

760 CMR 27.00: RELOCATION ASSISTANCE

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27.01: Purpose, Effective Date, Coverage and Definitions

(1) Purpose. The purpose of 760 CMR 27.00 is:

- (a) To ensure fair, equitable, and consistent treatment of displaced persons and businesses.
- (b) To minimize the adverse impact of displacement on residents and businesses in order to help maintain the economic and social well-being of communities.
- (c) To prevent the closure of businesses, to the maximum extent feasible.

In applying the requirements of 760 CMR 27.00, each displacing agency and relocation advisory agency should make every reasonable effort to understand the needs of displaced persons and businesses, and recognize the existence of special circumstances of displaced persons.

(2) Effective Date. The effective date of 760 CMR 27.00 is July 1, 1998. On that date, prior relocation regulations promulgated on January 1, 1978 were replaced in their entirety by 760 CMR 27.00, provided that the prior regulations shall be applicable to covered activities for which a relocation plan has been approved by the Bureau prior to that date, or for which a relocation plan for a project with Federal Funding was submitted to the Bureau for information purposes.

(3) Coverage. The policies and requirements for relocation assistance and payments apply to the following activities if they result in the displacement of persons or businesses (the “covered activities”):

- (a) Any taking of real property by eminent domain, negotiated sale, or other means by any public agency or other entity with eminent domain powers.
- (b) State- aided urban renewal.
- (c) Privately-financed urban renewal which requires approval under M.G.L. c. 121B.
- (d) Construction of state-aided public housing.
- (e) Construction of state colleges and other public facilities.
- (f) Construction of local schools .
- (g) Local public works and other public improvements.
- (h) Projects undertaken in accordance with M.G.L. c. 121A.
- (i) Any other activity for which relocation assistance is provided under the provisions of M.G.L. c. 79A.

(4) Coverage with Limitation. Persons displaced by projects undertaken by a person utilizing publicly issued, insured or subsidized mortgage financing shall be eligible for actual, reasonable, documented expenses in moving personal property in accordance with M.G.L. c. 79A, § 14. Persons displaced by the order of a public agency to vacate real property acquired by a public agency for the enforcement of 105 CMR 410.000: Article II of the State Sanitary Code shall be eligible for relocation payments for actual, reasonable, documented expenses in moving personal property in accordance with M.G.L. c. 79A, § 13.

(5) Definitions. The definitions in M.G.L. c. 79A, § 1 apply to 760 CMR 27.00. In addition, the following definitions shall apply:

Comparable function item - an item of personal property which is the same or reasonably similar to an item of personal property not moved but which is substituted by a displaced business. Such an item should be the same relative size as the item not moved, but need not be exactly the same so long as the function the item performs for the business is the same.

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Displacing agency - any agency or person carrying out a covered activity which causes or will cause a legal occupant to become a displaced person.

Displaced person - the definition of "displaced person" is set out in M.G.L. c. 79A, § 1 as follows: "any person who, on or after the effective date of this act, moves from real property, or moves his personal property from real property as a result of the acquisition of such property or the receipt of a written order to vacate real property, for a program or project undertaken by an agency or person required to provide relocation assistance under this act." In addition, as used herein, persons considered not displaced include the following:

- (a) A person who moves before the initiation of negotiations, unless the displacing agency determines that the person was displaced as a direct result of the program or project; or
- (b) A person who initially enters into occupancy of the property after the date of its acquisition for the project; or
- (c) A person who has occupied the property for the purpose of obtaining relocation assistance under M.G.L. c. 79A; or
- (d) An owner-occupant who moves as a result of an acquisition as described in 49 CFR 24.101(a)(1) and (2), as amended, or as a result of the rehabilitation or demolition of real property. (However, the displacement of a tenant as a direct result of a any acquisition, rehabilitation, or demolition for a state or state assisted project is subject to this part); or
- (e) A person who the displacing agency determines is not displaced as a direct result of a partial acquisition; or
- (f) A person who, after receiving a notice of relocation eligibility, is notified in writing that they will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual obligations entered into after the effective date of the notice of relocation eligibility; or
- (g) An owner-occupant who voluntarily conveys his or her property, as described at 49 CFR 24.101(a)(1) and (2) as amended, after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the displacing agency will not acquire the property. In such cases, however, any resulting displacement of a tenant would result in the tenant being considered a displaced person; or
- (h) A person who retains the right of use and occupancy of the real property for life following its acquisition by the displacing agency; or
- (i) A person who is determined to be in unlawful occupancy prior to the initiations of negotiations or a person who has been evicted for cause, under applicable law.

