the records that pertain to their claim.

The MaineDOT standard relocation forms, plus all memoranda and correspondence concerning the relocation claim, comprise the official file. Extraneous papers should not be kept in the official file. Original signed documents, not copies, should be retained in the record file. Relocation records will be controlled and retained as provided in Administrative Policy Memorandum No. 121 revised, dated February 7, 2001.

MaineDOT provides a yearly statistical report of relocation and real property acquisition to the Federal Highway Administration. The format for this report is in the Federal regulation at 49 **CFR** 24, Appendix B.

6-1.09 Civil Rights

The **Maine Human Rights Act** declares it unlawful to discriminate against any person for reason of race, color, sex, physical or mental disability, religion, ancestry or natural origin.

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Further, Title VI of the ***Civil Rights Act of 1964*** states that “No person...shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Any complaint or inquiry of discrimination in the administration of MaineDOT’s relocation program should be brought to management attention by whoever receives it. MaineDOT will review the matter and attempt to resolve the issue amicably. If resolution is not achieved in this manner, MaineDOT will request review by the Maine Human Rights Commission. MaineDOT staff will cooperate fully in any review.

In administering the relocation program, MaineDOT commits to comply with other Federal laws and Executive Orders. These are listed at 49 **CFR** 24.8.

6-1.10 Assurances and Certifications

MaineDOT has provided assurances to the Federal Highway Administration that is required by Sections 210 and 305 of the ***Uniform Act***. These affirm MaineDOT’s commitment to comply with provisions of the ***Uniform Act*** and Federal implementing regulations at 49 **CFR** 24 and 23 **CFR** 710. The assurances of compliance also apply to any local government that acquires property and displaces persons for projects that are reimbursed with State or Federal funds.

6-1.11 Persons Not Legally Present in the United States

The ***Uniform Act*** prohibits relocation payments or relocation advisory assistance to persons who are not legally present in the United States. Each person submitting a relocation claim will be required as a condition of eligibility to certify status as either a citizen or national of the United States or an alien who is lawfully present in the United States. An exception to the denial of benefits is permitted if MaineDOT determines that the denial would result in exceptional and extremely unusual hardship to the person’s spouse, parent or child who is a citizen or an alien in legal residence in the United States.

The circumstances involving persons who are not legally present can be complex, and MaineDOT is committed to implementing provisions in a fair and nondiscriminatory manner. Any situation or issue involving persons not legally present in the United States should promptly be brought to the attention of the Property Office for review and determination. See Section 6-7.02(d) for further guidance concerning this topic.

6-1.12 Multiple Occupants of a Displacement Dwelling

If 2 or more occupants of a displacement dwelling move to separate replacement dwellings, each occupant are entitled to a reasonable prorated share, determined by MaineDOT, of any relocation payments that would have been made if the occupants had moved together to a

comparable replacement dwelling. However, if MaineDOT determines that the occupants maintain separate households within the same dwelling, the occupants will have separate and independent eligibility for relocation benefits.

6-1.13 Process for Payment of Claims

The process for payment of claims for relocation benefits requires diligence and attention to detail. Each displacee may be eligible for 2 to 6 separate benefit amounts, and each may have different eligibility or qualification criteria. The claims may be processed at different times in the relocation process. Reimbursable costs must be confirmed as actual, reasonable and necessary. Claims must be paid and delivered in a timely manner to insure that displacees have the means to purchase or rent replacement housing and pay for moving costs.

MaineDOT shall endeavor to make expeditious payment to displacees. If additional documentation is required to support a claim, the displacee is advised promptly and advised specifically what is required.

The following provides guidance on the critical elements for processing claims:

1. Tenant displacees must file claims for payment within 18 months after the date of displacement.
2. Owner-occupant displacees must file claims within 18 months after the later of the date of displacement or the final payment for acquisition of the property.
3. MaineDOT, at its discretion, may make advance payment to displacees to alleviate hardship circumstances that would prevent a timely move. Adequate measures will be taken to insure that the funds are applied to the intended purpose.
4. MaineDOT, at its discretion, may deduct any rent that a displacee owes the State for relocation claims. However, no deduction will be made if this would prevent the displacee from obtaining a comparable replacement dwelling. No deduction will be made from any relocation claim to satisfy an obligation to any other creditor unless so ordered by a court.
5. MaineDOT will promptly notify a displacee in writing if part or all of a claim is disapproved. The notification will provide the basis for the determination and the procedure for appeal.
6. The Relocation Agent will provide reasonable assistance to a displacee if it is necessary to complete and file any required claim for payment.
7. A person will not receive a relocation payment if it duplicates a payment under the Federal, State or local law that MaineDOT determines has the same purpose and effect as a payment under this Chapter.

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8. If a displacee has moving costs paid by an employer, the displacee would not be eligible for duplicate moving costs paid by MaineDOT.
9. Any lawful occupant evicted for cause on or after the initiation of negotiations will retain the right to relocation payments and other assistance unless MaineDOT determines otherwise.

6-1.14 Quality Assurance

Quality assurance in relocation is an inclusive process of evaluating performance and developing ways to continuously improve the accomplishment of program goals. Quality assurance is a shared responsibility of all persons involved in the relocation function.

Quality in the relocation function includes the following elements:

1. Effective coordination with project team members responsible for other project development activities;
2. Timely and relevant assistance provided to displacees, with special focus on those having special needs, including the elderly and disabled;
3. Assessment of relocation-related needs of relocation personnel (e.g., training, equipment);
4. Identification of critical path tasks involving relocation, including prioritizing so that more time is available to those having more serious relocation problems;
5. Evaluation of consultant staff who are employed by the department to perform relocation services;
6. Participation in process and performance evaluations, including 360-degree evaluations; and
7. Participation in the continuous refinement of relocation practice and policy to reflect best practices in the field of work.

Quality assurance is a focus on achieving improvement in the performance of the relocation function using tools of policy, training, evaluation and communications. MaineDOT's continuing refinement of quality assurance includes the development of performance criteria and evaluation methods to establish goals and measure progress in meeting goals.

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6-2 RELOCATION PLANNING

6-2.01 General

The primary goal of MaineDOT's relocation program is the timely and orderly relocation of persons who are displaced by a project. This requires obtaining detailed knowledge of the needs and intentions of displacees. It also requires securing information on available replacement housing and sites for displaced businesses. Relocation planning is a process of obtaining and evaluating information on displacee needs and the recourses required to meet those needs.

All projects involving displacements require relocation planning to be undertaken as a formal process in order to:

1. Insure that sufficient replacement housing will be available;
2. Identify displacees who have special needs (e.g., elderly, disabled, low-income individuals);
3. Determine the need for special relocation services (e.g., language interpretation, transportation to view potential replacement housing);
4. Determine the time required to complete relocation on the project; and
5. Determine relocation staffing, or whether a project office is needed to serve displacees.

Most MaineDOT projects involve 1 or a few displacements and do not require preparation of a formal relocation plan. However, the process of defining needs and resources discussed in this Section should meet the minimum criteria as determined by the Department for projects having a low scale of displacement.

Relocation planning is only effective if it is performed early in the project development process. This is necessary so that methods and strategies can be developed to alleviate any problems that are identified before displacement occurs. For instance, if last resort housing is needed, it will require additional time to plan and provide the housing; see Section 6-10. Similarly, large families or low-income households may require additional time to find housing or may need intensive relocation services from MaineDOT.

6-2.02 Conceptual Stage Relocation Planning

Relocation planning should begin as soon as displacees are identified on a project location. This is known as the conceptual stage. At this stage, there may be more than 1 alignment

under consideration. Sufficient information is developed at this stage to provide a cost estimate for relocation and to identify the number and type of dwellings and businesses that will be affected. Neighborhood and displacee characteristics are described as can be determined from visual inspections and secondary sources (e.g., newspaper reports, leaders of community organizations).

The information and conclusions developed in conceptual stage planning will be used in the environmental impact statement or the environmental assessment if these documents are required. They will also be used in the public hearings and meetings conducted for the project.

Consider the following elements when developing a conceptual stage relocation plan:

1. An estimate of households to be displaced, including the family characteristics (e.g., minorities, approximate income levels, tenure, elderly, large families);
2. Any divisive or disruptive effect on the community (e.g., the separation of residences from community facilities, separation of neighborhoods);
3. Impact of the displacement on housing availability where relocation is likely to take place;
4. The number of businesses, nonprofit organizations and farms that would be acquired and the estimated number of employees affected;
5. An assessment of the effect the nonresidential displacements will have on the economy and stability of the community;
6. A list of businesses being displaced that will require advance coordination and planning so they can be contacted and advised of the studies being made by MaineDOT and of the opportunities for their input through public hearings and meetings;
7. A description of available housing in the area that is appropriate to provide housing for the types of families to be displaced. Contact may be made with local real estate firms, listing services, newspapers, housing agencies, local community organizations, etc.;
8. A description of special relocation advisory services that may be necessary for identified unusual conditions (e.g., a concentration of elderly displacees);
9. A description of the actions that may be needed to remedy insufficient relocation housing, including, if necessary, housing of last resort;
10. Outcome of consultation with local officials, service agencies and community groups regarding the impact on the community affected; and

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11. An estimate of relocation costs, separated as follows:
 - a. Cost of moving personal property for residential units, businesses, farm operations and nonprofit organizations;
 - b. Cost of replacement housing payments (rhps) for displaced individuals and families, including typical mortgage interest differentials and closing costs incident to the purchase of replacement facilities;
 - c. Cost potentially incurred by businesses, farms and nonprofit organizations in searching for replacement facilities; and
 - d. Reestablishment costs for small businesses, farms and nonprofit organizations.

Use MaineDOT Forms RA-1, RA-2, RA-3, RA-4, RA-5, RA-6, RA-7 and RA-10 to record conceptual stage data. A narrative report may be prepared to summarize data and conclusions. The Relocation Agent will forward the planning documents to the Relocation Manager who will review and forward Form RA-10 and comments to the Chief Property Officer and Project Manager.

6-2.03 Relocation at Right of Way Stage

The right of way stage begins when a location for the project is approved. At this point, the displacements on the project are identified. Relocation planning at this stage identifies the housing needs, desires and intentions of displaced persons, and develops priorities and strategies for meeting relocation needs. If the project has significant relocation, the Department will prepare a formal relocation plan before starting negotiations to acquire property on the project.

A Relocation Agent will be assigned to conduct interviews with displaced households and business operators and examine the real estate market for properties of the type and cost (rent or purchase) that will meet displacement needs.

The relocation planning activity will be scoped to fit the anticipated complexity and nature of the displacement. Whether or not the relocation plan is a formal report, the Relocation Agent will conduct and document the following activities to the extent applicable:

1. Personally interview each household. Information secured will include household composition (e.g., gender, age, and family status), dwelling characteristics, gross family income, employment location, housing cost (e.g., rent, mortgage facts, utilities), desires and intentions for replacement housing, and concerns relating to age and/or disability. For Residential displacements use Form RA-1_____.

2. Conduct a personal interview with the principal owner of each displaced business. At a minimum these interviews should include the following items:
 - a. The business's replacement site requirements, current lease terms, other contractual obligations, and the financial capacity of the business to accomplish the move.
 - b. Determine of the need for outside specialists in accordance with Section 24.301(g)(12) who will be required to assist in planning the move, assist in the actual move and reinstall machinery and other personal property.
 - c. Identify and resolve any issues of personal property vs. realty prior to commencing the appraisal.
 - d. Estimate the time required for the business to vacate the site.
 - e. Estimate the difficulty in locating a suitable replacement property and estimate the number of suitable business sites available.
 - f. Identify the need for any advance relocation payments required to support the move and determine the MaineDOT's capacity to provide them. For business displacements use Form RA-12_____.
3. Provide a copy of the MaineDOT relocation brochure and discuss points in the brochure that are relevant to the circumstances of the household or business. This serves as the General Information Notice that is required to be provided to each potential displacee. See Section 6-4.01.
4. Prepare an inventory of the characteristics and needs of individuals and families to be displaced based on the standard of comparable replacement housing. Use Form RA-11. Also, inventory the businesses, farm operations, nonprofit organizations and personal property to be displaced, recording data on Forms RA-12 and RA-13 and summarizing all data on Form RA-2.
5. Develop an estimate of currently available comparable replacement housing. Include the type of buildings, number of rooms and adequacy of housing as related to the needs of the persons or families to be relocated. Address the type of neighborhood, proximity of public transportation and commercial shopping areas, and distance to any pertinent social institutions (e.g., church, community facilities). This estimate should be developed to the extent necessary to determine whether relocation resources are sufficient to meet displacement needs. Use Forms RA-3, RA-4, RA-6 and RA-15.
6. Prepare an analysis and correlation of replacement housing needs and resources using Form RA-8.
7. Outline the special relocation problems and challenges, particularly relating to income, disability, age and house characteristics needed. Evaluate the possible need for last resort housing.
8. Identify Federal, State and community programs that are active in the project area and discuss contacts with organizations that may be beneficial to project displacees.

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9. Identify economic activity or public or private projects in the area that may affect the supply and demand for housing or cause concurrent displacement. Evaluate the effects on project relocation.
10. Estimate the lead-time and staffing required to perform efficient delivery of relocation benefits and carry out a timely, orderly and humane relocation program.
11. Develop an updated relocation cost estimate using Form RA-10.
12. Assess the need for a field office. Consider the number of displacees served, the relocation problems that will be encountered, and the capacity to provide services from a Division Office.
13. Summarize the information above, providing conclusions and recommendations for consideration of MaineDOT management.

The completed relocation plan will be routed to the Relocation Manager. The Program Manager or the Director, Bureau of Project Development will approve special services or resources needed to perform relocation as recommended in the plan.

6-2.04 Last Resort Housing Plan

If housing of last resort is determined necessary to provide comparable housing within displacees' financial means, a report will be developed that evaluates options and methods of providing housing. The assigned Relocation Agent will prepare the report at the earliest time that the need is identified and refine it as the case proceeds. The scope of the report will relate to the complexity of the relocation problem and the options available for consideration. See Section 6-10 for further discussion of last resort housing.

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6-3 RELOCATION ADVISORY SERVICES

6-3.01 Purpose

Relocation advisory services are the elements of direct personal assistance that are provided to displacees to assist them in locating comparable replacement housing or replacement sites for businesses. In addition, advisory services are the means to provide information to displacees on program benefits, and assist them in completing claims and provide help in adjusting to relocation. This Section provides guidance in determining the scope and level of services to be provided and in planning and delivering these services to displacees.

The Department performs relocation assistance advisory service that insures that displaced persons will receive services relevant to their needs and are delivered without regard to race, color, religion, sex or national origin. The services are intended to assist each displacee to relocate to Decent, Safe and Sanitary (DS&S) housing that meet the displacee's specific needs. The services are provided by personal contact. If personal contact cannot be made, the assigned Agent will record the efforts made to make personal contact and offer services.

6-3.02 Eligibility for Advisory Services

Relocation assistance advisory services will be offered to the following persons:

1. Displaced persons as defined in Section 6-1.04;
2. Any person occupying property that is adjacent to the real property acquired, when the Senior Property Officer determines that a substantial economic injury to that person will result from the acquisition;
3. Any person who, because of the acquisition of real property used for his or her business or farm operation, moved from other real property used for a dwelling or moves his personal property from such other real property; and
4. Any person who occupies property after acquisition by MaineDOT on a short-term basis subject to termination when the property is needed for the project (23 **MRSA** 243-4).

6-3.03 Advisory Service Requirements

The Department's relocation assistance advisory services program includes the following measures, facilities and services that are provided consistent with each displacee's needs and circumstances as determined in the relocation planning phase:

1. Determine the relocation needs, preferences and intentions of each person to be displaced; see Section 6-2.03.
2. Explain the relocation eligibility requirements that pertain to benefits that are applicable to the class of displacement. Advise displacees that payments are not considered income for tax purposes.
3. Provide current and continuing information on the availability, purchase prices and rental costs of comparable replacement dwellings. Explain that no one can be required to move unless comparable replacement dwelling is available.
4. Inform the person of the specific comparable replacement dwelling and the price or rent used as the basis for establishing the upper limit of relocation payments. The basis for the determination should be explained.
5. Provide reasonable opportunity to minority persons to relocate to DS&S replacement dwellings that are not located in areas of minority concentration and that are within their financial means. However, the Department will not provide a higher payment than is otherwise needed to enable a person to relocate to a comparable replacement dwelling.
6. Offer all displacees, especially the elderly and disabled, transportation to assist in finding replacement housing. Transportation options can include cab or bus fare, providing rides in a state owned or personally owned vehicle, or reimbursing a displacee friend or relative on a per mile basis. Reimbursement rates will be at the state mileage rate.
7. Provide current and continuing information on the availability, purchase prices and rental costs of suitable commercial properties and locations for businesses.
8. Assist any person who is displaced from a business or farm operation to obtain and become established in a suitable replacement location.
9. Minimize hardships to persons adjusting to relocation by providing counseling and advice as to other sources of assistance that may be available. Provide other help as may be appropriate.
10. Where feasible, inspect housing before referring it to the displacee to insure that it meets applicable standards.
11. Provide persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loans and other similar programs administered by Federal, State and local agencies. Agencies that can be contacted include social welfare agencies, urban renewal agencies, redevelopment authorities, and public housing authorities, the Department of Housing and Urban Development, the Veterans Administration and the Small Business Administration.

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12. Advise any individuals that may be eligible for government housing assistance at the replacement dwelling that such assistance could limit the size of the replacement dwelling. Also advise the displacee relative to the long term nature of a rent subsidy, vs. the limited 42 month duration of the relocation assistance rental payment.
13. Maintain contact with local information sources on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors.

