

CHAPTER 26
RELOCATION ASSISTANCE
[Prior to 12/31/86, Conservation Commission[290] Ch 65]

571—26.1(316) Definitions. The following terms when used in these rules shall have the following meanings:

“Acquisition cost of the dwelling acquired” means the price finally paid an owner for the residential portion of the real property acquired by contract, settlement, condemnation or condemnation appeal award.

The *“Act”* means Iowa Code chapter 316 plus the implementation of the governing federal cost-sharing agency’s relocation handbook (manual or rules) as directed by Iowa Code section 316.11.

“Agency” means the department of natural resources.

“Annual net earnings” are any net earnings of a business or farm operation before federal, state, and local income taxes.

“Claimant” means any displaced person filing a written claim with the agency for relocation assistance or a relocation assistance payment as provided by these regulations.

“Commission” means the natural resource commission.

“Comparable dwelling” means a dwelling in a location meeting the standards established in these regulations for comparable available replacement housing.

“Dwelling” means any single family house, a single family unit in a multifamily building, a unit of condominium or cooperative housing project, a mobile home, or any other residential unit.

“Family” means two or more individuals, one of whom is the head of a household, plus all other individuals regardless of blood or legal ties who live with and are considered a part of the family unit. Where two or more individuals occupy the same dwelling with no identifiable head of household, they shall be treated as one family for replacement housing purposes.

“Farm operation” means any activity conducted solely or primarily for production of one or more agricultural products or commodities, including timber for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support. The term “contributing materially” used in this definition means that the farm operation contributes at least one-third of the operator’s income. In instances where the operation is obviously a farm operation it need not contribute one-third to the income of the operator to receive a moving cost payment under Iowa Code section 316.4(3).

“Habitable floor space” is that space used for sleeping, living, cooking or dining purposes, and excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

“Initiation of negotiations for a parcel” means the date the acquiring agency makes the first personal contact with the owner or the owner’s representative and furnishes a written notice of the agency’s intent to acquire the property.

“Initiation of negotiations for the project” is the date the acquiring agency makes the first personal contact with the owner or the owner’s designated representative and furnishes a written offer to purchase, except where such contact is made solely for protective buying or because of hardship. The control date thus established shall be documented in the project file.

“Moving cost payments” means any actual, estimated, scheduled or statutory payments to relocatees for costs, losses and expenses the payment of which is authorized by section 316.4 and these rules.

“Nonprofit organization” means any corporation, partnership, individual or other public or private entity, engaged in a business, professional or institutional activity on a nonprofit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, professional or institutional activity on the premises.

“Owner” means an individual (or individuals) owning, legally or equitably, the fee simple estate, a life estate, a 99-year lease or other proprietary interest in the subject property; the contract purchaser of any of the foregoing estates or interests; or any person who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, or who is possessed of such other proprietary

interest in the property acquired as, in the judgment of the head of the agency, warrants consideration as ownership. In the event of acquisition or ownership by devise, bequest, inheritance or operation of law the tenure of ownership, not occupancy of the succeeding owner shall include the tenure of the preceding owner.

“*Project*” means any acquisition or development project on which federal funds are or will be utilized to plan, design, acquire real property, provide relocation assistance, construct or for any one or more of these purposes.

“*Relocatee*” means any person who is a displaced person as defined by Iowa Code chapter 316.

“*Relocation assistance payment*” means any or all of the payments authorized to displaced persons by Iowa Code chapter 316 and by these rules.

The “*relocation assistance supervisor*” is the agency employee responsible for carrying out the provisions of these rules and Iowa Code chapter 316.

“*Subject dwelling or subject property*” means the dwelling or property being acquired by or on behalf of the agency.

“*Taxable year*” is any 12-month period used by a business or farm operation in filing income tax returns.

“*Willing seller*” means any landowner that is willing to negotiate the sale of land with the agency, and where the agency does not intend to pursue the purchase under eminent domain procedures if the owner and the agency should fail to reach a mutually satisfactory agreement.

571—26.2(316) Actual reasonable moving costs and related expenses.

26.2(1) *Moving expenses.* Actual reasonable moving expenses include payments for the cost of moving the relocatee, including family, business, farm operation or for moving a nonprofit organization, for storage, insurance, losses in moving, removal, reinstallation and reestablishment expenses.

a. The expenses incurred in advertising for packing, crating and transportation may be paid when the agency determines that such advertising is necessary. Such advertising payments shall be limited to complicated or unusual moves where advertising is the only reasonable method of securing bids.

b. The cost of storage of the relocatee’s personal property where determined necessary by the agency, for a reasonable period but not to exceed 12 months, may be paid. The cost to store a relocatee’s personal property on the property being acquired or on property remaining after the acquisition or on another property owned or controlled by the relocatee shall not be paid.

c. The cost of insurance premiums covering loss and damage of personal property while in storage or transit may be paid. Such insurance coverage shall not exceed the reasonable replacement value of personal property.

d. The reasonable replacement value of property lost, stolen or damaged in the process of moving may be paid where insurance to cover such loss or damage is not available provided that in the judgment of the agency the loss or damage was not caused by the fault or negligence of the relocatee, or an agent or employee of the relocatee.

e. The expenses of removal, reinstallation and reestablishment of machinery, equipment, appliances and other items which are not acquired, including reconnection of utilities to such items, may be paid. No part of any removal, reinstallation and reestablishment expense payment shall be made where the item would constitute an improvement to the replacement site, unless the same is required by law. No payment of removal, reinstallation and reestablishment expenses shall be made for any item classified by the agency as real property retained by the relocatee where the relocatee has been paid or is secured to be paid for the item by the terms of the acquisition agreement whether by purchase or as damage or where purchased by the agency and sold to the relocatee for its salvage value. Items not so paid for or secured to be paid for may be considered personalty for purposes of the payment of removal, reinstallation and reestablishment expenses where by the terms of the acquisition agreement the relocatee and the agency agree that the property is personalty and that the agency is released from any payment for the property as realty.

f. A relocatee who chooses to use the dwelling as a means of moving personal property may be paid a scheduled moving payment.

g. In addition to the payment for the moving of personal property, the relocatee and relocatee's family from the dwelling unit in accord with the provisions of these rules, a relocatee who owns and occupies a multifamily dwelling may also be paid the actual cost of moving the business portion of the personal property or a payment under Iowa Code section 316.4(3) in accordance with the provisions of these rules.

26.2(2) *Moving cost exclusions.* No payment shall be made for the following costs, losses or expenses as actual reasonable moving expenses.

a. No payment shall be made for additional expenses incurred because of living in a new location.

b. No cost shall be paid for moving of structures, improvements and other real property in which the relocatee is reserved ownership, where compensation for the item has been paid or is secured to be paid by the terms of the acquisition agreement whether by purchase or as damage, or where purchased by the agency and sold to the relocatee at its salvage value.

c. No payment shall be made for improvements to the replacement site or for modification of personal property to adapt it to a replacement site, except when required by law or by these rules.

d. Interest on loans to cover moving expenses, loss of good will, loss of business, loss of profit, loss of trained employees, personal injury and the cost of preparing an application or claim for moving and related expenses shall not be paid.

e. No payment shall be made for such other items as the agency determines should be excluded on the basis that they are not reasonable, or proper.

