
Section 7.1

RELOCATION ASSISTANCE PROGRAM

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Section 7.1 RELOCATION ASSISTANCE PROGRAM

PURPOSE

The purpose of this section is to establish the process the Guam Department of Public Works, or any other Government of Guam Agency or Department (Department) initiating Relocation of Individuals or Businesses must follow to comply with the Relocation Assistance Program and provide definitions of terms.

AUTHORITY

23 Code of Federal Regulations
49 Code of Federal Regulations, Part 24
42 USC Chapter 61 Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs

SCOPE

The principal users of this document are Department of Public Works Office of Right of Way employees and those persons contracted by the Department to perform relocation assistance functions and the Office of the Attorney General.

REFERENCES

Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
21 GCA §17101-§17118 Relocation Assistance Act
Environmental Assessment Document
Federal Aid Highway Program Manual
Right of Way Manual, Section 5.10, Acquisition of Right of Way from Federal and Territorial Governmental Agencies
Right of Way Manual, Section 7.2, General Relocation Requirements
Right of Way Manual, Section 7.3, Payment for Moving and Related Expenses
Right of Way Manual, Section 7.4, Replacement Housing Payments
Right of Way Manual, Section 7.5, Relocation Assistance for Mobile Homes
Right of Way Manual, Section 7.6, Last Resort Housing
Section 501, Internal Revenue Code, 26 U.S.C. 501

FORMS

None specific to this section of the Manual. See Manual **Section 7.2** for relocation forms.

DEFINITIONS

30-Day Notice to Vacate: A written notice furnished to the displacee informing the owner of the date by which he or she will be required to move from the acquired site.

90-Day Letter of Assurance: A written notice furnished to the displacee explaining that he or she will not be required to move for at least **90 days** from the receipt of this notice or receipt of the Statement of Eligibility, whichever is later.

180-Day Owner: Any displaced person who is displaced from a dwelling actually owned and occupied by such displaced

person for not less than one hundred and eighty days prior to the initiation of negotiations for the acquisition of the property. See **42 USC, Chapter 61, Sec. 4623** for additional information.

90-Day Owner: Dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition. See **42 USC, Chapter 61, Sec. 4624** for additional information.

Acquired: The time at which the Department obtains legal possession of the real property; legal possession occurs at closing in negotiated settlements and at the date of deposit in litigated cases.

Appurtenance: An item of real property accessory to, or an adjunct of, a more important property, title to which usually passes with title to the principal real property.

Business: Any lawful activity, except a farm operation, conducted:

- (A) Primarily for the purchase, sale, lease and/or rental of personal and/or real property;
- (B) Primarily for the manufacture, processing or marketing of products, commodities or any other personal property;
- (C) Primarily for the sale of services to the public;
- (D) By a nonprofit organization that has established its nonprofit status under applicable Federal and Territorial law;
- (E) Primarily for Outdoor Advertising Sign (OAS) display purposes when the display(s) must be moved as the result of a highway project and solely for reimbursement of actual moving expenses, tangible loss of personal property, and eligible search expenses.

Carve Out: The method used in making a typical home site determination, whereby that portion of the parent tract which is typical for residential use in the area is carved out of, or separated from, the entire tract for the purpose of the replacement housing payment computation.

Certified Post-Move Inventory: A list of items actually moved to the replacement site as a part of a relocation. Such list is prepared after the move is complete and is attested to by both the Department's representative and the displacee.

Certified Pre-Move Inventory: A list of items to be included in a move. Such list is prepared prior to the move and attested to by the displacee.

Citizen: Includes both citizens of the United States and non-citizen nationals.

Conceptual Stage Plan: A plan developed to be used in determining the final location of a project. Relocation impacts are a portion of this study, which is an evaluation of available alternate locations.