Advisory services will be offered on a basis commensurate with the displacee's needs. This may require only minimum assistance when displacees are well informed and mentally, physically and financially able to manage their displacement, and neither need nor desire MaineDOT's assistance. A much greater degree and intensity of services and assistance will be provided to those who are elderly, infirm, immobile or otherwise unable to cope with their displacement or economic problems.

The Relocation Agent must offer assistance to every displacee. The displacee may specifically state that there is no need for assistance, other than providing payment offers and processing claims. Even then, the Agent must make a subjective judgment as to the ability of the displacee to competently locate, acquire and occupy a DS&S replacement dwelling. If the Relocation Agent does not feel that the displacee possesses the ability to relocate without help, the Agent should make efforts to furnish assistance or refer other service providers having specialized knowledge, skills and programs.

6-3.04 Relocation Payments Not Considered as Income

Each displacee who is eligible for a relocation payment of any kind will be advised that relocation payments are not considered as income for purpose of the Internal Revenue Code of 1954 as amended (redesignated as Internal Revenue Code of 1986). Also, relocation payments are not to be considered for the purpose of determining eligibility of any person for assistance under the *Social Security Act* or any other Federal law, except for any Federal law providing low-income housing assistance. Displacees will be provided reference to 49 *CFR* 24.209, which contains these provisions.

Payments of relocation benefits are shall not be considered to constitute Federal financial assistance. Accordingly, payment of relocation benefits that involve construction of a new home or business will not trigger NEPA or other actions because federal funds are used in the effort.

6-3.05 Local Relocation Office

The volume of relocation, the needs of the displaced persons, or a remote project location may prevent effective delivery of services provided from a Region Office. In this case, a project relocation office will be established. The office should consider transportation options available to displacees and be convenient and accessible to the displacees served by the office. The determination whether or not to establish a local relocation office will be made on a project-by-project basis. The project office will be open during hours convenient to the persons served, including evening hours when necessary. Consideration should be given to the employment of people in the local relocation office who are familiar with the conditions of the area.

6-3.06 Information Maintained on a Project Basis

The following information will be maintained and/or provided for the displacees of each project when appropriate:

1. Current lists of replacement dwellings available to displaced persons without regard to race, color, religion, sex or national origin drawn from various sources, suitable in price, size and condition for displaced persons to the extent they are available;
2. Current lists of comparable commercial properties and locations for displaced businesses;
3. Current data on costs for security deposits, closing costs, typical down payments and interest rates and terms;
4. Maps showing the location of schools, parks, playgrounds, shopping and public transportation routes in the area, where applicable;
5. Schedules and costs of public transportation, where applicable;
6. Copies of the department's brochure explaining its relocation program, local ordinances pertaining to housing, building codes, open housing, consumer education literature on housing, shelter costs and family budgeting;
7. Subscriptions for apartment directory services, neighborhood and general circulation newspapers and internet sites. Use multiple listing services where available; and
8. Other important information of value to displaced persons in the particular area.

6-3.07 Public Information

To insure that the public has adequate knowledge of the relocation program, the Department will present information and provide an opportunity for discussion of relocation services and payments at public hearings and meetings, provide copies of the relocation brochure and give full and adequate public notice of the relocation assistance program.

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In an area where a language other than English is predominant, public information will be published in the predominant language as well as in English, unless the Department determines this is not necessary and an alternative means (e.g., interpreters) is used for the displaced person who is unable to communicate effectively or comfortably in English.

The MaineDOT relocation brochure describes the Department's relocation program and the replacement housing policy contained in this *Manual*. The brochure will be distributed at all public hearings and separately to interested or affected individuals and organizations. The brochure states where information about State policies implementing the relocation assistance program can be obtained.

6-3.08 Public Hearings

The following provides guidance on public hearings:

1. Corridor Public Hearings. The corridor hearing is held to receive public input regarding a proposed project before there is a commitment to a specific location. Several alternative alignments may be presented for discussion. Relocation impacts and the measures MaineDOT will take to alleviate them will be discussed for each location or alignment under consideration.

The following information will be presented:

- a. The estimated number of individuals, families, businesses, farms and nonprofit organizations that are to be relocated by each of the alternatives under consideration;
- b. The availability of relocation assistance and services, eligibility requirements and payment procedures; and
- c. Studies that have been or will be made and the methods that will be followed to insure that housing needs of the displacees will be met.

The MaineDOT representative presenting the information above will be open to hear comments, questions and concerns from persons at the meeting.

2. Highway Design or Combined Public Hearings. The social, economic and environmental effects of the project will be presented and discussed at the hearing that is conducted after the location has been selected or announced as a "favored" location. Displacement is a primary social and economic impact. The discussion on relocation will be more detailed and focused than at the corridor hearing. Information

will be presented on the scope of displacement on the project and the basic elements of the Department's relocation program. The following information will be discussed to the extent applicable:

- a. Number and type of displacements (e.g., residential and commercial);
- b. General availability of replacement housing;
- c. Time frame in which acquisition and relocation will occur;
- d. MaineDOT's commitment to offer comparable replacement housing within financial means to every person who is displaced from a home;
- e. Information on moving cost benefits and payment limits;
- f. Owner replacement housing payment (RHP) and rent supplements (RS) for tenants;
- g. Business relocation benefits including moving costs, reestablishment expense payments and search expense payments with ceiling claim amounts;
- h. Mortgage interest rate differential eligibility requirements and payment;
- i. Payment of closing costs incidental to the purchase of a replacement dwelling;
- j. MaineDOT's appeal process, see section 6-3.10; and
- k. The name, location and phone number of a MaineDOT representative who can provide further information or answer questions that arise after the meeting.

6-3.09 Occupancy Criteria for Benefits

Relocation advisory services are intended to assist persons in relocating and must be offered to all displacees on the project. They may also be offered to all persons occupying property that is immediately adjacent to the real property acquired if the Department determines that the occupant suffers a substantial economic injury due to the acquisition. The Department's intent is to liberally apply this provision so that any person approximate to the project requesting assistance will be considered for this service on the merits of the person's need.

Questions on eligibility frequently arise during advisory service discussions. The following points summarize the basic criteria for benefits:

1. Move cost reimbursement is available to all displaced owners and tenants including those in occupancy less than 90 days prior to initiation of negotiations who thereby

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do not qualify for replacement housing benefits. The only exclusion would be persons who move into a property after the property is legally transferred to MaineDOT.

2. A residential owner-occupant must have owned and occupied the displacement dwelling for not less than 90 days immediately prior to the initiation of negotiations to be eligible for a payment up to the \$31,000 maximum.
3. RHPs for residential tenant-occupants will be available to tenants who were renting at least 90 days prior to the initiation of negotiations. On occasion, a payment could be made to a tenant with less than 90 days occupancy in order to avoid a financial hardship under the last resort provisions.
4. There is no RHP eligibility for those residential tenants who take occupancy subsequent to initiation of negotiations unless they are determined to qualify under the last resort provisions for reason of housing not being available within financial means.

6-3.10 Relocation Appeal Process

All displaced persons will be given written notice of their right to appeal as provided below, as well as the procedure for making an appeal. This notification may be provided by the brochure, but should also be stated in initial discussion with each displacee.

When a person indicates dissatisfaction with a determination as to eligibility for a payment or of an amount of payment offered by MaineDOT for any relocation benefit, the Agent will promptly provide the necessary forms and advise the person of the procedures to be followed in making an appeal.

The following points should be covered when discussing a person's right to appeal:

1. The appeal is an informal administrative process. It is not necessary for a displacee to hire an attorney, but representation is not discouraged.
2. The person appealing will have access to MaineDOT file documents that pertain to the matter being appealed.
3. The appellant will have the opportunity to be heard at a time and place that is convenient.
4. The grounds for appeal must be in writing, but may be handwritten.

Upon receipt of any form of appeal, the Relocation Representative will review and update the Parcel File in preparation for the review.

At any time before the appeal is held, the Agent assigned to the parcel may review the facts and circumstances with the Relocation Manager. If there is a basis for modifying the determination under review, the Relocation Manager may make an appropriate recommendation to the Chief Property Officer. The appellant will be advised of any decision and will have the option of accepting any change or continuing with the appeal process.

If the appeal concerns the following activities, the appeal authority is the State Claims Commission (23 **MRSA** 246-1):

1. Actual reasonable moving expense,
2. Replacement housing allowance,
3. Increased interest cost, and
4. Expenses incident to purchase.

The appeal authority for a MaineDOT decision other than for the actions listed above is the Commissioner of Transportation or an assigned delegate.

The appeal authority will hold an administrative hearing on appeal requests at which the person making the appeal will have an opportunity to be heard. The appellant will receive prompt written notice of the appeal determination. This will include an explanation concerning any amount claimed that has been disallowed. Computations and rationale supporting the determination will be placed in the Parcel File.

Any determination made on appeal to the Commissioner of Transportation or the Commissioner's assigned delegate shall be final and nothing in this section may be construed to give any person a cause of action in the State Claims Commission or the Superior Court. (23 **MRSA** 246-2)

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6-4 RELOCATION NOTICES

MaineDOT will provide written notices to displacees at critical points in the relocation process. The purpose of the notices is to fully inform each displacee of the significant actions being taken by MaineDOT and of their eligibility for relocation payments and services. These notices provide the supporting information necessary to claim relocation benefits and enable displacees to plan their relocation.

The written notices described in this Section must be furnished to each displaced person.

6-4.01 General Information Notice

This Notice is provided to all affected persons at the earliest time it is known that relocation may be required. It advises the recipient of the possibility of displacement for a project and summarizes the benefits available from MaineDOT to assist in relocation. This required notice is served by providing a copy of the MaineDOT relocation brochure and the opportunity for the potential displacee to ask questions of an informed representative.

The general information about relocation is provided at the public hearings and meetings for the project. In addition, notice is provided at the initial interview with each displacee that is conducted as part of relocation planning; see Section 6-2.03.

The *General Information Notice* is normally delivered in person as indicated above. If personal delivery is not possible, the Notice will be delivered by certified mail with a return receipt requested. Use form RA-16 *Initial Relocation Notice* letter for potential residential displacees. Use form RA-16B *Initial Relocation Notice (business)* for potential business, farm and non-profit displacees.

Provide the following information as part of the General Information Notice:

1. Inform the person of possible displacement as a result of project acquisition.
2. Describe the relocation program benefits that are relevant to the displacee's circumstances.
3. Explain eligibility criteria and requirements for relocation benefits. Advise that MaineDOT will help prepare relocation payment claims if requested.
4. Advise the person of the types of relocation advisory services that will be given. These include housing referrals, assistance filing claims and other necessary relocation assistance.

5. Inform the person that he or she will not be required to move unless at least 1 comparable replacement dwelling unit has been made available for occupancy.
6. Inform the person that MaineDOT will provide at least 90-days written notice of the date that they will be required to move.
7. Explain the right to appeal relocation benefits and eligibility determinations.

6-4.02 Notice of Relocation Eligibility

Eligibility for relocation assistance begins on the date of a) the *Notice of Intent to Acquire Property* letter (form RA-21) being sent, b) the initiation of negotiations to acquire the property, or c) the actual acquisition, whichever occurs first. When this occurs, MaineDOT will promptly notify all occupants of their eligibility for assistance. The Notice of Relocation Eligibility will be in writing, personally delivered if practical. Where it is not practical to deliver the Notice personally, it will be delivered by certified mail with return receipt requested. The type of Notice will depend upon the following:

1. 90-Day Owner. The owner will be provided with a written explanation of the eligibility requirements to receive payments for replacement housing. The explanation will include discussions of increased interest costs, incidental expenses and the option to rent replacement housing. In addition, the displacee will be provided with an explanation of the relocation services available and where they may be obtained, Form RA-21, and the brochure.
2. Tenant Notice. Within 15 business days of initiation of negotiation for the purchase of the property, each tenant will be furnished, either by certified mail or by personal contact, a written statement that includes:
 - a. The date of initiation of negotiations for the parcel; and
 - b. An explanation of the eligibility requirements to receive a rent supplement payment, and of the option to receive a down payment for the purchase of replacement housing including incidental expenses. The tenant will be provided with an explanation of the relocation services available and where they may be obtained.

The Agent will make a personal contact with each tenant within 30 days of the initiation of negotiations for the parcel to furnish any additional explanations necessary. This contact should be made prior to the 90-day notice to vacate.

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6-4.03 Notice of Intent to Acquire

The purpose of a *Notice of Intent to Acquire* letter (form RA-21) is to establish eligibility for relocation assistance before initiation of negotiations for the parcel. This occurs when the Department decides to advance the date of eligibility in order to relieve a hardship circumstance. The hardship may arise from a change in employment requiring a move, illness or infirmity making it difficult to continue to live in the property, or financial hardship from inability to continue to pay ownership or tenant housing costs.

The *Notice of Intent to Acquire* is a written communication in the form of a letter notifying the person to be displaced of the MaineDOT's intent to acquire the property. Use Form RA-21 as a *Notice of Intent to Acquire*. Provide a copy of the relocation brochure with the letter. When a *Notice of Intent to Acquire* is provided to an owner, also provide a Notice within 15 business days to all tenants on the property. When a *Notice of Intent* is provided to a tenant, provide a copy of the Notice to the owner at the same time.

The *Notice* will contain the statement of eligibility and any restrictions thereto, the anticipated date of the initiation of negotiations for acquisition of the property, and contact references to obtain additional information about relocation payments and services.

6-4.04 Statement of Replacement Housing or Rent Supplement Amounts

Displacees will be notified of the specific maximum amount of replacement housing and moving benefits at the time of initiation of negotiations, or at a time thereafter that they are actively looking for replacement housing. The notification should identify the available comparable property that was the basis for the maximum purchase price supplement determination. Other comparable properties should also be provided. Use form *RA-23 Comparable Replacement Housing Notice* to inform each displacee of the amount of the maximum eligible purchase price supplement or maximum rent supplement.

The Statement for tenant-occupants will include a maximum amount of Rent Supplement, monthly rent and utility cost for the comparable on which the Rent Supplement determination is based, and a list of other comparable properties used in the analysis.

Confirm the housing units used to determine the replacement housing amount are available before the listings are used in the replacement housing determination.

Owners typically want to know their total acquisition and relocation amounts early in the process. The total settlement package includes a combination of the fair market value and RHP amounts. Every effort should be made to present the statement of eligibility with the initiation of negotiations.

6-4.05 90/30-Day Notice to Vacate

Residential and business occupants who are displaced are entitled by law to **at least** 90-days advance notice of the earliest date they will be required to move. The *90-Day Assurance Notice* Letter, Form RA_31 cannot be delivered until MaineDOT has initiated negotiations and informed the residential displacee of a specific comparable replacement dwelling that is available for occupancy that is within his or her financial means. The amount of computed maximum purchase supplement or Rent Supplement must also be provided before the *90-Day Assurance Notice* Letter is delivered.

MaineDOT uses a 2-phase notification process. The *90-Day Assurance Notice*, Form RA-31, may be delivered any time after the above qualifying criteria are met. It should be further coordinated with the project schedule. The MaineDOT *90-Day Assurance Notice* provides that the recipient will be required to move no earlier than, 90 days from the date of its delivery. The 90-Day Notice further advises that the displacee will receive a subsequent *30-Day Notice to Vacate* letter that will provide a firm date by which the property must be vacated. The *30-Day Notice*, Form RA-32, will not be given until MaineDOT has legal control of the property.

The two phase 90/30-Day Notice provides the most effective consideration of displacees' need for information about required move date and offers flexibility to the Department in managing delivery of right of way for project construction.

The 90/30-Day Notices are applicable to displaced occupants of businesses, farms and nonprofit organizations as well as displaced residential occupants. Notices are also applicable to owners who are not displaced, but are required to move personal property that is within a partial taking. However, MaineDOT is not obligated to offer replacement site locations to nonresidential displacees. Best efforts in providing relocation advisory services to nonresidential displacees are required.

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6-5 RESIDENTIAL MOVE COSTS

6-5.01 Purpose

Residential displacees are entitled to reimbursement for actual reasonable and necessary costs as determined by MaineDOT, to move personal property from the displacement to a replacement dwelling. There are several cost elements and reimbursement options available. Also, there are certain requirements to document and support claims. This Section discusses all aspects of residential moving costs.

6-5.02 Basic Eligibility Conditions

Any owner or tenant occupying a residential unit who qualifies as a displaced person (definition in Section 6-1.04) and who moves from a dwelling is eligible to receive payment for moving personal property from the displacement site. The length of occupancy at the acquired property does not determine eligibility for moving expense payment. All displaced persons qualify for residential moving cost reimbursement.

The displacee has the option of a payment based on the actual, reasonable and necessary moving expenses of the move or a fixed payment that is based on the MaineDOT *Fixed Residential Moving Cost Schedule* (form RA-40).

The following will apply:

1. Single Move. The displaced person is entitled to one move, except where a subsequent move is determined by MaineDOT to be in the public interest. This would be a very unusual circumstance where a displacee would voluntarily move to temporary housing pending the availability of permanent replacement housing.
2. Reimbursement Limited to 50 Miles. There is no limitation on the distance a displaced person moves either interstate or intrastate. However, the actual cost move claim maximum is limited to the amount that would be charged for a move up to 50 miles (80 km). The Department may extend this limit on determining that the move could not be accomplished within the 50-mile (80-km) distance. This type of exception may only be allowed to the nearest comparable property available.
3. Time Limit for Filing Claim. To receive payment, a displacee must file a written claim with MaineDOT on the appropriate Department form. The claim must be filed within 18 months after the later of:
 - a. The date the displacee moves from real property, or moves their personal property from real property, or

- b. The date of acquisition is complete and payment is made to the owner or deposited in court.
4. Payment of Claims. Moving expense payments will be made only after the move is complete unless MaineDOT determines that this would create a hardship. In hardship cases, arrangements can be made for advance payments, or the displacee and the mover and MaineDOT can arrange in advance for MaineDOT to make a direct payment to the mover.
5. Multiple Occupancy. When 2 or more occupants of a displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share of any payment that would have been made if the occupants moved together. However, if the occupants have maintained separate households within the same dwelling, the occupants may claim separate moving payments. MaineDOT will make the determination called for in this provision.