26.2(3) *Distance of move payment determinations.* There is no limitation on the distance a relocatee may move either interstate or intrastate. Relocatees may be paid the actual, reasonable costs of moving personal property onto remaining or other lands owned or controlled by the relocatee or elsewhere not to exceed the cost of moving a distance of 50 miles either interstate or intrastate, except where it is determined by the agency that relocation cannot be accomplished within the 50-mile area. In the case of such a determination payment will be made to the nearest adequate and available site as determined by the agency.

26.2(4) *Commercial or self-moves.* Relocatees may either move commercially or may elect a self-move in accord with Iowa Code chapter 316 and by these rules.

a. Payments made on an actual moving cost basis shall be supported by receipt bills or other evidence of expenses incurred but in the case of a self-move shall not be paid in an amount which exceed the estimated cost of moving commercially. In the case of a self-move, estimates of the cost of moving commercially may be prepared by a commercial moving firm.

b. A relocatee electing to move personal property personally may also elect to be paid an amount to be negotiated with the agency based on the lower of two firm estimates obtained from two qualified moving firms.

c. Businesses may be paid actual moving costs where two firm bids or estimates cannot be obtained from qualified moving firms.

d. Moving cost estimates may also be made by a qualified employee of the agency, other than the employee providing the relocation assistance, if the moving costs do not exceed \$1,000 or in such amount as authorized by the appropriate federal authority, in which case the relocatee may be paid the amount of such moving expense finding upon completion of the move without supporting evidence of the actual expenses incurred.

e. Negotiated moving cost payments and moving cost payments for commercial moves shall be limited to the rates as established by the lowest of two firm estimates obtained from two qualified moving firms.

f. When personal property which is used in connection with the business is of low value and high bulk the agency will pay an amount not to exceed cost of replacement in lieu of moving the personal property if less than the moving expenses.

g. The costs of transportation of individuals and families to a new location may be paid. Such costs may be on a mileage basis, not to exceed 15 cents per mile, or reasonable actual fees if commercial transportation is used and may include special services such as the cost of ambulance to transport invalid relocatees. The actual reasonable cost of meals and lodging, when the agency determines that such costs

are required because of unforeseen circumstances or practical necessities of the moving operation, may also be paid. However, receipts are required in all situations for out-of-pocket expenses.

26.2(5) *Loss of tangible personal property.* Actual direct losses of tangible personal property may be paid to nonprofit organizations and to relocatees who are displaced from their place of business or whose farming operation is discontinued who are entitled to relocate such property in whole or in part but elect not to do so.

a. Payment for actual direct losses of such property made under authority of Iowa Code section 316.4(1) “*b*” and these rules may be made only after a bona fide effort has been made by the owner to sell the item(s) involved.

b. If the item(s) cannot be sold the owner may be compensated for such loss as provided in these rules.

c. The sale prices, if any, and the actual reasonable cost of advertising and conducting the sale shall be supported by copies of the bills of sale or similar documents and by copies of any advertisements, offers to sell, auction records and other data supporting the bona fide nature of the sale.

d. If the business is to be reestablished and an item of personal property which is used in connection with the business is not moved but promptly replaced with a comparable item at the new location the payment shall be the lesser of the replacement cost minus the net proceeds of the sale, or the estimated cost of moving the item, or the trade-in value of the item to be replaced.

e. If the business is being discontinued or the item is not to be replaced in the reestablished business the payment will be the lesser of the difference between the depreciated value of the item in place and net proceeds of the sale; or the estimated cost of moving the item.

f. If a bona fide sale is not effected for the reason that no offer is received for the property the relocatee may be paid the reasonable expenses of the sale and the estimated cost of moving the item. The relocatee shall arrange to have the personalty removed from the subject property at no cost by a junk salvage or other dealer. If this fails the agency shall remove the item in the most economical manner.

g. When personal property is abandoned with no effort being made by the owner to dispose of such property by sale or by removal at no cost the owner shall not be paid moving expenses or losses for the item involved.

26.2(6) *Searching costs.* A relocatee may receive a payment for actual, reasonable expenses in searching for a replacement site for a nonprofit organization, business or farm not to exceed an amount of \$500.

Such actual reasonable expenses include transportation expenses at the rate of 15 cents per mile, meals, lodging away from home and the reasonable value of time actually spent in the search including the fees of real estate agents or brokers.

Out-of-pocket expenses shall be supported by receipted bills or other evidence of expenses incurred. A certified statement of the time spent in search and hourly wage rate(s) shall accompany the claim. Payment for time actually spent in search shall be based on the applicable hourly wage rate for the person(s) conducting the search but may not exceed \$10 per hour.

26.2(7) *Scheduled moving costs.* Scheduled residential moving payments made under authority of Iowa Code section 316.4(2) and these rules to occupants of furnished and unfurnished dwellings, shall include a dislocation allowance and shall give consideration to room count of those rooms containing personal property and may be made to occupants of mobile homes where the mobile home is not moved.

a. Where the mobile home is moved the schedule shall also consider the size of the mobile home and distance moved.

b. Scheduled moving cost payments shall be made on the basis of the then current moving costs schedule as established by the department of transportation not to exceed the limitations established by Iowa Code section 316.4(2) and by these rules.

26.2(8) *Determining substantial loss of existing patronage.* A business, other than a part-time occupation which does not contribute materially to the relocatee’s income or which is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity, shall be entitled to a payment under authority of Iowa Code section 316.4(3) and these rules where the business shall have suffered a substantial loss of its existing patronage.

a. A business shall have suffered a substantial loss of existing patronage and its owner shall be entitled to receive such a payment where, in the judgment of the agency, the business cannot be reestablished or cannot be reestablished without creating a substantial reduction in the average annual net earnings of the business during the two taxable years immediately preceding the taxable year in which the business is required to relocate.

b. In determining if the owner of a business will suffer a substantial loss of its existing patronage, consideration shall be given to the size, nature and type of business, capital available, the market area served and availability of sites within the market area served.

c. Business earnings shall include any compensation paid by the business to the spouse or dependents of the owner or to the owner as a majority interest holder where the owner is a corporation. For the purposes of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

26.2(9) *Determining displacement of a farm operation.* A farm operation may be considered to have been displaced and the operator shall be entitled to a payment under authority of Iowa Code section 316.4(3) and these rules when:

a. The agency has either acquired the whole farm and the farm operator has discontinued or relocated the entire farm operation, or

b. The agency has acquired only a portion of the farm and the property remaining after the acquisition is no longer an economic unit as determined by the agency during its appraisal process, for those principal farm operations which contributed at least one-third of the operator's average annual net earnings for the two taxable years before the acquisition and such operations have been discontinued or relocated.

c. In instances where such operation is obviously a farm operation it need not contribute one-third to the operation's average annual net earnings for the operator to be so eligible.

d. Income from the farm operation shall include any compensation paid by the farm operation to the spouse or dependents of the operator and any paid to the operator as a majority interest holder where the farm is a corporation. For the purposes of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

26.2(10) *Newly established business or farm operation.* If a business or farm operation affected can show that it was in business 12 consecutive months during the two taxable years prior to the taxable year in which it is required to relocate, had income during such period and is otherwise eligible, the owner of a business or the operator of a farm is eligible to receive a payment under authority of Iowa Code section 316.4(3) and these rules. Where the business or farm was in operation for 12 consecutive months or more but was not in operation during the entire two preceding taxable years, the payment shall be computed by dividing the net earnings by the number of months the business was operated and multiplying by 12.