Contributes Materially: During the two taxable years prior to the taxable year in which the displacement occurs, a business or farm operation:

- (A) Had average annual gross receipts of a least \$5,000; or
- (B) Had average annual net earnings of at least \$1,000; or

- (C) Contributed at least 33 1/3 percent of the owner's or operator's average annual income from all sources.
- (D) If these two years are not representative, an alternative consecutive two year period may be utilized, see the ***Right of Way Manual, Section 7.3, Payment for Moving and Related Expenses.***

Decent, Safe And Sanitary Dwelling: A dwelling which conforms to all Territorial housing and occupancy codes and conforms to the standards prescribed in the ***Right of Way Manual, Section 7.2, General Relocation Requirements.***

Density: As used in the context of replacement housing for relocation purposes, it pertains to the number of units in a multifamily dwelling or structure.

Displaced Person: Any person as defined in this procedure, which moves from the real property or moves his or her personal property from the real property:

- (A) As a direct result of the Department's acquisition of such real property in whole or in part for a project. This includes any person who moved from the real property as a result of the initiation of negotiations or a written notice of intent to acquire. In the case of a partial acquisition, the Department shall determine whether the person is displaced as a direct result of the partial acquisition; or
- (B) As a result of a written order from the Department to vacate such real property for the project; or
- (C) As a result of the Department's acquisition of, or written order to vacate, or a written notice of intent to acquire, other real property for a project on which the person conducts a business, farm operation, or is a nonprofit organization. Eligibility under this definition applies only for purposes of obtaining relocation assistance advisory services as provided in the ***Right of Way Manual, Section 7.2, General Relocation Requirements*** and moving expenses as provided in the ***Right of Way Manual, Section 7.3, Payment for Moving and Related Expenses; or***
- (D) As a direct result of rehabilitation or demolition for a project.

Displacee: A displaced person. Also called a "relocatee".

Displacement Dwelling: The dwelling from which a relocatee is displaced for a project.

Down Payment Supplement: The eligible amount a displacee who purchases a replacement dwelling may receive if applied to the purchase of replacement housing, which amount is equal to the displacee's eligibility under rental assistance or \$5,250, whichever is greater.

Domicile: The place where a person has his or her true, fixed, permanent home and principal establishment and to which he or she has, when absent, the intention of returning.

Dwelling: The place of permanent or customary or usual abode, according to local custom or law, including a single family house; a single family unit in a two family, multifamily, or multipurpose property; a unit of a condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit. Further defined as domicile.

Economic Rent/Market Rent: The Department's determination of the reasonable income expectancy of a dwelling or other property if it were available for rent; and the rent justifiably payable for the right of occupancy of land and/or improvements.

Family: Two or more individuals who are living together and intend to live together at the replacement dwelling.

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

Fixed Payment: A payment to a displaced person in lieu of actual moving expenses.

Household Income: Total gross income for all household members received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, social security, or the net income from a business. Income received or earned by dependent children or full time students under 18 years of age are not included.

Initiation of Negotiations: The date the initial written offer of just compensation is delivered by the Department to the owner or his/her representative to purchase real property for a project, with the following exceptions:

- (A) If the Department issues a Notice of Intent to acquire the property and a person moves after the date on that notice, but prior to delivery of the initial purchase offer, the initiation of negotiations is the date that person moved from the property.
- (B) In the case of a permanent relocation to protect the public health and welfare, the initiation of negotiations is the date of either the formal announcement of that relocation or of the Federal or Federally coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

In Lieu of Payment: See Fixed Payment.

Inventory: A list of items of personal property to be moved by the displaced person. When required, a pre-move inventory must be taken at the displacement site and compared to a post-move inventory taken at the replacement site after the move.

