

Relocation Assistance
Available to
Non-Residential Occupants

(Business, Farms and Non-Profit Organizations)



Summarizing the Government Code of the State of California §7260, et seq. and the California
Code of Regulations, Title 25, Chapter 6

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Introduction

Government programs designed to benefit the public as a whole often result in the acquisition of private property, and sometimes in the displacement of people from their residences, businesses, non-profit organizations, or farms. When Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and amended it in 1987 it recognized the need to balance the right of a City and County to acquire property with the rights of the occupants of the property being affected. The State of California adopted similar laws and regulations that provide for the rights of persons affected by public and publicly assisted projects. The Government Code of the State of California §7260, *et seq.* and the California Code of Regulations, Title 25, Chapter 6 outline a public agency's rights and responsibilities to acquire property and to provide Relocation Assistance. This Relocation Assistance Program Handbook is an attempt to provide a summary of those laws and regulations. Certainly, the information provided in this brief brochure cannot provide answers to all of the specific questions and situations that might arise in the relocation of a business. Eligible occupants will be provided with a Relocation Advisor who can explain how the City and County of San Francisco's Relocation Assistance Program relates to specific relocation issues.

Each impacted business occupant or non-profit organization should review this brochure carefully and present any questions to the City and County's Relocation Advisor. Section 1 of this brochure provides information about Relocation Advisory Assistance. Section 2 contains information for payments that are available to displaced businesses and non-profit organizations. Section 3 provides additional information that is important to understand regarding the Relocation Assistance Program.

If you are required to move as a result of a publicly assisted program or project, a Relocation Advisor will contact you and will provide you with assistance. Your Relocation Advisor will answer your specific questions and will provide additional information that you may need to help you to understand the Relocation Assistance Program.

This brochure is provided to you as a courtesy and is intended to provide general information concerning the Relocation Assistance Program. Further details regarding relocation assistance and benefits are set forth in the Government Code of the State of California §7260, et seq. and the California Code of Regulations, Title 25, Chapter 6. In the event of any conflict, California Law and Regulations shall be controlling. Please contact your Relocation Advisor for additional information regarding the Relocation Assistance Program.



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Important Terms Used in This Handbook

City and County

Relocation Advisory Assistance and Relocation Payments are administered by the City and County of San Francisco (City and County). The City and County is responsible for the acquisition of real property and/or the displacement of persons from property to be used for a publicly funded program or project. The City and County has contracted with Associated Right of Way Services, Inc. to administer the Relocation Assistance Program. However, the City and County remains responsible for the program.

Displaced Person

Any person who moves from real property, or who moves personal property from real property as a direct result of:

(1) a written notice of intent to acquire by the City and County or as a result of the acquisition of real property in whole or in part, by the City and County or by any person having an agreement with or acting on behalf of the City and County, or as the result of a written order from the City and County to vacate the property for public use; or

(2) rehabilitation, demolition or other displacing activity undertaken by the City and County or by any person having an agreement with or acting on behalf of the City and County of real property on which the person is in lawful occupancy or conducts a business, and the displacement, lasts longer than 90 days. This definition includes those persons displaced as a result of a public action where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the City and County is otherwise empowered to acquire the property to carry out the public use.

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 the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, an outdoor advertising display or displays, when the display(s) must be moved as a result of the project. In order to qualify as an eligible business occupant, the business must not be in unlawful occupancy.

Farm Operation

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

Non-profit Organization

A public or private entity that has established its non-profit status under applicable Federal or State law.

Program or Project

An activity or series of activities undertaken by the City and County.

Small Business

A business having not more than 500 employees working at a site of economic activity being acquired or displaced by a program or project. A site occupied solely by outdoor advertising signs, displays, or devices does not qualify as a small business for purposes of the reestablishment expense benefit.

Outdoor Advertising Businesses

A displaced person who conducts a lawful activity primarily for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of outdoor advertising displays is entitled to payment for the lesser of (1) the reasonable cost of moving such displays, or (2) the in-place value of the displays.

Unlawful Occupancy

A non-residential occupant is considered to be in unlawful occupancy if the occupant has been ordered to move by a court of competent jurisdiction or if the occupant's tenancy has been lawfully terminated by the owner for cause, the tenant has vacated the premises, and the termination was not undertaken for the purpose of evading relocation assistance obligations.

Section 1 – Relocation Advisory Assistance

A Relocation Advisor will work with each eligible displaced business in order to guide them through the Relocation process and to help them to locate a suitable replacement property. Relocation services are provided by Associated Right of Way Services, Inc. It is their goal and desire to be of service to you, and to assist you in any way possible to help you successfully relocate. Your Relocation Advisor is available to help and to advise you, so please make full use of their services. Do not hesitate to ask questions to ensure that you fully understand all your rights and benefits.

An individual with a disability will be provided the assistance needed to understand their rights under this program and assistance to locate and to move to a replacement site. Please notify your Relocation Advisor if you need any additional assistance to understand your rights or to secure a replacement site.

