

(2) The business is not part of a commercial enterprise having another establishment, which is not being acquired by the Commission, and which is under the same ownership and engaged in the same or similar business activities. For purposes of this rule, no remaining business facility which had average annual gross receipts of less than \$1,000 and average annual net earnings of less than \$500, during the two taxable years prior to displacement, shall be considered "another establishment"; and

(3) The business had (i) average annual gross receipts of at least \$1,000 during the two taxable years prior to displacement, or (ii) average annual net earnings of at least \$500 as determined in accordance with §700.173. However, the Commission may waive this test in any case in which it determines that its use would cause a substantial hardship.

(c) *Determining number of businesses acquired.* In determining whether two or more legal entities, all of which have been acquired, constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which—

(1) The same premises and equipment are shared;

(2) Substantially identical or inter-related business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business, and

(4) The same person or closely related persons own, control or manage the affairs of the entities.

(d) *Farm operation.* A farm operation qualifies for a payment under this section if the Commission determines that it meets the criteria set forth in §700.171(b)(3). In the case of a partial acquisition, the fixed payment shall be made only if the Commission determines that—

(1) The part acquired was a farm operation before the acquisition; or

(2) The partial acquisition caused the operator to be displaced from the farm operation; or

(3) The partial acquisition caused a substantial change in the nature of the farm operation.

(e) *Nonprofit organization.* A nonprofit organization qualifies for a \$2,500 payment under this section, if the Commission determines that it—

(1) Cannot be relocated without a substantial loss of existing patronage (membership and clientele). A nonprofit organization is assumed to meet this test, unless the Commission demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not being acquired by the Commission.

§ 700.173 Average net earnings of business or farm.

(a) *Computing net earnings.* For purposes of this subpart, the average annual net earnings of a business or farm operation is one-half of its net earnings before Federal, State and local income taxes, during the two taxable years immediately prior to the taxable year in which it was displaced. However, if the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be computed on the basis of the actual period of operation on the acquired site, projected to an annual rate. Also, average annual net earnings may be based upon a different period of time when the Commission determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, his spouse, or dependents.

(b) *Documentation.* A displaced person who elects to receive a fixed payment in lieu of actual expenses incurred in moving his business or farm shall furnish the Commission proof of his net earnings through income tax returns, certified financial statements or other reasonable evidence.

§ 700.175 Temporary emergency moves.

(a) *General.* An eligible household may be granted temporary relocation resources, at the Commission's discretion, provided: