

CHAPTER 4

Relocation Payments - Businesses, Farms & Nonprofit Organizations

- 4-1 PURPOSE OF THIS CHAPTER. This Chapter describes the relocation payments to be provided to a displaced business, farm or nonprofit organization. Required advisory assistance is described in Chapter 2. (Note: The URA regulations require a personal interview with each displaced business. See 49 CFR 24.205(c)(2)(i) for additional information and a list of minimum interview requirements.)
- 4-2 PAYMENTS FOR MOVING AND RELATED EXPENSES. ¹
- A. Two general moving options are available to an eligible displaced business, farm or nonprofit organization under the URA:
- 1) Payment of actual, reasonable and necessary moving and related expenses.
In addition to the payment of actual, reasonable and necessary moving costs, a small business (defined in 49 CFR 24.2(a)(24)) may also be eligible for the actual, reasonable and necessary costs of reestablishment **up to \$25,000**; or
 - 2) A fixed payment, in lieu of payment of actual, reasonable and necessary moving costs and reestablishment expenses. An eligible business, farm or nonprofit organization may be eligible for a fixed payment of no less than \$1,000 and no more **than \$40,000** (see 49 CFR 24.305).
- 4-3 PAYMENT FOR ACTUAL REASONABLE MOVING & RELATED EXPENSES (49 CFR 24.301(d)).
- A. Any business, farm or nonprofit organization that qualifies as a displaced person (defined in 49 CFR 24.2(a)(9); see also Chapter 1, Paragraph 1-4, I. of this handbook) is entitled to payment of actual moving and related expenses, as the agency determines to be reasonable and necessary.
- 1) Moves From a Business, Farm or Nonprofit Organization. Personal property, as determined by an inventory, from a business, farm or nonprofit organization may be moved by one or a combination of the methods described at 49 CFR 24.301(d)(1) & (d)(2).
 - 2) Eligible Actual Moving Expenses. Eligible expenses for moves from a business, farm or nonprofit organization include those expenses described in 49 CFR 24.301(g)(1) through (g)(7), (g)(11) through (g)(18) and 24.303.

¹ See CPD-14-09 Moving Ahead for Progress in the 21st Century Act (MAP-21)

3) Actual Direct Loss of Tangible Personal Property (49 CFR 24.301(g)(14) and Appendix A, Section 24.301(g)(14)(i) & (ii)).

- a) Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for the actual direct loss of tangible personal property which is incurred as a result of the move or discontinuance of the operation. This payment provides a displaced business with the option to receive an alternate payment for certain items of personal property it may not want or need to move to the replacement location. This payment is also a useful option for businesses which decide to go out of business as a result of displacement. Generally, this payment option is used in connection with outdated equipment, old merchandise or other items a displaced business no longer wants or needs for its business operation.
- b) This payment is generally based on the lesser of the value of the item for continued use "as is" at the displacement site minus the proceeds from its sale, *or*, the estimated cost of moving the item, but with no allowance for storage nor any costs to reconnect equipment not in use or in storage. It is also important to note the cost of reinstallation for equipment in use does not include code modifications that would be required at the replacement location.

4) Purchase of Substitute Personal Property (49 CFR 24.301(g)(16)).

- a) Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for substitute personal property in connection with a move to the replacement location. This payment generally provides a displaced business with the ability to modernize or replace equipment rather than move outdated or obsolete items.
- b) This payment is generally based on the lesser of the cost of the substitute item, including installation cost, minus the proceeds from the sale or trade of the replaced item, *or*, the estimated cost of moving and reinstalling the replaced item, but with no allowance for storage. The cost of moving and reinstalling the replaced item includes code modifications that would be required at the replacement location.

5) Low Value/High Bulk (49 CFR 24.301(g)(18)). If an agency considers an item of personal property to be of low value and high bulk, and the moving costs exceed its value (such as stockpiled sand, gravel, minerals, metals, etc.), the agency may consider offering this payment option. The allowable moving cost payment shall not exceed the lesser of the amount

which would be received if the property were sold at the site, or, the replacement cost of a comparable quantity delivered to the new business location. If the agency considers using this payment option, it is important for the agency to distinguish between items which may have been acquired as real estate and, therefore, are not considered personal property eligible for moving. Additionally, since the displaced business is not actually receiving a payment to move the personal property, the displaced business is not obligated to move the personal property. An agency should therefore consider the consequences of leaving the personal property at the displacement site.

- 6) Ineligible Moving and Related Expenses (49 CFR 24.301(h)).
- 7) Notification and Inspection (49 CFR 24.301(i)). In order to be eligible for a payment under 49 CFR 24.301, a displaced business, farm or nonprofit organization must provide the agency with reasonable advance notice of the approximate date of the move or disposition of the personal property, an inventory of items to be moved; and permit the agency to make inspections of the personal property at both the displacement and replacement location and monitor the move. Agencies must inform the displaced business, farm or nonprofit organization in writing of these requirements as soon as possible after the initiations of negotiations (ION) (as defined in 49 CFR 24.2(a)(15); see also Chapter 1, Paragraph 14, T. of this handbook).
- 8) Personal Property Inventory (49 CFR 24.301(i)(1), 24.301(d), 24.103(a)(2)(i) & Appendix A, Section 24.103(a)(1)). An inventory of personal property to be moved is required for all businesses, farms and nonprofit organizations. An inventory provides the basis of all nonresidential moves. In connection with acquisition-related displacement, an inventory helps to differentiate between items considered real property in the appraisal which will be acquired and the personal property which will need to be moved. An inventory is especially important in situations where a businesses' inventory fluctuates in order to establish what is on hand to be moved. Substantial changes from the original or pre-move inventory should be addressed or reflected in an adjusted cost for the move. The inventory stage of the moving process is critical and early involvement by relocation staff is essential.
- 9) Transfer of Ownership of Personal Property (49 CFR 24.301(j)).