To determine separate household, MaineDOT uses several indicators including income capable of supporting separate households, eating meals separately, splitting household expenses, review of tax returns, etc.

6. Owner Retention. When an owner retains the dwelling for removal from the MaineDOT acquired site, the cost of moving the dwelling onto remainder or replacement land is not eligible for reimbursement as a part of the cost of moving personal property. However, if the displacee chooses to use the dwelling as a means of moving personal property, the cost of moving personal property may be considered eligible for reimbursement. Payment in these cases would be on a fixed schedule basis.

6-5.03 Eligible Moving Costs

A displaced individual or family meeting the basic eligibility conditions above is entitled to receive a payment for moving personal property. This includes the following costs:

1. Cost associated with the preparation of moving bids;
2. Transportation costs not to exceed a distance up to 50 miles;
3. Packing, crating, unpacking and uncrating of personal property, including materials and labor costs;
4. Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances and other personal property;
5. Reconnection of utilities, including phone, cable and electric service;

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6. Storage of personal property for a period not to exceed 12 months, unless MaineDOT determines that a longer period is necessary;
7. Insurance for the replacement value of the personal property in connection with the move and necessary storage;
8. Replacement value of property lost, stolen or damaged in the process of moving, unless by fault or negligence of the displaced person, agent or employee. This is only applicable where insurance covering the loss is not reasonably available;
9. Transportation of the displaced person including any special services (e.g., an ambulance to transport disabled persons to replacement dwelling); for a distance not to exceed 50 miles unless the MaineDOT determines that relocation beyond 50 miles is justified.
10. Other moving-related expenses that are not listed as ineligible under Section 6-5.04 that the MaineDOT determines to be reasonable and necessary.

6-5.04 Ineligible Moving Costs

The following costs are not eligible for reimbursement:

1. The cost to move any structure or other real property improvement, including swimming pools, large trees and outbuildings that were identified in the appraisal as part of the real estate; or the cost of moving any real property improvement in which the displaced person reserved ownership.
2. Interest on a loan to cover moving expenses;
3. Search costs for a replacement dwelling;
4. Any legal fees or other costs associated with preparing or with reviewing the claim for a relocation payment or for representing the claimant before the MaineDOT or in a relocation appeal before MaineDOT or the State Claims Commission.
5. Personal injury;
6. Cost of storing personal property on real property that is already owned or leased by the displaced person; and
7. Refundable Security and Utility Deposits.

6-5.05 Residential Moving Expenses –

A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods. Self-moves based on the lower of two commercial mover bids or estimates are not eligible for reimbursement under this section.

6-5.05(a) Commercial Move.

A commercial mover may perform an actual cost move. The following will apply:

Move Performed by Commercial Mover. If a displaced individual or family desires to have a move performed by a commercial mover, the assigned Relocation Specialist will obtain bids or estimates from two reputable moving companies. MaineDOT will pay the cost of obtaining bids or estimates, if necessary. The Specialist will insure that all bids or estimates received are based on the same move specifications and personal property inventory. The maximum MaineDOT reimbursement amount will be the lowest responsible bid or estimate.

The displaced person has the right to engage the services of any moving company. MaineDOT will pay the amount of receipted bills, not to exceed the amount of the approved low bid or estimate. Exception may be approved for unanticipated work or conditions during the move that differ from the assumptions in the estimates.

MaineDOT will make a separate payment for costs that are not included in a mover's claim (e.g., reconnection of utilities).

With prior agreement among the parties, the displacee may present an unpaid mover's bill, along with the moving cost claim form, to MaineDOT for direct payment to the mover.

6-5.05(b) Self Move.

Self moves are moves that may be performed by the displaced person in one or a combination of the following methods:

Actual Cost Move: A displacee may perform all or any part of a move with the displacee's own resources and be reimbursed for the actual cost up to the cost of a commercial mover. The displacee may rent equipment and purchase moving materials, such as packaging materials and boxes. Equipment rental fees should be based on actual costs and not exceed rates charged by a commercial mover. Move helpers may be hired, or friends and family members may perform the move. Hourly rates should not exceed those charged by a commercial mover. MaineDOT will reimburse actual costs incurred based on receipted bills.

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Fixed Residential Moving Cost Schedule: A displaced individual or family is eligible for moving cost reimbursement based on the MaineDOT's form RA-40 *Fixed Residential Moving Cost Schedule*. The schedule amount reflects the number of furnished rooms in the dwelling unit plus basements, attics, garages and outbuildings if these spaces contain sufficient personal property as to constitute a room. The MaineDOT schedule is revised from time to time to reflect current actual costs within the State.

The Relocation Specialist should advise the displacee of the amount of the fixed schedule payment at the initial relocation visit. The displacee should also be advised of the number of rooms in the displacement dwelling. This will enable the displacee to make an informed decision as to the reimbursement option.

If the displacee elects to accept the fixed cost reimbursement based on schedule, there is no additional payment for items such as utility reconnection because these costs are included in the move cost schedule.

The displacee does not have to account for how the fixed payment schedule amount is spent. If the actual cost of move is less than the schedule amount, the displacee may retain the difference. However, there will be no additional reimbursement if the actual move cost exceeds the schedule amount.

The fixed move payment should be encouraged if it clearly would benefit the displacee. However, a commercial move option should be encouraged when individual circumstances indicate it would benefit the displacee because of lifestyle, age, disability and other personal circumstance or preference...

This fixed payment option has benefits to the Department. It is administratively simple and there is no need for the Department to secure movers' estimates, confirm actual costs incurred or process multiple claims.

6-5.06 Moves from a Mobile Home

Individuals and families who are displaced from a mobile home used as a dwelling are entitled to be reimbursed for the same eligible moving costs as listed in Section 6-5.03 for other residential moves. A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the same methods used by other residential moves, that is a commercial move or a self-move that can be one or a combination of an actual cost move or a fixed residential moving cost payment based on the MaineDOT's moving cost schedule. Self-moves based on the lower of two commercial mover bids or estimates are not eligible for reimbursement under this section. Required documentation is the same as for other residential moves.

Personal property in mobile homes may be moved together with the mobile home as a unit. Payment may be made on the basis of form RA-40 *Fixed Residential Moving Cost Schedule* for these moves.

If an owner-occupied mobile home is moved as personal property and used as the replacement dwelling, then the displacee is also eligible for the following expenses:

1. The reasonable cost of disassembling, moving and reassembling any appurtenances attached to the mobile home, such as porches, decks, skirting, and awnings which were not acquired, anchoring of the unit and utility "hookup" charges.
2. The reasonable cost of repairs and /or modifications so that the mobile home can be moved and/or made decent safe and sanitary.
3. The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or if the MaineDOT determines that the payment of the fee is necessary to effect relocation.

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6-6 NONRESIDENTIAL MOVING COSTS

6-6.01 General

Reimbursement for non-residential moving costs are established by Federal Regulation in 49 CFR Part 24. States have the option of increasing the level of benefits available to displacees provided those increases are passed by the state legislature and written into law. The 122nd Maine Legislature has approved increasing the level of benefits to non-residential displacees as follows(:

- 23 MRSA Section 244 (1)(c) was revised to increase search reimbursement maximums from \$1000 to \$2500,
- 23 MRSA Section 244(1)(d) was revised to increase reestablishment expense reimbursement maximums from \$10,000 to \$20,000,(MAP-21 Changed to \$25,000. Federally funded projects will use the \$25,000 maximum while State funded Projects will use the \$20,000 until Statute is changed)
- 23 MRSA Section 244 (3) was revised to increase the maximum fixed payment for business or farm displacements from \$20,000 to \$100,000.

Authority for federal reimbursement for these increased payments is found in 23 CFR 710.203 (b)(2)(ii).

It should be noted that while FHWA may participate in these increased limits under 23 CFR 710.203, other federal agencies such as FAA, FTA, and FRA may not have statutory provisions that allow them to participate above the federal limits.

Any business, farm operation or nonprofit organization which qualifies as a displaced person is entitled to receive payment for the following categories of actual moving expenses and related costs associated with moving that the MaineDOT determines to be reasonable and necessary:

1. Moving costs for relocating all personal property including machinery and equipment including disconnect/reconnect costs;
2. Related nonresidential business expenses for:
 - a. connection from available nearby utilities from the right of way to replacement improvements;
 - b. professional services to determine replacement site suitability for the business operation prior to purchase or lease;
 - c. impact fees or one time assessments for heavy utility usage, as determined necessary by the MaineDOT.
3. Search costs for a replacement location not to exceed \$2,500; and

4. Reestablishment expenses not to exceed \$25,000 for Federally funded projects and \$20,000 for State funded projects.

Use MaineDOT's form RA-46 *Moving Expenses of Business, Farm or Non-Profit Organization* for all of the above non-residential moving cost categories. In cases where the displaced entity requests an advance moving expense payment and where the MaineDOT approves the advance payment use MaineDOT's form RA-46A *Advance Payment of Moving Expense for Business, Farm or Non-Profit Organization*.

All moving expenses must be actual, reasonable and necessary. To insure this, the assigned Relocation Agent will monitor the process of conducting inventories, developing move specifications, securing commercial moving bids and proposals, and observing the conduct of the move. Emphasis will be directed toward moves that are of a complicated nature or that involve a substantial expenditure.

As an alternative to the actual cost reimbursement as explained above, the displaced business, farm or nonprofit organization that meets certain criteria may choose to receive a fixed payment in lieu of actual moving expenses not less than \$1,000 or more than \$100,000. The specific amount is based on the net income of the displaced business, farm or nonprofit organization.

The reimbursable actual moving expenses and the fixed payment in lieu of moving expenses are explained in detail in the following paragraphs.

6-6.02 Key Terms

See Section 6-1.05 for definitions of business, small business and nonprofit organization. The term "business" in Section 6-6 also applies to farms and nonprofit organizations.

6-6.03 Criteria – Actual, Reasonable, Necessary

Nonresidential moves are reimbursed on the basis of costs incurred in moving. The basic criteria that apply to moving costs are that they be actual, reasonable and necessary. Actual moving and related expenses are factual and documented. MaineDOT determines if costs are reasonable and necessary. These are defined as follows:

1. Actual. True incurred costs as opposed to estimated or potential costs. The actual cost of a move is indicated by a receipt, invoice or canceled check.
2. Reasonable. Not extreme or excessive, not conflicting with reason. This is a judgment determination in response to the question "Would most people agree that something is reasonable given all the facts?"
3. Necessary. Logically unavoidable costs. Are the costs obligatory? Could the move have been conducted in a way that the cost factors would not have been incurred?

The 3-part test and, in particular, the elements of reasonableness and necessity, can be difficult to implement in certain cases. However, they are basic program criteria and Relocation Agents are obligated to apply them to business relocation claims. It is important to apply them consistently and fairly. One way to achieve this is to discuss borderline situations with Property Office management.

6-6.04 Business Moving Process – Contract Move

Business relocations are varied and may be very complex. Business operators are understandably concerned about the security of their livelihood, the welfare of employees, continued service to clientele and whether they will receive adequate payment for relocation costs. In order to meet the challenges of business relocations, the Relocation Agent should follow a standard process in administering relocation benefits. This will insure fair and equitable treatment of displacees, confirm the reasonableness of costs claimed and encourage an atmosphere of mutual trust and confidence in dealing with displacees.

The following process is recommended for business moving by means of a contract mover:

1. Advise the Displacee. Provide complete information to the business, farm or nonprofit operator about benefits and options. Give the business owner a copy of the relocation brochure marked to indicate relevant sections. Secure information about the business and find out the owner's concerns, priorities and intentions. Provide assistance as the owner desires and needs. Secure help and advice from outside sources as necessary. Advise the displacee on the forms of documentation that are required by MaineDOT to support claims for payment.

The displacee should be advised of the requirements to:

- a. prepare an inventory, see Item No.3,
 - b. notify MaineDOT of the scheduled date of move, and
 - c. permit MaineDOT to monitor the move and inspect the displacement and replacement sites.
2. Make or Confirm Personal/Real Property Determinations. Many businesses have equipment and fixtures that may not be easily classified as real property or personal property. The realty/personalty determination in the Appraisal Report should specify these items and their classification. The Agent should review the status of items with the displacee so there is no misunderstanding as to the items that must be relocated as opposed to items that will be paid and acquired by MaineDOT. Any items that are not clearly classified should be brought to the attention of the Relocation Manager and Senior Property Officer for determination.
 3. Perform Inventory. The business operator must provide a certified inventory of personal property to be moved, unless a fixed payment option under Section 6-6.12 is selected. The Relocation Agent should assist in the inventory or monitor or review

it to the extent necessary to confirm that it is accurate and complete. If the inventory fluctuates, it should be reconfirmed before the move takes place to insure that the move claim reflects the facts on the site at date of move.

4. Develop Moving Specifications. Specifications define the manner in which the move is performed. They specify the time span for performing the move and identify items needing special handling, including disconnection and reinstallation work. Move specifications also identify special trades required (e.g., plumbing, millwrights). The development of specifications will insure that all movers submit proposals (bids or estimates) on the same basis. Also, specifications will avoid misunderstandings about reimbursement or the manner in which the move is performed. The move specifications should reference the property inventory.

Very small business relocations may not require formal written specifications. However, the Relocation Agent should always thoroughly discuss the details of the performance of the move with the business operator before proposals are secured from movers.

5. Secure Moving Proposals. Moving bids or estimates should be secured from at least two qualified commercial movers. The movers should be provided with the inventory and specifications and instructed to determine a price based on the specifications, but they should also identify any options or observed inconsistencies.

The Relocation Agent should be aware that an estimate is not the same as a bid. Most proposals received for relocation are not bids, in that they are not secured under competitive circumstances in which the job is contracted to the low responsible bid. The Agent and the displacee should be alert to the possibility that movers who think they have low probability of securing the work may not provide a reasonably priced proposal. In unusual circumstances of a high-cost move in which it is not feasible to obtain timely or reasonable proposals, MaineDOT may pay a fee for estimates by a qualified mover consultant without expectation that the estimator will perform the move.

6. Monitor the Move. The Relocation Agent is responsible for personally monitoring the performance of the move, other than small low-cost relocations. This means that the Agent will be on site when the move is being performed. The responsibilities include confirming that the move is performed in accordance with agreed specifications and that the inventory moved reasonably conforms to that on which the move cost proposals were secured. The Agent will also confer with the displacee about any concerns or questions involving claims for payment.

On very complex moves where there are significant costs assigned in the specifications to special work (e.g., anchoring machinery, constructing pits and pads, performing a premium time move), the work should actually be performed or be deducted from the claim. Insure this is clear to the parties before the proposals are secured.

If work develops during the performance of the move that is necessary, but was not anticipated in the specifications, the Relocation Agent can verify the need and reasonableness of the cost for reimbursement. This should occur infrequently on a well-planned relocation.

6-6.05 Business Moving Process – Self Move

A displacee may elect to take full responsibility for the move and be paid an amount not to exceed the lower of two reasonable and responsible bids or estimates. Normally, under this provision, MaineDOT will pay the out-of-pocket costs to the displaced business operator. This will include the following:

1. Cost of packing materials and move equipment;
2. Rental cost of equipment and vehicles;
3. Salary or wages of displaced business employees engaged in move activities;
4. Cost of outside specialists or trades required for the move; and
5. Reinstallation costs for equipment, telephones, computers, etc.

Documentation required for the above items consists of receipted bills and logs showing employee time and cost. Employee overhead may be included in the claim.

The process defined in Section 6-6.04 for contract moves also applies to self-moves.

6-6.06 Eligible Moving Costs

The following items are eligible for reimbursement as moving costs if actually incurred during the moving process and if the MaineDOT determines they are reasonable and necessary:

1. Transportation costs for moving personal property. The transportation charges will normally be reimbursed for up to the first 50 miles of travel. When the move exceeds 50 miles, all estimates will be prepared and claims paid based on a move of 50 miles. Similarly, the mover's bill must be detailed to show transportation costs for the first 50 miles as well as the cost for the remainder of the distance. When MaineDOT determines that the business cannot be relocated within a 50-mile limit, reimbursement will be allowed to the nearest adequate and available site.
2. Packing, crating, unpacking and uncrating the personal property.
3. Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property including substitute personal property. This includes connections to utilities available within the building. It also includes modification of the personal property necessary to adapt it to the

- replacement structure including those mandated by governmental law, code or ordinance, the replacement site or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. Expenses for providing utilities from the right of way to the building or improvement are excluded as a move cost but may be eligible as a related nonresidential expense; see Section 6-6.10.
4. Storage costs, including moving property in and out of storage. Storage cost reimbursement is limited to 12 months unless MaineDOT determines that a longer period is necessary. Costs for storage of personal property on a site owned, leased or controlled by the displaced person are not eligible for reimbursement.
 5. Insurance for replacement value due to the loss, theft or damage to the personal property in connection with the move and necessary storage. Where insurance is not reasonably available, the replacement value of property lost, stolen or damaged in the process of moving shall be paid unless the loss results from fault or negligence of the displaced person or his or her agent or employee.
 6. Cost of any license, permit or certification required at the replacement location. The payment will be based on the remaining useful life of the existing permit, license or certification.
 7. Professional services, which the MaineDOT determines to be actual, reasonable and necessary, for planning the move and moving and installing personal property at the replacement location. This can include the time of the displacee or employees provided the claim is supported by time logs and MaineDOT monitoring.
 8. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation that is not relocated from the displacement site; See section 6-6.09 for further information on this benefit.
 9. Purchase of substitute personal property to replace an item of property that is used as part of a business or farm operation that is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site. See section 6-6.09 for further information on this benefit.
 10. Cost of re-lettering signs that are made obsolete as a result of the move.
 11. Replacement cost of stationery, advertising and promotional items on hand at the time of the move that are made obsolete by the relocation.
 12. The reasonable cost incurred in attempting to sell an item that is not to be relocated.
 13. *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the MaineDOT, the allowable moving cost payment shall not

exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the MaineDOT.