Last Resort Housing: The provision of replacement housing by techniques developed for such purpose, when a highway project cannot proceed to construction because suitable, comparable and/or adequate replacement sale or rental housing is not available and cannot otherwise be made available to displacees within the payment limits established by law, see the ***Right of Way Manual, Section 7.6, Last Resort Housing.***

Less Than 90-Day Occupant: A displaced person who occupies the property to be acquired for less than 90 days prior to the initiation of negotiations; a displaced person who occupies the property to be acquired subsequent to the date of initiation of negotiations, see the ***Right of Way Manual, Section 7.6, Last Resort Housing.***

Licenses, Permits and Certifications: Only an item which is paid periodically is considered to be license, permit or certification. These items are renewable and are valid only for a specific period of time.

Major Exterior Attribute: Any major appurtenant structure exterior to the residential dwelling, or an aesthetically valuable view which substantially contributes to the quality or standard of living of the displacee(s), see the ***Right of Way Manual, Section 7.4, Replacement Housing Payments.***

Mortgage: An instrument recognized by law in which property is pledged to secure the payment of a debt or obligation; procedure for foreclosure in the event of default is established by statute. Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

Nonprofit Organization: A corporation duly registered with the Office of the Attorney General (OAG) as a Corporation Not for Profit and exempt from paying Guam Territorial income taxes under **Section 501** of the **Internal Revenue Code, (26 U.S.C. 501)**.

Owner: A displaced person is considered to have met the requirement to own a displacement dwelling if the person holds any of the following interests in real property acquired by the Department for a project:

- (A) Fee title, a life estate, a land contract, a 99 year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or
- (B) An interest in a cooperative housing project which includes the right to occupy a dwelling; or
- (C) A contract to purchase any of the interest or estates previously described above; or
- (D) Any other interest, including a partial interest, which in the judgment of the Department warrants consideration as ownership.

Person: Includes a partnership, corporation or association, as well as an individual or family.

Personal Property: Generally, moveable items; that is, those not permanently affixed to and a part of the real estate. With some exceptions, items typically remain personal property if they can be removed without serious injury either to the real estate or to the items themselves.

Purchase Additive: The amount, if any, which when added to the acquisition price, equals the selling price of a comparable dwelling or, if lesser, the amount a displacee actually spends for a decent, safe and sanitary replacement dwelling, see the **Right of Way Manual, Section 7.4, Replacement Housing Payments**.

RHP: Replacement Housing Payment. Any of several types of payments to qualifying displaced persons, including the purchase additive, increased interest cost payment, incidental expenses, rent supplement, and down payment supplement.

Relocatee: A displaced person. Also called a "Displacee".

Relocation Assistance: Advisory and/or financial aid to persons and businesses displaced by a public program to assist them in becoming reestablished in areas not less desirable, at rents or prices within their financial means, and in dwellings that are decent, safe and sanitary.

Relocation Needs Assessment Survey: The survey performed to identify residential and business relocation needs in conjunction with the Right of Way Stage Assistance planning process, see **Section 7.1.8** and the project cost estimate see **Section 7.1.10.2**.

Relocation Specialist: A Department Relocation Specialist or other Department representative assigned by the Department to provide relocation assistance to displaced persons. A Department Relocation Specialist may be assigned property management responsibilities, or may be assigned to work as a staff assistant to the Department of Public Works Right of Way Supervisor (DPWRS). Relocation Specialist is a functional, rather than generic classification.

Salvage Value: The probable sale price of an item, if offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (e.g., not eligible for relocation assistance). Included are items for re-use as well as items with-components that can be reused or recycled when there is no reasonable prospect of sale except on that basis.

Small Business: A business operating lawfully with not more than 500 employees working at the site being acquired or displaced.

Substitute Personal Property: A personal property item, used as a part of a business or farm operation, purchased to replace an item with a comparable function, which was not moved from the acquired site to the replacement site.

Tenant: A person who has the lawful temporary use and occupancy of real property owned by another.

Typical Home site Determination: A determination, for replacement housing payment computation purposes, of the portion of a tract of land which is typical for residential use in the area.

Uniform Act: *Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, or subsequent amendments thereto (*42 USC Chapter 61 Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs*).

