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# **Part One: Acquiring Real Property for State and Federal-Aid Programs and Projects**

## **Introduction**

Government agencies often need to acquire private property for public programs or projects. This kind of acquisition has long been recognized as a right of organized government and is known as “the power of eminent domain.” However, our government cannot abuse this power. The Fifth Amendment of our Constitution states that private property shall not “be taken for public use, without just compensation.” The Fourteenth Amendment provides comparable protection against abuse by State governments.

This brochure is a brief overview explaining the rights and benefits of property owners whose real property is to be acquired, in whole or in part, for a State or federally funded program or project.

The Fifth and Fourteenth Amendments were written when our country had a largely rural population and most of the land affected by public improvement projects was undeveloped. In more recent times the picture has changed dramatically. Urban regions with highly developed land areas and dense populations are no longer the exception.

Since 1971, the acquisition of land for a variety of government programs and projects has been subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act.) The Uniform Act provides for fair and equitable treatment of persons whose property will be acquired or who will be displaced because of programs or projects financed with Federal or State funds. Congress amended and updated the Uniform Act in 1987.

The Uniform Act has three parts or Titles. Title I contains general provisions and definitions. Title II has provisions for relocation assistance for persons displaced because of State and federally assisted programs. Title III, the Uniform Real Property Acquisition Policy, has provisions for consistent treatment of owners when their property is acquired for the benefit of the public.

All Federal, State, and local public agencies (and others receiving Federal financial assistance for public programs and projects requiring the acquisition of real property) must comply with the policies and provisions set forth in the Uniform Act and its amendments. The rules for the Uniform Act were first published in the Federal Register on March 2, 1989. The rules are reprinted each year in the Code of Federal Regulations, Title 49, Part 24.

The rules provide uniform policy and procedures for the acquisition of real property by all Federal, State, and local government agencies (and by certain private persons) who receive financial assistance for any program or project from the United States Government. The acquisition itself does not need to be federally funded for the rules to apply. If Federal funds are used in any phase of the program or project, the rules of the Uniform Act apply. The rules encourage acquiring agencies to negotiate with property owners in a prompt and amicable manner so that litigation can be avoided.

This brochure is consistent with the rules of the Uniform Act for appraisal and acquisition. These rules assure property owners that their interests will be protected. All Agencies acquiring real property for federally funded projects and programs are required to ensure that you will be treated fairly and equitably.

The information in this brochure should assist you in understanding the requirements that must be met by Agencies and your rights and obligations.

### **Important Definitions**

- Acquisition* The process of acquiring real property (real estate) or some interest therein. See the definition of real property.
- Agency* A governmental organization (either Federal, State, or local) or a non-governmental organization (such as a utility company, or a private person using Federal financial assistance for a program or project) that acquires real property or displaces a person.
- Appraisal* The act or process of estimating the monetary value of an interest in property. The appraisal is to be independent, impartial, and prepared by a qualified appraiser.

It must set forth an opinion of defined value for an adequately described property. The value will be assigned as of a specific date and will be supported by the presentation and analysis of relevant market data. The term appraisal is also frequently used as a synonym for the written appraisal report.

*Commission* Three persons, appointed by Governor and Council, to determine whether there is occasion for the laying out or alteration of a state highway and may purchase land or other property.

*Condemnation* The legal process of acquiring private property for public use or purpose through the acquiring Agency's power of eminent domain. Condemnation is usually not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed.

*Department* New Hampshire Department of Transportation.

*Easement* In general, the right of one person to use all or part of the property of another person for some specific purpose. Easements can be permanent or temporary (i.e. limited to a stated period of time). The term may be used to describe either the right itself or the document conferring the right.

*Eminent Domain* The right of a government to take private property for public use. In the United States, just compensation must be paid for private property acquired for State or federally funded programs or projects.

*Fair Market Value* The sale price that a willing and informed seller and a willing and informed buyer can agree to for a particular property.

*Interest* A right, title, or legal share in something. People who share in the ownership of real property have an interest in the property.

*Just Compensation* The price an Agency must pay to acquire real property. The Agency's offer to the owner is considered "just compensation" and may not be less than the amount established in the approved appraisal report as the fair market value for the property. If it becomes necessary for the acquiring Agency to use the condemnation process, the amount paid through a board or court will be just compensation for the acquisition of the property.

*Lien* A charge against a property in which the property is the security for payment of a debt.

A mortgage is a lien. So are taxes, water and sewer charges. Customarily, liens must be paid in full when the property is sold.

*Negotiations* The process used by acquiring agencies to reach amicable agreements with property owners for the acquisition of needed property. An offer is made for the purchase of property in person or by mail, and the offer is discussed with the owner.

*Person* Any individual, partnership, corporation, or association.

*Personal Property* In general, property that can be moved. It is not permanently attached to, or a part of, the real property. Personal effects such as clothing and furniture are not to be considered in the appraisal of real property.

*Program or Project* Any activity or series of activities undertaken by a State Agency. Also, any activity undertaken by a local Agency, or individual where Federal financial assistance is used in any phase of the activity.