When your Relocation Advisor initially contacts you, they will interview you in order to explain the Relocation Program and to understand your current operation, facility and operating costs. Your Relocation Advisor will also ask you to describe the type of replacement site you are interested in finding. Your Relocation Advisor will explain the assistance and payments that you may claim in accordance with your eligibility. It is important that you explain any anticipated relocation problems to your Relocation Advisor. During the initial interview the Relocation Advisor will ask many questions to determine your specific relocation needs. After the initial interview, your Relocation Advisor will deliver written information regarding your rights as a displaced person and will forward information on available replacement sites as that information becomes available.

Your Relocation Advisor will continue to work with you to help you to plan your relocation to a replacement site. Your Relocation Advisor will help you to understand which costs are compensable under the Relocation Assistance Program and which costs are not. Your Relocation Advisor will also help to determine the need for outside specialists to plan for the move and the reinstallation of your personal property.

A representative of the City and County will work with you, an appraiser, and the owner of the real property (if you are a tenant) to help to identify and to resolve any issues regarding what is real estate and what is personal property to be relocated. You will be asked to provide a copy of your lease agreement (if applicable) to help to determine the ownership of the furniture, fixtures and equipment.

The goal is to achieve a successful relocation back into the community. Therefore, it is important that you do everything a prudent business owner would do to maintain the business. This includes working closely with your Relocation Advisor to evaluate and prepare for the move and searching out leads to available replacement sites.

Your Relocation Advisor is also available to provide information to possible sources of funding and assistance from other local, State, and Federal agencies. If you have special problems, the Relocation Advisor 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 to receive the help you need.

Section 2 – Available Relocation Payments

An eligible business may request reimbursement on the basis of actual, reasonable moving costs and related expenses or, under certain circumstances, a fixed payment. 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.

You must provide your Relocation Advisor with an inventory of the personal property to be moved and advance notice of the approximate date of the move. Your Relocation Advisor will need to inspect the personal property at the displacement and replacement sites, and to monitor the move in order to assess your eligibility for certain moving payments.

Actual, Reasonable, and Necessary Moving Costs

You may be paid the actual, reasonable and necessary cost of your move when the move is performed by a professional mover or when you elect to move yourself, however, all your moving costs must be supported by paid receipts or other evidence of expenses incurred. In addition to the transportation costs of your personal property, certain other expenses may 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.

- Transportation of persons and property not to exceed a distance of 50 miles from the site from which the business was displaced, except where relocation beyond 50 miles is justified;
- Packing, crating, unpacking and uncrating personal property;
- Storage of personal property for a period generally not to exceed 12 months, as determined by the City and County to be necessary in connection with relocation;
- Insurance of personal property while in storage or transit; and
- The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his agent or employee) in the process of moving, where insurance covering such loss theft or damage is not reasonable available.
- The cost of disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the City and County, including connection charged imposed by public utilities for starting utility service.
- The cost of modifying the machinery, equipment or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply. These costs must be directly related to modifications of personal property.
- The cost of any license, permit or certification that is required to the extent such cost is necessary to the reestablishment of the operation at a new location.

- The reasonable cost of any professional service (including, but not limited to, architects', attorneys' or engineers' fees, or consultants' charges) necessary for the planning of the move of personal property, moving the personal property, or installation of relocated personal property at the replacement site.

All costs claimed under this section must be reasonable and necessary. The costs will only be considered if the costs could not have been avoided or substantially reduced at an alternate available site.

This is not an inclusive list of moving related expenses. Your Relocation Advisor 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 operation, the City and County may approve a payment not to exceed the lower of two acceptable bids or estimates obtained from qualified moving firms, or moving consultants. A low cost or uncomplicated move may be based on a single bid or estimate at the City and County's discretion. The advantage of this moving option is that it relieves you from documenting all moving expenses because the payment is limited to the amount of the lowest acceptable bid or estimate. The City and County may make the payment without additional documentation.

Direct Loss of Tangible Personal Property

Displaced businesses 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 is based on the lesser of (1) the value of the item for continued use at the displacement site less the proceeds from its sale, or (2) the estimated reasonable cost of moving the item. Your Relocation Advisor will explain this procedure in detail if this is a consideration for you.

Substitute Personal Property

Where an item of personal property which is used in connection with any business is not moved but is replaced with a comparable item, the business may request reimbursement in an amount not to exceed the lesser of (1) the replacement cost, minus any net proceeds from its sale, or (2) the estimated cost of moving the original item.

Low Value High Bulk Property

If the City and County considers a personal property item to be of low value and high bulk, and moving costs are disproportionate to its value (such as minerals, metals, rock, or topsoil), the allowable moving cost payment shall not exceed the lesser of the amount which would be received if the personal property were sold at the site, or, the replacement cost of a comparable quantity delivered to the new business location.

Searching Expenses for Replacement Property

Displaced businesses are entitled to reimbursement for actual, reasonable expenses incurred in searching for a replacement property, not to exceed \$1,000. 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 City and County.

