

NON-RESIDENTIAL



**Washington State
Department of Transportation**
Real Estate Services Office

August 2015

Non-Residential Relocation Assistance Program

Business/Farm/NPO

Questions and Answers



Americans with Disabilities Act (ADA) Information

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Introduction

The Relocation Assistance Program is designed to establish uniform procedures in relocation assistance that will assure legal entitlements and provide fair, equitable, and consistent treatment to persons displaced by projects administered by the Washington State Department of Transportation (WSDOT).

The program is administered in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA).

This booklet is designed to answer some of your questions about your relocation entitlements. Specific information about relocation assistance is contained in the law. While every effort has been made to assure the accuracy of this booklet, it does not have the force and effect of the law. Should any difference or error occur, the law will take precedence. The law is contained in **Chapter 8.26** of the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) **468-100**.

Your concerns are important to us. We will do everything we can to minimize any disruptions and other impacts of the project. Thank you for taking the time to read this booklet. We appreciate your understanding and cooperation.

The relocation assistance program is discussed on the following pages.

Relocation Advisory Assistance

What is “Relocation Advisory Assistance?”

Your relocation specialist will interview you to:

- Explain relocation services and payments available, eligibility requirements, and procedures for obtaining assistance.
- Determine the relocation needs and preference for your operation by completing an occupancy survey.
- Provide advice as to other sources of assistance and technical help.
- Explain substitute personal property and actual direct loss of tangible personal property so you can make informed decisions regarding your relocation

The level of advisory services may be different for each displaced business depending on the complexity of the business operation.

Lawfully Present in the United States

Federal law requires certification of residency status. You will be required to sign a form certifying you are lawfully present in the United States before the relocation process can begin.

Not Lawfully Present in the United States

Any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined in **WAC 468-100-208**.

General Relocation

When do I become eligible for relocation assistance?

You will become eligible for relocation assistance on the day the agency makes a written offer to buy the property you are occupying, if the agency determines that there are persons or personal property which must be moved.

When do I have to move?

You cannot be required to move unless given a written assurance at least 90 days prior to the date by which you will be required to vacate the property. In most cases, WSDOT will provide this assurance in the relocation letter entitled, "Notice of Relocation .Eligibility, Entitlements, and 90.Day Assurance."

If occupancy of the property beyond the date the state acquires possession is allowed, you will be required to sign a rental agreement with the state and pay rent. The relocation 90-day assurance should not be confused with the required 20-day notice to cancel or terminate your lease, which is administered by our Property Management Program. For information regarding the cancellation/termination of your lease, please refer to the term clause in your Displacee Lease or contact your Property Management Specialist.

It is our policy to work with you to enable you to move with the least amount of disruption to your operation.

Are relocation payments considered income?

Relocation payments are not considered as income for the purpose of the Internal Revenue Code of 1986.

When do I get paid for my relocation expenses?

In most cases, you will be reimbursed for relocation expenses after you have moved or incurred an eligible expense. In some cases, progress payments can be made if the agency determines it is necessary.

If I move before the agency's written offer, am I eligible for relocation assistance?

You may jeopardize your relocation rights unless you have reached a prior written agreement with the agency.

How long do I have to claim my relocation benefits?

All claims for relocation payments shall be filed with the agency within 18 months after:

- If you are a tenant - the date you move from the acquired property.
- If you are an owner - the latter of the date you move or the date you receive final payment for your property.

Definitions

What is a business?

The term “business” means any lawful activity, except a farm operation, that is conducted:

1. Primarily for (a).the purchase, sale, lease, or rental of personal or real property; (b).the manufacture, processing, or marketing of products, commodities, or any other personal property; or (c).any combination of these activities.
2. Primarily for the sale of services to the public.
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project.
4. By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

How do I qualify as a business?

In order to qualify to receive relocation assistance as a business displacement, you must:

1. Meet the definition of a business.
2. Report income on an annual tax return. A complete, certified copy of your most recent tax return may be required.

What is a farm operation?

The term “farm operation” means any activity conducted solely or primarily for the production and/or sale of one or more agricultural products or commodities, including timber, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

What is a nonprofit organization?

The term “nonprofit organization” means an organization that is incorporated under the applicable laws of a state as a nonprofit organization, and exempt from paying federal income taxes under Section.501 of the Internal Revenue Code (26 U.S.C. 501).

What is the Uniform Act?

The term “Uniform Act” means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et seq.; Pub. L. 91.646), and amendments thereto.

Moving Expenses

What are my moving options?

You may move yourself, be professionally moved, or choose a combination of both.

