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## Section 9.1

# RELOCATION ASSISTANCE PROGRAM

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## **Section 9.1**

# **RELOCATION ASSISTANCE PROGRAM**

### **PURPOSE**

Establish authority for the Right of Way Relocation Assistance Program and clarify its role in pre-acquisition stages of a project and provide definitions of terms.

### **AUTHORITY**

23 Code of Federal Regulations  
49 Code of Federal Regulations, Part 24  
Rule Chapter 14-66, Florida Administrative Code  
Section 20.23(4)(a), Florida Statutes  
Section 334.048(3), Florida Statutes  
Section 339.09 (2 & 3), Florida Statutes  
Section 421.55, Florida Statutes

### **SCOPE**

This section will be used by District and Central Office, Right of Way and Office of the General Counsel Staff.

### **REFERENCES**

23 Code of Federal Regulations, Part 710  
49 Code of Federal Regulations, Part 24  
Environmental Assessment Document  
Federal-Aid Highway Program Manual  
Public Law 91-646, Uniform Act  
Right of Way Manual, Section 7.10, Acquisition of Right of Way from Governmental Agencies  
Guidance Document 11, Temporary Waiver of Methodology for Calculating Replacement Housing Payment for Negative Equity  
Guidance Document 12, Implementation of MAP-21 Uniform Act Benefit and Eligibility Change Which "Straddle" the Effective Date of October 1, 2014  
Right of Way Manual, Section 9.2, General Relocation Requirements  
Right of Way Manual, Section 9.3, Payment for Moving and Related Expenses  
Right of Way Manual, Section 9.4, Replacement Housing Payments  
Right of Way Manual, Section 9.5, Relocation Assistance for Mobile Homes  
Right of Way Manual, Section 9.6, Last Resort Housing

Rule Chapter 14-66, Florida Administrative Code  
Section 339.09(2) & (3), Florida Statutes  
Section 421.55, Florida Statutes  
Section 501, Internal Revenue Code, 26 U.S.C. 501

## TRAINING

Training for this section is provided to all participants in the ***Right of Way Fundamentals Course***, a required element of the Right of Way Training Program.

## FORMS

None required

## DEFINITIONS

**30-Day Notice to Vacate:** A written notice furnished to the displacee informing them 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 a comparable replacement dwelling is made available, whichever is later.

**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:** Something added as an accessory or adjunct to a more important item, 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 State law;

- (E) Primarily for outdoor advertising 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.

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

**Conceptual Stage Plan:** A relocation plan developed for use in determining the corridor alignment of a project.

**Contributes Materially:** During the two (2) 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 (2) years are not representative, an alternate consecutive two year period may be utilized, see the ***Right of Way Manual, Section 9.3, Payment for Moving and Related Expenses.***

**Decent, Safe And Sanitary Dwelling:** A dwelling which conforms to all applicable local housing and occupancy codes or in the absence of such codes the standards prescribed in the ***Right of Way Manual, Section 9.2, General Relocation Requirements.***

**Department:** The Florida Department of Transportation.

**Displaced Person:** Any person as defined in this procedure, who is required to move or move personal 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

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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 9.2, General Relocation Requirements*** and moving expenses as provided in the ***Right of Way Manual, Section 9.3, Payment for Moving and Related Expenses; or***
- (D)** As a direct result of rehabilitation or demolition for a project.

**Displacee:** A displaced person.

**Displacement Dwelling:** The dwelling from which a person is required to relocate from due to a transportation project.

**Down payment Supplement:** A payment initially calculated for use in offsetting increased rent, but used by a tenant displacee in the purchase of a replacement dwelling.

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

**Dwelling:** A place to live in, 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 non-housekeeping unit; a mobile home; or any other residential unit.

**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.

**FHPM:** Federal Highway Program Manual.

**FHWA:** Federal Highway Administration.

**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 Residential Moving Cost Schedule:** A method of reimbursing moving expenses to a residential displacee based on a dislocation allowance schedule developed by the Federal Highway Administration.

**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 made by the Department to the owner or the owner's authorized representative to purchase real property for a project, with the following exceptions:

- (A) If the District 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:** Is commonly referred to as a "fixed payment" for non-residential displacee (business/non-profit). This payment is based on net income.