Fees paid to real estate agents or brokers to locate a replacement site may be reimbursed, exclusive of any commissions or fees related to the purchase of the site.

Advance Payments

An eligible displaced business may be paid for anticipated moving expenses in advance of the actual move whenever later payment would result in financial hardship. Please discuss this option with your Relocation Advisor.

Actual Reestablishment Expenses A small business may be eligible for a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing the enterprise at a replacement site. To qualify, the business must have not more than 500 employees working at the site who will be displaced by a program or project.

Reestablishment expenses may include, but are not limited to:

- Repairs or improvements to the replacement real property required by Federal, State, and local laws, codes or ordinances.
- Modifications to the replacement real property to accommodate the business operation or to make the replacement structures suitable for the operation.
- Construction and installation costs of exterior signs to advertise the business.
- Provision of utilities from the right of way to improvements on the replacement site.
- Redecoration or replacement of soiled or worn surfaces at the replacement site such as painting, wallpapering, paneling, or carpeting.
- Licenses, fees and permits when not paid as part of moving expenses.
- Feasibility surveys, soil testing and marketing studies.
- Advertising the replacement location.
- Professional services in connection with the purchase or lease of a replacement site.
- Estimated increased costs 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; utility charges (excluding impact fees).
- Impact fees or one-time assessments for anticipated heavy usage.
- Other items that the City and County considers essential for reestablishment.

The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable and necessary, or otherwise eligible:

- Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
- Purchase of manufacturing materials, production supplies, production inventory, or other items used in the normal course of the business operation.
- Interior or exterior refurbishments at the replacement site which are for aesthetic purposes.
- Interest on money borrowed to make the move or purchase the replacement property.
- Payment to a part-time business in the home which does not contribute materially to the household income.

Fixed Payment for Actual Moving Expenses (“In Lieu Payment”)

Displaced businesses 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 City and County must determine the following:

- Business owns or rents personal property that must be moved due to the displacement.
- Business cannot be relocated without a substantial loss of its existing patronage.
- Business cannot be 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 City and County.
- Business contributed materially to the income of the displaced business operator during the two taxable years prior to displacement.

Eligibility requirements for non-profit organizations are slightly different than business requirements. The computation for non-profit 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. If you are interested in a fixed payment, please consult your Relocation Advisor for additional information.

Computation of the Fixed Payment

The fixed payment for a displaced business is based upon the average annual net earnings of the business for the two taxable years immediately preceding the year the business was displaced. You must provide the City and County 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 City and County. The City and County may choose to accept alternative tax years if the business submits a request in writing explaining the desired variance.

Example of a Fixed Moving Payment Computation Business Displaced in 2011	
2014 Annual Net Earnings \$16,500	2015 Annual Net Earnings \$18,500
Average Annual Net Earnings $\$16,500 + \$18,500.00 = \$35,000 / 2 = \$17,500$	
Fixed Payment = \$17,500	

Section 3 – Additional Information

Filing of Claims for Payment

All claims filed with the City and County shall be submitted within 18 months of the later of (1) the date on which the claimant receives final payment for the property or, (2) the date on which the property is vacated. Most claims will be paid within three weeks of submission of a fully documented claim for payment.

An eligible displaced business may be paid for anticipated moving expenses in advance of the actual move whenever later payment would result in financial hardship. Please discuss this option with your Relocation Advisor.

Relocation Payments are not Considered to be Income

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code, Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

No relocation payment received will be considered income or resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any other provisions of law.

Right to Appeal

Any aggrieved person may file a written appeal with the head of the City and County if the person believes the City and County 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, you will be given 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 City and County will promptly review your appeal and consider all pertinent justification and information available to ensure a fair and full review. The City and County 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 City and County will advise you of your right to seek judicial review of the City and County decision.

Additional information concerning the City and County's Appeal Board can be found at <http://sfmohcd.org/sites/default/files/FileCenter/Documents/6329-Guide.pdf>

Nondiscrimination

Under Title VIII of the Civil Right Act of 1968 and later acts and amendments make discriminatory practices in the purchase and rental of most residential units illegal if it is based on race, color, religion, sex, or national origin. Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et. seq.] sets forth the policy of the United States, within constitutional limits to ensure that all services and/or benefits will be administered without regard to race, color, national origin, or sex.

Eviction Policy

The City and County may be required to evict tenants to allow for the construction of a project. An eviction does not affect an eligible occupant's right to receive relocation assistance under the City and County's Relocation Assistance Program.

Right to Claim Loss of Business Goodwill

California law (California Civil Code of Procedure §1263.510) provides that under certain circumstances a business may be compensated for a loss of business goodwill if the owner proves all of the following:

1. The loss is caused by the taking of the property or the injury to the remainder.
2. The loss cannot reasonably be prevented by relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
3. Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
4. Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality and any other circumstances resulting in probable retention of old or acquisition of new patronage.

If you choose to make a claim for loss of business goodwill, please contact Jeff Suess at the City and County of San Francisco's Real Estate Division at (415) 554-9873 or at jeff.suess@sfgov.org.