26.2(11) *Business owner or farm operator must provide information.* The owner of a business and the operator of a farm shall provide information stating the net business earnings or farm income for support of any claim for a payment under authority of Iowa Code section 316.4(3) and these rules. City, county, state or federal tax returns for the tax years in question are acceptable as evidence of earnings. Any commonly acceptable method may be accepted such as certified financial statements or an affidavit from the owner stating the net earnings providing it grants the state the right to review the records and accounts of the business. The owner's statement alone shall not be sufficient if the claim is in excess of \$2,500.

26.2(12) *Temporary storage moving cost payments.* When an actual cost basis is used and the agency determines that it is necessary for a relocatee to store personal property for a reasonable time, not to exceed 12 months, the cost of such storage is reimbursable as a part of the moving expenses. Storage of personal property on the property being acquired or on other property owned by the relocatee is not eligible for reimbursement.

26.2(13) *Moving costs for nonprofit organizations.* A displaced nonprofit organization is eligible to receive payments for actual reasonable moving expenses, actual direct losses of tangible personal property and actual reasonable expenses in searching for a replacement site.

a. In lieu of such actual reasonable payments, the nonprofit organization may be paid \$2,500 if it cannot be relocated without a substantial loss of its existing patronage, and it is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

b. The term “existing patronage” as used in connection with nonprofit organizations includes the persons, community or clientele serviced or affected by the activities of the nonprofit organization.

26.2(14) Limitation on moving cost payments. Moving and related expense payments made under authority of Iowa Code section 316.4 and of these rules shall be made only to such relocatees who move from the subject dwelling and who file timely claim for the same. All claims for moving and related expense payments shall be filed not later than the 18-month period beginning on the date on which the relocatee receives from the agency final payment of all costs of the real property acquired or on the date on which the relocatee moves from the real property acquired, whichever is the later date. The director may extend this period upon a proper showing of good cause.

571—26.3(316) Replacement housing payments for homeowners.

26.3(1) A homeowner or a mobile homeowner who is displaced from the subject dwelling who has owned and occupied the subject dwelling in whole or in part or who has owned the mobile home and has occupied the mobile home in whole or in part or who has owned the mobile home and has occupied the mobile home on the site for not less than 180 consecutive days immediately prior to the date of vacation or the initiation of negotiation for the acquisition of the subject property and who purchases and occupies a decent, safe and sanitary replacement dwelling within the time limitations specified in Iowa Code section 316.5(2) and by these rules may receive an additional payment. Such payment should be in the amount, if any, when added to acquisition cost of the dwelling acquired equals the actual cost which the owner has paid for the replacement dwelling or the amount determined by the agency as reasonably necessary to purchase a comparable replacement home, or mobile home, or mobile home and site, or mobile homesite, whichever is less, not to exceed the payment limitations established by Iowa Code chapter 316 and by these rules.

a. Replacement housing payment offers and payment determinations for such homeowners shall be made on the basis of a survey of market information applicable to the owner’s particular circumstance, the availability of comparable replacement housing and the condition and location of the subject dwelling.

b. A relocatee who has entered into a contract for the construction or rehabilitation of a replacement dwelling, and for reasons beyond the relocatee’s reasonable control, cannot occupy the replacement dwelling within the time limitations specified in Iowa Code section 316.5(2), shall be considered to have purchased and occupied the dwelling as of the date of such contract. Replacement housing payments under these circumstances shall be deferred until actual occupancy is accomplished.

c. Where a mobile home is acquired from an otherwise eligible displaced mobile homeowner who rents the site, the mobile homeowner shall be eligible to receive the lesser of that payment authorized by Iowa Code section 316.5 and by these rules or a rental replacement housing payment or a purchase down payment authorized by Iowa Code section 316.6 and by these rules.

26.3(2) General provisions for replacement housing payments. Offers for replacement housing payments and payment determinations for payments made by authority of Iowa Code sections 316.5 and 316.6 and by these rules shall be made in accord with these provisions:

a. If two or more eligible families occupy the same single-family dwelling unit each family is eligible for a replacement housing payment if they relocate to separate dwelling units.

b. If two or more eligible individuals with no identifiable head of household occupy the same single-family dwelling unit they are to be considered as one family for replacement housing payment purposes and any and all relocation assistance payments are to be distributed equally.

c. When all individuals do not relocate to decent, safe and sanitary housing the agency shall determine and pay those individuals who do relocate into decent, safe and sanitary housing a pro rata share of the appropriate payments that would have been received if all individuals had relocated together in the same ownership or rental status as they had at the time of the initiation of negotiations.

d. Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract normal for residential use in the area, the maximum replacement housing payment shall be determined by subtracting the agency's approved before-value appraisal of the property as a whole, from the estimated selling price of a comparable dwelling on a lot typical for the area.

e. Where only a portion of the subject property is being acquired and the subject dwelling is located on a tract larger than normal for residential use in the area, replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical in size for the area and deducting this amount from the selling price of a comparable dwelling on a site typical for the area.

f. Where a dwelling is located on a tract where the fair market value is established on a higher and better than residential use replacement housing payment offers and payments shall be determined by estimating the value of the dwelling at the present location on a homesite typical for the area and zoned for residential use and deducting this amount from the selling price of a comparable dwelling on a typical residential homesite for the area.

g. Where displaced individuals or families occupy living quarters on the same premises as a displaced business, farm or nonprofit organization, such individuals or families are separate displaced persons for purposes of determining entitlement to relocation payments.

h. Replacement housing payment offers and payments to owners of multifamily dwellings who occupy one unit shall be determined by estimating that difference, if any, between the value of that portion of the entire property being acquired which represents the owner's living unit and the value of a living unit on the most comparable available property. Where available the comparable dwelling should be the same as that acquired, i.e., if the acquired property is a triplex, then the comparable should be a triplex. If the comparable is a triplex, the replacement housing payment is based on the value of only one of the three units; if a duplex, the payment is based on only one of the two units; if a single-family dwelling, the payment is based on the entire value of the dwelling. If similar comparables are not available, then structures of the next lowest density must be used. If there are not any available comparable multifamily structures to be found, then the comparison of the owner's living unit would be to a single-family residence. A higher density structure should never be used as a comparable.

26.3(3) Comparable replacement housing available. Where comparable replacement housing is available, the replacement housing payment offers and payment determination for eligible homeowners and mobile homeowners shall be the difference between the estimated selling price of the most comparable of at least three comparable dwellings available in the community and the acquisition cost of the subject dwelling but shall not exceed the limitations established by Iowa Code section 316.5 and these rules.

26.3(4) Comparable replacement housing no longer available. When comparable replacement housing at the time of the move is no longer available, replacement housing payment offers made to eligible homeowners and mobile homeowners shall be revised. In such a case the revised replacement housing payment offer and payment determination shall be based on available housing which is equal or better and meets the other comparable criteria but shall not exceed the limitations established by Iowa Code section 316.5 and by these rules.