**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 prior to the move 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 9.6, Last Resort Housing.***

**Less Than 90-Day Occupant:** A displaced person who occupied the property to be acquired for less than 90 days prior to or subsequent to the date of initiation of negotiations, see the ***Right of Way Manual, Section 9.6, 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 9.4, 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 are commonly given to secure advances on the unpaid purchase price of real property.

**Nonprofit Organization:** A corporation duly registered with the Florida Secretary of State as a Corporation Not for Profit and exempt from paying federal 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 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, when added to the acquisition price, equals the selling price of the lesser of: a comparable replacement dwelling or the replacement dwelling actually purchased, see *Right of Way Manual, Section 9.4, Replacement Housing Payments*.

**RHP:** Replacement Housing Payment. Any of several types of payments to qualifying displaced persons, including purchase additive, increased interest, incidental expense, rent supplement, and down payment supplement. For proper application, see Section 9.4, Replacement Housing Payments.

**Relocatee:** Displacee.

**Relocation Assistance:** Advisory and/or financial aid to persons and businesses displaced by a public program to assist them in relocating to available residential replacement dwellings and non-residential replacement sites.

**Relocation Needs Assessment Survey:** A survey identifying the relocation assistance needs of all occupants within a project area who must relocate as a direct result of the project, see *Right of Way Manual, Section 9.1.8*.

**Relocation Specialist:** A Right of Way Specialist or other Department representative assigned by the District to provide relocation assistance to displaced persons.

**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 (i.e., 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 and which site is the location of ongoing economic activity.

**Substitute Personal Property:** A personal property item used as a part of a business or farm operation that is purchased to replace an item having a comparable function that 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 of what portion of a tract of land is typical for residential use in the area for replacement housing payment computation purposes.

**Uniform Act:** A phrase which abbreviates reference to **Public Law 91-646** titled **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, as amended.

**Unlawful Occupant:** A person who occupies real property without property right, title or payment of required rent.

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

## 9.1.1 Federal Program Authorization

9.1.1.1 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**.

**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.

9.1.1.2 The Florida Department of Transportation is authorized by **Section 339.09(2), Florida Statutes (F.S.)** and **Section 421.55, F.S.** to comply with the Uniform Act on federally assisted projects.

9.1.1.3 **Federal Regulations 49 Code of Federal Regulations (C.F.R.), Part 24**, regulate the Department's Relocation Assistance Program on federal and federally assisted projects.

9.1.1.4 Under **Section 339.09(3) F.S.**, the Department is authorized to implement a Relocation Assistance Program on non-federal aid projects.

**The Department's Federal Aid Relocation Assistance Regulations** are in **Rule Chapter 14-66, Florida Administrative Code (F.A.C.)**.

## 9.1.2 Program Assurances

**9.1.2.1** In accordance with the provisions of **49 C.F.R., Part 24.4**, assurances of compliance with federal regulations have been submitted to the Federal Highway Administration (FHWA) and approved. Updated assurances shall be submitted to FHWA approximately every five (5) years.

**9.1.2.2** Each time the **Relocation Assistance Procedures** are revised, a copy of the revised procedure shall be submitted to FHWA by the State Relocation Administrator for review and concurrence.

## 9.1.3 Relocation Program at Conceptual Stage

**9.1.3.1** A project is in the Conceptual Stage until such time as its location and design concept is accepted.

**9.1.3.2** A Conceptual Stage Relocation Plan will be developed by the District for each alternate location prior to the corridor public hearing.

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

## 9.1.4 Last Resort Housing Needs at the Conceptual Stage

**9.1.4.1** If an insufficient supply of comparable replacement housing, see **Right of Way Manual, Section 9.2, General Relocation Requirements**, is anticipated at the time a project is scheduled to be underway, the District should include potential Last Resort Housing options as part of the Conceptual Stage Plan.

**9.1.4.2** Documented Last Resort Housing methods, **Right of Way Manual, Section 9.6, Last Resort Housing**, will be provided for each alternate route under study.

