Progress can be viewed as change for the better. Sometimes, however, progress means that certain people must move from their homes or businesses to make way for a federal or federally-assisted project. Although such projects benefit the general public, hardships may be suffered by the people required to move. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 provides assistance for these people in relocating to another home or business site. The relocation act is intended to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by federal or federally-assisted programs. Its purpose is to prevent individuals from suffering disproportionate injuries as a result of programs designed to benefit the general public.

Prior to passage of the Relocation Act of 1970, nearly all federally-assisted programs had differing and conflicting provisions for relocating people who were displaced. The program ranged from providing no assistance at all in some cases to providing liberal benefits and protection in others. In one neighborhood, for example, people on one side of the street received special relocation assistance and fairly negotiated prices for their property, while on the other side people were evicted with no assistance or compensation and were offered prices below the appraised value of their property. In another section of the neighborhood, small businesses received little or no relocation or economic adjustment assistance.

These inequities created irritation and confusion in the affected communities. Continuing and annoying conflicts arose between federal agencies and state and local grantees, damaging the image of the federal government at the state and local levels. Provisions to standardize relocation assistance in all federal programs were originally contained in the proposed Intergovernmental Cooperation Act of 1968. Although these provisions were removed from the act prior to passage, they formed the basis of the relocation act.

Implementation of the relocation act has improved the delivery of assistance to displaced persons and businesses. However, the congressional goals of uniform and equitable treatment for all displaced persons and businesses have not been completely achieved. Work by GAO, the Executive Branch, and several nonprofit groups has disclosed a series of obstacles to more effective implementation of the act. These obstacles originate primarily in court decisions and differences of opinion among federal agencies. Several bills have been introduced in Congress to remove these obstacles.

This paper is drawn primarily from the report GAO issued in March 1978, entitled Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs, and GAO testimony on S. 1108. The paper specifically comments on proposals of S. 1108: (a) to establish a central authority to create a set of uniform regulations from the agencies to implement, (b) to clarify the coverage of the act, and (c) to adjust payment schedules to 1979 levels. The GAO report concluded that the federal government has not completely met its goal of providing uniform treatment to people displaced from their homes and businesses. The report concluded that the root cause of this situation is the president's lack of authority to promulgate uniform rules and regulations to replace the multiple sets of regulations that now exist. It also reported that some people displaced by federally-assisted projects were not covered by the act. Our recent informal contracts with federal agencies indicate that the conditions described in the report remain essentially unchanged.

S. 1108 does three important things:

1. It gives the president authority to designate one agency to establish a single uniform set of regulations and procedures applicable to all relocation activity supported by federal funds;

2. It gives the designated agency the authority to assure the uniform application and interpretation of the regulations; and

3. It attempts to clarify the coverage of the existing act.

GAO strongly endorsed the amendments to Section 213, which are designed to improve the administration of the act. GAO believes that these amendments, if adopted, would go far toward more completely achieving the basic purpose of the act—a uniform, fair, and equitable treatment of people uprooted as a result of federal or federally-assisted programs.

Relocation assistance is an extremely complex and technical subject. The courts and the Executive Branch have wrestled with many difficult problems of interpreting and applying the act—very often reaching different conclusions. This conference will be hearing more about many of these problems later from the agencies who are confronted with them each day and from the displaced people affected by the decisions. S. 1108 addresses a number of these problems, some of which will be briefly discussed here.


SINGLE SET OF REGULATIONS

The Congress considered and rejected the idea of giving the president authority to make rules and regulations to carry out the act's provisions when it passed the legislation. The administration sought this authority, arguing that vesting regulation authority in the head of each federal agency would likely result in different and inconsistent administration. The act allowed federal agencies to write their own regulations in order to prevent unnecessary interference with agency programs. The Congress anticipated that the agency consultation process required by the act would assure uniform policies.