*Qualified Appraiser* A person who, by education, experience, ability, and licensing or certification requirements are capable of preparing an appraisal of a particular piece of real estate.

*Real Property* The interest, rights, and benefits that go along with the ownership of real estate, which is land and the improvements thereon.

*Uneconomic Remnant* The portion of an owner's property that remains after the Department acquires the property needed for a program or project that the Department determines has little or no value or utility to the owner. The Department must offer to purchase the remnant, but the owner may refuse the offer and keep it.

### **Property Appraisal and the Determination of Just Compensation**

*Property Appraisal* The Department normally determines what specific property needs to be acquired for a public project or program only after the project has been planned and government requirements have been met. The Department will also review public records and other information about property in the area.

You, the property owner, will be notified as soon as possible of (1) the Department's interest in acquiring your property, (2) the Department's obligation to secure and perform necessary appraisals, and (3) the procedure you may follow to hire your own appraiser.

When a government Agency begins to acquire private property for public use, the first personal contact with you, the property owner, should be no later than during the appraisal of the property.

An appraiser will then contact you to make an appointment to inspect your property. The appraiser is responsible for determining the fair market value of the property. The Department will use the appraiser's report to establish the just compensation to be offered for the property.

You, or any representative that you designate, will be invited to accompany the appraiser when the property is inspected. This provides you an opportunity to point out any unusual or hidden features of the property that the appraiser could overlook. At this time, you should also advise the appraiser if any of the following conditions exist:

- There are other owners.
- There are tenants on the property.
- There are, on your property, items of real or personal property that belong to someone else.

It would also be helpful to tell the appraiser about other properties in your area that have recently sold.

The appraiser will inspect your property and note its physical characteristics. He or she will review sales of other properties similar to yours in order to compare the facts of those sales with the facts about your property. The appraiser will analyze all elements that affect value.

By law the appraiser must disregard the influence of the future public project on the value of the property. However, the appraiser must

consider normal depreciation and physical deterioration that has taken place.

The appraisal report will describe your property and the Department will determine a value based on the condition of the property on the day that the appraiser last saw it.

There is a State of New Hampshire Law (RSA 498-A:4b), which provides property owners reimbursement to hire their own appraiser to value impacts resulting from State projects. Reimbursement amounts are based on the type of property being appraised and are listed below.

Residential Lot	Up to \$ 500.00
Single Family Residence	Up to \$ 500.00
2 to 3 Family Residence	Up to \$ 750.00
Other Properties	Up to \$1,000.00

If you wish to hire your own appraiser, the following requirements must be incorporated into the appraisal to qualify for cost reimbursement from the State.

1. The appraiser completing your report must be either a Licensed or Certified Appraiser by the State of New Hampshire.
2. Your appraisal must conform to the “Uniform Standards of Professional Appraisal Practice”, USPAP.

When the Department starts the appraisal process, you will receive a letter describing how the appraisal reimbursement process works and whom your appraiser should contact for information and project plans.

To receive cost reimbursement, a copy of your completed appraisal along with a paid invoice must be forwarded to the Department.

*Just Compensation* Once the appraisal has been completed, a review appraiser from the Department will review the report to ensure that all applicable appraisal standards and requirements were met. The review appraiser will give the Right-of-Way Agent the approved appraisal to be used by the Commission in determining the amount of just compensation

to be offered for your real property. The amount offered will never be less than the fair market value established by the approved appraisal.

If the Department is only acquiring a part of your property, any allowable damages or benefits to the remaining property will be included in this amount. The Department will prepare a written offer of just compensation to provide to you when negotiations begin.

*Buildings,  
Structures and  
Improvements*

Sometimes buildings, structures, or other improvements considered to be real property are located on the property to be acquired. If this is the case, the Department must offer to acquire at least an equal interest in such buildings, structures, or other improvements if they must be removed or if the Department decides that the improvements will be adversely affected by the public program or project.

When an improvement, which can be considered real property, is owned by the owner of the real property on which it is located, then this improvement will be treated as real property.

*Tenant-Owned  
Buildings,  
Structures, and  
Improvements*

Sometimes, tenants lease real property and build or add improvements for their use. Frequently, they have the right or obligation to remove the improvements at the expiration of the lease term. If, under State law, the improvements are considered to be real property, the Department must make an offer to the tenants to acquire these improvements.

In order to be paid for these improvements, the tenant-owner must assign, transfer, and release to the Department all right, title, and interest in the improvements. Also, the owner of the real property on which the improvements are located must disclaim all interest in the improvements.

Just compensation for an improvement will be the amount that the improvement contributes to the fair market value of the whole property, or its value for removal from the property (salvage value), whichever is greater.

A tenant-owner can reject payment for the tenant-owned improvements and obtain payment for his or her property interests in accordance with other applicable laws. The Department cannot pay

for tenant-owned improvements if such payment would result in the duplication of any other compensation otherwise authorized by law.

If improvements are considered personal property under State law, the tenant-owner may be reimbursed for moving them under the relocation assistance provisions. The Department will personally contact the tenant-owners of improvements to explain the procedures to be followed. Any payments must be in accordance with Federal rules and any applicable State laws.