Self Move

If you choose to move yourself, the amount the agency pays you for your move will be based upon moving estimates. In most instances, WSDOT will secure three moving estimates from professional movers to determine the reasonable and necessary amount for moving your operation. The relocation specialist can develop a Specialist Move Estimate if the move is considered uncomplicated and less than \$5,000 in move costs

Fixed Payment Move

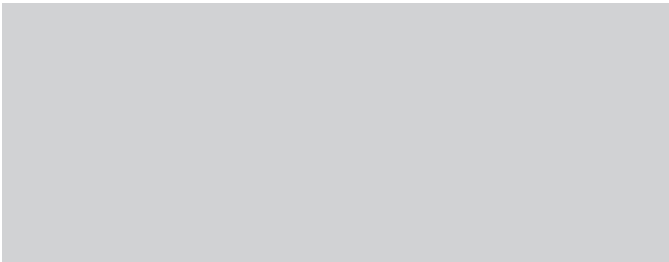
Alternatively, if you meet certain requirements, you may select a fixed payment move that is based upon your average annual net earnings for the last two years. The maximum payment is \$40,000 and the minimum payment is \$1,000 (see “What is the fixed payment?”). Landlords are not eligible to receive the fixed payment.

Commercial Move

If you choose a commercial move, the amount WSDOT pays for your move will be based on the lowest acceptable bid. In most cases, WSDOT will secure three moving estimates from professional movers in the local area.

If you have to move...

Whenever property is needed for a transportation facility, it is necessary to acquire property from someone. We wish it were possible to locate a transportation facility without causing inconvenience for you or your neighbors. However, these acquisitions make it necessary for the occupants of the properties to move.



Will the agency find a replacement site for my business?

A relocation specialist will provide information on the availability, purchase price, and rental costs of suitable commercial and farm properties and locations and/or refer you to real property specialists in your area. The relocation specialist will assist a business or farm operation to become established in a replacement location.

It is important to understand that the law does not require an agency to find a replacement for a business operation. The agency will offer assistance but ultimately it is the business owner's responsibility to locate a suitable replacement site.

What are my moving options?

You may move yourself, be professionally moved, or choose a combination of both.

Self Move

If you choose to move yourself, the amount the agency pays you for your move will be based upon moving estimates. In most instances, WSDOT will secure three moving estimates from professional movers to determine the reasonable and necessary amount for moving your operation. The relocation specialist can develop a Specialist Move Estimate if the move is considered uncomplicated and less than \$5,000 in move costs.

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Commercial Move

If you choose a commercial move, the amount WSDOT pays for your move will be based on the lowest acceptable bid. In most cases, WSDOT will secure three moving estimates from professional movers in the local area.

What types of relocation payments are businesses entitled to receive?

Relocation payments are broken down into four types:

1. Moving Expenses
2. Reestablishment Expenses
3. Related Non-Residential Eligible Expenses
4. Fixed Moving Payment

What costs are reimbursable as “moving expenses?”

Eligible expenses for moving personal property include:

- Transportation costs for a distance up to a maximum of 50 miles.
- Packing, crating, unpacking, and uncrating.

-
- Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property.
 - Modifications to personal property required by code.

What costs are reimburseable as “related non-residential eligible expenses?”

- Professional services performed prior to the purchase/lease of a replacement site to determine suitability for the business operation.
- Impact fees and one-time assessments for anticipated heavy utility usage.
- Utility connection expenses associated with running the utilities from the right of way adjacent to the replacement site to the improvement on the replacement site (not related to personal property).

Packing and crating includes only the work necessary to accomplish the move of the personal property. This may include the cost necessary to box, bundle, or palletize the personal property.

Reinstallation of equipment includes connection to utilities. This may include installing utilities from the relocated equipment to the box or meter depending upon your particular situation. Reinstallation also includes modifications to the equipment necessary to adapt it to the replacement structure, site, or utilities, or adapting the utilities at the replacement site to the relocated equipment.

Related Moving Expenses

The following items are related moving expenses:

Replacing Printed Materials and Business Items

Expenses to replace existing stocks of printed materials and business items made obsolete by the move that require an address or phone number change are eligible for reimbursement. This includes such items as invoices, stationery, business cards, and promotional items. Your relocation specialist will require a copy of the old item and the newly printed item. In some cases, rather than replacing printed materials, a “green” alternative would be to use stickers with replacement site address.

Search Expenses

You are entitled to reimbursement for expenses in searching for a replacement property not to exceed \$2,500. Expenses may include transportation, meals, and lodging when away from home; reasonable value of the time spent during search must be preapproved; fees paid to real estate agents, brokers, or consultants to locate a replacement site exclusive of any fees or commissions related to the purchase of the site; time spent in obtaining permits and attending zoning hearings; and time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

You will be required to document your search efforts in a site search log that will be provided by your relocation specialist. Search area is limited within 50 miles of the displacement location.