The requirement for agency heads to consult on the establishment of uniform regulations has not overcome the desire of individual agencies to go their own way. Because of this individualism, the federal government has not provided uniform and equitable treatment of persons displaced from their homes, their businesses, or their farms, when they are required to move for the common good.

During the review, GAO examined the relocation regulations of 13 federal agencies. An analysis revealed a confusing array of different formats, wordings, and degrees of detail. Because of these differences, which were often very subtle, relocated persons and businesses received different payments. Some of the major differences in agency regulations and practices include, for example, HUD regulations that allow professional service costs incurred by businesses in securing a replacement site. FHWA regulations, however, did not discuss whether or not such costs were allowed. The following case illustrates the differences that can result.

A Baltimore business relocated by a HUD project used professional services for (a) preparing, reviewing, and executing a contract of sale; (b) complying with Occupational Safety and Health Administration requirements; and (c) reviewing insurance coverage for the new site. The services cost about $5500, and the business applied to HUD for reimbursement.

HUD agreed to pay for most of the costs because it believed the services were necessary to re-establish the business at the replacement site. According to an FHWA relocation official, the cost of these services would not have been approved on an FHWA project.

The various federal agency regulations, in addition to causing inconsistent payments to relocated persons, also cause administrative difficulties for local relocation agencies that work with more than one federal agency. For example, a Federal Regional Council chairman cited reports that some local acquiring agencies work with as many as five different sets of federal regulations.

The proposed amendment giving the president authority to establish a uniform set of regulations and procedures should significantly improve the chances of uniform treatment and ease administrative burdens at the local level.

ADMINISTRATION OF THE ACT

Adopting one set of regulations will not be enough. The administration of the act needs to be centralized and improved.

When the act was passed, Congress anticipated that the Executive Office of the President would participate in discussions with federal agencies and would review agency regulations and procedures before they were issued. The president directed the Office of Management and Budget (OMB) to establish and chair an interagency committee—known as the Relocation Assistance Implementation Committee—to (a) provide guidelines for the agencies to use when developing their regulations and (b) continually review agencies' relocation program and recommend improvements and necessary legislation. In 1973, the president transferred OMB's responsibilities to the General Services Administration (GSA). OMB was to maintain broad policy oversight and to offer assistance in resolving major policy issues.

This approach worked only when there was unanimous agreement. The committee was a good forum for agency officials to exchange information and provide assistance to each other. On the whole, however, the committee has proven an inappropriate vehicle for resolving agency differences and obtaining interagency coordination of relocation activities. Because the committee is composed of peers, agreements among agencies have to be unanimous, and no one organization is empowered to ensure consistent and uniform implementation of the act.

GSA and OMB have not pushed the federal agencies to identify and resolve differences. The GAO report points out that the committee and its working group have met only sporadically. Under GSA's leadership, the committee met only once (in August 1973), and the working group last met on a regular basis in October 1975. Since the issuance of the GAO report the committee and its working group have not met.

As a result of the lack of effective process for resolving agency differences, obtaining coordination, and exercising oversight, problems were not being effectively addressed and resolved. For example, differences in regulations and practices identified by the Federal Regional Councils remain unresolved; agreements reached and incorporated into agency regulations still contained differences that could result in different payments; and new federal programs and court decisions were not studied to determine their effect on the act's administration.

In addition to recommending legislative action to authorize a single set of regulations, GAO suggested that the act be amended to require the president to designate a central organization to direct and oversee relocation activities governmentwide. Although not in agreement on which agency should have responsibility, both OMB and GSA supported the recommendations as being needed to more completely achieve the objectives of the act.

S. 1108 addresses this problem by directing that the agency designated by the president to establish a uniform set of regulations also take appropriate action to assure uniform application and interpretation of the regulations. GAO testimony suggested that Section 213 be expanded to provide the designated agency with authority to waive the regulations. This would provide for unforeseen situations where application of the uniform regulations might produce inappropriate results.