Dwelling - the definition of "dwelling" is set out in M.G.L. c. 79A, § 1 as follows: "a single-family building, single-family unit, including a non-housekeeping unit, in a two-family or multifamily building, a unit of a condominium or cooperative housing project, a manufactured home, or other residential unit." In addition, as used herein, the term means the place of permanent or customary and usual residence of a person.

Initiation of negotiations - the definition of "initiation of negotiation" is set out in M.G.L. c. 79A, § 1, as follows: "the date the acquiring agency makes the initial written offer to the owner of real property to be acquired for a project of an amount established by the agency as just compensation for the property. In instances where acquisition does not occur, initiation of negotiations shall mean the date of vacating." In addition, as used herein, the term means the date the acquiring agency makes the initial written offer to the owner of real property to be acquired for a project of an amount established by the agency as just compensation for the property in cases where displacement results from the acquisition of real property by a public agency. If the public agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the actual move of the person from the property. In cases where displacement is caused by rehabilitation, demolition, or privately undertaken acquisition of real property (and there is no related acquisition by a public agency) then the "initiations of negotiations" shall mean the notice to the person that he or she will be displaced by the project or, if there is no such notice (other than a notice of non-displacement) the actual move of the person from the property.

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Relocation advisory agency - a relocation agency as defined in M.G.L. c. 79A, § 2.

Tenant - a person who has the temporary legal use and occupancy of real property owned by another.

Unlawful occupancy - A person is considered to be in unlawful occupancy of real property if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the displacing agency to be a squatter who is occupying the real property without the permission of the owner and otherwise has no legal right to occupy the property under State law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy.

Advice and Assistance. Upon request, the Bureau shall provide advice and assistance in implementing and interpreting 760 CMR 27.00.

27.02: Qualification of Relocation Advisory Agencies by the Bureau

(1) General. No acquisition (as defined in M.G.L. c. 79A, § 1) of real property or other covered activity which involves the displacement of legal occupants shall occur until a relocation advisory agency has been qualified by the Bureau to provide relocation assistance.

(2) Procedure for Qualification.

(a) At a reasonable time before either the anticipated date of property acquisition or project commencement, the displacing agency responsible for providing relocation assistance shall request that it be qualified by the Bureau as a relocation advisory agency, or shall request that another entity or person be qualified by the Bureau as a relocation advisory agency.

(b) A displacing agency requesting qualification of a relocation advisory agency for a particular project shall provide the Bureau with information demonstrating that the proposed relocation advisory agency has suitable staff capable of providing relocation assistance for a particular project.

(c) In determining whether a displacing agency or other entity or person(s) are qualified to be a relocation advisory agency for a particular project, the Bureau shall consider work experience and educational background of staff, the capacity of staff to provide the necessary assistance in light of the anticipated complexity of the project, and any other criteria which the Bureau may, from time to time, specify in standards for qualification of relocation advisory agencies. All such standards shall directly pertain to ensurance of high-quality relocation assistance.

(d) A displacing agency may request that it be qualified by the Bureau as a relocation advisory agency for a specified period of time, not to exceed three years, rather than for a particular project. Displacing agencies that are qualified as relocation advisory agencies for a specified period of time shall be deemed qualified for particular projects during the specified period of time. The Bureau's qualification of a displacing agency for a specified period of time may include the approval of alternative procedures to those specified in 760 CMR 27.04(4) (Administration of Relocation Payments). In order for a displacing agency to be qualified as a relocation advisory agency for a specified period of time, the Bureau must find that the displacing agency:

1. Is staffed with sufficient full-time employees who are experienced in relocation and capable of providing effective relocation assistance in a timely manner for all anticipated projects;
2. Is likely to undertake more than one covered activity which results or will result in the displacement of legal occupants.
3. Does not primarily rely on relocation consultants to provide relocation assistance.

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(e) If a qualified relocation advisory agency is not providing adequate relocation assistance for a particular project or projects, the Bureau may withdraw qualification of the relocation advisory agency for such project or projects. Prior to withdrawing qualification, the Bureau shall provide the displacing agency and the relocation advisory agency of written notice of the material facts on which the Bureau relies, and allow reasonable opportunity for the relocation advisory agency to take corrective action. If adequate corrective action has not been taken within 60 days, then the Bureau may order the displacing agency to cease all covered activities no less than five days from receipt of such order. Any such order shall contain specification of the inadequacy of the relocation assistance. If the displacing agency disputes that relocation assistance is inadequate, it may request a hearing by the Department as to whether there is good cause for withdrawing qualification of the relocation advisory agency. The hearing shall be subject to the provisions of M.G.L. c. 30A. The Department shall promptly conduct the hearing and shall promptly render its written decision. The Department may permit covered activities to continue pending its written decision.

(3) Project Responsibility. Whether or not the displacing agency is the relocation advisory agency, the displacing agency has the responsibility to insure that prompt and effective relocation assistance is provided with respect to a covered activity.

27.03: Relocation Plans

(1) General. Relocation plans shall be filed with the Bureau for any covered activity involving the displacement of the occupants of more than five dwelling units or business units. The purpose of relocation planning is to provide an opportunity in advance of property acquisition or project commencement to consider relocation problems, and to provide feasible and realistic solutions to these problems. A relocation plan should describe the anticipated impact of a project on legal occupants to be displaced and ensure that adequate provision has been made for their needs. Relocation planning does not require the collection of unnecessary facts and data; however, there is a correlation between the complexity of a project and the detail to be included in an acceptable relocation plan.

(2) Scope of Review. The Bureau shall review relocation plans to determine whether there has been compliance with M.G.L. c. 79A, § 4 and any applicable regulations, whether adequate provision has been made for the needs of legal occupants, and whether there are adequate relocation housing and business locations for such occupants. The Bureau shall receive for informational purposes a relocation plan which is required to be examined and reviewed by an agency or department of the federal government and involves relocation assistance reimbursable in whole or in part by the federal government, provided that if M.G.L. c. 79A imposes requirements in addition to those in federal law, the Bureau shall review the plan to ensure compliance with those requirements in M.G.L. c. 79A.

(3) Timing. The displacing agency shall submit a relocation plan to the Bureau at least 45 days before the anticipated date of property acquisition or project commencement. In a project where there is an extended period of time between project stages, the displacing agency may submit the relocation plan for approval in stages. The relocation plan for a project involving reimbursement by the federal government shall be submitted to the Bureau at the time submitted to the federal government.

(4) Notices to Site Occupants. At the time the displacing agency submits the relocation plan to the Bureau, it shall notify affected legal occupants that the relocation plan is available for review, and shall provide these occupants with a reasonable period of time to submit written comments to the Bureau. Any written comments received by a displacing agency regarding a relocation plan shall be forwarded to the Bureau at the end of the comment period.

(5) Bureau Action on the Plan. After reviewing a relocation plan and any written comments, the Bureau shall determine whether the plan meets the requirements set out in 760 CMR 27.03(2) (Scope of Review); if so, the Bureau shall approve the plan. If the plan does not meet these requirements, the Bureau may:

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- (a) approve the relocation plan subject to satisfaction of appropriate conditions or restrictions,
- (b) defer approval of the relocation plan pending receipt of additional information sufficient to fulfill the requirements set out in 760 CMR 27.03(2), or
- (c) disapprove the relocation plan

Displacement of legal occupants for any particular project shall not proceed until the Bureau approves the relocation plan and any applicable appropriate conditions or restrictions have been satisfied.

(6) Contents of a Relocation Plan. Relocation plans which involve the displacement of legal occupants of more than five dwelling units or business units shall contain the following information. If some of the requisite information cannot reasonably be obtained, the plan shall specify the reason.

- (a) Narrative description of the program for relocation
- (b) The number of individuals, families, and business concerns to be displaced
- (c) The date on which displacement is expected to begin
- (d) A description of the needs of the displaced occupants for relocation assistance. For residential occupants who rent, this should include necessary unit size, maximum rent, and any specific needs such as location or accessibility features. For residential occupants, who own, this should include necessary unit size, maximum purchase price and any specific needs. For business occupants, who rent, this should include the needed number of square feet, space layout, maximum rent, and any specific needs. For business occupants, who own, this should include the needed number of square feet, space layout, maximum price, maximum carrying cost, and any specific needs.
- (e) The availability of safe and sanitary housing, commercial buildings or sites within the means of the occupants to be displaced and meeting their specific needs.
- (f) An estimate of the total cost of relocation.
- (g) A description of available funds or funding commitments to pay such costs.
- (h) A statement of assurance signed by the head of the displacing agency stating that relocation assistance and payments will be provided to the displaced occupants in accordance with the relocation plan and applicable laws.
- (i) A statement demonstrating that the plan is coordinated with other planned or proposed land acquisitions in the area which are likely to affect the carrying out of the relocation program.
- (j) A copy of the real/personal property report as described in 760 CMR 27.03(8).
- (k) A summary of procedures to be followed in cases of temporary moves, or other policies deemed pertinent by the displacing agency.
- (l) A summary of appeal procedures available to the occupants.

In preparing the relocation plan, care shall be taken to respect the privacy rights of the persons to be displaced. Any personal data which is necessary for the plan shall be contained in an addendum or otherwise formatted so that it will be kept confidential by all holders of the data. The provisions of M.G.L. c. 66A shall be observed by all such holders of personal data. Housing and redevelopment authorities shall also comply with the provisions of 760 CMR 8.00 with respect to personal data.

(7) Small Projects Relocation Plans. Relocation plans do not need to be filed with the Bureau for covered activity displacing the legal occupants of five or fewer dwellings or business units. However, the Bureau will review relocation plans for such displacements.

(8) Real/ Personal Property Reports for Businesses. Unless denied reasonable access to property, in cases where displacement of a business will be caused by a covered activity, the displacing agency or the relocation advisory agency shall prepare a real/personal property report before acquisition of the property. This report shall identify what property is to be acquired by the agency as real property subject to taking. This report shall also identify personal property (see M.G.L. c. 79A, § 1). When preparing real/personal property reports, the agency shall consult with the real property appraisers, the property owner, the business/tenant, and relocation staff if there is a question whether an item is real or personal property. Real/personal property reports shall be updated as necessary.

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(9) Suspension of Relocation Plan Approval. Approval of a relocation plan may be suspended by the Bureau if it determines that the displacing agency or the relocation advisory agency is proceeding with a project in disregard of the approved relocation plan and that the relocation assistance being given is inadequate. Upon receipt of written notice by the displacing agency and the relocation advisory agency of suspension of approval of a relocation plan, the displacing agency shall not further displace legal occupants until the Bureau provides notice to the displacing agency that the suspension is withdrawn. A notice of plan suspension shall be sent by certified mail, and shall state specific reasons for the suspension and the measures which must be taken in order to remove the suspension. Within five days of the receipt of a notice of suspension, the displacing agency may make a written request for a hearing by the Department as to whether good cause for suspension exists. The hearing shall be subject to the provisions of M.G.L. c. 30A. The Department shall promptly render a written decision.

27.04: Program Requirements

(1) Notices.

(a) General Information Notice. As soon as feasible in connection with a covered activity, a person scheduled to be displaced shall be furnished with a written notice about the following:

1. Information that the person may be displaced for the covered activity and a general description of the relocation process, including the conditions of eligibility, the types of available payments, and the procedures for obtaining payment.
2. Information that the person will be given relocation advisory services with a general description of these services.
3. Information that the person will not be required to move without written notice at least four months in advance.

(b) Notice of Relocation Eligibility. The agency shall promptly notify all legal occupants in writing of their eligibility for applicable relocation assistance.

(c) Advance Notice for Moving. No legal occupant shall be required to move unless the occupant has received a written notice at least four months in advance of the earliest date by which the occupant will be required to move. This notice either shall state a specific date by which the occupant shall be required to move, or shall state that the occupant will receive a further notice, at least 30 days in advance, stating the specific date by which the occupant will be required to move.

(d) Exigent Circumstance for Short Notice. An occupant may be required to vacate the property on less than four months advance written notice if the displacing agency, with the consent of the Bureau, determines that a notice of less than four months is reasonable under the circumstances.