Direct Loss of Tangible Personal Property or Purchase of Substitute Personal Property

You may be eligible for a payment if personal property is abandoned or replaced as a result of your move or if you discontinue your operation.

Direct Loss of Tangible Personal Property

If you choose to abandon an item of personal property rather than relocating the item, the payment is based upon the lesser of the cost to move the item, or the market value in place “as is,” less any proceeds from the sale of the item. A reasonable attempt to sell the item is required.

Your relocation specialist will assist you with the process. Appropriate documentation is required, i.e., copy of ad, receipts, bill of sale. Unsuccessful attempts to sell personal property will require a transfer of ownership.

Substitute Personal Property

If you choose to promptly replace an item of personal property rather than relocating the item, the payment is the lesser of the cost to move the item, or the cost of providing the substitute item, less any proceeds from the sale of the item. A reasonable attempt to sell the item is required.

Your relocation specialist will assist you with the process. Appropriate documentation is required, i.e., copy of ad, receipts, bill of sale. Unsuccessful attempts to sell personal property will require a transfer of ownership.

Insurance for the Move

Your property may be insured for its full replacement value (over and above the movers standard coverage) in connection with the move. Your relocation specialist will require a copy of your insurance declaration.

Licenses, Permits, and Certificates

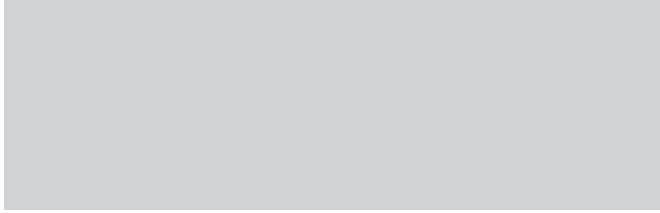
Licenses, permits, or certification requirements that are eligible for reimbursement are those that are required to operate the business. The payment will be based upon the remaining useful life of the existing license, permit, or certification. Eligible expenses do not include general occupancy licenses, occupancy permits, building permits, or one-time assessments that any business would have to pay for occupancy of the property.

Move Planning Expenses

Depending on the complexity of your move, you may wish to hire a professional to help with planning the move of your personal property. You must hire a professional in order to be eligible for reimbursement.

Planning expenses include only those expenses necessary to plan the move, placement, and layout of the **personal property** and must be supported by documentation, i.e., floor plan layout, log of work performed. You will want to secure a minimum of two scopes of works from potential planners and get preapproval of expenses prior to entering into a contractual obligation.

In some instances, a displaced business can apply for a waiver and request that their business perform the work. Your business must offer the particular service as part of your daily business operation. You will be required to submit qualifications, reasons for wanting to complete work, hourly rate, and scope of work..



Move Supervision Expenses

Supervision expenses include reimbursement for your time to supervise the move. Supervision is sometimes necessary to direct the placement of personal property and to facilitate the moving process. Your time to supervise the move (does not include planning) is limited to no more than the length of time it would take a professional mover to complete the actual physical move. Hourly labor rates are based on reasonable salary or earnings and must be preapproved by WSDOT prior to the beginning of the move. All expenses must be actual, reasonable, and necessary, as determined by the agency.

Temporary Storage

You may be eligible for the cost to store your personal property in a commercial storage facility. Storage expenses will be reimbursed if they are considered reasonable and necessary by the agency. Storage must be preapproved and is limited to 12 months. The request must be in writing.

Fixed Moving Payment

What is the “Fixed Moving Payment?”

A “Fixed Moving Payment” provides an option for moving expenses based on the net earnings of your business. Landlords are not eligible to receive a fixed moving payment.

If you choose the fixed moving payment option you will be ineligible to receive reimbursement for any other relocation expenses. For this reason this benefit is often referred as an “In Lieu” payment.

For you to be eligible for a fixed payment, your operation must move and you must meet the following requirements:

- You must have personal property to move and you actually move from the displacement site.
- You cannot be relocated without a substantial loss of existing patronage.
- Your operation is not operated at the displacement site solely for the purpose of renting a dwelling or site to others.
- Your operation must have contributed materially to your income during the two taxable years prior to displacement.
- Your business is not part of a commercial enterprise having more than three other entities which are not being acquired by the agency, and which are under the same ownership and engaged in the same or similar business activities.

How is the “Fixed Moving Payment” calculated?

The fixed payment is based upon the average annual net earnings of your operation for two taxable years immediately preceding the taxable year in which you were displaced.

The minimum fixed payment is \$1,000 and the maximum fixed payment cannot exceed \$40,000. The actual amount of the fixed payment will be based on actual net earnings.