CLARIFYING INTENT OF CONGRESS

GAO testimony also recommends amendments clarifying the intent of Congress on payments of benefits to persons displaced as a result of government subsidized ventures, regardless of whether they are privately sponsored. The report cited several issues in this area for consideration by Congress.

Amendments proposed by S. 1108 address most of these issues. GAO reviewed the amendments and had some observations for the consideration of Congress.

RELOCATION BENEFITS

The act originally provided relocation benefits to
persons displaced by projects that did not involve acquisition of real property, such as code enforcement, rehabilitation, and demolition, funded under the Housing Act of 1949 or the Demonstration Cities and Metropolitan Development Act of 1966. These two acts were superceded by the Housing and Community Development Act of 1974, but the relocation act was not amended. As a result, persons displaced by similar projects funded under the 1974 act are not eligible for relocation benefits.

The proposed amendments to Section 217 remove the reference to superceded legislation and are intended to extend relocation benefits to displacements resulting from activities under the Housing and Community Development Act of 1974 and any other similar legislation. The proposed amendments, however, drop the reference to direct cause and effect between a displacement and a federal project. They also remove the reference to specific types of activities that do not require acquisition of real property in order for displacement to occur. GAO believes the proposed amendments are vague and could expand coverage beyond the purpose intended.

**DISPLACEMENT BY NONSTATE AGENCIES**

The GAO report pointed out that the relocation act is applied only to displacement caused by federal agencies or by a state and its political subdivisions operating federally-assisted programs. Even though federally-assisted programs are involved, persons displaced by entities other than a state or its political subdivisions, such as nonprofit organizations, are not entitled to relocation benefits.

The amendments to Sections 101.3 and 101.6 seek to provide benefit to those individuals who are forced to move by a private individual or entity carrying out a federally-assisted program or project. The amendments would extend benefits to two new classes of displaced persons. The first are all owners and tenants who are displaced by an entity with the power of condemnation. The second class consists of tenants whose property owners require them to move so that the owners themselves may undertake a project with federal financial assistance.

Tenants are not covered, however, if the owner of the property displaces them in order to sell the property to an entity without condemnation powers, even though the property is to be used in pursuit of a federally-assisted purpose. Unless the entity acquiring property has the power of condemnation, a property owner is not forced to sell and can negotiate a price that will provide adequate compensation for the expenses and attendant disruptions associated with a move. Tenants do not have the same degree of leverage. In view of the implicit social goals of the relocation act--i.e., that displaced persons be provided comparable decent, safe, and sanitary housing--the subcommittee may wish to consider extending coverage of the act to them.

**DISPLACEMENTS AND LOAN FORECLOSURE**

The courts have reached different opinions on similar cases where HUD has become the owner of a property through loan foreclosure and, then, evicted the tenants at a later date. The U.S. Supreme Court held that in such cases, tenants are not eligible for benefits under the act because the property was not acquired for a federal project. The proposed amendments are intended to provide relocation benefits to such tenants. GAO believes these amendments need clarification.

**BENEFITS TO BUSINESSES**

GAO described issues in one area that the amendments do not address—relocation benefits provided to businesses. Unlike the situation where people are moved from their homes, replacement facilities are not required to be available before a business is displaced, and displaced businesses do not receive financial assistance to help pay for the higher costs of rent or purchase at the new location.

Federal Regional Council task forces have indicated that a significant number of businesses are being closed because of financial burdens they face when forced to move. Particularly vulnerable are the neighborhood-type small businesses.

During the GAO review, it was learned that two states had authorized payments over and above the federal payment to reduce additional costs incurred by businesses at new locations. A city official said these payments had probably kept a number of businesses from closing.

GAO encouraged Congress to consider the issue of providing additional benefits to businesses during its deliberations on S. 1108. Two possible approaches would be to require that replacement facilities be available or acquire the business as a going concern.

