Your Rights and Benefits as a Displaced Business, Farm or Nonprofit Organization Under the Uniform Relocation Assistance Program

Introduction

In building a modern transportation system, the displacement of a small percentage of the population is often necessary. However, it is the policy of Caltrans that displaced persons shall not suffer unnecessarily as a result of programs designed to benefit the public as a whole.

Displaced businesses, farms, and nonprofit organizations may be eligible for relocation advisory services and payments.

This brochure provides information about available relocation services and payments. If you are required to move as the result of a Caltrans transportation project, a Relocation Agent will contact you. The Relocation Agent will be able to answer your specific questions and provide additional information.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 As Amended "The Uniform Act"

The purpose of this Act is to provide for uniform and equitable treatment of persons displaced from their business, farm or nonprofit organization, by federal and federally assisted programs and to establish uniform and equitable land acquisition policies for federal and federally assisted programs.

49 Code of Federal Regulations Part 24 implements the "Uniform Act" in accordance with the following relocation assistance objective:

> To ensure that persons displaced as a direct result of federal or federally-assisted projects are treated fairly, consistently and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

While every effort has been made to assure the accuracy of this booklet, it should be understood that it does not have the force and effect of law, rule, or regulation governing the payment of benefits. Should any difference or error occur, the law will take precedence.

Relocation Services

The California Department of Transportation has two programs to aid businesses, farms and nonprofit organizations which must relocate.

These are:

1. The Relocation Advisory Assistance Program, which is to aid you in locating a suitable replacement property, and

2. The Relocation Payments Program, which is to reimburse you for certain costs involved in relocating. These payments are classified as:

    - Moving and Related Expenses (costs to move personal property not acquired).

    - Reestablishment Expenses (expenses related to the replacement property).

    - In-Lieu Payment (a fixed payment in lieu of moving and related expenses, and reestablishment expenses).

NOTE: *Payment of loss of goodwill is considered an acquisition cost. California law and the federal regulations mandate that relocation payments cannot duplicate other payments such as goodwill. You will* **not** *be eligible to receive any relocation payments until the State has actually made the first written offer to purchase the property. You will also receive at least 90 days' written notice before you must move.*

Some Important Definitions...

Your relocation benefits can be better understood if you become familiar with the following terms:

Business: Any lawful activity, with the exception of a farm operation, conducted primarily for the purchase, sale, lease and rental of personal or real property, or for the manufacture, processing, and/or marketing of products, commodities, or any other personal property, or for the sale of services to the public, or solely for the purpose of this Act, and outdoor advertising display or displays, when the display(s) must be moved as a result of the project.

Displaced Person or Displacee: Any person who moves from real property or moves personal property from real property as a result of the acquisition of the real property, in whole or in part, or as the result of a written notice from the agency to vacate the real property needed for a transportation project. In the case of a partial acquisition, Caltrans shall determine if a person is displaced as a direct result of the acquisition.

Owners and tenants **not lawfully present** in the United States are not eligible to receive relocation payments and assistance.

Contributes Materially: A business or farm operation must have had average annual gross receipts of at least $5,000 **or** average annual net earnings of at least $1,000, or their income must have contributed at least 33 1/3 percent of the owner's or operator's average annual gross income form all sources, in order to qualify as a bona-fide operation.

Farm Operation: Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Nonprofit Organization: A public or private entity that has established its nonprofit status under applicable law.

MOVING EXPENSES

If you qualify as a displaced business, farm or nonprofit organization, you are entitled to reimbursement of your moving costs and certain related expenses incurred in moving. To qualify you must legally occupy the property as the owner or lessee/tenant when Caltrans initiates negotiations for the acquisition of the property **OR** at the time Caltrans acquires title or takes possession of the property. However, to assure your eligibility and prompt payment of moving expenses, you should contact your Relocation Agent before you move.

You Can Choose Either:

Actual Reasonable Moving Costs – You may be paid for your actual reasonable moving costs and related expenses when a commercial mover performs the move. Reimbursement will be limited to a move of 50 miles or less. Related expenses, with limitations, ***may*** include:

- Transportation.
- Packing and unpacking of personal property.
- Disconnecting and reconnecting personal property related to the operation.
- Temporary storage of personal property.
- Insurance while property is in storage or transit, or the loss and damage of personal property if insurance is not reasonably available.
- Expenses in finding a replacement location.
- Professional services to plan and monitor the move of the personal property to the new location.
- Licenses, permits and fees required at the replacement location.

OR

Self-Move Agreement – You may be paid to move your own personal property based on the lower of two acceptable bids obtained by Caltrans.