Example

2009	2010	2011
Annual Net Earnings \$8,000	Annual Net Earnings \$10,000	Year Displaced
Average \$9,000 = Fixed Payment		

You must provide information to the agency to support your claim. Proof of net earnings can be documented by providing recent complete certified copies of income tax information as reported to the IRS.

For a nonprofit organization, the amount of the fixed payment is based on the average of two years annual gross revenues less administrative expenses.

Reestablishment Expenses

What are reestablishment expenses?

You may be eligible to receive a payment, not to exceed \$50,000, for all expenses actually incurred in relocating and reestablishing your operation that are considered by WSDOT to be reasonable and necessary. These may include, but are not limited to, the following:

- Repairs or improvements to the replacement real property as required by federal, state, local law, code, or ordinance.
- Modifications to the replacement real property to accommodate the business operation or make replacement structure suitable for conducting the business.
- Construction and installation costs for exterior signing to advertise the business.
- Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- Advertisement of replacement location.
- Estimated increased cost for two years at the replacement site for such items as:
 - Lease or rental charges.
 - Personal or real property taxes.
 - Insurance premiums.
 - Utility charges, excluding impact fees.

Note: *Payment of reestablishment entitlements cannot be made to a part-time business in the home which does not contribute materially to the household income.*

Ineligible Expenses

What are some relocation expenses that are not reimbursable?

- The cost of moving items considered to be real estate or any personal property purchased by the agency as part of the real estate acquisition.
- Loss of business, profits, good will, trained employees (includes loss due to downtime), or personal injury.
- Additional operating expenses because of operating a new location except as provided for as reestablishment expenses.
- Any legal fee or other cost for preparing a claim for a relocation payment or for any appeal of your relocation benefits.
- Physical changes to real property at the replacement location except as provided for as reestablishment expenses.
- Costs for storage on real property already owned or leased by you.
- Interest on loans to cover moving expenses or reestablishment expenses.
- Cost of new construction.
- Purchase of capital assets, manufacturing materials, production supplies, or other items used in normal business operation.
- Interior or exterior refurbishments of the replacement site for aesthetic purposes.

Finally...

Reconsideration of a WSDOT Decision

If you disagree with a determination WSDOT makes as to your eligibility for or the amount of your relocation entitlement, you may seek an informal reconsideration of such determination by sending a letter explaining your grievance within 30 days after receipt of such determination to:

Washington State Department of Transportation
Relocation Assistance Program Manager
Real Estate Services
PO Box 47338
Olympia, WA 98504-7338

If you disagree with the reconsideration decision of the Relocation Assistance Program Manager, you may request an adjudicative hearing as outlined in the “Right to Appeal a WSDOT Decision” section below.

Right to Appeal a WSDOT Decision

You also have the right to appeal a WSDOT determination which includes a relocation specialist decision and the decision of the Relocation Assistance Program Manager, without seeking reconsideration by the RAPM by filing an application for an adjudicative hearing before an administrative law judge of the Office of Administrative Hearings. You may file an application for an adjudicative hearing by serving a request for an adjudicative hearing pursuant to **WAC 468-100-010** within 60 days of receipt of the WSDOT decision that you would like to appeal by certified mail, registered mail, or personal service addressed to:

Washington State Department of Transportation
Office of the Secretary
Transportation Building
310 Maple Park Drive
Olympia, WA 98504-7316

WSDOT Real Estate Services Offices

1. Northwest Region

(Seattle/Everett/Bellingham)
15700 Dayton Avenue N
PO Box 330310
Seattle, WA 98133-9710
206-440-4160

2. North Central Region

(Wenatchee/Moses Lake/Okanogan)
1551 N Wenatchee Avenue
Wenatchee, WA 98801-1156
509-667-2936

3. Olympic Region

(Tacoma/Olympia/Port Angeles/Aberdeen)
5720 Capitol Boulevard
PO Box 47440
Olympia, WA 98504-7440
360-357-2697

4. Southwest Region

(Vancouver/Raymond/Chehalis/Goldendale)
11018 NE 51st Circle
Vancouver, WA 98682-6686
360-905-2149

5. South Central Region

(Yakima/Ellensburg/Tri-Cities/Clarkston)
2809 Rudkin Road
Union Gap, WA 98903-1648
509-577-1650

6. Eastern Region

(Spokane/Colville/Ritzville/Pullman/Republic)
2714 N Mayfair
Spokane, WA 99207-2090
509-324-6286

HQ. Headquarters and Mega Projects

7345 Linderson Way SW PO Box 47338
Tumwater, WA 98501 Olympia, WA 98504-7338
360-705-7307

Washington State Department of Transportation Region Boundaries





The mission of the Washington State Department of Transportation is to keep people and business moving by operating and improving the state's transportation systems vital to our taxpayers and communities.