26.3(5) Absence of available comparable rural replacement housing. In the absence of available comparable replacement rural housing, the replacement housing payment offer and payment determination to eligible homeowners and mobile homeowners shall be the difference between the acquisition cost of the subject dwelling and the estimated cost of constructing a new and reasonable comparable dwelling adequate for the needs of the relocatee but shall not exceed the limitations established under Iowa Code section 316.5 and by these rules.

a. The estimated costs of a new dwelling shall be expressed as an average cost per square foot for the building plan, the estimated cost of a typical improved lot where relocating to an urban area, or approximately one acre where remaining in a rural area.

b. Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included.

c. All such cost estimates shall be obtained from qualified contractors regularly engaged in building housing in the project area.

26.3(6) Subject dwelling moved as replacement housing. Replacement housing payment offers and payment determinations for eligible homeowners and mobile homeowners electing to move the subject dwelling for purposes of replacement housing shall be the difference, if any, between the acquisition cost of the subject dwelling and the estimated cost of reestablishing the subject dwelling on a suitable foundation in a comparable and decent, safe and sanitary condition, but shall not exceed the estimated cost of a new dwelling adequate for the needs of the relocatee nor the limitations established by Iowa Code section 316.5 and by these rules.

a. The estimated cost to reestablish the subject dwelling shall include the cost of a typical improved lot in town where relocating to an urban area or approximately one acre where relocating to a rural area.

b. Where necessary the estimated cost of a well, septic system, laterals and landscaping shall also be included. All such cost estimates shall be obtained from qualified contractors furnishing such services.

26.3(7) Increased interest payment determinations. Increased interest payments may be made to compensate a displaced homeowner or mobile homeowner for the increased interest cost that is required for financing a replacement dwelling as provided in Iowa Code section 316.5(1) "b" and these rules.

a. The increased interest payment may be paid only when the dwelling acquired by the state was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 consecutive days prior to the first contract for acquisition or the date established for the commencement of acquisition by a notice of the agency's intent to acquire the subject property and the mortgage on the replacement dwelling bears a higher rate of interest than the mortgage interest rate on the acquired dwelling.

b. The increased interest payment will be based on, and limited to, the lesser of the present worth of the right to receive the monthly difference in mortgage payments on the existing mortgage using the old and new interest rates; or the present worth of the right to receive the monthly difference in mortgage payments on the new mortgage using the old and new interest rates.

c. The amount of increased interest payment will be computed on relocation assistance "Computation of Increased Interest Cost" forms, copies of which are attached to these rules. The computation will be made in accordance with the following: The monthly principal and interest payment difference caused by the change in interest rate is computed for both the existing mortgage and new mortgage for their respective remaining terms and amounts. The old and new interest rates are used in each case. The present worth of the monthly interest differences found in the above is computed for each mortgage by discounting the monthly difference at the savings deposit interest rate for the remaining term of each mortgage. The lesser of the amounts so derived is the increased interest payment. To the amount so derived will be added the amount actually paid by the purchaser as points on the amount refinanced but not to exceed an amount which would have been paid if the original mortgage balance was refinanced, or a fee actually charged as an origination or service fee (not to exceed one percent of the mortgage amount as shown above) if such fees are normal to real estate transactions in the area.

d. The discount rate shall be the prevailing rate of interest paid on passbook savings account deposits by commercial banks in the general area in which the dwelling is located. In the case of a partial acquisition and where the dwelling is located on a tract normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the acquisition price bears to the before-value of the tract as a whole; except, the reduction shall not apply when the mortgagee requires the entire mortgage balance to be paid because of the acquisition and it is necessary to refinance.

e. In the case of a partial acquisition and where a dwelling is located on a tract larger than normal for residential use in the area, the interest payment shall be reduced to the percentage ratio that the value of the residential portion bears to the before-value of the tract as a whole. This reduction shall apply whether or not it is required that the entire mortgage balance be paid.

f. The interest payment on multiuse properties shall be reduced to the percentage ratio that the residential value of the multiuse property bears to the before-value of the tract as a whole.

g. If a dwelling is located on a tract where the fair market value is established on a higher and better than residential use, and if the mortgage is based on residential value, the interest payment shall be computed as provided in the regular increased interest computation. If the mortgage is obviously based on the higher use, however, the interest payment shall be reduced to the percentage ratio that the estimated residential value of the parcel has to the before-value of the tract as a whole.

26.3(8) *Determining closing costs payments.* Payments to eligible homeowners and mobile homeowners pursuant to Iowa Code section 316.5(1) “c” shall be limited to the reasonable cost of the following closing costs necessary and incident to the purchase of a replacement dwelling.

a. Costs eligible for payment include legal, closing and related costs including title search, the cost of preparing conveyance documents, notary fees, surveys, preparing drawings or plats and recording fees. Lender’s, FHA or VA appraisal fees, FHA or VA application fees and a certification of structural soundness when required by the lender or FHA or VA, may be paid. The cost of a credit report, title opinion, escrow fees and sales or transfer taxes may be paid.

b. No fee, cost charge or expense shall be paid as a closing cost which is not necessary and incident to the purchase of a replacement dwelling nor which is determined to be a part of the debt service or finance charge under the Truth in Lending Act, Title I, Public Law 90-321.

26.3(9) *Limitation on housing payment for homeowners and certain others.* Replacement housing payments to homeowners and certain others shall be limited by the following:

a. No replacement housing or other payment shall be made by authority of Iowa Code section 316.5 or 316.6 or these rules unless and until the agency, or its authorized designee, has inspected the replacement dwelling and determined that it meets the standards of decent, safe and sanitary housing. All such determinations shall be made in writing and shall be signed by the agent or person making the same.

b. No claim for a payment under Iowa Code section 316.5 or 316.6 or these rules shall be paid where it is filed later than six months after the expiration of the one-year period specified in Iowa Code section 316.5(2), except that in the case of an appeal from the awards of a compensation commission, such period shall be extended to six months after final adjudication.

c. If a dislocated homeowner or mobile homeowner is otherwise qualified for a payment under Iowa Code section 316.5 and these rules, but has previously received a payment under Iowa Code section 316.6(1) and these rules, the amount of such payment so received shall be deducted from the amount to which the owner is determined entitled under Iowa Code section 316.5 and these rules. In no event shall the combined payments exceed \$15,000.

d. A displaced homeowner who is otherwise eligible for a replacement housing payment under Iowa Code section 316.5 or 316.6 and these rules who acquires replacement housing after the initiation of negotiations on the project but before the first contact for the acquisition of the subject dwelling may be eligible for such payment only if the move from the subject dwelling is subsequent to the first contact for its acquisition. No payment shall be made in any such case until the subject dwelling has been acquired.

571—26.4(316) Replacement housing payments for tenants and certain others.

26.4(1) Owner-occupants and tenant-occupants of sleeping rooms or of homes or of mobile homes who are displaced from the subject dwelling, in whole or in part, for not less than 90 consecutive days immediately prior to the initiation of negotiations for the acquisition of the subject property, and who occupy a decent, safe and sanitary replacement dwelling or replacement sleeping room within the time limits specified in Iowa Code section 316.5(2) and by these rules, may receive a rental replacement housing payment or a purchase down payment which does not exceed the payment limitations established by Iowa Code chapter 316 and by these rules.