Under this option, you will still be eligible for reimbursement of related expenses listed above that were not included in the bids.

OR

In-Lieu Payment – You can accept a fixed payment between $1,000 and $20,000, based on your annual earnings IN LIEU OF the moving cost, related expenses and reestablishment cost.

Actual Reasonable Moving Costs

You may be paid the actual reasonable and necessary costs of your move when a professional mover performs the move. All of your moving costs must be supported by paid receipts or other evidence of expenses incurred. In addition to the transportation costs of your personal property, certain other expenses may also be reimbursable, such as packing, crating, unpacking and uncrating, and the disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property.

Other expenses such as professional services necessary for planning and carrying out the move, temporary storage costs, and the cost of licenses, permits and certifications may also be reimbursable. This is not intended to be an all-inclusive list of moving related expenses. Your Relocation Agent can provide you with a complete explanation of reimbursable expenses.

Self-Move Agreement

If you agree to take full responsibility for all or part of the move of your business, farm, or nonprofit organization, the Department may approve a payment not to exceed the lower of two acceptable bids obtained by the Department from qualified moving firms or a qualified Department staff employee. A low-cost or uncomplicated move may be based on a single bid or estimate at the Department's discretion. The advantage of this moving option is the fact that it relieves the displaced business, farm or nonprofit organization operator from documenting all moving expenses. The Department may make the payment without additional documentation as long as the payment is limited to the amount of the lowest acceptable bid or estimate. Other expenses, such as professional services for planning, storage costs, and the cost of licenses, permits, and certifications may also be reimbursable if determined to be necessary. These latter expenses must be pre approved by the Relocation Agent.

Requirements:

Before you move, you must provide Caltrans with the:

- Certified inventory of all personal property to be moved.
- Date you intend to vacate the property.
- Address of the replacement property.
- Opportunity to monitor and inspect the move from the acquired property to the replacement property.

Related Expenses

1. **Searching Expenses for Replacement Property:** Displaced businesses, farms and nonprofit organizations are entitled to reimbursement for actual reasonable expenses incurred in searching for a replacement property, not to exceed $2,500. Expenses may include transportation, meals, and lodging when away from home; the reasonable value of the time spent during the search; fees paid to the real estate agents, brokers or consultants; and other expenses determined to be reasonable and necessary by the Department.

2. **Direct Loss of Tangible Personal Property:** Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for the actual direct loss of tangible personal property which is incurred as a result of the move or discontinuance of the operation. This payment will be based upon the lesser of:

    a. The fair market value of the item for continued use at the displacement site minus the proceeds from its sale.

    OR

    b. The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Department for eligible moving and related expense4s, including dismantling and reassembly, but with no allowance for storage, cost of code requirement betterments or upgrades at the replacement site.

EXAMPLE:
You determine that the "document shredder" cannot be moved to the new location because of its condition, and you will not replace it at the new location.

Fair Market Value of the Document Shredder Based on its use at the current location		$ 1,500
Proceeds: Price received from selling the Document Shredder	-	$ 500
Net Value		$ 1,000

OR

Estimated cost to move	$ 1,050
Based on the "lesser of", the amount of the "Loss of Tangible Personal Property" =	**$ 1,000**

Note: You are also entitled to all reasonable costs incurred in attempting to sell the document shredder (e.g. advertisement).

3. Purchase of Substitute Personal Property: If an item of personal property, which is used as part of the business, farm, or nonprofit organization, is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displacee is entitled to payment of the lesser of:

   a. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item;

   OR

   b. The estimated cost of moving and reinstalling the replaced item, based on the lowest acceptable bid or estimate obtained by the Department for eligible moving and related expenses, including dismantling and reassembly, but with no allowance for storage, cost of code requirement betterments or upgrades at the replacement site.

EXAMPLE A:

You determine that the copying machine cannot be moved to the new location because it is now obsolete and you will replace it.

Cost of a substitute copy machine Including installation costs at the replacement site		$ 3,000
Trade-in Allowance	-	$ 2,500
Net Value		$ 500

OR

Estimated cost to move	$ 550
Based on the "lesser of", the amount of the "Substitute Personal Property" =	**$ 500**

EXAMPLE B:

You determine that the chairs will not be used at the new location because they no longer match the décor and you will replace them.

Cost of substitute chairs		$ 1,000
Proceeds from selling the chairs	-	$ 100
Net Value		$ 900

OR

Estimated cost to move	$ 200
Based on the "lesser of", the amount of the "Substitute Personal Property" =	**$ 200**

Note: You are also entitled to all reasonable costs incurred in attempting to sell the copy machine and/or chairs.