*Exceptions to Appraisal Requirements*

An appraisal is not required under the following circumstances:

- If you elect to donate the property and release the Department from the obligation of performing an appraisal.
- If the Department determines that the acquisition is uncomplicated, and a review of available data supports a fair market value of \$10,000 or less.

**Negotiations**

*The Written Offer*

The next step of the acquisition process is negotiations. The Commission will begin negotiations with you or your designated representative by delivering the written offer of just compensation for the purchase of the real property. If practical, this offer will be delivered in person by a representative of the Department. Otherwise, the offer will be made by mail and followed up with a contact in person or by telephone. All owners of the property with known addresses will be contacted unless they collectively have designated one person to represent their interest.

The Department's written offer will consist of a written summary statement that includes all of the following information:

1. The amount offered as just compensation.
2. The description and location of the property and the interest to be acquired.
3. The identification of the buildings and other improvements that are considered to be part of the real property.

4. A copy of the appraisal report or a basis of how the offer was developed.

The offer may also list items of real property that you may retain and remove from the property and their retention values. If you decide to retain any or all of these items, the offer will be reduced by the value of the items retained.

The Department will also explain its acquisition policies and procedures, by use of this brochure or in person.

Any separately held ownership interests in the property, such as tenant-owned improvements, will be identified by the Department.

The Department may negotiate with each person who holds a separate ownership interest, or, if appropriate, negotiate with the primary owner and prepare a check payable jointly to all owners.

The Department will give you a reasonable amount of time to consider the written offer and to ask questions or to request clarification of anything that is not understood. If you believe that all relevant material was not considered during the appraisal, you may present such information at this time. Modifications in the proposed terms and conditions of the purchase may also be requested. The Department will consider any reasonable requests that are made during negotiations.

*Partial  
Acquisition*

The acquisition of a portion of a particular property.

If the Department needs to acquire only a portion of the property, the Department must state the amount to be paid for the part to be acquired. In addition, an amount will be stated separately for damages, if any, to the portion of the property that will remain.

If the Department determines that the remainder property will have little or no value or use to you, the Department will consider this remainder to be an uneconomic remnant and will offer to purchase it. You will have the option of accepting the offer for purchase of the uneconomic remnant or of keeping the property.

At any time during the Project Development Process, if you feel impacts resulting from the project will leave your property in a condition where you no longer wish to retain ownership, you may request that the department purchase your property in its entirety. All such requests will be considered.

*Agreement  
Between You  
and the  
Department*

If you reach agreement with the Department on the offer, you will be asked to sign an option to buy; a purchase agreement, an easement, or some form of deed prepared by the Department. Your signature will affirm that you and the Department are in agreement concerning the acquisition of the property, including the terms and conditions of the acquisition.

If you do not reach an agreement with the Department because of some important point connected with the acquisition offer and the Department has exhausted all its opportunities to reach a settlement with you, the Department may initiate condemnation proceedings.

The Department may not take any action to force you into accepting its offer. Prohibited Department actions include the following:

- Advancing the condemnation process.
- Deferring negotiations.
- Deferring condemnation.
- Delaying the deposit of funds for the owner's use with the New Hampshire Board of Tax and Land Appeals when condemnation is initiated.
- Any other coercive action designed to force an agreement by an owner regarding the price to be paid for the property.

### **Payment and Possession**

*Payment* The third step in the acquisition process is payment for your property. As soon as all of the necessary paperwork has been completed for transferring title of the property, the Department will pay any mortgages or liens that may exist against the property and pay your equity to you. Your incidental expenses will also be paid or

reimbursed. Incidental expenses are all those reasonable expenses incurred as a result of transferring title to the Department such as:

- Recording fees, transfer taxes, tax stamps, evidence of title, surveys, legal descriptions of the real property, and other similar expenses necessary to convey the property to the Department. The Department, however, is not required to pay costs required solely to perfect your title (that is, to assure that the title to the real property is entirely without fault or defect).
- Penalty costs and other charges for prepaying any preexisting recorded mortgage entered into in good faith encumbering the real property.
- The pro rata share of any prepaid real property taxes that can be allocated to the period after the Department obtains title to the property.

If possible, the Department will pay these costs directly so that you will not need to pay the costs and then claim reimbursement from the Department.

*Possession* The Department may not take possession of your property unless both of the following conditions have been met:

- You have been paid the agreed purchase price. In the case of condemnation, the Department must have deposited with the New Hampshire Board of Tax and Land Appeals an amount for your benefit that is at least the Department's approved appraisal of the fair market value of the property.
- All persons occupying the property have received a written notice to move at least 90 days in advance of the required move. In this context, the term "persons" includes residential occupants (both homeowners and tenants), businesses (including non-profit organizations), and farms.

An occupant of a residence cannot be required to move until at least 90 days after a comparable replacement dwelling has been made available. Only in unusual circumstances (such as when continued occupancy would constitute a substantial danger to the health or

safety of the occupants) could vacating of the property be required in less than 90 days.