Where a mobile home is acquired from an otherwise eligible displaced mobile homeowner who rents the site, the mobile homeowner shall be eligible for both a rental replacement housing payment for the site and a purchase down payment for the mobile home but not to exceed \$4,000 and the limitations established by Iowa Code section 316.6 and by these rules.

26.4(2) Rental replacement housing payment.

a. Rental replacement housing payments to relocatees eligible for a payment under Iowa Code section 316.6 and by these rules who elect to rent replacement housing shall be the difference, as determined by the agency, between the amount necessary to rent a comparable replacement home or mobile home and site, or mobile homesite or sleeping room for the next four years and the amount of rent presently paid but not to exceed the limitations established by Iowa Code section 316.6 and by these rules.

b. The amount necessary to rent comparable replacement housing may be determined by the agency by a schedule, the three comparable or other methods contained in 26.3(3), 26.3(4), 26.3(5) or 26.3(6).

26.4(3) Determining the amount of rent presently paid. For the purpose of determining a rental replacement housing payment the amount of rent presently paid shall be the actual rental paid by relocatees renting a mobile home and site or dwelling where the actual rental rate is reasonably equal to the economic rent of the subject dwelling as determined by the agency from market data.

a. The actual rental rate shall include any rent supplement supplied by others except when, by law, such supplement is to be discontinued upon vacation of the subject property.

b. If the actual rental rate is not reasonably equal to the average market rental for similar dwellings the actual rental rate shall be adjusted to the economic rent of the subject dwelling as determined by the agency from market data. For purposes of determining a rental replacement housing payment for a relocatee who is an owner-occupant of the subject dwelling the rent presently paid shall be economic rent for the subject dwelling as determined by the agency from market data.

26.4(4) Determining comparability of replacement rental dwelling. An otherwise comparable replacement dwelling shall not be considered a comparable replacement rental dwelling unless it is available at a rental rate within the financial means of the family or individual relocatee involved.

a. The rental rate shall not be considered within the financial means of the family or individual relocatee where the rental of available replacement housing exceeds 25 percent of the gross income of the family or relocatee plus the \$4,000 rental replacement housing payment for the next four years.

b. Gross income for this purpose shall include any rent supplements supplied by other except when, by law, such supplement is to be discontinued upon vacation of the subject property.

26.4(5) Limitation of rental replacement housing payment to homeowners. No rental replacement housing payment to a displaced homeowner eligible for a replacement housing payment under Iowa Code section 316.5 shall exceed \$4,000.

26.4(6) Disbursement of rental replacement housing payments. Replacement housing rental payments may be disbursed as a lump-sum payment.

26.4(7) Purchase down payments. Relocatees eligible for a payment under Iowa Code section 316.6 and by these rules who elect to buy replacement housing may receive a replacement housing payment as a purchase down payment in the amount of the down payment required by financial institutions for a conventional real estate loan all of which payment shall be applied in full to the purchase of a decent, safe, and sanitary comparable replacement home, or mobile home, or mobile home and site, or mobile homesite.

a. This payment shall include and reimburse the relocatee for reasonable and necessary closing costs incident to such purchase but not to exceed \$4,000 and the limitations provided in Iowa Code section 316.6(2) and by these rules.

b. An owner-occupant who elects to retain the subject dwelling for replacement housing purposes who is otherwise eligible to receive a purchase down payment shall be entitled to a payment under this section determined as provided in subrule 26.3(6) but not to exceed \$4,000.

26.4(8) Limitation on amount of combined rental replacement housing and purchase down payments. Within 18 months from the date of the required move, a relocatee who has previously received a rental replacement housing payment who is otherwise eligible may elect to receive a purchase down payment. Any amount received as a prior payment shall be subtracted from the amount of the subsequent payment for which the relocatee is eligible. In no event may any combination of such payments exceed \$4,000 and the limitations provided by Iowa Code section 316.6 and by these rules.

571—26.5(316) Notice of relocation assistance advisory service. In order to ensure that the public has adequate knowledge of the relocation program the agency shall make a conceptual stage survey, distribute to the public the information contained in the survey, provide an opportunity for discussion of relocation assistance and services, eligibility requirements and payment procedures and give full and adequate notice of the relocation assistance program as hereinafter provided.

26.5(1) Relocation brochure. The agency shall prepare and distribute a brochure adequately describing the relocation program, notifying relocatees of their right to appeal determinations made by the relocation assistance supervisor and indicating the procedures for such an appeal; and shall distribute the same without cost to all public hearings and to all interested individuals and organizations.

26.5(2) Conceptual stage survey. Prior to the agency's selection of the final proposed project location, the agency shall survey the area of the proposed project. This survey shall include an estimate of the number of individuals, families, businesses, farm operations and nonprofit organizations that are to be relocated and the probable availability of decent, safe and sanitary replacement housing within the financial means of each of the individuals or families affected by each of the alternatives under consideration.

a. The survey shall be discussed by the agency at public hearing along with a brochure adequately describing the relocation program, and an explanation of studies that have been and will be made and methods that will be followed to ensure that housing needs of relocatees will be met.

b. Reserved.

26.5(3) Preparation of project relocation plan. After the agency has selected a location and has developed a design and acquisition plan for a proposed project, all apparent relocatees shall be personally contacted by a relocation agent.

a. If such personal contact cannot be made, the agency shall note in a record of contacts those reasonable efforts that were to achieve the personal contact.

b. Each apparent relocatee shall be provided with a written statement and an explanation of benefits available under the relocation assistance program or under other federal and state housing, disaster loan or other programs offering assistance to displaced persons.

c. The agency shall survey and determine, and the relocation plan shall initiate and include, a current and continuing inventory of the needs of each family or relocatee who would be displaced in accord with the proposed design and acquisition plan for the project.

d. The plan shall inventory available replacement housing appropriate to the needs of apparent relocatees and shall consider planned and proposed federal, state and local governmental and private project work in the area which may affect the supply and demand for housing.

e. The plan shall outline the various relocation problems, and indicate the method of operation to resolve such problems and to provide maximum assistance to apparent relocatees.

f. The plan shall contain an estimate of the amount of lead time required and demonstrate its adequacy in order to ensure that no person shall be required to move from a dwelling on account of any project unless replacement housing as required by Iowa Code sections 316.7(3) "c" and 316.8(2) and by these rules, is available to such persons.

26.5(4) Exceptions. The agency shall follow subrules 26.5(2) and 26.5(3) on those projects involving a number of property owners; where acquisition will be pursued with all owners at the same time; and where the agency intends to acquire the land by eminent domain if one or more owners are unwilling to accept the agency's best final offer.

Where any acquisition project involves a single owner, or where acquisition is contemplated from a willing seller, the agency may elect not to follow subrules 26.5(2) and 26.5(3) under authority of Iowa Code section 316.7(3) "c." Provided, however, that the agency shall provide the owner a complete explanation of the relocation assistance program at the time formal acquisition negotiations are initiated.

26.5(5) Project assurances. Negotiations for the acquisition of real property which will cause the relocation of any person shall not proceed until the agency offering relocation assistance ensures compliance with Iowa Code sections 316.7(3) "c" and 316.8(2) and with these rules. All such assurances shall be submitted, in writing, along with the project relocation plan to the appropriate federal or state authority prior to the commencement of negotiation on the project. The assurance shall

include a statement of the relocation program being offered and the project relocation plan. All such submissions shall include a request that the plan be approved, that the agency be authorized to make relocation payments and to proceed with the acquisition.