4. **Disconnecting and Reinstallation:** You will be reimbursed for your actual and reasonable costs to disconnect, dismantle, remove, reassemble and reinstall any machinery, equipment or other personal property in relation to its move to the new location. This includes connection to utilities available nearby and any modifications to the

personalty that is necessary to adapt it to utilities at the replacement site.

5. **Physical changes at the new location:** You may be reimbursed for certain physical changes to the replacement property if the changes are necessary to permit the reinstallation of machinery or equipment necessary for the continue operation of the business. ***Note:*** *The changes cannot increase the value of the building for general purposes, nor can they increase the mechanical capability of the buildings beyond its normal requirements.*

6. The cost of installing utilities from the right of way line to the structure(s) or improvements on the replacement site.

7. Marketing studies, feasibility surveys and soil testing.

8. Professional real estate services needed for the purchase or lease of a replacement site.

9. One-time assessments or impact fees for anticipated heavy utility usage.

Reestablishment Expenses

A small business, farm or nonprofit organization may be eligible for a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing the enterprise at a replacement site.

Reestablishment expenses may include, but are not limited to, the following:

1. Repairs or improvements to the replacement real property required by Federal, State or local laws, codes or ordinances.

2. Modifications to the replacement real property to make the structure(s) suitable for the business operation.

3. Construction and installation of exterior signing to advertise the business.

4. Redecoration or replacement such as painting, wallpapering, paneling or carpeting when required by the condition of the replacement site or for aesthetic purposes.

5. Advertising the new business location.

6. The estimated increased costs of operation at the replacement site during the first two years, for items such as:

    a) Lease or rental charges
    b) Personal or real property taxes
    c) Insurance premiums, and
    d) Utility charges (excluding impact fees).

7. Other items that the Department considers essential for the reestablishment of the business or farm.

Note: *A nonprofit organization must substantiate that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). The payment is based on the average of two years annual gross revenues less administrative expenses.*

In-Lieu Payment (Fixed)

Displaced businesses, farms and nonprofit organizations may be eligible for a fixed payment in lieu of (in place of) actual moving expenses, personal property losses, searching expense, and reestablishment expenses. The fixed payment may not be less than $1,000 or more than $20,000.

For a business to be eligible for a fixed payment, the Department must determine the following:

1. The business owns or rents personal property that must be moved due to the displacement.

2. The business cannot be relocated without a substantial loss of existing patronage.

3. The business is not part of a commercial enterprise having more than three other businesses engaged in the same or similar activity, which are under the same ownership and are not being displaced by the department.

4. The business contributed materially to the income of the displaced business operator during the two taxable years prior to displacement.

Any business operation that is engaged solely in the rental of space to others is not eligible for a fixed payment. This includes the rental of space for residential or business purposes.

Eligibility requirements for farms and nonprofit organizations are slightly different than business requirements. If you are being displaced from a farm or your represent a nonprofit organization and are interested in a fixed payment, please consult your relocation counselor for additional information.

The Computation of Your In-Lieu Payment:

The fixed payment for a displaced business or farm is based upon the average annual net earnings of the operation for the two taxable years immediately preceding the taxable year in which it is displaced. Caltrans can use a different two year period if it is determined that the last two taxable years do not accurately reflect the earnings of the operation.

EXAMPLE: Caltrans acquires your property and you move in 2005:

2003 Annual Net Earnings	$ 10,500
2004 Annual Net Earnings	$ 12,500
TOTAL	$ 23,000
Average over two years	**$ 11,500**

This would be the amount of your in-lieu payment. Remember – this is in-lieu of all other moving benefits, including reestablishment expenses. You must provide the Department with proof of net earnings to support your claim.

Proof of net earnings can be documented by income tax returns, certified financial statements, or other reasonable evidence of net earnings acceptable to the Department.

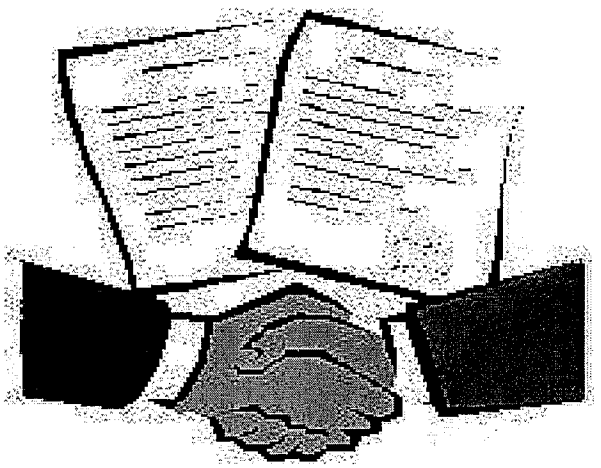
Note: The computation for nonprofit organizations differs in that the payment is computed on the basis of average annual gross revenues less administrative expenses for the two year period specified above.