**ADJUSTING BENEFIT LEVELS**

GAO also commented on the adjustments to payment schedules to bring them to 1979 levels. Basically, the amendments call for doubling the existing payment schedules and then using the Consumer Price Index (CPI) to annually update the payment amounts. The CPI between January 1971 and July 1979 has almost doubled.

The act provides replacement housing payments of up to $4000 over four years to displaced tenants and up to $15 000 to displaced homeowners to compensate the displaced person for the increased costs of acquiring comparable housing that is decent, safe, and sanitary. The proposed amendments increase the $4000 limit to $8000 for tenants and completely remove the $15 000 limit. GAO believes the rent component of the CPI, which has not risen as rapidly as the overall CPI, is a more specific indicator of the changing costs of rental housing than the overall CPI. GAO suggested, therefore, that the amendments be changed to use the rent component to adjust the $4000 limit for tenants to current levels and for future annual updates.

The amendments provide for increasing the minimum and maximum payments made to businesses in lieu of actual moving expenses. Federal agencies have advised us that the current minimum occasionally results in windfall payments. Therefore, we saw no need for the proposed increase in the minimum.

**DIFFERENCES BETWEEN FEDERAL AGENCIES**

This section summarizes the differences in federal agency practices and regulations described in the March 1978 GAO report.

**Inconsistent Payments**

The act provides replacement housing payments of up to $15 000 to displaced homeowners and rental assistance payments of up to $4000 over a four-year period to displaced tenant numeral. These payments compensate the homeowner and tenant for the increased cost of acquiring a comparable replacement
dwelling that is decent, safe, and sanitary. Because federal agency regulations and instructions were not uniform or specific, displaced homeowners and tenants received differing payments for replacement housing and for rental assistance in situations where comparable replacement housing was not available.

Computing Replacement Dwelling Costs

FHWA and HUD permit state and local displacing agencies to select one of two primary methods for determining the cost of comparable replacement dwellings. Although these two methods are designed to produce similar values for a replacement dwelling, differences do occur. The use of one method for FHWA programs and another method for HUD programs in the same city resulted in different payments to displaced persons.

Because of the different payments that would result, HUD and FHWA central office officials agreed to use the same method on their projects in one city. This agreement, however, was not used in other geographic areas where both HUD and FHWA projects existed. HUD officials have advised GAO that under their new regulations, the difference in methods will be eliminated after September 26, 1979.

Payments to Sleeping-Room Occupants

FHWA and HUD regulations differed in the method used for computing rental assistance payments for sleeping-room occupants. HUD regulations allowed higher benefits if the monthly rental of a replacement dwelling exceeded 25 percent of an individual's monthly income; FHWA regulations did not. Therefore, low-income, sleeping-room occupants could receive higher payments from a HUD project than they would receive from an FHWA project.

FHWA contended that its regulations provided for the same benefits as HUD's. While this may have been FHWA's intent, GAO and the responsible relocation official in one city did not so interpret the regulations. This illustrates the problems that can result from each agency preparing unique regulations. FHWA officials acknowledged that the regulations as written could be misread.

The Appendix to the GAO report contained a detailed analysis of various agency regulations and provided additional illustrations of the types of subtle differences that result from multiple regulations.

Last-Resort Housing Provision

Homeowners or tenants are sometimes faced with acquiring comparable replacement housing where costs are so high that the maximum assistance payments specified in Sections 203 and 204 of the relocation act ($15,000 and $40,000) are not sufficient to cover the costs. When this happens, some federal agencies, such as HUD, generally make the maximum payment only. FHWA, however, treats this situation as falling within the scope of the last-resort housing provision (Section 206).

FHWA interprets this section to mean that if comparably priced replacement housing is not available, assistance payments over the limits can be made for the benefit of displaces to compensate for higher-cost replacement housing.

Other Payments

Other federal agency regulations and procedures differed, causing tenants to receive different rental assistance payments. For instance, not all agencies considered increased utility costs at the replacement site when determining the comparable housing costs and computing the rental assistance payment.