Unlawful Occupant: A person who occupies a property without property right, title or payment of rent or a person legally evicted, with no legal right to occupy a property under Territorial law. The Department, at its discretion, may consider such person to be in lawful occupancy.

Utility Service Cost: This term means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

7.1.1 Federal Program Authorization

7.1.1.1 On January 2, 1971, the United States Congress enacted *Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* as amended by *42 USC Chapter 61 Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs*.

Title II of the Uniform Act establishes a uniform policy for the 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.

7.1.1.2 The Department is authorized to comply with the Uniform Act on Federally assisted projects by *21 GCA §17101-§17118 Relocation Assistance Act*.

7.1.1.3 *Federal Regulations 49 Code of Federal Regulations (C.F.R.), Part 24*, regulates the Department's Relocation Assistance Program on Federal and Federally assisted projects.

7.1.1.4 The Department is authorized to implement a Relocation Assistance Program on non-federal aid projects by *21 GCA § 17101-§ 17118* of the *Relocation Assistance Act*.

7.1.2 Program Assurances

7.1.2.1 In accordance with the provisions of *49 C.F.R., Part 24.4*, confirmation of compliance with Federal regulations have been submitted to the Federal Highway Administration (FHWA) and approved.

7.1.2.2 Each time the *Relocation Assistance Procedures* are revised, written confirmation of compliance will be resubmitted to FHWA by the Department.

7.1.2.3 Confirmation of compliance will be submitted with each final revision of procedures.

7.1.3 Relocation Program at Conceptual Stage

7.1.3.1 A project is in the Conceptual Stage until such time as its location and design concept acceptance is granted.

7.1.3.2 A Conceptual Stage Relocation Plan will be developed by the Department for each alternate location prior to the corridor public hearing. The information therein will be incorporated into the environmental document.

7.1.3.3 The costs incurred for securing and assembling the required information are charged to preliminary engineering for the appropriate project.

7.1.4 Last Resort Housing Needs at the Conceptual Stage

7.1.4.1 If an insufficient supply of comparable replacement housing, see *Right of Way Manual, Section 7.2, General Relocation Requirements*, is anticipated at the time a project is expected to be underway, the Department should include potential Last Resort Housing options as part of the Conceptual Stage Plan and the environmental document.

7.1.4.2 Last Resort Housing methods, *Right of Way Manual, Section 7.6, Last Resort Housing*, will be offered for each alternate route under study.

7.1.5 Conceptual Stage Plan Data Sources

7.1.5.1 The Conceptual Stage Plan must reference the sources of data utilized.

7.1.5.2 All data must be dated according to their original compilation date.

7.1.5.3 The Conceptual Stage Plan is intended to be a brief summary of projected relocation activity, not a detailed report. The depth of the report should be directly proportional to the scope of relocation assistance on the project.

7.1.5.4 Types of data sources:

- (A) Primary Data Sources: Any person, such as an individual, family, business, etc. located within the proposed corridor alignment.
- (B) Secondary Data Sources: All information sources other than primary.

7.1.5.5 Secondary sources should be utilized only when primary sources cannot supply the information needed.

7.1.6 Data to be Obtained for Conceptual Stage Plan

The Department will be responsible for providing the following Conceptual Stage Plan Data for inclusion in the *Environmental Assessment Document*:

- (A) An estimate of households to be displaced, including an estimate of:
 - (1) The percentage of minority; racial, national origin, or ethnic, households to be displaced;
 - (2) The income range, in dollars, of the affected neighborhoods or communities;
 - (3) The tenure, or age, of the structures which are being displaced, taking into consideration the