4-4 PERSONAL PROPERTY ONLY MOVES (49 CFR 24.301(e) and Appendix A, Section 24.301(e)). In some cases a displaced person is required to move personal property from real property but is not required to move from a business, farm, or nonprofit organization. In such a situation, eligible expenses include those described in 49 CFR 24.301(g)(1) through (g)(7) and (g)(18). One example

of a personal property only move could be moving storage containers located on a portion of real property being acquired. The business is not impacted and can still operate on the remainder of the site after the acquisition. The agency may pay to move the containers to the remainder site or another site.

4-5 RELATED NONRESIDENTIAL ELIGIBLE EXPENSES (49 CFR 24.303 and Appendix A, Section 24.303(b))

A. In addition to eligible expenses for moving personal property provided in 49 CFR 24.301, the following expenses shall be paid if the agency determines that they are actual, reasonable and necessary.

- 1) Connection to Available Nearby Utilities from the Right-of-Way to Improvements at the Replacement Site. This payment covers extending utilities (electricity, water, gas, sewer, etc.) from the access point (right-of-way) to the new business site (improvements), provided such costs are actual, reasonable and necessary.
- 2) Professional Services to Determine a Sites' Suitability for the Displaced Person's Business Operation. This payment covers professional services performed prior to the purchase or lease of the replacement site to determine its suitability for the displaced business' operation. These services may include soil testing, feasibility and marketing studies, but do not include fees or commissions related to the purchase or lease of the site. Agencies should consider establishing a reasonable pre-approved hourly rate for these services in advance of their use. If there are questions pertaining to what a reasonable rate for these services may be, the agency should research rates other providers are charging for comparable services. It should be noted, however, that if the displaced business has these services provided by regular employees or contractors of the business, such as a staff engineer or an attorney on retainer, then these services would be considered the ordinary costs of the business and would not be eligible for reimbursement.
- 3) Impact Fees or One Time Assessments for Heavy Utility Usage as Determined Necessary by the Agency. This payment covers reimbursement of impact fees for anticipated heavy utility usage when the move requires the business to move to a new location where impact fees for anticipated heavy utility usage are being charged. If suitable replacement sites or properties are available where impact fees for anticipated heavy utility usage are not required, reimbursement is at the agency's discretion, based on what is reasonable and necessary. The regulation limits impact fees or one time assessments to anticipated heavy utility usage, (i.e., water, sewer, gas, and electric). Impact fees or one time assessments in connection with roads, schools, fire stations, regional drainage improvements, parks, etc. for example, are not eligible for

reimbursement. Relocation advisory services are crucial when considering potential eligibility of expenses under this section of the regulations.

- 4-6 REESTABLISHMENT EXPENSES (49 CFR 24.304). In addition to eligible expenses for moving personal property provided in 49 CFR 24.301 and related nonresidential eligible expenses provided in 49 CFR 24.303, a small business (as defined in 49 CFR 24.2(a)(24)), farm, or nonprofit organization may be eligible for a payment, not to exceed \$-25,000, for expenses actually incurred in relocating and reestablishing at a replacement site.

A. Eligible Reestablishment Expenses (49 CFR 24.304(a)).

B. Ineligible Reestablishment Expenses (49 CFR 24.304(b)).

- 4-7 FIXED PAYMENT FOR MOVING EXPENSES (49 CFR 24.305 and Appendix A, Section 24.305).

A. In lieu of payment for all actual reasonable moving expenses under 49 CFR 24.301, all related nonresidential eligible expenses under 49 CFR 24.303 and all reestablishment expenses under 49 CFR 24.304, an eligible displaced business, farm or nonprofit organization may choose a fixed payment for moving expenses. Such fixed payment shall be not less than \$1,000 and no **more than \$40,000**. Although not a requirement, this payment is a useful option for businesses which may choose to go out of business as a result of relocation. It also helps reduce the administrative burden for both the displaced business and the agency, since no documentation of actual moving or reestablishment expenses is required.

B. A fixed payment is generally based on a business' average annual net earnings. However, a fixed payment for a nonprofit organization is determined differently and is based on its average gross revenues minus administrative expenses. The regulations and appendix provide detailed information on eligibility requirements as well as computation methods for this payment. It is important to remember that if a displaced business, farm or nonprofit organization chooses this payment, it is then precluded from receiving reimbursement for all other moving and reestablishment expenses.

- 4-8 TEMPORARY RELOCATION (49 CFR 24.2(a)(9)(ii)(D) and Appendix A, Section 24.2(a)(9)(ii)(D)). Agencies must exercise caution and plan accordingly, if a proposed project requires a business to temporarily cease operations due to rehabilitation. In the event a business will be shut down for any length of time due to rehabilitation of a site or building, it may be either: 1) temporarily relocated and reimbursed for all reasonable out of pocket expenses or 2) be determined to be permanently displaced at the agency's option.