Before You Move:

A. Request a determination of entitlement for in-lieu payment from your Relocation Agent.
B. Include a written statement of the reasons the business cannot be relocated without a substantial loss in net earnings.

C. Provide certified copies of tax returns for the two tax years immediately preceding the tax year in which you move. (If you move anytime in the year 2005, regardless of when negotiations began or the State took title to the property, the taxable years would be 2003 and 2004).
D. You will be notified of the amount you are entitled to after the application is received and approved.
E. You cannot receive the payment until after you vacate the property, AND submit a claim for the payment within 18 months of the date of your move.

Relocation Advisory Assistance



Any business, farm or nonprofit organization displaced by Caltrans shall be offered relocation advisory assistance for the purpose of locating a replacement property. Relocation services are provided by qualified personnel employed by Caltrans. It is their goal and desire to be of service to you and assist in any way possible to help you successfully relocate.

A Relocation Agent from Caltrans will contact you personally. Relocation services and payments will be explained to you in accordance with your eligibility. During the initial interview with you, your needs and desires will be determined as well as your need for assistance.

You can expect to receive the following services, advice and assistance from your Relocation Agent who will:

- Determine your needs and preferences.
- Explain the relocation benefits and eligibility requirements.
- Provide information on replacement properties for your consideration.
- Provide information on counseling you can obtain to help minimize hardships in adjusting to your new location.
- Assist you in completing loan documents, rental applications or Relocation Claims Forms.

AND provide information on:

- Security deposits
- Interest rates and terms
- Typical down payments
- Permits, fees and local planning
- SBA loan requirements
- Real property taxes.
- Consumer education literature

If you desire, your Relocation Agent will give you current listings of other available replacement property. Transportation will be provided to inspect available property, especially if you are elderly or handicapped. Though you may use the services of a real estate broker, Caltrans cannot provide a referral.

Your Relocation Agent is familiar with the services provided by others in your community and will provide information on other federal, state, and local programs offering assistance to displaced persons. If you have special needs, your Relocation Agent will make every effort to secure the services of those agencies with trained personnel who have the expertise to help you.

If the highway project will require a considerable number of people to be relocated, Caltrans will establish a temporary Relocation Field Office on or near the project. Project relocation offices will be open during convenient hours and evening hours if necessary.

In addition to these services, Caltrans is required to coordinate its relocation activities with other agencies causing displacements to ensure that all persons displaced receive fair and consistent relocation benefits.

Remember - YOUR RELOCATION AGENT is there to offer advice and assistance. Do not hesitate to ask questions. And be sure you fully understand all of your rights and available benefits.

YOUR RIGHTS AS A DISPLACEE

It is important to remember that your relocation benefits will not have an adverse affect on your:

- Social Security Eligibility
- Welfare Eligibility
- Income Taxes

In addition, the Title VIII of the Civil Rights Act of 1968 and later acts and amendments make discriminatory practices in the purchase and rental of most residential units illegal if based on race, color, religion, sex, or national origin.

Caltrans' Non-Discrimination Policy ensures that all services and/or benefits will be administered to the general public without regard to race, color, national origin, or sex in compliance with Title VI of the 1964 Civil Rights Act (42 USC 2000d. et seq.).

And you always have the Right to Appeal any decision by Caltrans regarding your relocation benefits and eligibility.

Your Right of Appeal is guaranteed in the "Uniform Act" which states that any person may file an appeal with the head of the responsible agency if that

person believes that the agency has failed to properly determine the person's eligibility or the amount of a payment authorized by the Act.

If you indicate your dissatisfaction, either verbally or in writing, Caltrans will assist you in filing an appeal and explain the procedures to be followed. You will be given a prompt and full opportunity to be heard. You have the right to be represented by legal counsel or other representative in connection with the appeal (but solely at your own expense).

Caltrans will consider all pertinent justifications and materials submitted by you and other available information needed to ensure a fair review. Caltrans will provide you with a written determination resulting from the appeal with an explanation of the basis for the decision. If you are still dissatisfied with the relief granted, Caltrans will advise you that you may seek judicial review.

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