## 9.1.5 Conceptual Stage Plan Data Sources

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

**9.1.5.2** All data must be dated according to its original compilation date.

**9.1.5.3** 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.

#### 9.1.5.4 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.

9.1.5.5 Primary sources should be utilized only when secondary sources cannot supply the information needed.

### 9.1.6 Data to be Obtained for Conceptual Stage Plans

The District Relocation Section will be responsible for providing the following Conceptual Stage Plan Data for inclusion in the ***Environmental 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 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, 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.
- (C) 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 contacts, if any, with local governments, organizations, groups and individuals regarding residential and business relocation impacts, including any measures or coordination needed to reduce general and/or specific impacts. Specific financial and incentive programs or opportunities (beyond those provided by the **Uniform Act**) to residential and business displaced persons to minimize impacts may be identified, if available, through other agencies or organizations;
- (G) A statement that relocation resources are available to all relocatees without discrimination;
- (H) A summary of any potential hazardous waste concerns.
- (I) An identification of any publicly owned lands, as defined in the **Right of Way Manual, Section 7.10, Acquisition of Rights of Way from 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 7.10***, shall be documented.

### **9.1.7 Data Responsibilities for Conceptual Stage Plan**

The District Relocation Section and District Environmental Management Office are jointly responsible for the development and inclusion of socioeconomic data in the environmental document and, as such, should coordinate data collection to avoid duplication of efforts.

### **9.1.8 Authority for Needs Assessment Survey**

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

**9.1.8.2** The State Relocation Administrator is responsible for preparing the Department's assurance for submittal to FHWA.

### **9.1.9 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?
- (C) What are the options for addressing the special needs of those that are displaced?
- (D) What is the most efficient and effective way to accomplish the project goals? How much lead time will be required?
- (E) 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?

- (F) What resources are available to provide advisory assistance?
- (G) Are there any potential hazardous waste concerns on the project?
  - (1) A report must be provided to the District Environmental Management Office 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 9.3, Payment for Moving and Related Expenses.***

### **9.1.10 Requirements for Needs Assessment Survey**

**9.1.10.1** The ***Needs Assessment Survey*** will contain an inventory of individual and business needs, including the characteristics of families and businesses. This information should be obtained upon a 100% occupancy survey rather than a sampling survey.

**9.1.10.2** The survey will also contain a review of needs versus resources, including the identification of potential relocation problems. Documentation will include:

- (A) The estimated amount of lead time required to carry out a timely, orderly and equitable relocation program;
- (B) If relative, identification of resource limitations, zoning issues, financial concerns and functional replacement requirements.

**9.1.10.3** 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, assist in the actual move, and in the reinstallation of machinery and/or personal property.
- (C) Every effort must be made to coordinate discussion between the appraiser, landowner, tenant and 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.

### **9.1.11 Identification of Last Resort Housing Needs**

**9.1.11.1** If research indicates the potential need for Last Resort Housing see *Right of Way Manual, Section 9.6, Last Resort Housing*. The *Needs Assessment Survey* will address the means by which it will be provided.

**9.1.11.2** 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.

### **9.1.12 Identification of Business Displacees**

**9.1.12.1** During the relocation survey phase, business displacees must be contacted no later than the date negotiations are initiated on the project.

**9.1.12.2** At the discretion of the District Right of Way Manager, all business displacees will be identified and listed as owner or tenant and their potential eligibility for business damages noted. The completed list will be transmitted to the person in the district responsible for oversight of business damages on or before the date negotiations are initiated on the project.

### **9.1.13 Uniform Relocation Assistance and Real Property Acquisition Report**

- (A) The State Relocation Administrator will submit a report annually to FHWA.
- (B) The report will be compiled from data supplied by the Right of Way Management System (RWMS). If the data from the RWMS is inconclusive or incomplete the respective Districts will be required by the State Relocation Administrator to submit the appropriate data.
- (C) The report will be prepared and submitted to FHWA on or before November 1, of each year.

## **9.1.14 Special Relocation Reports**

**9.1.14.1** If the Central Office requires a special relocation report of a District, such request will be in writing to the District Right of Way Manager.

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

**9.1.14.3** If the District is unclear on the request or if the deadline cannot be met, the District must contact the State Relocation Administrator within three days of receipt of the request.

## **9.1.15 Relocation Records**

**9.1.15.1** 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 9.2, General Relocation Requirements***.

**9.1.15.2** The District Records and Funds Management Administrator is responsible for proper maintenance of these records and for assuring their availability at reasonable hours for inspection by representatives of the Federal Government, Central Office and the public.

**9.1.15.3** All records will be kept neatly, accurately, and thoroughly by the Districts and Central Office.

**9.1.15.4** All original documentation will be placed in the District permanent file.

**9.1.15.5** The Right of Way Management System must be kept current.



## **HISTORY**

04/15/99; 9/6/2005; 10/02/2007; 7/28/2009; 01/21/11, 10/01/2014