## **Settlements and Condemnation**

*Settlements* The Department will make every effort to reach an agreement with you during negotiations. You may provide additional information, and make reasonable counteroffers and proposals for the Department to consider. When it is in the public interest, the Department may use the information provided as a basis for administrative and legal settlements, as appropriate.

*Condemnation* If an agreement cannot be reached, the Department can acquire the property by exercising its power of eminent domain. It will do this by instituting formal condemnation proceedings with the New Hampshire Board of Tax and Land Appeals.

The New Hampshire Board of Tax and Land Appeals will initially determine the amount of compensation you are due for the property. You and the Department will be allowed to present information to the New Hampshire Board of Tax and Land Appeals during all proceedings. If you or the Department is dissatisfied with the board's determination of compensation, a trial before the Superior Court is scheduled. The final amount of just compensation will be set by the court after it has heard all arguments.

## **Required Assurances or Certifications**

Any Agency receiving Federal financial assistance for a program or project must assure or certify to the Federal Agency providing funds that in acquiring real property it agrees to comply with the land acquisition policies in the regulations governing real property acquisitions (49 CFR PART 24) to the greatest extent possible under State law.

The requirement for assurances or certification guarantees that you will be treated fairly and equitably by the Agencies acquiring real property for State or federally assisted projects and programs. The information in this brochure should assist you in understanding the requirements that must be met by the Department, and your rights and obligations.

## **Part Two: Your Rights and Benefits as a Displaced Person Under the Federal Relocation Assistance Program**

### **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 State or 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.”

### **Introduction**

In a changing America, government programs designed to benefit the public as a whole often result in acquisition of private property, and sometimes in the displacement of people from their residences, businesses or farms.

As a means of providing uniform and equitable treatment for those persons displaced, your government passed the “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,” and the “Uniform Relocation Act Amendments of 1987.” These two laws are the foundation for the information discussed in this brochure.

The brochure provides general information regarding relocation assistance advisor services and relocation payments. Section I contains information about persons displaced from a residence. Section II provides information about relocation assistance advisory services. Section III contains information for displaced businesses, farms and nonprofit organizations. These policies and provisions are now contained in a government wide single rule published in the Federal Register of March 2, 1989 under 49 CFR Part 24. The rule provides the regulations for all Federal and federally-aided programs and projects.

If you are required to move as a result of a State or federally assisted program or project, a right-of-way agent will contact you. The agent will answer your specific questions and provide additional information you may need.

If you have a disability that prevents you from reading or understanding this brochure, you will be provided appropriate assistance. You should notify the Department of any special requirements for assistance.

## **Definitions**

- 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, an outdoor advertising display or displays, when the display(s) must be moved as a result of the project.
- Displaced Person* Any person (individual, family, partnership, association or corporation) who moves from real property, or moves personal property from real property as a direct result of (1) the acquisition of the real property, in whole or in part, (2) a written notice of intent to acquire from the Department, (3) the initiation of negotiations for the purchase of the real property by the Department, or, (4) a written notice requiring a person to vacate real property for the purpose of rehabilitation or demolition of the improvements, provided the displacement is permanent and the property is needed for a State or federally assisted program or project.
- Farm* 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 Federal or State law.
- Program or Project* Any activity or series of activities undertaken by a Federal Agency, or any activity undertaken by a State or local Agency or Department with Federal financial assistance in any phase of the activity.
- Small Business* A business having not more than 500 employees working at a site which is the location of economic activity and:

- 1) The site will be acquired for a program or project, or
- 2) the business will be displaced by a program or project.

This does not include outdoor advertising signs, displays, or devices.

## **Section 1: Information for Persons Displaced from a Residence**

### **Moving Costs – Individuals and Families**

If you qualify as a displaced person, you are entitled to reimbursement of your moving costs and certain related expenses incurred in moving. The methods of moving and the various types of moving cost payments are explained below:

Displaced individuals and families may choose to be paid on the basis of actual, reasonable moving costs, or according to a fixed moving cost schedule. However, to assure your eligibility and prompt payment of moving expenses, you should contact the right-of-way agent before you move.

You Can Choose Either:

#### *Actual Reasonable Moving Costs*

You may be paid for your actual reasonable moving costs by a professional mover plus certain related expenses. Related expenses involved in the move may include:

- Transportation of personal property within a 50 miles radius.
- Packing and unpacking personal property.
- Temporary storage, if necessary, of personal property.
- Full value replacement insurance for personal property protection while in transit or storage.
- Utility transfer fees of certain existing services.
- Other expenses considered eligible by the Department.

All expenses must be considered necessary and reasonable by the Department and supported by paid receipts or other evidence of expenses incurred.

#### *Fixed Moving Cost Schedule*

Or you may choose to be paid on the basis of a fixed moving cost schedule. The amount of the payment is based on the number of rooms in your dwelling. Your right-of-way agent will be able to tell you the exact amount you will be eligible to receive if you select this

option. The schedule is designed to include all of the expenses incurred in moving, including those services that must be purchased from others.

## **Replacement Housing Payments**

Replacement housing payments can be better understood if you become familiar with the definition of “comparable” and “decent, safe, and sanitary.”