(e) Delivery of Notices. All notices shall be sent by certified mail, return receipt requested, or personally delivered with documentation of delivery. A recipient's failure to accept certified mail, properly addressed, shall not affect the sufficiency of a notice.

(2) Assistance to Businesses in Becoming Reestablished. The relocation advisory agency, the displacing agency, or both shall assist businesses to be displaced in becoming reestablished. This assistance, when appropriate, shall include determination of space requirements, financial capacity, location preferences, traffic patterns, proximity to suppliers and market requirements of the business, and assessing the adequacy of proposed replacement locations. Assistance may also include referrals to public agencies and lending institutions offering business development services or programs. The agency shall also supply businesses with current information on available and suitable replacement locations until such time as either the business has identified a suitable replacement location or the agency has identified at least two suitable replacement locations for consideration by the business. A suitable replacement location shall be such as to meet the reasonable needs of the business, as determined by the relocation advisory or displacing agency.

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(3) Assistance to Residents in Securing Suitable Replacement Housing. The relocation advisory agency, the displacing agency, or both shall provide assistance to legal occupants to be displaced. This assistance, when appropriate, shall include current information on suitable available housing, inspection of replacement housing, help in filing applications with local housing authorities, help in preparing applications to lending institutions for mortgage financing of replacement housing, and information regarding available housing programs and relevant social services, as needed. No legal occupant to be displaced shall be required to move from a dwelling unit unless at least one comparable replacement dwelling has been made available to the person's household. The procedures set out in 49 CFR 24.204, as amended, shall be applicable.

(4) Administration of Relocation Payments.

(a) Time for Filing Relocation Claims. Claims for relocation payments by a displaced person shall be filed in writing with the displacing agency within 18 months after the date that a move was completed. If the claimant is the owner of the property, claimant may file a claim within 18 months after the date of final payment for the acquired property.

(b) Advance Relocation Payments. If a displaced person demonstrates that an advance relocation payment is reasonably necessary to enable relocation, the displacing agency may issue the payment. This payment shall be subject to reasonable safeguards appropriate to ensure that the relocation payment is used for its intended purpose. The amount advanced shall be deducted from the total final relocation payment.

(c) Expeditious Determination of Relocation Claims. Following receipt of a relocation claim, the displacing agency shall conduct an expeditious review and shall promptly notify the claimant about the need for any additional information in order for the displacing agency to determine the claim. Payment for a claim shall be made within 45 days following receipt of documentation which establishes claimant's entitlement. If the displacing agency fails either to pay a displaced person within 120 days of submission of a relocation claim, or to deny payment on the claim, the agency shall file monthly status reports with the Bureau explaining the reasons why payment has not been made until payment is made or denied.

(d) Notice of Denial of Relocation Claim. If the displacing agency denies all or part of a relocation claim, it shall promptly notify the claimant in writing of its determination, the basis of the determination, and the procedure for obtaining further review of the claim by the displacing agency.

(e) Further Review by the Displacing Agency. Any displaced person aggrieved by the determination of a displacing agency as to the amount of a relocation payment to a claimant or as to the claimant's eligibility for a relocation payment may file a further review by the displacing agency. The claimant shall be given at least 60 days after receipt of the determination within which to request further review. The request for further review shall contain the name and address of the displaced person and shall identify the determination from which the displaced person requests further review. At this or any other stage of the proceedings the claimant may be represented by legal counsel or other representative and shall have the right to inspect and copy relevant material regarding the claim. There shall be a hearing on further review conducted by an impartial person representing the displacing agency. The displaced person and the displacing agency may present oral and written evidence at the hearing. The procedure shall be informal. Following the hearing, the displacing agency shall render a written decision as to the amount of the claim, eligibility for assistance, or both with an explanation of the reasons supporting such decision. The displacing agency shall inform the displaced person of the right to request review of the decision by the Bureau. A copy of the decision shall be mailed or delivered to the claimant who may request a review by writing to the Bureau at the Department of Housing and Community Development, 100 Cambridge Street, Boston, MA 02202 within 30 days of receipt of the decision. If review by the Bureau is not sought within 30 days of receipt of a decision, the decision of the displacing agency shall be final.