14. Other moving-related expenses that are not listed as ineligible in Section 6-6.07, as MaineDOT determines to be reasonable and necessary.

6-6.07 Ineligible Moving Expenses

The following items are **not eligible** for reimbursement as moving costs:

1. Any additional expense incurred because of operating at a new location except as provided as a business reestablishment expense under 6-6.11, (h), (1-4);
2. Cost of moving structures, improvements or other items of realty retained by the owner;
3. Interest on loans to cover moving expenses;
4. Loss of goodwill;
5. Loss of trained or skilled employees;
6. Loss of business or profits;
7. Personal injury;
8. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the MaineDOT ;
9. Physical changes to the real property at the replacement location of a business, farm operation or nonprofit organization, except as provided under section 6-6.06, 3, eligible actual moving expenses and under section 6-6.11,1 eligible reestablishment expenses;
10. Costs for storage of personal property on real property already owned or leased by the displaced person; and
11. Refundable utility and security deposits.

6-6.08 Search Expenses

A displaced business, farm operation or nonprofit organization is entitled to reimbursement for actual expenses and time spent in searching for a replacement location, as the MaineDOT determines to be reasonable. This payment may not exceed \$2,500. These expenses may include:

1. Transportation. A mileage rate determined by MaineDOT will apply to the use of an automobile.
2. Meals and lodging away from home will be paid on a per diem basis.
3. Time. Time spent searching will be reimbursed based on actual salary or earnings. In the case of a nonprofit organization, the person performing the search must be a paid employee of the organization.
4. Fees. Fees paid to a real estate agent or broker to locate a replacement site are reimbursable. This does not include fees or commissions related to the purchase of the site.
5. Time spent in obtaining permits and attending zoning hearings; and
6. Time spend negotiating the purchase of a replacement site based on a reasonable, actual salary or earnings.

Documentation for a search expense claim will include expense receipts and logs of times, dates and locations related to the search and any receipts or paid invoices for services or travel.

6-6.09 Substitute Personal Property and Direct Loss of Personal Property

A business, farm or nonprofit may suffer an economic loss if the owner elects not to relocate an item of property to the replacement site. This may occur if the item is at the end of its useful life, is obsolete or is so installed so that it cannot be moved economically. In any of these circumstances, it may be practical and feasible not to move the item(s), but to abandon it, or sell it as salvage and replace it with a newly purchased item at the replacement site. Alternatively, the business may decide not to replace the item if it is not critical to continued business operations after relocation.

MaineDOT will pay the displacee for the cost of replacing property that was not moved (substitute personal property) or for loss due to salvage sale or abandonment of the item (direct loss of personal property). The maximum amount reimbursed will be the estimated cost of relocating the item(s) not moved, including detach and reinstall expenses.

The following rules apply to substitute personal property and direct loss of personal property:

1. Substitute Personal Property. If an item of personal property that is used in connection with the business is not moved but is replaced with an item at the new location that serves the same or a similar function, the payment will be the lesser of:
 - a. The replacement cost minus the net proceeds of the sale of the item from the displacement site (trade-in value may be substituted for net proceeds of sale where applicable); or
 - b. The estimated cost of moving the item to the replacement site but not to exceed 50 miles.

2. Direct Loss of Personal Property. If the item is not replaced in the reestablished business, the payment will be the lesser of:
 - a. The difference between the market value of the item in place for continued use at its location prior to displacement, or less its net proceeds of its sale from the displacement site; or
 - b. The estimated cost of moving the item to the replacement site, but not to exceed 50 miles.

If a sale is not completed under Items 1a or 2a above because no offer is received for the property, the property may be abandoned. Payment for the actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the item 50 miles, whichever is less, plus the cost of the attempted sale, irrespective of the cost to MaineDOT of removing the item.

The owner must attempt to sell the item that was not relocated from the displacement site as a condition of claiming the direct loss or substitute property payment. MaineDOT may exempt a displacee from this requirement if the Department determines that the item has no net market value. In this circumstance, MaineDOT will not charge the displacee for removal from the site for project construction.

It is important to fully support the estimates required for the direct loss or substitute property provisions. It may be necessary to employ a specialty appraiser to determine values for continued use or to estimate detachment and reinstallation costs of large or complex items of equipment.

The direct loss, or substitute property reimbursement, should be fully explained to business operators who may benefit from its provisions. This includes businesses that have older machinery and equipment, custom fixtures (personal property) that would not be appropriate in a replacement site, or equipment that has been rendered obsolete by wear, or by more efficient or cost-effective items on the market.

6-6.10 Related Nonresidential Eligible Expenses

The following expenses in addition to those provided in section 6-6.06 for moving personal property of a displaced business or farm operation are reimbursable if the MaineDOT determines that they are actual, reasonable and necessary:

1. Connection of available nearby utilities from the right of way to improvements on the replacement site.
2. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, marketing and feasibility studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the MaineDOT's discretion a reasonable pre-approved hourly rate may be established. If a question arises as to what is a "reasonable hourly rate", the MaineDOT should compare the rates of other similar professional providers in the area.
 - a. **Reimbursable expenses related to soil testing-** When the person whose business operation is displaced has a written and accepted purchase agreement with an inspection termination clause, field activities, soil sampling and test pitting; lab analysis; and a report are part of due diligence for the displacee to determine the suitability of site and are reimbursable, if MaineDOT determines that such activities are actual, reasonable and necessary. Soil testing might lead to the decision for additional soil testing in certain cases and MaineDOT's agreement to reimburse for additional soil testing should be undertaken based on information provided to MaineDOT in the initial report and the MaineDOT's determination that the additional testing is reasonable and necessary.
 - b. **Non-reimbursable expenses-** A Voluntary Response Action Plan (VRAP) is a very carefully crafted application and document for a scope of work for remedial measures to Maine DEP to release the applicant(s) from liability on a site. The VRAP is prepared after the applicants' environmental consultant has completed the environmental site assessments (ESAs) and the nature and extent of the contamination has been characterized. The VRAP may propose remediation and clean-up of the site and may require Maine DEP to monitor the remediation. These activities go beyond the scope of determining the suitability of the site by the person whose business is displaced. MaineDOT will not reimburse for any of the following-
 1. VRAP coordination by an environmental consultant or others,
 2. Preparation of a VRAP application,
 3. Maine DEP fees, and
 4. Remediation and clean-up costs for the site.

5. MaineDOT will not reimburse for field activities, soil sampling and test pitting; lab analysis; and a report when the person whose business operation is displaced does not have a written and accepted purchase agreement with an inspection termination clause.
-
3. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the MaineDOT.

6-6.11 Reestablishment Expenses

A small business, farm or nonprofit organization may be eligible to receive a payment, not to exceed \$25,000 for Federally funded projects and \$20,000 for State funded projects, for expenses that are actually incurred in reestablishing operations at a replacement site. The following describes the criteria for reestablishment expenses:

1. Eligible Reestablishment Expenses. Reestablishment expenses must be reasonable and actually incurred and may include the following items:
 - a. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance (e.g., special wall or floor materials required for a restaurant kitchen);
 - b. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business. This includes most “build out” type costs of modifying interior spaces;
 - c. Construction and installation costs for exterior signing to advertise the business;
 - d. Redecoration or replacement of soiled or worn surfaces at the replacement site (e.g., paint, paneling, carpeting);
 - e. Licenses, fees and permits, when not paid as part of moving expenses;
 - f. Feasibility surveys, soil testing and marketing studies to determine the suitability of a site to the business operation;
 - g. Advertisement of replacement location;
 - h. Increased costs of operation during the first 2 years at the replacement site for items such as:

- 1) Lease or rental charges,
 - 2) Personal or real property taxes,
 - 3) Insurance premiums, and/or
 - 4) Utility charges, excluding impact fees;
- i. Other items that MaineDOT considers essential to the reestablishment of the business.
2. Ineligible Reestablishment Expenses. Following is a non-exclusive listing of reestablishment expenditures that are not eligible for reimbursement as reestablishment expenses:
- a. Purchase of capital assets (e.g., office furniture, filing cabinets, machinery, trade fixtures);
 - b. Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation;
 - c. Interest on money borrowed to make the move or purchase the replacement property; and
 - d. Payment to a part-time business in the home that does not contribute materially to the household income. See Section 6-1.12 (e) for a definition of “contribute materially to income.”

6-6.12 Fixed Payment in Lieu of Moving Expenses

A displaced business (including a farm operation or non-profit organization) may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, search expenses and actual reasonable reestablishment expenses. Except for payment to a non-profit organization it is a lump-sum payment equal to the average annual net earnings before taxes of the displaced business or farm operation, but not less than \$1,000 nor more than \$100,000 maximum.

The fixed payment is an alternative to all other relocation payments for which the displacee would otherwise be eligible. The recipient of a fixed payment is not eligible for actual moving costs and non-residential related expense, search expense or reestablishment expense reimbursements. The following criteria apply to fixed payments:

1. Eligibility Requirements. For an owner of a displaced business to be entitled to a fixed payment in lieu of actual moving expenses, MaineDOT must determine that:

- a. The business owns or rents personal property that must be moved, and for which an expense would be incurred in a move, and the business vacates or relocates from its displacement site;
 - b. The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless MaineDOT determines, for a stated reason, that the business will not suffer a substantial loss of its existing patronage.
 - c. The business is not part of a commercial enterprise having more than three other entities that are not being acquired by MaineDOT, and that are under the same ownership and are engaged in the same or similar business activities. For purposes of this rule, any remaining business facility that did not contribute materially (see Item #1e) to the income of the displaced person during the two taxable years prior to displacement will not be considered "other entity".
 - d. The business is not operated at the displacement dwelling or site solely for the purpose of renting the dwelling or site to others.
 - e. The business contributed materially to the income of the displaced person. Contribute materially means that during the two taxable years prior to the taxable year in which displacement occurs, or during another period as MaineDOT determines to be more equitable, a business.
 - 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% of the owner or operator's average annual gross income from all sources.
2. Determining the Number of Businesses. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors will be considered, including the extent to which:
- a. The same premises and equipment are shared.
 - b. Substantially identical or interrelated business functions are carried out and business and financial affairs are co-mingled.
 - c. The entities are held out to the public and to those customarily dealing with them as one business.
 - d. The same person, or closely related persons, own, control or manage the affairs of the entities.

The Department will make a decision after consideration of all of the relevant indicators and so advise the displacee.

3. Fixed Payment Amount. The fixed payment amount is calculated as the average annual net earnings of the business for the two years preceding the year in which displacement occurs. The term “average annual net earnings” of a business or farm operation means 1/2 of all net earnings before Federal, State and local income taxes, during the two tax years immediately preceding the tax year in which it is displaced.

If the two years immediately preceding displacement are not representative, MaineDOT may use a period that would be more equitable. For instance, proposed construction may have caused a recent outflow of business customers, resulting in a decline in net income for the business.

Average annual net earnings include any compensation that is paid by the business to the owner, the owner’s spouse and dependents during the two-year period. In the case of a corporate owner of a business, earnings include any compensation that is paid to the owner of a majority interest in the corporation and the majority owner’s spouse and dependents. For the purpose of determining majority ownership, stock held by all members of the household and their dependents would be treated as a single unit.

If the business, farm or nonprofit organization was not in operation for the full 2 taxable years prior to displacement, net earnings will be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate.

4. Fixed Payment – 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 in an amount equal to its average annual net earnings computed as described in paragraph 3 above. In the case of a partial acquisition of land that was a farm operation before the acquisition, the fixed payment will be made only if MaineDOT determines that:

- 1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
- 2) The partial acquisition caused a substantial change in the nature of the farm operation.

5. Fixed Payment - Nonprofit Organizations. For a nonprofit organization, “existing patronage” means membership or clientele. A nonprofit organization is assumed to meet this test, unless MaineDOT determines otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses. Gross revenues for a

nonprofit organization 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 for administrative support (e.g., rent, utilities, salaries, and advertising) and other similar items as well as fundraising expenses. Operating expenses are not included in administrative expenses.

6. Documentation for Fixed Payment Claim. For the owner of a business, farm or nonprofit organization to be entitled to the fixed payment, the owner must provide information to support its net earnings. State or Federal tax returns for the two years before the year of displacement are the best source of this information. Other documentation sources may include financial statements certified by the displacee, the displacee's accountant or displacee's attorney may be accepted as supplementary evidence of earnings. The owner's statement alone would not be sufficient if the amount claimed exceeded the minimum payment of \$1,000. Use MaineDOT form RA-43 *Fixed Payment in Lieu of Actual Non-Residential Expenses* to claim payment for a non-residential fixed payment.

6-7 PERSONAL PROPERTY ONLY MOVE

6-7.01 General Eligibility Conditions-

A person who is required to move personal property from real property, but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization is eligible for relocation cost reimbursement. Examples of personal property only moves might be: personal property that is located on the portion of property that is being acquired from a partial acquisition but the business or residence will not be acquired and can still operate after the acquisition such as a sign or yard light; 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.

To be eligible for a move payment, the personal property must be within the area acquired. No moving cost can be paid for personal property that is an encroachment partially or entirely within the limits of the existing right of way.

For a non-residential personal property only move, the owner of the personal property has the option 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 MaineDOT may obtain estimates from qualified movers to use as the standard in determining the payment.

For uncomplicated low cost moves of personal property only, the MaineDOT may use a move cost determination as the basis for payment to the property owner. The move determination will be prepared by a qualified MaineDOT relocation agent based on previous payments for similar type moves adjusting for the unique circumstances of the immediate case.

6-7.02 Eligible Expenses-

The following expenses are eligible for reimbursement for a personal property only move.

1. Transportation of the personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the MaineDOT determines that relocation beyond 50 miles is justified.
2. Packing, crating, unpacking and uncrating of the personal property.
3. Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances, machinery, equipment and other personal property including substitute personal property. This includes connections to utilities available within the building for businesses. It also includes modification to the personal property including those mandated by governmental law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

4. Storage costs of the replacement property, including moving property in and out of storage. Storage cost reimbursement is limited to 12 months unless MaineDOT determines that a longer period is necessary. Costs for storage of personal property on a site owned, leased or controlled by the displaced person are not eligible for reimbursement.
5. Insurance for replacement value due to the loss, theft or damage to the personal property in connection with the move and necessary storage. Where insurance is not reasonably available, the replacement value of property lost, stolen or damaged in the process of moving shall be paid unless the loss results from fault or negligence of the displaced person or his or her agent or employee.
6. Other moving-related expenses that are not listed as ineligible in Section 6-6.07, as MaineDOT determines to be reasonable and necessary.
7. *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the MaineDOT, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the MaineDOT.

6-7.03 Ineligible Expenses

1. Personal property located entirely or partially within the existing right of way or personal property relocated partially or entirely within the full width of the new right of way and installations and fixtures restricted under 23 MSRA 1401-A which prohibits installation in, upon or near any state or state aid highway, located as follows:
 - a. Within the full width of the right-of-way of any state or state aid highway as laid out by the State, the county or the town;
 - b. Within 33 feet of the center line of any state or state aid highway. This paragraph does not apply to installations or other property in existence on August 6, 1949;
 - c. Within 20 feet from the outside edge of any of the paved portion of any state or state aid highway having more than 2 travel lanes and having a total paved portion in excess of 24 feet in width. This paragraph does not apply to installations or other property in existence on September 1, 1955;
2. Relocation expenses of on-premise signs that do not meet the requirements of 23 MRSA §1914 and in particular the location of an on-premise sign that is placed:

- a. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;
- b. Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width;
or
- c. Within the full width of the right-of-way of any public way.

Paragraphs a and b shall not apply to signs erected before September 1, 1957.

3. Cost of moving structures, improvements or other items of realty retained by the owner;
4. Interest on loans to cover moving expenses;
5. Loss of goodwill;
6. Loss of trained or skilled employees;
7. Loss of business or profits;
8. Personal injury;
9. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the MaineDOT ;
10. Physical changes to the real property at the replacement location of a residence, business, farm operation or nonprofit organization, except as provided under section 6-7.02, 3, eligible actual moving expenses.
11. Costs for storage of personal property on real property already owned or leased by the displaced person; and
12. Refundable utility and security deposits.

6-7.04 DETERMINATION- PERSONAL PROPERTY or REAL ESTATE FIXTURE

Often the determination of whether an improvement is personal property or a real estate fixture is not addressed before the valuation process and is left to the appraiser to make a determination. That can provide less than adequate time for data gathering, owner involvement and coordination with the Property Office. . Ideally, early in the project development process the

right of way team member and Senior Property Officer should identify items within the acquisition and construction limits to determine if an object is personal property or if it is an appurtenance that has become a real estate fixture. Unusual items should be determined in consultation with the Relocation Manager. As a general rule, if an item would generally be expected to pass with the property when title is transferred, it should be considered as an appurtenance and real estate fixture and not as personal property.

The *Dictionary of Real Estate Appraisal, 4th Edition*, offers the following relevant definitions:

1. **“Personal Property**
 - a. Identifiable tangible objects that are considered by the general public as being “personal,” for example, furnishings, art work, antiques, gems and jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.
 - b. Consisting of every kind of property that is not real property; movable without damage to itself or the real estate...”
2. **“Appurtenance-** Something that has been added or appended to the property and has since become an inherent part of the property; usually passes with the property when title is transferred.”
3. **“Fixture-**
 - a. An item that was once personal property but has since been installed or attached to the land or building in a rather permanent manner so that it is regarded in law as part of the real estate.
 - b. Attached improvements that can be real or personal property. If attached to the realty in such a manner that its removal would damage the real property or the fixture, the fixture is realty. If the fixture is removable without damage, it is generally considered personal property.
 - c. An item of equipment that, because of the way it is used, the way it is attached, or both, has become an integral part of a building or other improvement. A fixture, such as a bathtub is classified as real property, but trade fixtures (fixtures used in the conduct of business) are classified as personal property.