*Comparable Replacement Housing* A comparable replacement dwelling must be decent, safe and sanitary, and functionally equivalent to your present dwelling. While not necessarily identical to your present dwelling, a comparable replacement dwelling should be capable of contributing to a comparable style of living and should contain amenities similar to those found in the dwelling from which you are being displaced. In addition, a comparable replacement dwelling should be:

- Adequate in size to accommodate the occupants. (e.g., you and your family).
- Located in an area that is not subject to unreasonable adverse environmental conditions.
- Reasonably accessible to your place of employment. Located on a site that is typical in size for residential development with normal site improvements. Currently available on the private market.
- Within your financial means.

If you are a tenant and the portion of the monthly rent and utility costs you must continue to pay for a replacement dwelling unit, after receiving a rental assistance payment, does not exceed the monthly rent and utility costs that you paid for the displacement dwelling unit; the replacement unit is considered to be within your financial means.

If you are a homeowner and you have received a Replacement Housing Payment (see pages 19 and 20), and any additional amount that might be required under Housing of Last Resort (see page 25), the replacement dwelling is considered to be within your financial means.

*Decent,  
Safe, and  
Sanitary  
Housing*

“Decent, safe, and sanitary” (DSS) replacement housing must meet all the minimum requirements established by Federal regulations and conforms to applicable housing and occupancy codes.

The dwelling shall:

- Be structurally sound, weather tight, and in good repair.
- Contain a safe electrical wiring system adequate for lighting and electrical appliances.
- Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees).
- Be adequate in size with respect to the number of rooms and area of living space to accommodate the displaced person(s).
- Contain a well-lighted and ventilated bathroom providing privacy to the user and containing a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and sewage drainage system.
- Contain a kitchen area with a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, with adequate space and utility connections for a stove and refrigerator.
- Have unobstructed ingress and egress to safe, open space at ground level.
- Be free of any barriers, which prevent reasonable ingress, egress, or use of the dwelling in the case of a handicapped displaced person.

*Types of  
Payments*

Replacement Housing Payments (RHP) are separated into two basic types and depend on whether you are an owner or a tenant and how long you have lived on the property being acquired prior to negotiations:

- RHP for owner occupants of 180 days or more;

- Rental assistance for owner occupants of less than 180 days and tenants of 90 days or more; which can also be used as down payment assistance.

Complete details on length of occupancy requirements follow:

*The Two Basic Occupancy Time Periods and What You Are Entitled To*

There are two basic length-of-occupancy requirements which determine the type of replacement housing payment you are entitled to. Length-of-occupancy simply means counting the number of days that you occupied the dwelling before the date of initiation of negotiations by the Department for the purchase of the property. The term “initiation of negotiations” means the date the Department makes the first contact with the owner of real property, or his/her representative, to provide a written offer for the property to be acquired.

Owners who were in occupancy 180 days or more prior to the initiation of negotiations may be eligible for a RHP up to \$22,500 or a rental assistance payment up to \$5,250.

If you are a tenant who has been in occupancy for 90 days or more prior to the initiation of negotiations, you may be eligible for a rental assistance payment or a down payment up to \$5,250. If you are an owner who has been in occupancy from 90 days to 179 days prior to the initiation of negotiations, you may be eligible for a rental assistance payment or a down payment up to \$5,250, however, the down payment cannot exceed the amount of the payment you would have received if you had been a 180-day owner.

If you were in occupancy at the time of the initiation of negotiations, but less than 90 days prior to that date, you will be considered a displaced person entitled to relocation assistance advisory services and moving payments. Owner and occupants may also be entitled to a rental assistance payment if comparable replacement rental housing is not available at a monthly rental rate of 30% or less of your gross monthly household income. If you are required to pay rent and utilities in excess of 30% for a comparable replacement dwelling unit,

you may be eligible for a rental assistance payment under Housing of Last Resort because comparable replacement housing is not available within your financial means. If you do not meet the length-of-occupancy requirements you should meet with your relocation advisor for an explanation of the relocation benefits that you may be eligible to receive.

*Replacement  
Housing  
Payment:  
Owner  
Occupants  
of 180 Days  
or More*

If you are an owner and have occupied your home for 180 days or more immediately prior to the initiation of negotiations for the acquisition of your property, you may be eligible – in addition to the fair market value of your property – for a supplemental payment. This payment may be established from between \$0 to a maximum of \$22,500 and is for costs necessary to purchase a comparable decent, safe, and sanitary replacement dwelling. The Department will compute the maximum payment you are eligible to receive. You must purchase and occupy a DSS replacement dwelling within 1 year from the date of your displacement.

The Replacement Housing Payment Includes:

*Price Differential.* The RHP is the amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling. The price differential payment and the following payments are in addition to the acquisition price paid for your property.

*Increased Mortgage Interest Costs.* You may be reimbursed for increased mortgage interest costs if the interest rate on your new mortgage exceeds that of your present mortgage. To be eligible your acquired dwelling must have been encumbered by a bona fide mortgage, which was a valid lien for at least 180 days prior to the initiation of negotiations.

