

## Appendix D. Summary of Relocation Benefits

### California Department of Transportation Relocation Assistance Program

#### RELOCATION ASSISTANCE ADVISORY SERVICES

This appendix is general in nature and is not intended to be a complete statement of federal and state relocation laws and regulations. Any questions concerning relocation should be addressed to Caltrans Right-of-Way. This section provides some general descriptive information on Public Law (PL) 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. This is often referred to simply as the "Uniform Act." The information in this appendix is provided only as background and is not intended as a complete statement of all the state or federal laws and regulations; for specific details, the environmental planner should contact the appropriate Caltrans District or Regional Right-of-Way Relocation Branch. After presenting an outline of the basic legal foundation for relocation policy, the appendix looks at important relocation assistance information, including advisory services and the payment program. Refer to the Caltrans Right-of-Way Manual Chapter 10 for more detailed and specific information regarding relocation and housing programs.

#### **DECLARATION OF POLICY**

"The purpose of this title is to establish a **uniform policy for fair and equitable treatment** of persons displaced as a result of federal and federally assisted programs in order that such persons **shall not suffer disproportionate injuries** as a result of programs designed for the benefit of the public as a whole."

The Fifth Amendment to the United States Constitution states, "No Person shall be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation." The Uniform Act sets forth in statute the due process that must be followed in Real Property acquisitions involving federal funds. Supplementing the Uniform Act is the government-wide single rule for all agencies to follow, set forth in Title 49 *Code of Federal Regulations* Part 24. Displaced individuals, families, businesses, farms, and nonprofit organizations may be eligible for relocation advisory services and payments, as discussed below.

#### **FAIR HOUSING**

The Fair Housing Law (Title VIII of the Civil Rights Act of 1968) sets forth the policy of the United States to provide, within constitutional limitations, for fair housing. This Act, and as amended, makes discriminatory practices in the purchase and rental of most residential units illegal. Whenever possible, minority persons shall be given reasonable opportunities to relocate to any available housing regardless of neighborhood, as long as the replacement dwellings are decent, safe, and sanitary and are within their financial means. This policy, however, does not require the Department to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

Any persons to be displaced will be assigned to a relocation advisor, who will work closely with each displacee to see that all payments and benefits are fully utilized, and that all regulations are observed, thereby avoiding the possibility of displacees jeopardizing or forfeiting any of their benefits or payments. At the time of the initiation of negotiations

(usually the first written offer to purchase), owner-occupants are given a detailed explanation of the state's relocation services. Tenant occupants of properties to be acquired are contacted soon after the initiation of negotiations and also are given a detailed explanation of the Caltrans Relocation Assistance Program. To avoid loss of possible benefits, no individual, family, business, farm, or nonprofit organization should commit to purchase or rent a replacement property without first contacting a Department relocation advisor.

### **RELOCATION ASSISTANCE ADVISORY SERVICES**

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Department will provide relocation advisory assistance to any person, business, farm, or nonprofit organization displaced as a result of the acquisition of real property for public use, provided that they are legally present in the United States. The Department will assist eligible displacees in obtaining comparable replacement housing by providing current and continuing information on the availability and prices of both houses for sale and rental units that are "decent, safe, and sanitary." Nonresidential displacees will receive information on comparable properties for lease or purchase (for business, farm, and nonprofit organization relocation services, see below).

Residential replacement dwellings will be in a location generally not less desirable than the displacement neighborhood at prices or rents within the financial ability of the individuals and families displaced, and reasonably accessible to their places of employment. Before any displacement occurs, comparable replacement dwellings will be offered to displacees that are open to all persons regardless of race, color, religion, sex, national origin, and consistent with the requirements of Title VIII of the Civil Rights Act of 1968. This assistance will also include the supplying of information concerning federal- and state-assisted housing programs, and any other known services being offered by public and private agencies in the area.

Persons who are eligible for relocation payments and who are legally occupying the property required for the project will not be asked to move without first being given at least 90 days' written notice. Residential occupants eligible for relocation payment(s) will not be required to move unless at least one comparable "decent, safe, and sanitary" replacement dwelling, available on the market, is offered to them by the Department.

### **RESIDENTIAL RELOCATION PAYMENTS**

The Relocation Assistance Program will help eligible residential occupants by paying certain costs and expenses. These costs are limited to those necessary for or incidental to the purchase or rental of a replacement dwelling and actual reasonable moving expenses to a new location within 50 miles of the displacement property. Any actual moving costs in excess of the 50 miles are the responsibility of the displacee. The Residential Relocation Assistance Program can be summarized as follows:

#### Moving Costs

Any displaced person, who lawfully occupied the acquired property, regardless of the length of occupancy in the property acquired, will be eligible for reimbursement of moving costs. Displacees will receive either the actual reasonable costs involved in moving themselves and personal property up to a maximum of 50 miles, or a fixed payment based on a fixed moving cost schedule. To be eligible for relocation payments, lawful occupants who move into the displacement property after the initiation of negotiations must wait until the Department obtains control of the property.

### Purchase Differential

In addition to moving and related expense payments, fully eligible homeowners may be entitled to payments for increased costs of replacement housing.