6-7.05 CONDITIONS FOR REIMBURSEMENT PERSONAL PROPERTY ONLY MOVE

To be eligible for relocation reimbursement personal property must not be an encroachment within the existing right of way and the following conditions must occur:

1. the personal property must be within the acquisition area on the earliest of either the initiation of negotiations or the date a notice of intent to acquire letter is delivered; and
2. the personal property is subsequently removed; and
3. the real property is subsequently acquired.

If the personal property is relocated after a MaineDOT form RA-41a *Personal Property Relocation Eligibility Notification Letter* is delivered, then the owner of personal property is eligible for a payment even though the real property is not subsequently acquired, unless, before the personal property move, a notification that the acquisition will not occur and the personal property need not be removed is delivered to the owner of personal property either by personal delivery or by certified mail.

6-7.06 PERSONAL PROPERTY ONLY MOVE PROCESS

Typically the project negotiator will act as the relocation agent for personal property only moves, in conjunction with the acquisition of the real property. The negotiator has the responsibility to complete the relocation process for personal property only moves under the guidance of the Property Office regardless of whether the negotiator is the permanent program/team negotiator, a fee contract negotiator or a fill-in MaineDOT employee such as a survey or construction employee. Contractual obligation for fee contract negotiators and assignments for fill-in employees should make this responsibility clear to the assigned negotiator.

As early as possible in the project development process, the project right of way team member and the Senior Property Officer study the plans and address each item within the acquisition area to determine if it is to be treated as personal property or an appurtenance to be appraised with the real estate. A file memo should be generated listing each item as either personal property or real property with a copy to the Appraiser for the project and the Relocation Manager in the Property Office. Consultation with the Relocation Manager should be undertaken when there is a question about whether an unusual item is personal property or real property.

Often the determination that an item will be acquired will not be known until late in the process when the right of way plan is complete and the project parcels are ready for valuation. It is still important that the right of way team member and Senior Property Officer address each item as to whether it is personal property or an appurtenance to be appraised with the real estate.

Often individual components must be considered individually. For example a planter and shrub/flower bed are normally be valued as an improvement within the acquisition and if that planter and shrub/flower bed surrounds an on-premise business sign the sign might be considered personal property eligible for relocation while the planter shrub/flower bed should be valued as an improvement to the realty since it is an inherent part of the property that would be expected to pass with title to the property and which cannot be moved without damage to itself or the real estate.

In determining if an item is personal property or real estate, right of way personnel should be sensitive to both the owner's needs and the MaineDOT's need to deliver a project in a cost effective manner. For example, a sign from a partial acquisition might be treated as personal property and relocated to remaining land owned or leased by the sign owner, but if the sign has significant depreciation it may be in the owner's and the MaineDOT's interest to acquire the sign as an improvement. Often items such as signs, yard lights, canopies and fuel dispensing equipment, etc. are transferred with title to the property in a private sale and in the instance of a

total acquisition these same items are best considered as improvements acquired and paid as part of the acquisition rather than as personal property that the owner may not intend to relocate and where the cost of relocation would reasonably be expected to exceed the value in place. Likewise, in the instance of a partial taking which results in a change in the highest and best use of the remaining property, items within the acquisition such as signs, yard lights, canopies and fuel dispensing systems may no longer contribute to the new highest and best use and the owner may not be able to relocate these items to a new location so the best course of action is to pay for these improvements as part of the acquisition. Also, such items that are part of the remainder, where there is a change of highest and best use, should be considered as an improvement when considering severance damage to the remainder so that the owner is adequately compensated.

1. **Start a relocation contact file.** The negotiator should start a relocation file for each owner of personal property that is eligible for relocation.
2. **Notify owner of: eligibility for relocation of personal property; and process.** Each owner of personal property should be given letter stating the items of personal property eligible for relocation, the stationing of each item and the additional offset that the item needs to be relocated in order to be relocated outside of the acquisition area and be eligible for a relocation payment. The negotiator will use form ***RA-41a Personal Property Relocation Eligibility Notification Letter***. A copy of the letter will be provided to the owner in person whenever possible or by certified mail if it is not possible to meet with the owner in person. With the letter the negotiator should explain the owner's eligibility for benefits, payments that the owner may be entitled to receive, method for application for payments and the appeal process..
3. **Delivery of 90-day assurance notice letter.** The negotiator will prepare MaineDOT form ***RA-31 90-day Assurance Notice Letter*** for each owner of personal property that is required to be relocated from the proposed acquisition. The 90-day notice cannot be delivered prior to the earlier of the initiation of negotiations or the issuance of a form ***RA-21 Notice of Intent to Acquire Property Letter***. The notice of intent to acquire is only to be issued when the owner indicates that they wish to begin the relocation process before the initiation of negotiations and it is not intended to allow the MaineDOT to accelerate the project timetable. Normally the ***RA-31 90-day Assurance Notice Letter*** will be delivered to the owner of personal property at the initiation of negotiations by the negotiator. The 90-day notice is to be delivered in person whenever possible and by certified mail when personal delivery is not possible. When the personal property to be relocated is owned by someone other than the parcel owner, the parcel owner will be given a copy of the 90-day notice that was provided to the personal property owner.
4. **Obtain bids for moving personal property.** Two bids for relocating each item of personal property need to be obtained. Sometimes it is not possible to obtain 2 bids and where only one bid can be reasonably obtained it may suffice. The MaineDOT will pay the lesser of either the lowest approved bid price or the actual cost of the work performed. Each owner of personal property should be encouraged provide helpful information to assist in successfully relocating eligible personal property and in obtaining

bids for moving personal property. Often, the owner may know of and trusts contractors that have installed the items originally and the owner is more comfortable with the process if fully involved with the process. Where the owner is unable or is unwilling to obtain 2 bids for relocation of personal property, the negotiator is responsible for obtaining bids for relocation.

5. **Approval of bids.** All bids must be reviewed by the MaineDOT before approving a low bid for actual work. Once a bid had been approved the owner should be notified. The negotiator will use form **RA- 41b Personal Property Relocation Bid Amount Approval Letter** to notify the owner of the approved amount, the name of the contractor and the date by which the work is to be completed. The date of completion of work cannot be sooner than the date specified in form **RA-32 Notice to Vacate Letter**. The owner need not use the contractor submitting the low bid for relocation of the items, but the MaineDOT will not pay more than the approved minimum bid if a different contractor is used or the owner performs the work personally. The owner of personal property may choose to perform the work personally and the MaineDOT may pay the owner for the relocation work with proper documentation for actual costs of salary, materials and rental equipment used for the move in an amount not to exceed the approved low bid. A negotiated self-move may be worked out in advance with the owner of non-residential personal property that is based on the lower approved bid less profit and other costs as MaineDOT determines to be appropriate.

6. **30-Day Notice to Vacate.** The negotiator will provide the owner of personal property a completed copy of MaineDOT form **RA-32 Notice to Vacate Letter** in person if possible or by certified mail if personal delivery is not possible. The 30-day notice cannot be delivered to the owner sooner than the date that the MaineDOT acquires title to the property on which the personal property is located. The date specified in the letter by which the owner must have the personal property removed should be reasonable given the timetable for a contractor to relocate the personal property and the season. Often relocation of items which involve in-ground work is difficult in cold weather when frozen ground is present. If winter work is necessary the negotiator should be certain that the approved bid amount will cover the additional cost of winter work. *Note: Frequently, when project construction is scheduled for a spring kick-off, it is tempting to delay personal property relocations until spring. This can be a serious miscalculation since relocation of utility poles and installations may occur during winter months and may be delayed by the failure to relocate personal property as early as practicable.

7. **Submittal of claims for payment.** The negotiator will complete a copy of the claim form **RA-47 Moving Expenses for Personal Property Only** which will accompany the bid approval letter with a return envelope to the attention of the negotiator. The negotiator will review the claim form and supporting documentation for completeness and obtain all necessary corrections and supporting documentation before submittal to the Relocation Manager for payment processing. The owner may request that the contractor be paid directly for the work performed when submitting the claim for payment. If the owner does not explicitly request that the contractor be paid directly, the owner will be sent the payment for work performed and is responsible for paying the contractor. It is important

that the negotiator and owner understand that the contract for performance of the relocation work is between the owner and the contractor who will perform the work. MaineDOT cannot contract directly for work to relocate personal property owned by a private individual to be relocated on private property no matter if the MaineDOT negotiator acts as an intermediary to obtains the bids and coordinates the schedule of work with the contractor.

8. **Appeals of Approved Move Expenses.** The negotiator will explain to the owner of personal property that the owner may appeal any MaineDOT decision regarding eligibility for relocation assistance and the amount of any relocation payment. The negotiator will explain the relocation appeal process to the owner and assist the owner with completing MaineDOT form ***RA-42 Request for Review of Relocation Payment***. If the MaineDOT is unable to negotiate any payment for actual, reasonable and necessary moving expenses for personal property at what MaineDOT deems a reasonable amount, either the MaineDOT or the displaced person, or both, may apply to the State Claims Commission in writing for a determination and assessment. The proceedings shall be the same as in a condemnation proceeding.

9. **Encroachments.** Personal property which is located within the existing right of way is an encroachment. Encroachments constitute a trespass within the MaineDOT's existing right of way and as such are not eligible for relocation reimbursement. Encroachments are not a relocation issue, but need to be addressed by the project negotiator. Encroachments can represent a safety hazard as a deadly fixed object or may impair safe sight distance. Encroachments in the right of way are automatically within the project work zone of the contractor or state forces and are therefore are at risk of damage and represent a potential for injury to construction personnel. If damage to the encroachment occurs the owner has no recourse of a claim against the contractor, since it is an illegal installation. The negotiator should provide the owner of the encroachment a letter by personal delivery or certified mail identifying the encroachment, its stationing and the new distance it needs to be setback so that it is located outside of the new right of way. The letter should state a specific date by which the encroachment needs to be removed from right of way. This letter should not be confused with MaineDOT form ***RA-32 Notice to Vacate Letter*** since there is no guarantee of a specific time duration before removal is required. It is suggested that 45 days be allowed when project scheduling permits to avoid confusion with relocation 90-day and 30-day notices.

6-8 REPLACEMENT HOUSING PAYMENTS for RESIDENTIAL OWNER-OCCUPANTS**6-8.01 Owner-Occupants of 90 Days or more****6-8.01(a) Eligibility**

A residential displacee is eligible for a replacement housing payment for a 90-day homeowner-occupant if the person:

1. Has owned and occupied the displacement dwelling as that person's primary residence for at least 90 days immediately prior to the initiation of negotiations; and
2. Purchases and occupies a decent, safe and sanitary replacement dwelling within one year of the latter of the following dates (except the MaineDOT may extend such one year period for good cause at its discretion):
3. The date the homeowner-occupant receives final payment for the displacement dwelling; or
4. The date that at least one comparable replacement dwelling is made available to the homeowner-occupant.

6-8.01(b) Amount of payment

The replacement housing payment for an eligible 90-day homeowner-occupant may not exceed \$31,000, (for exception see Housing of Last Resort section). This payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date payment is made to the homeowner-occupant for the displacement dwelling or the date a comparable replacement dwelling is made available, whichever is later. The payment will be the sum of:

1. A purchase price differential payment to **compensate for** the increased cost, if any, in the amount that the replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined **in accordance with section 6-8.02**. This is called a *purchase price supplement*.
2. The increased interest costs and other debt service costs which are incurred **in connection with the mortgage on the replacement dwelling, as determined with section 6-8.03**. This is called a **mortgage differential payment**;
3. **The sum of the reasonable incidental (closing) expenses associated with the purchase of the replacement dwelling, as determined in section 6-8.04**. This is called a *reimbursable incidental expense payment*.

6-8.01(c) Purchase

The homeowner-occupant “purchases” a replacement dwelling when:

1. An existing DS&S dwelling is acquired. The dwelling may be a conventional house, a condominium or co-op unit, a life estate in a dwelling, a mobile home or, a boat or motor home designed to provide living accommodations that is purchased and occupied as the primary place of residence and is located on a leased or purchased site and connected to all necessary utilities for functioning as a housing unit that meets a governmental requirements for a decent, safe and sanitary dwelling.
2. A life estate in a retirement home is purchased. The actual cost will be entrance fee plus any other monetary commitments to the home, except periodic service charges may not be considered. The RHP is limited to the reasonable cost of purchasing a comparable replacement dwelling less the acquisition cost of the acquired dwelling.
3. A dwelling previously owned or acquired is relocated and/or rehabilitated. The basis for determining the Purchase Supplement will be the current value of the dwelling at the time of relocation.
4. Construction is completed or contracts have been executed for the construction of a new dwelling on a site that is owned or acquired. The actual cost provision limits the reimbursable construction cost to only those costs necessary to construct a dwelling that is comparable to the one acquired. The costs of adding new features that clearly exceed comparable features in the displacement dwelling are not eligible for reimbursement. Eligible costs of the site will be limited to the current residential fair market value of the replacement site rather than what the displaced person actually paid for it.
5. Any displaced homeowner-occupant who has obtained legal ownership of a replacement dwelling or land, on which the replacement dwelling is located, constructed or relocated to, is eligible for a RHP if the replacement dwelling meets DS&S standards. The current fair market value of land and dwelling will constitute the “actual cost” in the replacement housing determination. The requirement to use the current fair market value of the replacement dwelling for residential use does not mean that the MaineDOT must have the property appraised. Any reasonable method of arriving at a supportable market value may be used by the MaineDOT.

6-8.01(d) Occupancy of Replacement Dwelling

The displaced homeowner-occupant will be considered to have occupancy of a replacement dwelling on the date the displaced homeowner-occupant takes title to the dwelling intending it to be a permanent place of residence.

6-8.01(e) Decent, Safe and Sanitary (DS&S) Standards

The displacee is not required to purchase and occupy comparable housing. To qualify for a RHP, the displaced homeowner-occupant must purchase and occupy a dwelling meeting DS&S standards as defined in Section 6-1.07.

MaineDOT will inspect the replacement dwelling before purchase by the displacee and verify that it meets DS&S criteria. The Relocation Agent will advise the displacee to promptly notify MaineDOT when a contract to purchase is signed. The Agent will also advise the displacee to write the following condition in any purchase contract:

“This contract is conditioned on inspection of the property by MaineDOT representative by (date 10 days forward) and certification that it meets decent safe and sanitary standards.”

A qualified MaineDOT employee, a local code inspector or a private contractor hired by MaineDOT, may perform the inspection and certification. If it is not practical to perform the inspection because the displacee has moved out of State, a request may be made to the DOT in that State to perform the inspection as a reciprocal service courtesy. If an inspection is not practical, a self-certification from the displacee that DS&S housing is occupied may be accepted.

The DS&S inspection is exclusively for the purpose of qualifying for payment of a relocation claim. It does not certify for any other purpose, and MaineDOT does not guarantee the condition or performance of the dwelling or its systems.

DS&S deficiencies must be corrected before a RHP claim is paid. However, a RHP may be made, provided that there is a holdback from the total purchase price supplement pending correction of the deficiencies and a MaineDOT final inspection. The cost to the displacee of correcting a deficiency may be added to the cost of the replacement dwelling for the purpose of determining the claim amount, but may not be reimbursed at a rate exceeding the maximum eligible purchase price supplement based on an existing DS&S listing.

When available comparable replacement properties are limited a RHP can be computed based upon an available property having minor DS&S deficiencies, provided the deficiencies can be corrected for a reasonable amount. Use of non-DS&S properties with minor deficiencies should be limited to situations where a windfall or excessive expenditure can be avoided and/or where housing of last resort is needed to relocate the displaced homeowner-occupant to comparable housing. The payment computation **must** reflect the cost to correct the deficiencies. If the housing is used to meet the “make available” requirement, the housing must be available and be DS&S at the time of the move.

6-8.01(f) Persons not Lawfully Present in the United States (49 CFR 24.208)

The **Uniform Act** provides that persons who are not legally present in the United States are not eligible for relocation payments and assistance. To implement this provision, MaineDOT may

require that each person or head of household applying for payment or assistance certify that the individual or, in case of a family, each family member, is either a citizen or a national of the United States, or an alien who is legally present in the United States. No payment will be made to a person or household that does not so certify. The certification may be included as part of the claim for relocation payments when filed with MaineDOT.

In the case of a family, the certification may be made by the head of household on behalf of other family members. In the case of an unincorporated business, farm or non-profit organization, that each owner is either a citizen or a national of the United States, or an alien who is legally present in the United States, the certification may be made by the principle owner, manager, or operating officer on behalf of other persons with an ownership interest. In the case of an incorporated business, farm or non-profit organization, certification that the corporation is authorized to conduct business in the United States may be made by the principle owner or operating officer on behalf of the corporation.

In computing relocation payments, if any member of a household or owner of an unincorporated business, farm or non-profit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payment or assistance may be made to that person. Any payment for which such a household, unincorporated business, farm or non-profit organization would otherwise be eligible will be recomputed for the household based on the number of eligible household members and for the unincorporated business, farm or non-profit organization, based on the ratio of ownership between eligible and ineligible owners.

The MaineDOT shall consider the certifications provided by each individual, family, unincorporated business, farm or non-profit organization and corporation to be valid, unless the MaineDOT determines that the certification is invalid based on a review of the alien's documentation or other information that the MaineDOT considers to be reliable and appropriate. If upon review of documentation or other credible evidence, the MaineDOT has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear genuine), and that as a result, such person may be an alien not lawfully present in the United States, the MaineDOT will obtain the following information before making a final determination:

1. If the MaineDOT has reason to believe that the certification is invalid of a person who has certified that he or she is an alien lawfully present in the United States, the MaineDOT will obtain verification of the alien's status for the local Bureau of Citizenship and Immigration Service (BCIS) Office. Any request for BCIS verification will include the alien's full name, date of birth and alien number, and a copy of the alien's documentation.
2. If the MaineDOT has reason to believe that the certification is invalid of a person who has certified that he or she is a citizen or national, the MaineDOT will request evidence of United States citizenship or nationality form that person and, if considered necessary, verify the accuracy of such evidence with the issuer.

The focus of the eligibility restriction is the administration of the relocation program, not enforcement of immigration law. MaineDOT representatives will not seek out illegal aliens. Personal information secured by MaineDOT representatives during the relocation process

should not be disclosed to any outside party unless ordered by a court and as authorized by MaineDOT management. MaineDOT representatives should check the current status of State law and executive orders as pertains to collecting alien status information before doing so on any project. Current guidance is offered by Executive Order dated April 9, 2004, titled AN ORDER CONCERNING ACCESS TO STATE SERVICES BY ALL ENTITLED MAINE RESIDENTS.

MaineDOT may exempt persons from denial of relocation assistance, if the Department determines that the denial would result in an exceptional or extremely unusual hardship to the person's spouse, child or parent who is a citizen of the United States or is an alien legally admitted for permanent residence in the United States. "Exceptional and extremely unusual hardship" means that the denial of relocation payments and advisory assistance to such person will directly result in:

1. A significant and demonstrable adverse impact on the health or safety of that person;
2. A significant and demonstrable adverse impact on the continued existence of the family unit of that person;
3. Any other impact that the MaineDOT determines will have a significant and demonstrable adverse impact on that person.

At the earliest time that a Relocation Agent becomes aware that a relocation case may involve persons who are not legally present in the United States, the Agent will present all relevant facts and circumstance to the attention of the Property Office. The Property Office will determine the course of action in each case.

6-8.01(g) Payments – "Spend to Get" Requirement

Replacement Housing Payments are reimbursement for actual costs incurred in the purchase of replacement housing. The displacee must "spend to get" the amount determined as the maximum eligible Purchase Supplement. The purchase price of the DS&S replacement dwelling must equal or exceed the amount MaineDOT determined as the estimated cost of comparable dwelling, or the claim will be reduced to the amount actually paid. In addition, the full amount of the payment must be applied to the cost of housing. This may be ensured by the RHP check being made available for disbursement at closing on the replacement dwelling, or payment of the amount into an escrow account. MaineDOT forms ***RA-55 Application for Replacement Housing Escrow Payment*** and ***RA-56 Escrow Agreement*** will be used for this purpose.

6-8.02 Determination of Price Differential

The upper limit of a purchase price supplement will be based on the cost of a comparable replacement dwelling. The purchase price supplement or price differential to be paid is the amount which must be added to the acquisition cost of the displacement dwelling and site to provide a total amount equal to the lesser of:

1. The reasonable cost that is necessary to purchase a comparable replacement dwelling as determined by MaineDOT, or
2. The purchase price actually paid to purchase and occupy a DS&S replacement dwelling by the displaced homeowner-occupant.

6-8.02(a) Method

If available at least 3 comparable replacement dwellings that are available on the open market will be examined and the purchase price supplement computed on the basis of the available dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. . The selection of the most representative comparable replacement dwelling will be made by careful consideration of all factors in the dwellings being considered and the needs of the displacee with reference to the elements in the definition of comparable replacement housing. To the extent feasible, comparable replacement dwellings will be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher. Less than 3 comparables may be used for this determination when fewer comparable dwellings are available. The Relocation Agent performing the determination must provide a full explanation supporting the determination, including a discussion of efforts to locate more than 1 comparable. . Use MaineDOT form ***RA-29 Comparable Dwelling Grid*** and ***RA-23 Comparable Replacement Housing Notice*** to determine the Purchase Price Supplement

To file a claim for a purchase price supplement payment for actual cost the Relocation Specialist should complete MaineDOT form ***RA-48 REPLACEMENT HOUSING PAYMENT NOTICE/APPLICATION*** for the homeowner-occupant's signature. The completed application for payment must be accompanied by all necessary documentation, such as either: a fully executed Purchase and Sales Agreement; a closing statement for the replacement property purchased; or a market valuation for the replacement property already owned by the displaced homeowner-occupant.

The asking price for the comparable replacement dwellings are not adjusted to reflect an indicated selling price, giving the displacee the benefit of the doubt. If a displaced person elects to purchase the comparable but cannot acquire the property for the asking price because of competitive bidding, the MaineDOT will determine the RHP based on other available comparables. When a dwelling is obviously overpriced in relation to other comparables, it may not be used in the replacement housing computation.

6-8.02(b) Method – Major Exterior Attributes

The site of the comparable replacement dwelling selected in computing the Purchase Price Supplement may be comparable except it lacks one or more major exterior attributes present at the displacement property (such as a significantly smaller site or lacks a, garage, outbuilding, or a swimming pool). The appraised value of these items will be deducted from the acquisition

cost of the acquired dwelling for purposes of computing the Purchase Price Supplement. It is not appropriate to add the value of the exterior attribute to the comparable.

The cost of actually building an exterior attribute at the replacement property occupied may be added to the acquisition cost provided that the attribute built has the same function as the one at the displacement property.

Figure 6-1 provides an example of determining a Purchase Supplement where there is a major exterior attribute.

The Appraiser assigned \$4,000 contributory value for the garage and a total property value of \$100,000 for the acquired property. A comparable house not having a garage is listed for sale at \$106,000. The Purchase Supplement amount is computed below:

Comparable dwelling		\$106,000
Displacement property value	\$100,000	
Less: Value of the garage	<u>\$ 4,000</u>	
LESS: Adjusted displacement property value		<u>\$ 96,000</u>
Purchase Price Supplement amount		\$10,000

FIGURE 6-1 — Example of a Major Exterior Attribute (Garage)

6-8.02(c) Highest and Best Use Other Than Residential

When the acquired dwelling is located on a site where the fair market value is established on a highest and best use generating a greater value than residential, the Purchase Supplement maximum amount will be determined by deducting the acquisition price of the acquired dwelling plus the acquisition price of that portion of the acquired land that represents a tract typical in size for the area from the probable selling price of the most comparable listing. See Figure 6-2.

The acquired house (whole take) is on a 6-acre site that is zoned commercial. The typical residential lot in the area is 1 acre. The land is appraised at \$120,000/acre and the dwelling is valued at \$20,000 (interim use value). A comparable house on a residentially zoned lot is available for \$150,000. The maximum Purchase Supplement amount is determined below:	
Comparable property	\$ 150,000.
LESS: Value of the house acquired on 1 acre	<u>\$ (140,000)</u>
Maximum Purchase Supplement amount.....	\$ 10,000.

FIGURE 6-2 — Example of Acquired Dwelling on a Commercial Zoned Site

6-8.02(d) Mixed-Use Property

When the acquired dwelling is a unit in a structure that also includes space used for nonresidential purposes, the amount of the Purchase Supplement offer will be determined by using only that portion of the fair market value that is attributable to the residential use of the acquired property. See Figure 6-3.

A grocery store owner lives in a 1-bedroom, 1-bath apartment above the store. The residential unit has 1,000 ft ² of habitable living space. The property is appraised at \$150,000. The Appraiser allocated 35% of total property value to the residence. There are several 1-bedroom, 1-bath units available for sale. They are: (a) a duplex with 2 identical units for \$125,000; (b) a single family house for \$75,000; and (c) a condo unit in a 6-plex for \$50,000.	
Most comparable property: (a) duplex unit value	\$62,500 (\$125,000 ÷ 2)
LESS: Displacement dwelling value	<u>\$52,500</u> (35% X \$150,000)
Maximum Purchase Supplement amount.....	\$10,000

FIGURE 6-3 — Mixed Use (Example 1) Displacement Property in Residential and Commercial Use

When the replacement property is a structure that includes space used for nonresidential purposes, only that part of the total cost that relates to the value of the owner's living unit will be used to determine the Purchase Supplement.

When the replacement property contains buildings other than the residence that are used for nonresidential purposes, the value of these buildings must be carved out of the entire purchase price of the replacement property in order to determine the residential use value. The residential use value will represent the amount paid for replacement housing when determining the Purchase Supplement payment amount. See Figure 6-4.

A family who is displaced from a single-family house with an acquisition value of \$90,000 and a Purchase Supplement of \$15,000 contracts to purchase an operating chicken farm for \$250,000. They will live in the farmhouse, which has an estimated value separate from the farm of \$100,000. The displaced family submits a claim for the full \$15,000 maximum Purchase Supplement amount.

The family is eligible to receive \$10,000, not \$15,000, as a Purchase Supplement payment. Before processing the claim for payment, the Relocation Agent must determine the value of the farmhouse on a normal lot for residential use in the area. This will determine the payment ceiling. The part of the purchase price attributable to the farm operation (\$150,000) will not be considered in the claim. This should be explained to the displaced family before they searched for replacement property.

**FIGURE 6-4 — Mixed Use Property (Example 2)
Displacee Purchases Mixed Use Replacement Property**

When the acquired homeowner-occupant dwelling is part of a multi-family structure, the amount of the estimated maximum Purchase Supplement will be the difference between the value of a single unit of a multi-family comparable and the value of the portion of the acquired property devoted to homeowner-occupied, residential-use. When the replacement property is a multi-family structure, only the value of the displaced homeowner-occupant's living unit can be used to determine the Purchase Supplement payment, not the entire purchase price. The actual Purchase Supplement amount will be the price of a single unit of the selected multi-family comparable or the price of the homeowner-occupants replacement unit of the multi-family replacement, whichever is less, minus the homeowner-occupant's residential use portion of the acquired property. See Figure 6-5.

The acquired dwelling is a condominium unit in a building containing 3 stores and 6 residential units. The appraised value of the building is \$1.1 million. The value of the displacee's unit is \$130,000.

The Purchase Supplement is the cost of a comparable condo unit in a similarly configured building having residential and commercial units, less the \$130,000 attributed to the displacement unit. There may not be a condominium unit on the market in a mixed use, 6-residential unit building. Look for units in buildings having 5, 4, 3 or 2 units. Use the "most comparable" unit considering the ownership form and configuration of units, as well as other factors.

**FIGURE 6-5 — Mixed Use Property (Example 3)
Owner Displaced From Condominium Unit**

6-8.02(e) Partial Acquisition of a Typical Residential Site

The following criteria will apply to partial acquisitions of typical residential sites:

1. Remaining Buildable Site. If the acquisition of a portion of a typical residential property causes the displacement of the homeowner-occupant from the dwelling and the remainder is a buildable residential site, the Department may offer to purchase the entire property. If the homeowner-occupant refuses to sell the buildable remainder site to the Department, the fair market value of the remainder will be added to the acquisition cost of the acquired property for the purposes of computing the maximum Purchase Supplement payment.

Example: The site is a 1.5 acre parcel with a homeowner-occupied single family dwelling. After the partial acquisition the remainder will be a desirable buildable lot of 0.90 acre. A comparable replacement dwelling has been found that is offered for sale for \$210,000.

Value Before the Acquisition -----	\$190,000
Value Remainder After Acquisition-----	<u>\$ 35,000</u>
Value of Acquisition-----	\$155,000

If the MaineDOT makes an offer to purchase the remaining buildable lot and the displaced homeowner-occupant refuses to sell, the value of the lot (\$35,000) may be added to the acquisition price for the purpose of the purchase price differential computation (\$155,000 + \$35,000). Consequently, instead of the computation being based on a \$155,000 acquisition price, the calculation can be based on a \$190,000 acquisition price, thus lowering the price differential by \$35,000.

.....Instead of this:	You would have this:	
Cost of Comparable	\$210,000	\$210,000
Value of Acquisition	<u>\$155,000</u>	<u>\$190,000</u>
Price Differential	\$ 55,000	\$ 20,000

FIGURE 6-6 – Example of a Partial Acquisition having a Buildable Remainder

2. Remaining Uneconomic Remnant. If the acquisition of a portion of a typical residential property causes the displacement of the homeowner-occupant from the dwelling and the remainder site is an uneconomic remnant, the Department will offer to purchase the entire property. If the owner declines to sell the remainder that is an uneconomic remnant to MaineDOT, the value of the part acquired and damages to the remainder will be used in computing the RHP. The fair market value of the remainder site that is an uneconomic remnant is not used in computing the RHP.

Example: The site is a 1.5 acre parcel with a homeowner-occupied single family dwelling. After the partial acquisition the, the remainder is an uneconomic remnant. The value before the acquisition is \$190,000. The value of the remainder after the acquisition is \$5,000. Hence, the value of the part acquired and damages if any is \$185,000. A comparable dwelling has been found with a listing price of \$210,000.

<u>Owner Wishes to Sell</u>		
Cost of Comparable		\$210,000
Less: Payment for Acquired Property		\$185,000
Less: Value of Uneconomic Remnant		<u>\$ 5,000</u>
Equals: Price Differential		\$ 20,000
<u>Owner Does Not Wish to Sell</u>		
Cost of Comparable		\$210,000
Less: Payment for Acquired Property		<u>\$185,000</u>
Equals: Price Differential		\$ 25,000

FIGURE 6-7 Example of a Partial Acquisition with an Uneconomic Remnant

3. Larger Tract than Normal. If the acquisition of a portion of a residential property causes the displacement of the homeowner-occupant from the dwelling on a

significantly larger site than is typical for residential use in the area, the maximum estimated RHP is the asking price of a comparable replacement dwelling on a tract that is typical in size for residential use, less the acquisition price of the acquired dwelling and the portion of the acquisition site that represents a typical size residential lot in the area, but excluding the value of that portion of the acquisition that is in excess of the typical residential site in the area . See Figure 6-6 for an

The displacement dwelling is on a 4-acre site. One-acre lots are typical in the area. The house and 3 acres are being acquired. The appraised value is \$125,000 (no remainder damage). The Appraiser valued the land at \$6,000/acre. A comparable house on 1 acre is available and listed for sale for \$125,000.

Comparable property	\$ 125,000
Value of Acquisition	\$125,000
Less Value of 2 acres in excess of typical residential site (\$6,000/acre).....	<u>\$ 12,000</u>
LESS: Displacement property	<u>\$ 113,000</u>
Maximum Purchase Supplement.....	\$ 12,000

* \$12,000 value of 2 acres of acquisition area excess to typical lot has been deducted. The \$6,000 value of the remainder is not added to the displacement property value since it is part of the original lot in excess of the size of a typical residential lot in the area.

example.

FIGURE 6-8 — Example of Partial Acquisition from Larger than Typical Residential Site

6-8.02(f) Payment to Occupant with a Partial Ownership

When a displacement dwelling is owned by several persons and occupied by only 1 of the co-owners, the RHP will be the lesser of:

1. The difference between the owner-occupants' share of the acquisition cost of the acquired dwelling and the actual cost of the replacement, or
2. The difference between the total acquisition cost of the acquired dwelling and the amount determined by MaineDOT as necessary to purchase a comparable dwelling.

Generally, the circumstance of partial homeowner-occupants arises when the ownership comes from a family inheritance, where 1 or more but not all of the heirs occupy the property. See Figure 6-9.

Ms. Jones occupies the house. She shares ownership with her 2 sons who live elsewhere. MaineDOT acquires the property for \$120,000. A comparable house is available for \$130,000. Ms. Jones relocates to a condo unit costing \$60,000.

Mrs. Jones' share of the proceeds from the sale to MaineDOT is \$40,000. Applying the 2 part rule in Items #1. and 2. above, the applicable Purchase Supplement is \$10,000 (Rule #2.).

FIGURE 6-9 — Example of a Homeowner-Owner Occupant having a Partial Interest

The homeowner-occupants with a partial ownership interest must spend their share of the acquisition payment plus the computed supplemental payment in order to receive the maximum payment.

If unusual circumstances would create an unintended hardship on homeowner-occupants with a partial ownership, MaineDOT may apply an alternative method.

6-8.02(g) Homeowner-Occupant Retains Displacement Dwelling

The displaced homeowner may retain the dwelling and move and reoccupy it on a relocation site. The Purchase Supplement in an owner-retention situation will be determined as the lesser of the sum of the four items below, or the amount determined using the comparable method:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;
2. The cost of curing any DS&S deficiencies (i.e., no payment may be made unless the replacement dwelling meets DS&S standards); and
3. The current fair market value for residential use of the replacement dwelling site, unless the displaced homeowner-occupant rented the displacement site and there is reasonable opportunity to rent a suitable replacement site; and
4. The retention value of the dwelling, if the retention value was reflected in the MaineDOT acquisition cost used when computing the replacement housing payment.

MaineDOT will develop the Replacement Housing Payment based on the comparable method and make the offer to the displaced homeowner-occupant. This serves as the estimated maximum replacement housing amount. If an owner salvages and relocates the displacement dwelling, MaineDOT will determine the actual RHP as above.

6-8.02(h) Revisions to Purchase Supplement Amount

Replacement housing must be available to the displacee at a price that is not higher than the selected comparable dwelling. If the original comparable dwelling is no longer available, the MaineDOT must assure itself that equally comparable dwellings are still available in the same price range. Where comparable housing is no longer available within the amount initially established, MaineDOT will review the housing market and establish a revised replacement housing amount. However, a Purchase Supplement amount previously offered will not be reduced as a result of this review, unless the displaced homeowner-occupant has made little or no effort to acquire a replacement dwelling, after a reasonable period of time, it would be permissible to reduce the offer if a less-expensive, comparable dwelling becomes available. If the MaineDOT elects to lower a payment offer, it will document the files with the rationale and make every effort to avoid acting in a coercive manner.