26.5(6) Maintenance of project file. In order to minimize hardships to relocatees, the agency's relocation assistance supervisor shall maintain a file containing information appropriate to the needs of relocatees available for inspection on a project basis.

a. This project file shall include a copy of any agreement with another agency or other persons under contract to perform relocation functions. It shall include a current and continuing inventory of available and appropriate replacement housing of comparable commercial properties and locations, and current data for such costs as security deposits, closing costs, typical down payments, interest rates and terms. It shall include a copy of the project conceptual stage survey, and project relocation plan. It shall include a list of realtors and contractors of all appropriate types maintained on a project basis for the benefit of relocatees needing or requesting this type of information.

b. Other such information shall be maintained on a project basis concerning financial institutions, brochures or lists of federal, state and local housing, technical and financial assistance programs, loan rates, public transportation rates and utility rates, housing developments and FHA and VA repossessed housing. The agency shall maintain a plan of the project and where applicable a map showing the locations of schools, medical facilities, shopping areas, recreational facilities and public transportation routes.

c. The project file shall include requests for project approvals or authorization and such authorization and approvals as are received from appropriate federal or state authorities and shall contain such documentation as necessary to establish the date of initiation of negotiations for the project. Project assurances, project certifications, and project inspection and progress reports shall be maintained in the project file.

d. Semiannual and other statistical summary of relocation assistance and payment statistics reports and such other records as are required by appropriate federal authority may be maintained in this file.

26.5(7) Initiation of negotiations for the project. Negotiations may be instituted and relocation payment may be made only after the agency has requested and received from the appropriate federal authority approval of:

- a.* The proposed project;
- b.* Approval of the project relocation plan;
- c.* Authorization to make relocation payments;
- d.* A request to approve an advanced purchase and to make relocation payments for hardship or protective buying purposes; and the agency may institute negotiations and may make relocation payments for those parcels thus approved.

26.5(8) Presentation of relocation assistance offer. At the first personal contact at which a written offer to purchase the subject property is made, the relocatee shall be simultaneously presented with a written offer of relocation assistance and an explanation of the eligibility requirements to receive relocation payments.

a. This offer shall contain a description of the various entitlements for which the relocatee may be eligible, a statement of the relocatee's occupancy rights, and the name of the relocation agent assigned to the project.

b. Within 15 days after the initiation of negotiations on the parcel, tenants shall be personally contacted and given a similar written offer of relocation assistance.

c. Out-of-state owners or other unavailable relocatees may be presented with such written offer of relocation assistance by certified or registered mail, return receipt requested.

26.5(9) Notice of intent to acquire. When a relocatee requests approval to move in advance of the first contact for acquisition of the subject property, the eligibility to receive relocation payments shall be preserved where the agency sends the relocatee a written notice that the agency intends to acquire the subject property by a stated date.

a. Such notice shall offer payments for which the relocatee is eligible, state any restrictions thereto and inform the relocatee how additional information may be obtained.

b. Such a notice shall be sent when, considering the status of appraisal or other information necessary to value the subject property, a realistic estimate of the time necessary to acquire the subject property and the adequacy of the supply of available replacement housing, it is, in the judgment of the agency, in its best interest to do so.

c. When a notice of intent to acquire is sent to an owner such notice shall also be sent to any tenant within 15 days.

d. A notice of intent to acquire sent to a tenant shall be simultaneously sent to the owner.

e. No relocation payments shall be made until the subject property has been acquired by the agency.

f. No notice of intent to acquire shall be sent on any project until after the agency has requested and received authorization from the appropriate federal authority to either institute negotiations on the project or to acquire individual parcels solely to protect the interests of the agency or because of hardship.

26.5(10) Standards for decent, safe and sanitary housing. A decent, safe and sanitary dwelling is one which meets all of the following minimum requirements.

a. It conforms with all applicable provisions for existing structures that have been established under state or local building, plumbing, electrical, housing and occupancy codes and similar ordinances or regulations applicable to the property in question.

b. It has a continuing and adequate supply of potable safe water.

c. It has a kitchen or an area set aside for kitchen use which contains a sink in good working condition and connected to hot and cold water, and a sewage disposal system. A stove and refrigerator in good operating condition shall be provided when required by local codes, ordinances, or custom. In lieu thereof the kitchen area or area set aside for such use shall have utility service connections and adequate space for the installation of such facilities.

d. It has an adequate heating system in good working order which will maintain a minimum temperature of 70 degrees in the living area under local outdoor design temperature conditions.

e. It has a bathroom, well-lighted and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower, properly connected to an adequate supply of hot and cold running water, and a flush water closet, all in good working order and properly connected to a sewage disposal system.

f. It has provision for artificial lighting in each room.

g. It is structurally sound, in good repair and adequately maintained.

h. Each building used for dwelling purposes shall have two safe unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multidwelling building must have access either directly or through a common corridor to two means of egress to open space at ground level. In buildings of three stories or more, the common corridor on each story must have at least two means of egress.

i. It has 150 square feet of habitable floor space for the first occupant in a standard living unit and at least 100 square feet of habitable floor space for each additional occupant.

j. The square footage requirements for mobile homes shall be 150 square feet for the first occupant and 70 square feet for each additional occupant.

k. The floor space is to be subdivided into sufficient rooms to be adequate for the family.

l. All rooms must be adequately ventilated.

m. Rental replacement sleeping rooms shall meet the minimum requirements of local codes, heating, electricity, structural soundness, and egress as set forth herein.

n. Sleeping rooms shall have as a minimum at least 100 square feet of habitable floor space for the first occupant, 50 square feet of habitable floor space for each additional occupant and lavatory and toilet facilities that provide privacy including a door that can be locked if such facilities are separate from the room.

26.5(11) Adjustments to standards for decent, safe and sanitary housing. Subject to the approval of the appropriate federal authority the agency providing relocation assistance may grant exceptions to decent, safe and sanitary housing standards on those projects or parcels where unusual conditions exist.

a. Requirements for sanitary, electrical or water facilities may be reduced in those areas where a majority of the residences do not have the facilities meeting the minimum standards for decent, safe and sanitary housing.

b. Where large families are being relocated, the minimum square footage requirements may be waived provided there is satisfactory bedroom space based on the age and sex of the occupants.

26.5(12) Determining comparability of available replacement housing. A comparable dwelling is a decent, safe and sanitary dwelling adequate to accommodate the needs of the relocatee, which is available on the open market and which meets all of the following minimum requirements.

a. To be available the dwelling shall be open to all persons regardless of race, color, religion, sex or national origin, and within the financial means of the family or individual to be relocated.

b. The square footage of the available replacement dwelling shall generally be the same, but may be 75 square feet less or may be greater than, the dwelling being acquired by the agency.

c. The number of rooms shall equal or exceed the number of rooms in the dwelling being acquired, or have sufficient open space to allow for the construction of the required number of rooms. In no case will a dwelling be considered comparable if it lacks sufficient bedrooms to make it decent, safe and sanitary as defined by these rules.

d. The area of living space exclusive of hallways, closets, bathrooms, and other storage facilities of available replacement dwellings shall generally equal that of the subject dwelling.

e. It shall be the same or better general type of construction as the subject dwelling.

f. It shall be approximately (within ten years) the same age as the subject dwelling and shall be in the same or better state of repair.

g. It shall be located in the same, or a better type of neighborhood or area as determined by the general age and condition of the subject dwelling, availability of public utilities and access to public and commercial facilities.

h. It shall be reasonably accessible in terms of distance or time elapsed in traveling, by the head of the household to the place of employment.