*Incidental Expenses.* You may also be reimbursed for other expenses such as reasonable costs incurred for title search, recording fees, and certain other closing costs, but not including prepaid expenses such as real estate taxes and property insurance.

The total amount of the purchase supplement cannot exceed \$22,500, according to the law.

*Example of A Replacement Housing Payment Computation.* Assume the Department purchases your property for \$100,000. After a thorough study of the available comparable residential properties on the open market, the Department determines that a comparable replacement property will cost \$116,500. If you purchase a DSS replacement property for \$116,500, you will be eligible for a RHP of \$16,500; see Example A.

If you purchase a DSS replacement property costing more than \$116,500, you pay the difference as shown in Example B. If your purchase price is less than \$116,500 the price differential payment will be based on your actual cost; see Example C.

The RHP you will receive depends on how much you actually spend as shown:

**Example A**

Actual Cost of Comparable Property		\$116,500
Acquisition Price of your Property	-	<u>\$100,000</u>
<i>Maximum RHP Available</i>		\$ 16,500

**Example B**

Actual Cost of Replacement Property		\$125,000
Acquisition Price of your Property	-	<u>\$100,000</u>
Difference		\$ 25,000
<i>Maximum RHP Available</i>	-	<u>\$ 16,500</u>
You Are Responsible for this Amount		\$ 8,500

**Example C**

Actual Cost of Replacement Property		\$114,000
Acquisition Price of your Property	-	<u>\$100,000</u>
<i>Your RHP is</i>		<u>\$ 14,000</u>
(Payment Based on your Actual Cost)		

*Rental Assistance: Owner Occupants and Tenants of 90 Days or More*

Owner occupants and tenants of 90 days or more may be eligible for rental assistance providing they have been in occupancy at least 90 days immediately preceding the initiation of negotiations for the acquisition of the property.

This payment was designed to enable you to rent a comparable decent, safe, and sanitary replacement dwelling for a 42-month period. If you choose to rent a replacement dwelling and the cost of rent and utilities are higher than you have been paying, you may be eligible for a rental assistance payment up to \$5,250.

The Department will determine the maximum payment you may be eligible to receive in accordance with established procedures. The rental assistance payment will be paid in a lump sum unless the Department determines that the payment should be paid in installments. You must rent and occupy a DSS replacement dwelling within 1 year of the date of your displacement to be eligible.

*For Instance...* As an example of how a rental assistance computation is prepared by the Department, let's assume that you have been paying \$500 per month rent for the dwelling unit occupied by you and purchased by the Department. You also pay \$150 per month rent for the utilities, (heat, light, water, and sewer). After a study of the rental market, the Department determines that a replacement rental unit, which is DSS and comparable to your unit, is available for \$595 per month. It is estimated that average monthly utility costs for the replacement unit will be \$175 per month. The maximum rental assistance payment you can receive is \$120 per month for a 42 month period, or a total of \$5,040. The rental assistance payment computation always includes the cost of the four basic utilities, (heat, light, water and sewer), as well as the cost of the rent. If the rent includes utilities a separate computation will not be necessary.

*Option A.* If you select a replacement dwelling unit that rents for \$650 per month plus utilities, despite the availability of comparable DSS replacement rental units that rent for \$595 per month plus utilities, you will still receive only the maximum amount computed by the Department, or \$5,040. In other words, you must pay the additional \$55 per month yourself.

*Option B.* If you select a replacement dwelling unit that rents for more than your present unit, but less than the amount determined by the Department as necessary to rent a comparable unit, your payment will be based on actual cost. For example, assume you select a replacement dwelling unit that rents for \$575 per month plus \$165 for utilities. On the basis of actual cost you will be eligible for a payment of \$90 per month for 42 months, or \$3,780.

*Owners.* Displaced owners who are interested in renting a replacement property should contact the Department for a complete explanation of this option since the computation is more complex.

*Down Payment: Owner Occupants of 90 to 179 Days and Tenants of 90 Days or More* Owner-occupants of 90 to 179 days and tenants of 90 days or more may be eligible for a down payment and incidental expenses, not to exceed \$5,250. The Department will determine the maximum down payment you may be eligible to receive based on its computation for a rental assistance payment discussed on pages 22 and 23, or a maximum of \$5,250. However, the payment for a displaced owner occupant cannot exceed the amount of the payment that would be received by a 180-day owner for the same property as explained on page 20. The right-of-way agent will be able to explain how the Department determines the maximum down payment assistance payment.

Incidental reimbursable expenses include the reasonable costs of a title search, recording fees, and certain other closing costs but do not include prepaid expenses such as real estate taxes and property insurance. You may also be eligible for the reimbursement of loan origination or assumption fees, if such fees are normal to real estate transactions in your area. The combined amount of the down payment and incidental expenses cannot exceed the maximum payment of \$5,250.

## Down Payment Computation

	Example 1	Example 2	Example 3
Required Down Payment	\$5,000	\$5,000	\$4,300
Costing and Incidental Costs	<u>+\$ 950</u>	<u>+\$ 950</u>	<u>+\$ 950</u>
Total Amount Needed	\$5,950	\$5,950	\$5,250
Agency Down Payment	<u>-\$4,800</u>	<u>-\$5,250</u>	<u>-\$5,250</u>
Displaced Person Pays	\$1,150	\$ 700	\$ 0

### *Explanation of Down Payment and Examples*

If you are an owner-occupant of 90-179 days or a tenant of 90 days or more, you may be eligible for a down payment up to \$5,250. The amount of a down payment will be limited to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. Refer to pages 22 and 23 for a detailed explanation of a rental assistance computation.

In example 1, the total amount needed to purchase the property exceeded the Department payment of \$4,800, making it necessary for the displaced person to make up the difference of \$1,150. In example 2, the displaced person must pay \$700 in addition to the Department payment, but in example 3, the Department payment was sufficient to cover the total amount needed. It will not be unusual in today's inflated real estate market to need more for down payment and closing costs than the maximum payment established by law, however, the payment should be a great help if it enables a displaced tenant to become a homeowner.

The computation of a down payment for an owner occupant of 90 to 179 days is limited to the amount an owner would have received if the payment were computed on the basis of a purchase supplement for a 180 days owner. See computations if you are a short-term owner of 90 to 179 days.

## Housing of Last Resort

On most projects, an adequate supply of housing will be available for sale and for rent, and the benefits provided will be sufficient to enable you to relocate to comparable housing. However, there may be projects in certain locations where the supply of available housing is insufficient to provide the necessary housing for those persons being displaced. When a housing shortage occurs, the Department will solve the problem by the administrative process called Housing of Last Resort.

If you are eligible for replacement housing under the Housing of Last Resort program, you will be so informed by the relocation advisor, who will thoroughly explain the program.

All eligible displaced persons have a freedom of choice in the selection of replacement housing, and the Department will not require any displaced person to accept the comparable dwelling provided by the Department. If a displaced person decides not to accept the replacement housing offered by the Department, the displaced person may secure a replacement dwelling of his/her choice, provided it meets DSS housing standards.

*To All Persons Displaced from a Residence...* The most important thing to remember is that the replacement dwelling you select must meet the basic “decent, safe, and sanitary” standards. **Do not** execute a sales contract or a lease agreement until a representative from the Department has inspected and certified in writing that the dwelling you propose to purchase or rent does meet the basic standards. Please do not jeopardize your right to receive a replacement housing payment by moving into a substandard dwelling.

*Fair Housing* The Fair Housing Law (actually title IV of the Civil Rights Act of 1964 and 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 throughout the United States. These Acts and Executive Order 11063 prohibits discriminatory practices in the purchase and rental of housing based on religion, sex, or national origin.

Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an acquiring Agency to provide a displaced person with a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling outside of an area of minority concentration.

## **Section II: Information on Relocation Services**

### **Relocation Assistance Services**

Any individual, family, business or farm displaced by a State or federally assisted program shall be offered relocation assistance services for the purpose of locating a suitable replacement property. Relocation services are provided by qualified personnel employed by the Department. It is their goal and desire to be of service to you, and assist in any way possible to help you successfully relocate.

Remember, they are there to help and advise you; be sure to make full use of their services. Do not hesitate to ask questions, and be sure you understand fully all of your rights and benefits. Any individual who has a disability will be provided assistance needed to locate and move to a replacement dwelling or site. The individual should notify the Department of any special requirements for assistance.

#### *A Relocation Advisor Will Contact You To Provide...*

*Residential Assistance.* A right-of-way agent from the Department will contact you personally. Relocation service and payments will be explained to you in accordance with your eligibility. During the initial interview your housing needs will be determined as well as your need for assistance. Comparable housing will be inspected prior to being made available to you in order to assure that it meets decent, safe, and sanitary standards.

In addition, if you desire, the right-of-way agent will give you current listings of other available replacement housing. The Department will also provide counseling or help you get assistance from other available sources as a means of minimizing hardships in adjusting to your new location.

*Business and Farm Assistance.* The right-of-way agent will maintain listings of commercial properties and farms whenever businesses and farms are displaced. The right-of-way agent will also explore and provide advice as to possible sources of funding and assistance from other local, State, and Federal agencies.

*Social Services Provided by Other Agencies.* Your right-of-way agent will be familiar with the service provided by other public and private Agencies in your community. If you have special problems the right-of-way agent will make every effort to secure the services of those Agencies with trained personnel who have the expertise to help you. Make your needs known in order that you may receive the help you need.

## **Relocation Advisory Assistance**

*Checklist.* This checklist is a summary of the relocation advisory assistance you may reasonably expect to receive if you are displaced by a State or federally assisted project. In addition to the services listed, the Department is required to coordinate its relocation activities with other Agencies causing displacements to ensure that all persons displaced receive fair and consistent relocation benefits.

*The right-of-way agent must personally interview displaced persons to:*

- Determine their needs.
- Explain relocation benefits.
- Offer assistance.
- Offer transportation if necessary.
- Assure the availability of a comparable property in advance of displacement.
- Provide current listings of comparable properties.
- Provide the amount of the replacement housing payment in writing.
- Inspect comparable and replacement housing for Decent, Safe and Sanitary conditions.
- Supply information on other federal and state programs offering assistance to displaced persons.

- Provide counseling to minimize hardships.

### *Another Important Benefit.*

No adverse effects on:

- Social Security eligibility
- Welfare eligibility
- Income taxes

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code of 1954 or for the purposes of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law (except for any Federal law providing low-income housing assistance).

### **Right of Appeal**

Any aggrieved person may file a written appeal within 90 days of the Department determination of relocation benefits with the Commissioner of the New Hampshire Department of Transportation, if the person believes the Department has failed to properly determine his or her eligibility for relocation assistance advisory services, or the amount of a relocation payment.

If you have a grievance the Department's hearing examiner will give you a prompt and full opportunity to be heard. You will also have the right to be represented by legal counsel or other representative in connection with the appeal, (but solely at your own expense). The Department will promptly review your appeal and consider all pertinent information available to ensure a fair and full review. The Department will provide you with a written determination as well as an explanation of the decision. If you are still dissatisfied with the relief granted, the Department will recommend that you seek a review by the Transportation Appeals Board. If still not satisfied you may appeal to the Supreme Court.

## **Section III: Information for Businesses, Farms, and Nonprofit Organizations**

### **Moving Cost Reimbursement**

*Reimbursement:* Owners or tenants may be paid on the basis of actual reasonable moving costs and related expenses or, under certain circumstances, a fixed payment.

*Businesses,  
Farms, and  
Nonprofit  
Organizations*

- A. Actual reasonable moving expenses may be paid when the move is performed by a professional mover or if you move yourself. Related expenses, such as personal property losses, expenses in finding a replacement site, and reestablishment expenses may also be reimbursable.
- B. Or you may be eligible for a fixed payment of not less than \$1,000 nor more than \$20,000 in lieu of the payments listed in A. above. The fixed payment is based on a two-year average of the annual net earnings of a business or farm operation. To qualify for a fixed payment, certain conditions must be met. See pages 34 and 35 for a detailed explanation of the fixed payment. If you represent a nonprofit organization, this payment is computed differently. Contact your right-of-way agent for more details.

### **Types of Payments**

- Certain actual reasonable moving costs.

AND

- Eligible reestablishment expenses up to \$100,000.00.

OR

- Fixed payment, in lieu of moving and reestablishment costs, from \$1,000 to \$20,000 calculated from previous two (2) years tax returns.

*Actual Cost  
Move*

You may be paid the actual, reasonable and necessary costs of your move when the move is performed by a professional mover or when you elect to move yourself under this option. 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 right-of-way agent will provide you with a complete explanation of reimbursable expenses.

*Estimated  
Cost Move*

If you agree to take full responsibility for all or part of the move of your business or farm operation, the Department may approve a payment not to exceed the lower of two acceptable bids or estimates obtained by you or the Department from qualified moving firms, moving consultants, 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 or farm 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.

*Direct Losses 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 value of the item for continued use at the displacement site less the proceeds from its sale or the estimated cost of moving the item, whichever is the lesser.

Your right-of-way agent will explain this procedure in detail if you are faced with this situation.

*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 \$1000.

Expenses may include transportation, meals, and lodging when away from home; the reasonable value of the time spent during the search; and other expenses determined to be reasonable and necessary by the acquiring Department.

*Reestablishment Expenses.* A small business, farm or nonprofit organization may be eligible for a payment, not to exceed \$100,000, for expenses actually incurred in reestablishing the enterprise at a replacement site. To qualify, the business, farm or nonprofit organization must have at least one but not more than 500 employees working at the site being affected who will be displaced by a program or project.

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 advertising signs for the business.
4. The cost of installing utilities from the right-of-way line to the structure(s) or improvements on the replacement site.
5. Redecoration or replacement such as painting, wallpapering, paneling and carpeting when required by the condition of the replacement site.
6. The cost of license fees and permits when not covered as a moving expense.
7. Marketing studies, feasibility surveys and soil testing.
8. Advertising the new business location.
9. Professional real estate services needed for the purchase or lease of a replacement site, not to include real estate commissions.

10. The estimated increased cost of operation at the replacement site during the first two years for items such as:
  - Lease or rental charges,
  - Personal or real property taxes,
  - Insurance premiums, and,
  - Utility charges (excluding impact fees).
11. One time assessments or impact fees for anticipated heavy utility usage.
12. Other items that the Department considers essential for the reestablishment of the business or farm.

*Fixed Payment (In Lieu)* 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 nor 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 its 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 the offer being made.

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 interested in a fixed payment, please consult your right-of-way agent for additional information if you are being displaced from a farm or you represent a nonprofit organization.

*The Computation of Your Fixed Payment (in Lieu).* 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 years in which it was displaced (or that two year period deemed more representative by the Department).

**Example**

<b>1999</b>	<b>2000</b>	<b>2001</b>
Annual Net Earnings	Annual Net Earnings	Year Offer Made
\$16,500	\$18,500	

*Average:*  
$$\$16,500 \quad + \quad \$18,500 \quad = \quad \$35,000 \div 2 = \$17,500$$

\$17,500 = Fixed Payment

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.

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 acceptable to the Department.