6-8.03 Mortgage Interest Differential (MID)

Increased interest payments are provided to compensate a displaced homeowner-occupant for higher increased interest costs required for financing a replacement dwelling. The increased interest payment will be allowed only when the dwelling acquired by MaineDOT was encumbered by a bona fide mortgage that has a valid lien on the dwelling for not less than 180 days before the established eligibility date, usually the initiation of negotiations date.

6-8.03(a) General

All valid mortgages on the dwelling that is acquired by MaineDOT will be used to compute the increased interest portion of the RHP. Home equity loans are valid mortgages on residential real property regardless of how the proceeds from the loans are used. Therefore, they must be included in the computation. In the case of a home equity loan, the unpaid balance will be that balance that existed 90 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less. When the property is secured with an adjustable rate mortgage, the mortgage interest rate that is current on the property as of the date of acquisition will be used in the computation.

The displaced person will be advised of the approximate amount of the MID as soon as the facts relevant to the current mortgages are known. The payment will be made at or near the time of closing on the replacement dwelling so that the new mortgage can be reduced.

6-8.03(b) MID Payment Computation

The payment for increased mortgage interest costs will be the amount that will reduce the mortgage balance on a new mortgage for the replacement dwelling to an amount that could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. The amount of the increased interest payment will be computed using MaineDOT Form ***RA-52 Increased Interest Payment Application***, which is based on:

1. The unpaid mortgage balances on the displacement dwelling. However, in the event the person obtains a smaller mortgage than the mortgage balance computed in the buy down determination, the payment will be prorated and reduced accordingly;
2. The remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter;
3. The nominal interest rates on the existing mortgages and the new mortgage. The nominal interest rate for the new mortgage cannot exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located; and
4. Purchaser's points and loan origination or assumption fees, but not seller's points that may be added as reimbursable to the displacee if they are typically charged, actually paid and are not reimbursed as incidental expenses. Reimbursement is limited to charges that would apply to the outstanding balance of the mortgage on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

Figure 6-10 provides an example of the determination of increased interest cost.

GIVEN:	
1. Outstanding balance –acquired dwelling mortgage.....	\$43,210
2. Outstanding balance – replacement.....	\$47,000
3. Remaining term, in months, acquired dwelling mortgage.....	212
4. Term, in months, replacement dwelling mortgage.....	360
5. Interest rate – acquired dwelling mortgage .	7.5%
6. Interest rate – replacement mortgage	8.0%
7. Points -	3
DETERMINATION:	
A. Monthly payment required to amortize a loan of \$43,210 in 212 months at a annual rate of 7.5%	\$ 368.38
B. Amount of reduced loan having a monthly payment of \$368.38 for 212 months at interest rate of 8%	\$41,749.00
C. Increased Mortgage Interest Costs: \$43,210 - \$41,749	\$ 1,462.00
D. 3 Points on \$41,749 =	<u>\$1,252.47</u>
E. Total Buydown: \$1,462.00 + \$1,252.47	\$2,714.47

FIGURE 6-10 — Example of Increased Mortgage Interest Payment

6-8.03(c) To Whom Payment is Made

The increased interest amount will be paid to the mortgagee at the date of closing, if all required information is provided sufficiently in advance. However, if the homeowner-occupant provides evidence of payment or evidence of a replacement mortgage that would qualify for a MID payment, the Department may reimburse that person directly. Upon specific request, MaineDOT can make an advance payment into escrow prior to the homeowner-occupant moving.

6-8.03(d) Partial Acquisition

When the displacement or the replacement dwelling is located on a tract that is larger than normal for residential use in the area, the interest payment will be reduced to the percentage ratio that the respective acquisition price bears to the value of the part of the property that is normal for residential use property, except the reduction will not apply when the mortgagee requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

Where a dwelling is located on a tract that is larger than normal for residential use in the area, the total mortgage balance will be reduced to the percentage ratio that the value of the residential portion bears to the before value for computational purposes. This reduction will apply whether or not it is required that the entire mortgage balance be paid.

6-8.03(e) Multi-Use Properties

The interest payment on the multi-use properties will be reduced to the percentage ratio that the residential value of the multi-use property bears to the before value.

6-8.03(f) Highest and Best Use Other than Residential

If the dwelling is located on a tract where the fair market value is established on a highest and best use other than residential, and if the mortgage is based on residential value, the interest payment will be computed as provided in the appropriate Section above. However, if the mortgage is obviously based on the higher use, the interest payment will be reduced to the percentage ratio that the estimated residential value of the parcel has to the before value.

6-8.04 Incidental Expenses**6-8.04(a) Reimbursable Expenses**

Incidental expenses, also called closing costs, are those reasonable expenses that are actually incurred by the displaced homeowner-occupant related to the purchase of a replacement dwelling. MaineDOT form *RA-53 INCIDENTAL EXPENSES PAYMENT APPLICATION* will be used. Following are types of expenses that are reimbursable to the homeowner-occupant:

1. Legal, closing and related costs, including those for title search and mortgage insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;
2. Lender, FHA or VA appraisal fees;
3. Lender, FHA or VA application fees;
4. Professional home inspection, certification of structural soundness, and pest inspections;
5. Credit report;
6. Owner's and mortgagee's evidence of title (e.g., title insurance) not to exceed the cost for the comparable replacement dwelling;
7. Escrow agent's fee;
8. State and local revenue or documentary stamps, sales or transfer taxes charged to record the deed (not to exceed the costs for a comparable replacement dwelling);

9. Loan origination or assumption fees that do not represent prepaid interest;
10. Purchaser's points, but not seller's points, normal to similar real estate transactions; and
11. Other costs that MaineDOT determines to be incidental to the purchase.

6-8.04(b) Un-reimbursable Expenses

There are important limitations on payment for incidental costs. The following are not reimbursable:

1. No fee or expense is reimbursable as an incidental expense when it is determined to be part of the debt service or finance charge under the *Truth in Lending Act*.
2. Expenses of ownership that are typically prepaid at closing are not reimbursable. This includes fire and liability insurance, real estate taxes placed in escrow and fuel oil that is on site at closing. Note that in Maine, many lenders require real estate taxes and insurance to be paid 6 months in advance. These are not eligible costs.
3. Expenses that are on the above list of eligible expenses but that are not typically paid by the purchaser in the county in which the transaction takes place are not reimbursable.
4. Title insurance is limited to the actual cost or cost based on the Number 1 comparable, whichever is less. Any payment in excess of this is not eligible for reimbursement.
5. Documentary stamps and transfer taxes are limited to actual costs, or the costs based on the Number 1 comparable, whichever is less. Any payment in excess of this amount is not an eligible cost.
6. Purchaser points and loan origination fees cannot exceed normal rates and are only paid if the displacee had an outstanding mortgage. The maximum payment is based on the lesser of the outstanding balance of the original loan or the amount of the new loan. These charges may not be reimbursed as an incidental cost if they were paid as part of the MID.

6-8.05 Homeowner-Occupant of 90 Days or More Who Rents

A homeowner-occupant who is eligible for an RHP under this Section who elects to rent a replacement dwelling is eligible for a Rental Assistance Payment RAP. The amount of a rental assistance payment is the difference in the monthly market rent of a comparable replacement dwelling available on the market minus the monthly market rent of the acquired dwelling; times 42 months, but not more than the amount the displaced family would have received had they purchased replacement housing. The method of determining the Rent Supplement is

addressed in Section 6-8. MaineDOT forms *RA-25 RENTAL ASSISTANCE PAYMENT ESTIMATE* and *RA-29 COMPARABLE DWELLING GRID* will be used.

A displaced homeowner-occupant retains eligibility for an RHP if a replacement unit is purchased within 1 year after the later of the date of final payment for the displacement dwelling or the date the owner was notified by MaineDOT of the availability of replacement housing. Further, eligibility to submit a claim for relocation benefits extends for 18 months from the later of the date of displacement or the date of final payment of the acquisition value of the acquired property. A homeowner who initially rents replacement housing may later purchase and qualify for an RHP. The total amount of the Rent and the Purchase Supplements, however, will not exceed the amount that would have been received if the homeowner had initially purchased and occupied replacement housing.

If the homeowner-occupant has previously received a rental assistance payment, the amount of this payment will be deducted from the amount to which the homeowner-occupant is entitled under this Section.

6-8.06 Special Provisions

6-8.06(a) Payment After Death

An RHP is personal to the displaced homeowner-occupants. Upon death of a displacee, the undisbursed portion of any payment will not be paid to the heirs or assignees, except:

1. The amount attributable to the displaced person's period of actual occupancy of the replacement housing will be paid.
2. The full payment will be disbursed in any case in which a member of a displaced family dies and the other family members continue to occupy the replacement dwelling.
3. Any portion of an RHP 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 will be disbursed to the estate.

6-8.06(b) Advance RHPs in Condemnation Cases

Displaced homeowner-occupants should receive the earliest possible payment of the RHP to which they are rightfully due. An advance RHP can be computed and paid to on an unsettled parcel if the determination of just compensation will be delayed pending the outcome of a State Claims Commission or Superior Court proceeding. If the amount of the RHP cannot be finally determined due to the pending proceedings, a provisional RHP may be based on acquisition price.

A provisional payment may be made upon the owner-occupant's agreement that the RHP will be recomputed using the acquisition price determined by the Commission or Court as compared to the actual price paid or the amount determined by MaineDOT as necessary to acquire a comparable DS&S dwelling. The relocation specialist will use MaineDOT form *RA-48A ADVANCE REPLACEMENT HOUSING PAYMENT APPLICATION* for advance replacement housing payments for unsettled acquisitions.

If the amount awarded as the fair market value of the property acquired plus the amount of the provisional RHP exceeds the lesser of the price paid for a replacement dwelling or the MaineDOT's determined cost of a comparable dwelling, the displacee will refund to the MaineDOT from the judgment or award, the amount of the excess. However, the homeowner-occupant will not be required to refund more than the amount of the RHP advanced.

The MaineDOT Office of Legal Services will inform the State Claims Commission of the provisional replacement housing payment amount, and that MaineDOT will pay the difference, if any, between the determined cost of replacement housing and the State Claims Commission award. The final RHP will be deferred until the case is finally adjudicated (either by the State Claims Commission or the Superior Court). The final RHP amount will be computed using the just compensation award as the acquisition price.

6-9 REPLACEMENT HOUSING PAYMENTS – FOR 90-DAY RESIDENTIAL OCCUPANTS**6-9.01 General**

A residential tenant who is in occupancy at the displacement dwelling for 90 days or more before the initiation of negotiations for the property, is eligible for a Rental Assistance Payment (RAP) to enable relocation to comparable replacement rental housing.

Alternatively, a tenant as described above may elect to receive a Down Payment Supplement (DPS) amount that can be applied toward a down payment and incidental expenses for the purchase of a Decent, Safe and Sanitary (DS&S) replacement dwelling.

The payment amount for either a RAP or a DPS is limited to a maximum of \$7,200. This limitation does not apply, however, if the relocation comes under the criteria for last resort housing as discussed in Section 6-10.

6-9.02 Rental Assistance Payment - Computation**6-9.02(a) General**

The rental assistance payment is 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities (that is heat, electricity, water and sewer) for a comparable replacement dwelling, or
2. The monthly rent and estimated average monthly cost of utilities for the DS&S replacement dwelling actually occupied by the displaced person.

6-9.02(b) Base Monthly Rental – Defined

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

1. The average monthly cost for rent and utilities (e.g., heat, electricity, water, sewer) at the displacement dwelling for a reasonable period prior to displacement as determined by MaineDOT (for a homeowner-occupant, use the fair market rent for the displacement dwelling. For a tenant who pays 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); or
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's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. Current low income limits for Maine can be found at: <http://www.fhwa.dot.gov/realestate/ua/ualic.htm> The base monthly rent

- will be established solely on the criteria in paragraph 6-8.02 (b) (1) of this section 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. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,
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.

Housing must be available within a displacee's financial means.

6-9.02(c) Determination of Base Monthly Rent for the Displacement Dwelling.

The following rules will apply to determination of the base monthly displacement rent for residential occupants in the circumstances indicated:

1. Utilities included in base monthly rent are heat, electricity, water and sewer only. Preferred documentation is copies of utility bills over a 1-year period. Other acceptable documentation is billing history for the property provided by utility company or billing statements covering less than 1 year. Any other form, including a statement from the residential occupant, will require secondary support. This could be the informed judgment of the Relocation Manager and Chief Property Officer of typical charges for a unit of a given size and type.
2. The Relocation Agent will secure income, rental and utility information from the residential occupant. If the occupant refuses to provide income information or reasonable verification, the base monthly rental will be based on Item #1 in Section 6-8.02(b).
3. For a residential occupant who pays little or no rent for the displacement dwelling, the fair market rent will be substituted in the RAP calculation, unless this would cause a hardship. Questions as to what constitutes "little or no rent" in specific cases will be referred to the Relocation Manager for a decision.
4. For a displaced homeowner-occupant who elects to rent replacement housing, see Section 7-6.06, the economic rent of the displacement dwelling plus utilities will be used.
5. For a displaced tenant receiving welfare assistance from a program that designates amounts for shelter and utilities, the base monthly rent will be the total of the amounts designated for shelter and utilities.

6-9.02(d) Rent Supplement – Method

The Relocation Agent will determine the rental rates of comparable housing by use of the three comparable method. MaineDOT's forms *RA-25 RENTAL ASSISTANCE PAYMENT ESTIMATE*, and *RA-29 COMPARABLE DWELLING GRID* will be used to determine the RAP. There will not be adjustment of the asking rent for available comparable rental dwellings.

If available, the Relocation Agent will use at least three comparable replacement rental dwellings to determine the RAP. The RAP will be computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. If fewer than three comparables are available, the Relocation Agent may determine the payment from one or two comparables, and will document the file as to efforts made to locate 3 comparables. All rental properties must meet DS&S standards and must be comparable to the displacement dwelling in essential characteristics.

Utility costs of heat, electricity, water and sewer must be included in both the displacement and the selected comparable rent. Reasonable efforts should be made to secure accurate information. The residential occupant's utility bills or a statement from the utility company is best. If actual costs are not available, a reasonable estimate should be made based on size and type of unit and other factors. The basis for the utility estimate should be documented in the Project File.

The comparables will be recorded and evaluated on Form *RA-29 COMPARABLE DWELLING GRID*. The focus of the evaluation will be the elements of comparable replacement housing. The most comparable rental will be selected as the basis of the determination. The Relocation Agent will record an explanation of the selection.

The residential occupant must be advised of the availability and location of the comparable property on which the RAP amount is based and provided with a copy of MaineDOT form *RA-25 RENTAL ASSISTANCE PAYMENT ESTIMATE*. The Relocation Agent should confirm the continued availability before providing the RAP information to the residential occupant. The residential occupant should be provided current listings of other comparable rental dwellings by supplying a copy of form *RA-29 COMPARABLE DWELLING GRID*.

If the comparable dwelling on which the Rent Supplement is based ceases to be available after an offer is made to a residential occupant, a re-determination is not required as long as there are comparable dwellings available on the market that are within the financial means of the displacee, including the amount of the computed RAP. If market conditions change to remove availability within the range of the computed RAP, a re-determination based on current available market data is required.

Example 1 Non-Low Income Rent Exceeds 30 % of income.

Joe High lives in Penobscot County and has a gross income of \$4,000/month. Penobscot County low income limit for a 1 person household is \$27,250/year. Sam's monthly rent and utilities are \$1,500 per month. An available comp is \$1,700/month.

Sam's rent supplement is \$1,700 minus \$1,500 = \$200 X 42 = **\$8,400.**

(Under the old Rule, the calculation would have been 30% of gross income is \$1,200; \$1,700 minus \$1,200 = \$500 X 42 = \$21,000.)

Example 2 Low Income Rent Exceeds 30 % of Income

Jim Lowe lives in Penobscot County and has an income of \$2,000/month. Penobscot County's low income limit for a 1 person household is \$27,250/year. Her monthly rent and utilities are \$650/month.

A comparable rental is available at \$700/month.

30% of her monthly income is \$600/ month ($\$2,000 \times 0.30$). Since this is less than her actual rent, it becomes the basis for the rent subsidy calculation.

Thus, \$700 minus \$600 = \$100 X 42 = **\$4200.**

Example 3 Low Income, Rent is Less Than 30% of Income

Bob Beelow also lives in Penobscot County with a low income limit of \$27,250. Bob's gross monthly income is \$2,000 and his monthly rent and utilities total \$500.00.

An available comp has been found for \$700/month.

30 % of Bob's monthly income is \$600/month ($\$2,000 \times 0.30$), and since this is more than the \$500/month he is currently paying, the actual rent and utility payments are used in the RAP calculation. Thus $\$700 - \$500 = \$200 \times 42 = \mathbf{\$8,400.}$

6-9.02(e) Publicly Owned Housing

For a tenant who is not receiving assistance under a government housing program before displacement, comparable housing is currently available private housing. A publicly owned

housing unit may be comparable housing only for a person who is displaced from a public housing unit. A privately owned but publicly rent subsidized unit will qualify as a comparable dwelling only for a person who is displaced from a similarly subsidized dwelling. However, a displaced tenant may voluntarily choose to occupy publicly owned or rent subsidized housing.

6-9.02(f) Section 8 Housing Assistance Program

Section 8 is a rent subsidy program funded by the U.S. Department of Housing and Urban Development (HUD) to enable low-income families to rent privately owned DS&S housing. Section 8 is administered by local housing agencies. Landlords receive a subsidy representing the difference between 30% of an eligible tenant's adjusted gross household income and reasonable housing rent as determined under program rules. Section 8 benefits are normally portable, meaning the benefit moves with the recipient.