Payments to Businesses Differed

In addition to the fair market value of the real property, displaced businesses are paid either actual costs for moving and related expenses or an in-lieu-of moving expense payment of up to $10,000. However, federal agency regulations differed on how to compute payment amounts. As a result, businesses relocated by different agencies received different payments.

Replacement Business Sites

Replacement facilities available to a displaced business may not meet all of the business' requirements. Electrical service, plumbing, and floor layout may need to be improved or changed. At the time of the GAO review, HUD regulations allowed payments of up to $10,000 for improvements necessary to make the structure of equipment suitable for the displaced business. In contrast, FHWA regulations and procedures were generally more restrictive.

FHWA officials believe this difference is currently being resolved by proposed changes in HUD regulations. However, an earlier change in HUD regulations did not resolve this problem.

Professional Services

Some displaced businesses need professional assistance when planning to move their operations, preparing for the move, or during the actual move. Professional services include consultation with architects, attorneys, engineers, and others. Federal agencies' regulations differed as to allowing these expenses, and, as a result, some businesses were paid for some or all professional services and others were not.

Payments to New Businesses

The act authorizes payments to displaced businesses in lieu of actual moving expenses. The payments range between $2500 and $10,000 depending on the business' earnings. HUD and FHWA regulations, however, treated differently those businesses that have been in operation for less than one year. HUD regulations allowed for the in-lieu-of payments to such businesses; FHWA regulations did not.

Other Differences

The following are some additional differences not discussed in the GAO report, but they have been identified by federal agencies.

Maintenance of Ownership Status

In some instances, comparable housing is not available for purchase by displaced homeowners who wish to buy a replacement dwelling. FHWA believes that a displaced owner has a legal right, as well as an equitable right, of preservation of ownership status. If the displaced homeowner wishes to purchase replacement housing, FHWA uses Section 206 to alleviate such situations.

FHWA follows the HUD policy, unless it cannot reasonably do so because of the $15,000 limit of Section 203. HUD will relocate homeowners to rental units or postpone relocation until replacement housing is available for purchase.
Existing Patronage for Payments

Rather than receive moving expenses, displaced businesses may be paid from a minimum of $2500 to a maximum of $10,000 for "loss of existing patronage." This is based on average net earnings during the two years prior to displacement. Problems have arisen with the definition of "loss of existing patronage."

HUD interprets the loss of existing patronage to mean the loss of existing specific clientele. No consideration is given to the possible increase or decrease in the net dollar volume of the business after relocation. FHWA interprets loss of existing patronage to mean the loss of net dollar volume of income. The only consideration given to loss of specific clientele is when this loss would directly affect the net income of the business due to its being relocated.

HUD places responsibility on the displacing agency to demonstrate that a business will not suffer a substantial loss of existing patronage in order to deny an in-lieu-of payment, whereas FHWA requires the displacing agency to determine that a substantial loss will occur before the business is entitled to such payment.

In addition, HUD allows businesses to have another outlet as long as business volume in the remaining property is below certain limitations. FHWA requires that in order to be eligible for an in-lieu-of payment, the business must not be part of a commercial enterprise that has at least one other establishment not being acquired.

DEFINITION ISSUES

Different definitions of real and personal property used by different agencies affect what is compensable; however, GAO does not want to get into the definition issue. Rather, it wants to provide background to help others define real property.

SUMMARY

It is appropriate to give credit to those agency personnel who have worked diligently to administer the act. They identified the difference in agency procedures; the Federal Regional Councils were especially effective in this regard. The interagency staff also worked to develop alternative solutions to identified differences.

The central management authority, which GAO recommended and that would be established if S. 1108 is enacted, should not result in the creation of a large administrative bureaucracy. Expertise in administering relocation activities rests, and should remain, in the line agencies. A very small staff could fulfill the needed leadership, conflict resolution, and decision-making role envisioned by the proposed amendments.