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- (4) types and the effective and chronological ages;
 - (4) The percentage of elderly households to be displaced in relationship to the total households being displaced;
 - (5) The percentage of households containing five or more family members;
 - (6) Handicapped or disabled residential occupants for whom special assistance services may be necessary.
- (B) A comparison of available, decent, safe and sanitary, housing in the area with the housing needs of displacees. The comparison should include price ranges, size, number of bedrooms, and occupancy status of the owner/tenant.
- (C) A description of special relocation advisory services that will be necessary for identified unusual conditions or unique problems. Identify special cases such as handicapped or disabled displacees, problems of the elderly, racial and ethnic considerations, and comment on the availability of governmental and social agencies available to serve these particular needs.
- (D) A discussion of the actions proposed to remedy insufficient relocation housing, including a commitment to Last Resort Housing, if necessary;
- (E) An estimate of the number, type and size of businesses to be displaced, including special business characteristics, services to specialized clientele, or cultural orientation:
- (1) Include the approximate number of employees for each business and the general impact on the business dislocation(s) on the economy of the community, if ascertainable.
 - (2) Identify sites available in the area to which the affected businesses may relocate, likelihood of such relocation and impacts on remaining businesses, whenever possible.
- (F) A discussion of the results of early consultation with the Territorial government agencies and any early consultation with businesses potentially subject to displacement. Include planning for incentive packaging such as, tax abatement, flexible zoning, and building requirements, and advisory assistance which has been or will be furnished, along with other appropriate information;
- (G) A description of the actions proposed to remedy insufficient relocation housing including, if necessary, Last Resort Housing. If Last Resort Housing is anticipated, describe its availability.
- (H) The results of discussions with Government agency officials, social agencies and such groups as the elderly, handicapped, non-driver, transit-dependent, and minorities regarding the relocation impacts;
- (I) A statement that relocation resources are available to all relocatees without discrimination;
- (J) A summary of any potential hazardous waste concerns.
- (K) An identification of any publicly owned lands, as defined in the ***Right of Way Manual, Section 5.10, Acquisition of Rights of Way from Territorial and Federal Governmental Agencies***, which may require consideration for functional replacement of real property in public ownership. Discussion of the results and decisions of any meetings with property owners or jurisdictional agencies where the potential

for functional replacement exists pursuant to **23 C.F.R. 710** and the **Right of Way Manual, Section 5.10, Acquisition of Rights of Way from Territorial and Federal Governmental Agencies**, shall be documented.

7.1.7 Data Responsibilities for Conceptual Stage Plan

The Department, and the Guam Environmental Protection Agency (GEPA) are jointly responsible for the development and inclusion of socioeconomic data in the environmental document and, as such, should coordinate data collection with the Department to avoid duplication of efforts.

7.1.8 Authority for Needs Assessment Survey

7.1.8.1 The Department is responsible for preparing and conducting the **Relocation Needs Assessment Survey** and for implementing a plan.

7.1.8.2 The DPWRS is responsible for recommending the **Relocation Needs Assessment Survey** to the Director Department of Public Works (DDPW) and is responsible for preparing the Department's confirmation of compliance for submittal to FHWA by the DDPW.

7.1.9 Planning Considerations for Needs Assessment Survey

The **Needs Assessment Survey** should provide the answers to the following questions about the project:

- (A) What are the project's specific objectives?
- (B) What is the scope of the project? How many neighborhoods will be impacted? How many buildings will be affected?
- (C) How many people will be affected, both directly and indirectly? How many families and individuals will be displaced? How many businesses?
- (D) What are the special needs of those who will be displaced?
- (E) What is the most efficient and effective way to accomplish the project goals? How much lead time will be required?
- (F) Are there other projects underway in the locality that will be competing for housing resources? Is any of the needed information already available from agencies carrying out related projects?
- (G) What resources are available to provide advisory assistance? Are there needs for special services such as aid to handicapped and assistance with non-English speaking persons?
- (H) Are there any potential hazardous waste concerns on the project?
 - (1) A report must be provided to the GEPA any time the presence of hazardous waste is suspected.
 - (2) Matters pertaining to hazardous waste will be handled in accordance with the **Right of Way Manual, Section 7.3, Payment for Moving and Related Expenses**.