Section 8 assistance has a feature that is superior to the relocation rental assistance payment in that it is not limited to 42 months but continues as long as the recipient household is income eligible. The Relocation Agent should make every effort to relocate existing Section 8 recipients to units in which their Section 8 benefits will continue. If a normal relocation RAP is paid, the local housing agency may consider this income and disqualify the displaced household from eligibility for Section 8. It may be difficult to reenter the program, as there is usually a long waiting list.

In order to transfer Section 8 benefits, the recipient must relocate to a DS&S unit in which the owner agrees to participate in this program. Local housing agencies generally maintain current lists of participating owners and properties.

A tenant cannot be required to accept a Section 8 rent subsidy in lieu of a Rent Supplement payment under the relocation program.

6-9.02(g) Eligibility and Disbursement of Rent Supplement

The displaced residential occupant must relocate to a DS&S replacement dwelling to qualify for RAP payment. To qualify for full RAP, the replacement dwelling rent and utilities must at least equal the determined comparable rent.

The amount of the rental assistance payment will be paid in a lump sum unless MaineDOT determines that it is in the public interest to make periodic payments over the 42-month term of the benefit. However, the full amount of the rental assistance payment vests immediately whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing, except as limited by special provisions after death which are the same as those found in section 6-8.06(a) "Payment After Death."

On request of the residential occupant, the RAP amount may be assigned to direct payment to a landlord over the term of the benefit.

6-9.02(h) \$7,200 Benefit Limit

A RAP payment offer is limited to \$7,200 under normal program authority. MaineDOT has an overriding responsibility to enable residential occupants to rent replacement housing within their financial means. If the payment computation exceeds \$7,200, the special authority under last resort housing provisions is applicable. See Section 6-10 for information on last resort housing.

6-9.02(i) Change of Occupancy

If a residential occupant, after moving to a DS&S dwelling, relocates within the 1-year period of continued eligibility to a higher cost rental unit, another claim may be presented for the amount in excess of that amount that was originally claimed, but not to exceed the total RAP originally computed.

6-9.03 Down Payment Benefit – 90-Day Residential Occupants

A displaced residential occupant eligible for a RAP, who elects to purchase a replacement dwelling in lieu of accepting a rental assistance payment, may elect to apply the entire computed payment to the purchase of a replacement dwelling and allowable incidental expenses.

As a matter of MaineDOT policy, a down payment assistance payment that is less than \$7,200 will be increased to \$7,200 provided the entire amount is applied to incidental expenses and the purchase price of a DS&S replacement dwelling. The MaineDOT will follow this policy in a uniform and consistent manner so that eligible displaced persons in like circumstances are treated equally. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under section 6-8.01(a) if the owner meets the 90-day occupancy requirement.

MaineDOT has a responsibility to enable a residential occupant to relocate to housing of the same tenancy or ownership status as was occupied before displacement. Efforts will be made through advisory assistance and the down payment benefit to assist a tenant to move to ownership, but the achievement of ownership by tenants is not a program requirement.

6-9.04 Occupants Who Do Not Meet Length of Occupancy Criteria

Displaced residential occupants who began occupancy at the displacement property fewer than 90 days before MaineDOT initiated negotiations for the property but before MaineDOT acquired the property are eligible for the following relocation benefits:

1. Advisory services as described in Section 6-3 to assist in locating adequate replacement housing;

2. Moving expenses as described in Section 6-5; and
3. Last resort housing provisions, but only if comparable rental housing is not available at rental rates within 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's Annual Survey of Income Limits for the Public Housing and Section 8 Programs. Current low income limits for Maine can be found at: <http://www.fhwa.dot.gov/realestate/ua/ualic.htm> (financial means test).

The provisions of this paragraph are applicable only to persons who occupy a dwelling at the date the Department acquires the property.

6-10 RELOCATION ASSISTANCE AND PAYMENTS – MOBILE HOMES

6-10.01 General

Mobile home occupants are entitled to the same relocation benefits as those that apply to residential occupants from conventional housing. Eligible moving expenses for owners and displaced occupants of mobile homes are described in section 6-5.03 *Eligible Moving Costs* and section 6-5.06 *Moves from a Mobile Home*. However, mobile homes have unique legal and physical characteristics that require separate consideration in methods of determining replacement housing benefits. These special characteristics relate to the potential for the mobile home unit to be either realty or personalty, and the potential for the occupant to have owned the dwelling unit and rented the site or vice versa. This Section provides guidance in determining replacement housing and moving cost benefits that are applicable to mobile home occupancy.

6-10.02 Personalty vs. Realty

The MaineDOT must determine if mobile home occupants are displaced from their mobile home for a project, applying the following considerations. This determination should be made uniformly to ensure an orderly and equitable relocation of all displaced residents. A mobile home may have legal status as either real estate or personalty depending on the following factors:

1. The permanency of its fixture to the ground,
2. Its condition,
3. The intention of the owner in placing the mobile home on its present location, and
4. Custom and practice in the community where it is located.

In determining the status of a mobile home, MaineDOT references the definition in 36 MRSA Section 551, which states that mobile homes, except stock in trade, shall be considered real estate for the purposes of taxation. It is MaineDOT's policy, to treat the acquisition of mobile homes as real estate. Exception approvals to this policy will be the responsibility of the Chief Property Officer and will be well documented.

If the mobile home is assessed as real estate by the municipality in which it is located and is not currently licensed as a recreational vehicle, it will normally be considered real estate. In the community in which a mobile home is located, if mobile homes are typically bought and sold by deed with the conveyance of the land on which the mobile home is located, it will normally be considered real estate. If the mobile home is permanently fixed to the site (e.g., on a concrete foundation with basement), it will normally be considered real estate. In some cases, the distinction is not clear and a legal determination is necessary. The personalty/realty decision will be completed before the property appraisal is ordered. The Relocation Agent may provide

input in this process for questions that involve the feasibility of relocating the mobile home unit, the availability of replacement sites, or the consistency with decisions made on similar situations encountered in the past or anticipated on the same project or in the local area.

If the displacement mobile home unit is personalty and not acquired, it will be moved to a replacement site and all costs will be reimbursed as moving expense. The occupants will be eligible for replacement housing benefits pertaining to the purchase or rental of a replacement site only and temporary housing costs during the move and until the mobile home is put in like condition and is made DS&S at the new site.

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

6-10.03 Replacement Housing Payments (RHP) – Owner/Tenancy Status of Mobile Home and Site

A characteristic that is unique to mobile home occupancy is that there may be divided ownership of the dwelling unit and its site. A mobile home occupant may own the dwelling but rent the site. Conversely, an occupant may own the site and rent the dwelling unit.

The status of the displacee with regard to the mobile home unit and the site must be separately considered when determining replacement housing benefits, both in the displacement and in the replacement dwellings. There may be a replacement housing benefit for the mobile home unit and for the site, as presented in the following rules:

Maximum Payment Eligibility (\$31,000 or \$7,200). The ownership or rental status of the displacee with regard to the mobile home dwelling unit, not the site, determines the maximum payment amount that is applicable. If the displacee owned the mobile home unit at the displacement site for 90 days prior to the initiation of negotiations, the maximum eligibility is \$31,000 for the unit and site. If the displacee rented the displacement dwelling unit for at least 90 days before the initiation of negotiations, the maximum eligibility is \$7,200 for the unit and site.

Displacee Owns Mobile Home Unit – Rents Site. If the displacee owns the displacement mobile home unit but rents the site, there is eligibility for a Purchase Supplement to acquire ownership of a replacement mobile home unit. There is also eligibility for a Rent Supplement (maximum \$7,200) to enable the displacee to rent a replacement site. The maximum total for the two components is \$31,000.

Displacee Rents Mobile Home – Owns Site. If the displacee rents the displacement mobile home but owns the site, there is eligibility for a Rent Supplement to enable renting a mobile home unit and a Purchase Supplement to enable purchase of a replacement site. The maximum total for the two components is \$7,200 (see Item #1 above).

Displacee Owns Both Mobile Home and Site. If the displacee owns both the displacement mobile home unit and the site, there is eligibility for a Purchase Supplement (maximum \$31,000) to enable purchase of a unit and site. This situation is the same as a Purchase Supplement on acquisition of a conventional dwelling.

Displacee Rents Both Mobile Home and Site. If the displacee rents both the displacement unit and the site, the eligibility is for a Rent Supplement (maximum \$7,200) to enable rental of a replacement unit and site. This situation is the same as for a tenant-occupant of a conventional dwelling.

All Program Eligibility Rules Apply. In each of the ownership/rental status situations above, the normal term of occupancy (90 days) applies, with the clarification that the term of occupancy pertains to occupancy of the mobile home on the site that is acquired by MDOT. The other eligibility criteria, including replacement housing DS&S standards and legal residence in the United States, apply to mobile home displacees.

6-10.04 Comparable Housing Availability

If a comparable replacement mobile home is unavailable, the Purchase Supplement or Rent Supplement amount may be based on the reasonable cost of a conventional comparable replacement dwelling.

6-10.05 Owner Declines to Sell Mobile Home to MaineDOT

If MaineDOT determines that the mobile home is personal property and that it would be practical to relocate the mobile home to a comparable replacement site, but the owner-occupant declines to do so, the MaineDOT will appraise and acquire the mobile home as real estate and provide the owner the relocation assistance benefits for which they are eligible as home owners.

6-10.06 Moving and Related Expenses

Displaced persons who move the mobile home units are entitled to payment of the actual, necessary costs of moving the mobile home unit and its contents to a replacement site. This may include the following items:

1. Dismantling and disconnecting utilities, removing tie downs and skirting, reconnections at the replacement site, and reassembling any appurtenances (e.g., porches, decks, skirting, awnings);
2. Reasonable, customary and nonrefundable mobile home park entrance fees;
3. Moving of personal property contents of the separately from the mobile home on an actual cost or a schedule reimbursement basis. The contents may also be moved in

the mobile home unit and the occupants reimbursed on the basis of the move cost schedule; and/or

4. Transportation and temporary lodging for the occupants, if MaineDOT determines that this is necessary for the mobile home unit to be relocated and set up for occupancy.

Transportation costs may be reimbursed up to 50 miles unless this limitation is extended by MaineDOT in advance for good reason.

6-10.07 Additional Rules Applicable to Mobile Home Displacements

6-10.07(a) Repairs to Mobile Home Unit

Repairs necessary to move the mobile home, cure DS&S deficiencies or qualify the mobile home for mobile home park acceptance criteria may be reimbursed as move cost expenses as MaineDOT determines is reasonable.

6-10.07(b) Person Moves Mobile Home

A displacee who is reimbursed for moving the mobile home unit is not eligible to receive a Purchase Supplement or Rent Supplement for the purchase or rental of a replacement unit, but may be eligible for a payment to assist in the purchase or rental of a comparable mobile home site.

6-10.07(c) Partial Acquisition of a Mobile Home Park

The acquisition of a portion of a mobile home park may leave a remaining part of the property that is not adequate to continue the operation of the park. MaineDOT may determine that a mobile home located on the remaining part of the property must be moved as a direct result of the project. The occupants of the mobile home will be considered displaced persons eligible for full relocation benefits.

6-10.07(d) Last Resort Housing (LRH)

Displaced persons from mobile homes are eligible for consideration under provisions of last resort housing. See Section 6-11, on the same basis as displacees from conventional housing.

6-11 REPLACEMENT HOUSING OF LAST RESORT

6-11.01 General

A displaced person will not be required to move until a comparable replacement dwelling is made available that is within the financial means of the household. Comparable replacement housing may not be available because of any of the following circumstances:

1. Available housing is not Decent, Safe and Sanitary.
2. A competing demand for housing causes temporary unavailability, which would delay timely advancement of the highway construction schedule.
3. Displacees have special needs relating to the definition of comparable replacement housing that is not met by the available housing stock.
4. Housing is available but its cost exceeds the financial means of displacees after application of maximum replacement housing benefit amounts (\$31,000 and \$7,200).
5. A displacee has not met the length of occupancy requirements for normal relocation benefits (e.g., occupant for 90 days prior to initiation of negotiations). Benefits for low income tenants will still be calculated using the 30% of income rule. For others, the calculation will be rent to rent. See Section 6-8 for guidance.

If any of the above circumstances apply, the Department is authorized to a broad range of measures to make housing available. These measures, which are outside normal relocation benefit limits, are called collectively last resort housing.

6-11.02 Replacement Housing Standard

MaineDOT is committed to enabling persons, who are displaced as a result of acquisition for transportation projects, to relocate to comparable replacement housing that is within their financial means. When this cannot be accomplished within the limits of normal relocation program benefits, last resort housing program provisions are used.

Comparable replacement housing is by definition, (see Section 6-1), functionally equivalent to the displacement dwelling. It performs the same function, provides the same utility and is capable of contributing to the same style of living as the displacement dwelling. Consistent with this definition, housing may be provided that does not possess every feature of the displacement dwelling and differs in certain space and physical characteristics. For example, housing may be provided that is smaller but is upgraded in qualitative respects to adequately accommodate persons who have been displaced from substandard or functionally obsolescent housing.

MaineDOT will offer to provide housing that is the same ownership or tenancy status as that which the person had before displacement. There is no requirement to enable a displacee to change status by use of last resort housing. However, MaineDOT may cooperate in a

displacee's desire to change status when it is less costly for the Department to do so. For example, MaineDOT may provide down payment assistance that is less than a determined Rent Supplement under last resort housing.

6-11.03 Last Resort Housing Methods

Last resort housing authority allows a broad range of methods to be considered for providing housing of the type and on terms needed by project displacees. Select a method that provides comparable housing at the most reasonable cost within the time constraints of highway project scheduling and the urgency of the displacee's need.

Methods include, but are not limited to, the following:

1. A Replacement Housing Payment (RHP) greater than \$31,000 for a displaced owner or \$7,200 for a displaced tenant;
2. Rehabilitation, modification or addition to an existing replacement dwelling to accommodate the displacee's needs;
3. Construction of a new replacement dwelling;
4. Relocation and, if necessary, rehabilitation of an existing non-DS&S dwelling;
5. Purchase of land and/or a replacement dwelling and subsequent sale, lease to or exchange with a displaced person;
6. Acting as a mortgagee in financing a displacee's purchase of housing; and/or
7. Provision of features including entrance ramps, wide doors, etc., that will make a dwelling accessible to a person who is disabled.

6-11.04 Justification for Use

Any decision to provide last resort housing must be adequately justified either: (1) on a case-by-case basis for good cause, or (2) by a determination that there is little if any comparable replacement housing available to displaced persons within the project area and therefore last resort housing is needed for the area as a whole.

In making the above determinations, give consideration to:

1. The availability of comparable housing in the project area,
2. The resources available to provide comparable housing, and
3. The individual circumstances of the displaced person.

Or by a determination that:

1. There is little, if any, comparable replacement housing available within the entire project area.
2. The project cannot be advanced to completion in a timely manner without last resort housing assistance.
3. The method selected is cost effective, considering all elements that contribute to the total program or project cost. For example, will a project delay justify waiting for less expensive comparable replacement housing to come on the private market?

Place the detailed justification for use of last resort housing in the Project and Parcel Files.

6-11.05 Cooperative Agreements

The Department may enter into agreements with any Federal, State or local agency or contract with any individual, firm, corporation or nonprofit association for services in connection with these activities. MaineDOT may, if practicable, use the services of Federal, State or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

6-11.06 Consequential Displacement

Any person, who is displaced because of the acquisition of real property for a last resort housing project under MaineDOT's power of eminent domain, including amicable agreements under the threat of such power, is entitled to all eligible benefits under the relocation assistance provision. This provision is not applicable to an owner-occupant who voluntarily acts to sell the property to the State of Maine for last resort housing and the owner certifies the same in a statement that will be retained in Department files.

6-11.07 Last Resort Housing Disbursements

Rental assistance payments made to displacees who rent replacement housing under this section will, at MaineDOT's discretion, be paid either in a lump sum or in annual installments directly to the displacee or to the provider of housing. Other payment options will be arranged if MaineDOT determines that a direct payment or annual payments to a displacee would not be prudent and in the public interest. Whenever special payment options are invoked, provide documentation in the file with the reasons.

A displacee may not be required to accept last resort housing in place of a Rent Supplement or a Purchase Supplement for which they may be eligible under normal program provisions. A displacee may choose to accept a conventional Purchase or Rent Supplement in lieu of a last

resort housing solution. This is on the condition that all eligibility criteria are met, including rental or purchase and occupancy of a DS&S dwelling.

A displacee who receives a housing or financial payment under last resort housing will be required to certify that the displacee accepts the housing or benefit in lieu of the Rent Supplement or Purchase Supplement for which they would otherwise be eligible.

6-11.08 Compliance With Other Statutes

The development and implementation of last resort housing projects will comply with the applicable provisions of the following, including the amendments and regulations issued pursuant thereto:

1. Section 1 of the ***Civil Rights Act of 1966*** (42 **UCS** 1982 et. seq.);
2. Title VI of the ***Civil Rights Act of 1964*** (42 **UCS** 2000d et. seq.);
3. Title VIII of the ***Civil Rights Act of 1968*** (42 **UCS** 3601 et. seq.);
4. The ***National Environmental Policy Act of 1968 (NEPA)*** (42 **UCS** 4321-4347);
5. Executive Order 11063 (Equal Opportunity in Housing) 3 **CFR** Comp. 1959-1963, page 652;
6. Executive Order 11246 (Equal Employment Opportunity) 3 **CFR** Comp. 1964-1965, Page 339 or Federal Laws, Regulations and Materials Relating to the Federal Highway Administration, Page IV-41; and
7. Executive Order 11625 (Minority Business Enterprise) 3 **CFR** Comp. 1971, Page 213.