Homeowners who have owned and occupied their property for 180 days or more prior to the date of the initiation of negotiations (usually the first written offer to purchase the property) may qualify to receive a price differential payment and may qualify to receive reimbursement for certain nonrecurring costs incidental to the purchase of the replacement property. An interest differential payment is also available if the interest rate for the loan on the replacement dwelling is higher than the loan rate on the displacement dwelling, subject to certain limitations on reimbursement based on the replacement property interest rate. The maximum combination of these three supplemental payments that the owner-occupant can receive is \$22,500. If the total entitlement (without the moving payments) exceeds \$22,500, the Last Resort Housing Program will be used (see the explanation of the Last Resort Housing Program below).

### Rent Differential

Tenants and certain owner-occupants (based on length of ownership) who have occupied the property to be acquired by the Department prior to the date of the initiation of negotiations may qualify to receive a rent differential payment. This payment is made when the Department determines that the cost to rent a comparable “decent, safe, and sanitary” replacement dwelling will be more than the present rent of the displacement dwelling. As an alternative, the tenant may qualify for a down payment benefit designed to assist in the purchase of a replacement property and the payment of certain costs incidental to the purchase, subject to certain limitations noted under the *Down Payment* section below. The maximum amount payable to any eligible tenant and any owner-occupant of less than 180 days, in addition to moving expenses, is \$5,250. If the total entitlement for rent supplement exceeds \$5,250, the Last Resort Housing Program will be used.

To receive any relocation benefits, the displaced person must buy or rent and occupy a “decent, safe, and sanitary” replacement dwelling within 1 year from the date the Department takes legal possession of the property, or from the date the displacee vacates the displacement property, whichever is later.

### Down Payment

The down payment option has been designed to aid owner-occupants of less than 180 days and tenants in legal occupancy prior to Caltrans’ initiation of negotiations. The down payment and incidental expenses cannot exceed the maximum payment of \$5,250. The 1-year eligibility period in which to purchase and occupy a “decent, safe, and sanitary” replacement dwelling will apply.

### Last Resort Housing

Federal regulations (49 Code of Federal Regulations 24) contain the policy and procedure for implementing the Last Resort Housing Program on federal-aid projects. Last Resort Housing benefits are, except for the amounts of payments and the methods in making them, the same as those benefits for standard residential relocation as explained above. Last Resort Housing has been designed primarily to cover situations where a displacee cannot be relocated because of lack of available comparable replacement housing, or when the anticipated replacement housing payments exceed the \$22,500 and \$5,250 limits of the standard relocation procedure, because either the displacee lacks the financial ability or other valid circumstances apply.

After the initiation of negotiations, the Department will, within a reasonable length of time, personally contact the displacees to gather important information, including the following:

- Number of people to be displaced;
- Specific arrangements needed to accommodate any family member(s) with special needs;
- Financial ability to relocate into comparable replacement dwelling that will adequately house all members of the family;
- Preferences in area of relocation; and
- Location of employment or school.

### ***NONRESIDENTIAL RELOCATION ASSISTANCE***

The Nonresidential Relocation Assistance Program provides assistance to businesses, farms, and nonprofit organizations in locating suitable replacement property and reimbursement for certain costs involved in relocation. The Relocation Advisory Assistance Program will provide current lists of properties offered for sale or rent, suitable for a particular business' specific relocation needs. The types of payments available to eligible businesses, farms, and nonprofit organizations are searching and moving expenses and possibly re-establishment expenses; or a fixed in lieu payment instead of any moving, searching, and re-establishment expenses. The payment types are summarized as follows:

#### Moving Expenses

Moving expenses may include the following actual, reasonable costs:

- The moving of inventory, machinery, equipment, and similar business-related property, including dismantling, disconnecting, crating, packing, loading, insuring, transporting, unloading, unpacking, and reconnecting of personal property. Items acquired in the right-of-way contract may not be moved under the Relocation Assistance Program. If the displacee buys an Item Pertaining to the Realty back at salvage value, the cost to move that item is borne by the displacee.
- Loss of tangible personal property provides payment for actual, direct loss of personal property that the owner is permitted not to move.
- Expenses related to searching for a new business site, up to \$2,500, for reasonable expenses actually incurred.

#### Re-establishment Expenses

Re-establishment expenses related to the operation of the business at the new location, up to \$10,000 for reasonable expenses actually incurred.

#### Fixed In Lieu Payment

A fixed payment in lieu of moving, searching, and re-establishment payments may be available to businesses that meet certain eligibility requirements. This payment is an amount equal to half the average annual net earnings for the last 2 taxable years prior to the relocation and may not be less than \$1,000 or more than \$20,000.

### ***ADDITIONAL INFORMATION***

Reimbursement for moving costs and replacement housing payments are not considered income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the extent of eligibility of a displacee for assistance under the Social Security

Act, or any other law, except for any federal law providing local “Section 8” Housing Programs.

Any person, business, farm, or nonprofit organization that has been refused a relocation payment by the Department relocation advisor or believes that the payment(s) offered by the agency are inadequate, may appeal for a special hearing of the complaint. No legal assistance is required. Information about the appeal procedure is available from the relocation advisor.

California law allows for the payment for lost goodwill that arises from the displacement for a public project. A list of ineligible expenses can be obtained from Caltrans Right-of-Way. California’s law and the federal regulations covering relocation assistance provide that no payment shall be duplicated by other payments being made by the displacing agency.

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