7.1.10 Requirements for Needs Assessment Survey

7.1.10.1 The **Needs Assessment Survey** will contain an Inventory of Individual Needs, which includes the characteristics and needs of individuals and families to be displaced, based upon the standard of comparable replacement. This information should be obtained upon a 100% occupancy survey rather than a sampling survey.

7.1.10.2 The survey will also contain a review of needs versus resources, including the identification of potential relocation problems with regard to the lack of availability of necessary resources. Documentation will include:

- (A) The estimated amount of lead time required to carry out a timely, orderly and equitable relocation program;
- (B) Identification of resource limitations, if perceived.

7.1.10.3 Planning includes an estimate of the number of replacement sites available for businesses. When replacement sites are not expected to be available, the impacts of displacing the businesses should be considered and addressed. For those business moves which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites, the survey should include an analysis of business moving problems.

7.1.10.4 Business interviews should occur prior to, or at time of the appraisal of the property:

- (A) Obtain information regarding the business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.
- (B) Document any expressed need for outside specialists that will be required to assist in planning the move, to assist in the actual move, and in the reinstallation of machinery and/or personal property.
- (C) Every effort must be made to coordinate discussion among the Department appraiser, landowner, tenant and Department relocation agent in order to identify and resolve personalty/realty issues.
- (D) Estimate the time required for the business to vacate the site.
- (E) Estimate the anticipated difficulty in locating a replacement property.
- (F) Identify any advance relocation payments required for the move, and the Department's legal capacity to provide them.

7.1.11 Identification of Last Resort Housing Needs

7.1.11.1 If research indicates the potential need for Last Resort Housing see **Right of Way Manual, Section 7.6, Last Resort Housing**. The **Needs Assessment Survey** will address the means by which it will be provided.

7.1.11.2 A comprehensive discussion of the number of individuals and/or families who will require Last Resort Housing and an estimate of available units should be incorporated into the survey, along with recommended methods for providing Last Resort Housing.

7.1.12 Identification of Business Displacees

7.1.12.1 During the relocation survey phase, business displacees must be contacted no later than the date negotiations are

initiated on the project.

7.1.12.2 At the discretion of the DPWRS, all business displacees will be identified and listed by as owner or tenant and their potential eligibility for business damages noted.

7.1.13 Uniform Relocation Assistance and Real Property Acquisition Report

- (A) The DDPW or designee will submit a report annually to the FHWA.
- (B) The report will be compiled from data supplied by the Department and the data in the Department's official parcel or project file.
- (C) The report will be prepared and submitted to FHWA on or before **November 1** of each year.

7.1.14 Special Relocation Reports

7.1.14.1 If the FHWA requires a special relocation report of the Department, such request will be in writing from FHWA to the DDPW.

7.1.14.2 Each request will specify a deadline by which the report must be completed.

7.1.14.3 If the Department is unclear on the request or if the deadline cannot be met, the DDPW must contact the FHWA within **three days** of receipt of the request.

7.1.15 Relocation Records

7.1.15.1 Records of relocation activities will be kept, including:

- (A) Project and parcel identification;
- (B) Names, addresses and telephone numbers of displacees;
- (C) Payments and services offered;
- (D) Payment claim support documentation;
- (E) Contact records documenting each meeting or telephone call with the displacee(s) and involved parties;
- (F) Contact records documenting the offering of comparable replacement housing in accordance with the ***Right of Way Manual, Section 7.2, General Relocation Requirements.***

7.1.15.2 The Department is responsible for proper maintenance of these records and for assuring their availability at reasonable hours for inspection by representatives of the Federal Government, Office of the Attorney General and the public.

7.1.15.3 All records will be kept neatly, accurately, and thoroughly by the Department.

7.1.15.4 All original documentation will be placed in the Department's official permanent project file.

HISTORY

Original Issue Date: 2009

DRAFT