26.5(13) Notice of occupancy rights and notice to vacate. A written notice of occupancy rights shall be given to all owners and relocatees alike at the initiation of negotiations for the property proposed to be acquired by the agency. This notice shall state that the owner or relocatee will not be required to move from the dwelling or to move the business, farm or nonprofit organization or personal property sooner than 90 days from the date of said notice. The notice shall also state that the owner or relocatee will be sent a written notice specifying the date by which the subject property must be vacated at least 30 days prior to the required vacation date and that the 30-day written notice will not be sent until the relocatee or owner has received payment from the agency as agreed, or that the award of a compensation commission has been deposited by the agency as prescribed by law.

a. A written 30-day notice to vacate shall be sent by certified mail, return receipt requested, by the relocation assistance supervisor, after the agency has obtained effective control over the subject property.

b. Where the owner or relocatee has agreed to convey any interest in the subject property and to give the agency possession thereof, either prior to or on the day final acquisition payment will be received the 30-day notice to vacate shall be sent so that the last day of said notice is not earlier than the day agreed to surrender possession of the subject property.

c. Where the owner or relocatee has agreed to convey any interest in the subject property and has consented to the agency withholding a portion of the agreed purchase price to secure the agency's future possession thereof after the time agreed for said conveyance, the 30-day notice to vacate shall be sent so that the last day of the notice is not earlier than the day the owner or relocatee has agreed to surrender possession of the subject property.

d. All condemnees whether owners, tenants, businesses, nonprofit organizations, farm operators or occupants shall be sent a written 30-day notice to vacate as herein required.

e. Railroads and utilities shall be sent a 30-day notice to vacate where there is personal property to be relocated.

f. Except for condemnees who own and occupy a residence or dwelling house located on lands acquired by condemnation, a 30-day notice to vacate shall be sent so that the first day of said notice is

a day not earlier than the day the compensation commissioner's award is deposited as required by law and thus made available to the condemnee.

g. Thirty-day notices to vacate to condemnees who own and occupy a residence or dwelling house located on lands acquired by condemnation shall be sent after the deposit of the condemnation award and after the time for appeal therefrom has passed.

h. In the case of an appeal from the award of a compensation commission, condemnees owning and occupying a residence or dwelling house shall be sent a 30-day notice to vacate so that the last day of said notice is not earlier than the day specified for the surrender of possession of such property to the agency either by the terms of a stipulated settlement of the appeal or of an order of the court or, in the absence of such stipulation or order, on the day the agency is entitled to possession of such property by law.

i. No 30-day notice to vacate need be sent to any owner or relocatee who moves or moves personal property prior to the time the agency sends such notice.

571—26.6(316) Preconstruction project certificate. Prior to advertising the physical construction for bids on any project on which a relocation program is offered or required by Iowa Code chapter 316, the director of the agency offering relocation programs shall submit a project certificate to the appropriate federal or state authority stating that the agency has legal and physical possession of all land required and that comparable replacement housing is available or has been provided for or is built for all relocatees and that all persons have been relocated from the project.

26.6(1) All residentially improved properties that have not been vacated and those businesses whose operation has not been terminated shall be identified and listed as an exception to the project certificate.

26.6(2) Any exception shown on a certificate shall state the anticipated vacation date for residentially improved properties and the anticipated date for the termination of business operations and indicate the basis for the date or dates stated.

26.6(3) No physical construction shall be advertised for bids and no physical construction shall begin on any project on which a relocation program is offered or required by Iowa Code chapter 316 unless and until the appropriate federal authority has approved the agency's project certificate. For this purpose physical construction includes that part of a construction project which requires the actual displacement of any persons and not the preliminary activities which can be efficiently and practically conducted without such displacement.

571—26.7(316) Record of payment determinations and claims for benefits paid. The agency offering relocation assistance shall maintain a record of payment determinations and claims for benefits paid.

26.7(1) Record of agency contacts with each relocatee. Any agent offering relocation assistance shall maintain written notes on a parcel basis of the time, place and date of personal contacts with each relocatee or the relocatee's representative and shall make and sign such writings immediately after each contact.

a. The notes shall be identified by appropriate federal and other project and parcel identification, and note the type of tenure, the names, addresses and telephone numbers, if any, for all relocatees on the subject parcel.

b. The notes shall indicate the name of the agent making the contact and report circumstances necessary to determine the needs of each relocatee and to support an offer of relocation assistance and payments.

c. A reasonable effort shall be made to obtain general parcel identification information where relocatees moved without assistance.

d. The notes shall indicate the new address and telephone number, if any, for each relocatee, whether the offer of assistance in locating or obtaining replacement housing was accepted or declined and the name of the individual accepting or declining the offer.

e. The dates and substance of subsequent or follow-up contacts, the date on which the relocatee was required to move from the subject property, the date on which the actual relocation took place and the new tenure of each relocatee shall be shown.

26.7(2) Amount determinations and limitations. Payment eligibility and payment determination shall be made in writing and shall be signed and dated by the person making the determination who shall thereby disclaim any personal interest therein.

a. Parcel files shall show computations necessary to determine and show the amount of the payment, shall recite facts and the rationale used to support payment eligibility determinations and shall contain such proof of payment or support documentation as is required by Iowa Code chapter 316 and by these rules.

b. Such disclaimers of personal interest shall state that the signator has no direct or indirect present or contemplated personal interest in the transaction, nor will any benefit be derived from the payment determinations thus made, and where applicable a statement that it is the understanding of the person making the determination that the determined amount is to be used in connection with a federal aid project.

26.7(3) Audit claims for payment. Claims for payments to be made by authority of Iowa Code chapter 316 and of these rules shall be made in writing on forms furnished or approved by the agency.

a. All such claims shall contain a certification by the relocatee that the above claim is correct, just and unpaid and, to the best of the relocatee's knowledge and belief, the housing described is decent, safe and sanitary.

b. Claims requesting payments shall be approved for payment by the person making the payment eligibility or amount determination or by the relocation assistance supervisor, and by the person auditing the claim.

c. No claim for payment shall be approved in amounts in excess of limitations established by Iowa Code chapter 316 or these rules, or which duplicate payments made to a relocatee as a contract seller or condemnee through an exercise of the power of eminent domain.

d. Claims for the payments made by authority of Iowa Code chapter 316 and of these rules shall be audited prior to their payment and delivery. The audit shall determine that the claim is due, unpaid and supported in the amount claimed by an appropriate approved payment determination, proof of payment and such documentation as is necessary to support payment eligibility and amount determinations made by the agency and as required by Iowa Code chapter 316 and these rules. The person making the claims payment audit shall sign, date and approve the form of the claim for payment.

e. Payments by authority of Iowa Code chapter 316 and of these rules shall not be delivered to a relocatee or into escrow by the person or agent offering relocation assistance or the person who has made the payment eligibility or amount determination.

26.7(4) Assignment of relocation payments. Relocation payments may be made and warrants may be drawn on the basis of written assignments by the relocatee, payable directly to the party or parties providing the moving, financing, services or replacement housing for the relocatee.

a. Warrants drawn directly to such persons shall be delivered to the assignee or such persons only upon the agency's receipt of an executed contract, receipted bill, or itemized statement for moving, or a contract to purchase, or a rental agreement by the relocatee and the contractor, seller or landlord or person furnishing the service.

b. Warrants, in the discretion of the agency, may be drawn payable either directly or jointly to the relocatee and to the party or parties providing such moving, financing, services or replacement housing.

c. In any cases where the relocatee otherwise qualifies for a replacement housing payment, and upon the relocatee's specific request, the agency may make such payments into escrow prior to the relocatee's moving. Any supplemental housing payment made into escrow shall be delivered subject to the condition that it shall not be paid unless and until the agency has, in writing, accepted proof of the relocatee's purchase or rental and occupancy of decent, safe and sanitary housing.

d. In the case of an appeal from the award of a compensation commission the agency may pay into escrow the amount of a replacement housing payment to which the relocatee is then determined eligible pending final adjudication of the acquisition cost of the dwelling acquired. The delivery of any such

payment into escrow shall reserve to the agency the right to recompute the amount of such payment, if any, due as a result of the final adjudication of the acquisition cost of the subject dwelling, to reclaim and to receive delivery of the warrant paid into escrow and to pay that amount, if any, as is determined due as a result of such recomputation.

e. No relocation payment shall be withheld nor amounts deducted therefrom (including closings in escrow) to satisfy claims or obligations to others including those of the agency.

26.7(5) *Statement of eligibility to a lending agency.* At the request of the relocatee the agency shall state to any interested party, financial institution or lending agency, that the relocatee will be eligible to receive a replacement housing payment in a specific sum provided the relocatee purchases and occupies a specified replacement dwelling not later than the end of the 18-month period beginning on the date on which the acquisition cost of the acquired dwelling is received from the agency, or on the date on which the relocatee moves from the acquired dwelling, whichever is the later date.

a. No such statement shall be made unless the relocatee otherwise qualifies for the replacement housing payment except that the relocatee has not yet purchased or occupied a suitable replacement dwelling.

b. No replacement dwelling shall be specified in any such statement unless it has been inspected and found to meet the standards for decent, safe and sanitary housing by the agency offering the relocation assistance.

26.7(6) *Avoidance of conflicts of interest.* The individual responsible for determining the amount of the replacement housing payment shall place in the file a signed and dated statement setting forth:

a. The amount of the payment;

b. The understanding that the determined amount will be used in connection with a federal-aid project;

c. That the individual has no direct or indirect present or contemplated personal interest nor will any benefit be derived from the payment.

26.7(7) *Administrative appeal and limitations.* Any person dissatisfied with a determination by the agency's relocation supervisor as to eligibility for a payment or as to the amount of payment offered under the relocation assistance program may have application or claim reviewed by the agency providing relocation assistance in accordance with this rule.

a. Persons dissatisfied with any such determination shall have 30 days after the day the agency's relocation assistance supervisor sends notice of the supervisor's determination to file a written request that the agency review the same.

b. Promptly upon timely receipt of a written request for such review the commission shall hear and finally determine the appeal.

c. The commission shall inform themselves of the nature, scope, standards for eligibility and limitation of benefits and payments established by Iowa Code chapter 316 and by these rules.

d. The commission shall make, note and report the necessary computations and line of reasoning used to support their findings.

e. The commission shall award to the person requesting the review all benefits and payments to the extent and in the amounts, if any, determined within the limitations and under the terms of Iowa Code chapter 316 and of these rules.

f. The person requesting the review shall be promptly notified in writing of the decision of the commission whose decision shall be final.

26.7(8) *Notice of administrative appeals.* The commission shall convene the review after sending the person requesting the review or the person's representative reasonable notice of the proceeding.

a. Notice of such review proceeding may be sent by ordinary mail and where practical, shall be held at a time and place agreeable to the person requesting the same.

b. The person requesting the review or the person's representative, and any relocation assistance officer appearing, shall have equal rights and shall have an equal opportunity to be heard.

c. No inferences or presumptions are to be indulged against either the agency, the relocation assistance officer, or the person requesting the review or the person's representative.

26.7(9) *Statistical reports.* The agency offering relocation assistance shall keep such records and make such other statistical reports as are required by the appropriate federal or state authority.

26.7(10) *Records retention and availability.* The agency shall retain those records required by Iowa Code chapter 316 and by these rules for a period of not less than three years after the federal authority's payment of the final voucher on any federally aided project or not less than three years after the state authorizes payment of the final voucher on any joint or local project, whichever date is later. All such records shall be available for inspection by representatives of the federal or state government at any reasonable hour.

571—26.8(316) *Last resort housing.* If a project cannot proceed to actual construction because comparable replacement sale or rental housing is not available, and the agency determines that such housing cannot otherwise be made available, the agency may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project. The agency may let contracts for the construction of said housing, approve plans and specifications for the building thereof, and supervise, inspect and approve the housing constructed.

RELOCATION ASSISTANCE
COMPUTATION OF INCREASED INTEREST COST

Name _____ County _____
 Street Address _____ R.O.W. Project No. _____
 City _____ R.A. Project No. _____
 State and Zip Code _____ Parcel No. _____

COMPUTATION OF INCREASED INTEREST COST

	MORTGAGE DATA			
	Existing Mortgage		New Mortgage	
	1st Mortgage	2nd Mortgage	1st Mortgage	2nd Mortgage
Interest Rate.....	_____	_____	_____	_____
Remaining Term.....	_____	_____	_____	_____
Remaining Principal Balance.....	_____	_____	_____	_____
<u>COMPUTATION</u>				
<u>First Mortgage:</u>				
Monthly P & I Payment.....	\$ _____	X	Factor _____	(_____) = \$ _____
Monthly P & I Payment.....	\$ _____	X	Factor _____	(_____) = \$ _____
Monthly Interest Difference.....	\$ _____	X	Factor _____	(_____) = \$ _____
Present Worth of.....	\$ _____	X	Factor _____	(_____) = \$ _____
discounted at _____% savings deposit rate.....	_____			_____
<u>Second Mortgage</u>				
Monthly P & I Payment.....	\$ _____	X	Factor _____	(_____) = \$ _____
Monthly P & I Payment.....	\$ _____	X	Factor _____	(_____) = \$ _____
Monthly Interest Difference.....	\$ _____	X	Factor _____	(_____) = \$ _____
Present Worth of.....	\$ _____	X	Factor _____	(_____) = \$ _____
discounted at _____% savings deposit rate.....	_____			_____
AMOUNT OF INTEREST PAYMENT.....	_____			_____

These rules are intended to implement Iowa Code section 316.11.

[Filed 3/11/77, Notice 1/26/77—published 4/6/77, effective 5/11/77]

[Filed 6/3/83, Notice 3/30/83—published 6/22/83, effective 7/27/83]

[Filed without Notice 12/12/86—published 12/31/86, effective 2/4/87]