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(f) Review by the Bureau. Following receipt of a request for review of the decision of a displacing agency, the Bureau shall schedule a hearing. The hearing officer shall be an impartial person. The hearing shall be conducted in accordance with the provisions of M.G.L. c. 30A and the hearing rules set out in 801 CMR. Following the hearing, the Bureau shall determine whether a substantial factual basis existed for the determination of the displacing agency and whether the displacing agency correctly applied relevant law to the facts. If the Bureau shall find that a substantial factual basis is lacking and/or that the relevant law has been incorrectly applied, it may itself find the facts and apply the law to those facts. Following the hearing, the Bureau shall render a written decision which shall set out the issues considered, the reasons for the resolution of each issue, and the applicable facts and law supporting the resolution of each such issue. The decision shall specify the appropriate action to be taken based upon the resolution of the issues. The decision shall include notice specifying the rights of the parties to judicial review and the place, time and manner of seeking judicial review.

(g) Review by the Bureau on Documentary Evidence Without a Hearing. If both the claimant and the displacing agency waive a hearing in writing, the Bureau may review a decision of the displacing agency on the basis of documentary evidence submitted by the parties.

(h) Settlement Prior to Decision by the Bureau. At any time following a request for review by the Bureau but prior to its decision, the parties may settle all or some of the outstanding issues. Upon such a settlement, prompt notice shall be given to the Bureau.

(i) Claim Documentation by the Displaced Person. Any claim for a relocation payment shall be supported by reliable documentation such as paid bills, canceled checks, other evidence payments were actually made or were due. A displaced person shall be given reasonable assistance in documenting a claim.

(j) Verification by the Displacing Agency. The displacing agency may obtain written opinions from qualified and impartial persons to verify the validity or reasonableness of any portion of a relocation claim. The agency may also undertake site visits or monitor a move to whatever extent is practical to verify that the move and/or relevant work was satisfactorily completed.

(k) Relocation Payments in Excess of \$50,000. If a displacing agency determines the total relocation payment for a relocation claim to be in excess of \$50,000, a copy of each such claim shall be submitted to the Bureau by the displacing agency before payment is made. Within 30 days of receipt, the Bureau may disapprove the relocation payment if it is not legally or factually warranted. Within 30 days of such a disapproval the displacing agency or displaced person may request a hearing by the Bureau. The hearing shall be subject to the requirements of M.G.L. c. 30A. The Bureau shall promptly render a written decision.

(l) Records. The displacing agency and the relocation advisory agency shall maintain records of their displacement activity and relocation assistance. These records shall be maintained for at least three years after each displaced person receives final relocation payment. The Bureau may review the records of any relocation advisory agency or relocation consultant to assess the quality of assistance provided on any particular project. Such reviews may be considered in qualifying relocation advisory agencies.

(m) Non Duplication of Relocation Payments. A person who receives a relocation payment under applicable Federal law shall not receive a duplicate payment for the same purpose under applicable Massachusetts law.

(n) Termination of Relocation Assistance. Relocation assistance to a displaced person should continue until permanent relocation has been achieved and all relocation payments have been made. In general, the only circumstances under which the agency's obligation for relocation assistance may cease prior to this time are as follows:

1. The whereabouts of the displaced person are unknown.
2. The displaced person moves to substandard housing and refuses reasonable offers to move to a suitable dwelling unit.
3. A displaced business has received all requisite assistance and payments but has ceased operations.
4. The occupant refuses a reasonable number of offers of replacement accommodations.

(o) Eviction. Eviction should be employed only as a last resort and shall be undertaken in conformance with applicable state and local law, and carried out in the manner described in 49 CFR 24.206 (as amended and as it may be amended).

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(p) Use and Occupancy Charges. If the displacing agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the agency, the amount of the charge for use and occupancy required shall not exceed the fair market value of such use and occupancy. The agency shall inform such owner or tenant of the amount of the use and occupancy charge, the date and place payment is due, and identification of utilities and other services to be furnished by either party. The agency may not withhold past due use and occupancy charges from the occupant's relocation payment without a court order or unless such an arrangement is agreed to by such owner or tenant in advance of the commencement of any use and occupancy charges.

(q) Relocation Payments not considered as income. Relocation payments shall not be subject to attachment by trustee process or otherwise, nor shall they be subject to be taken on execution or other process. Relocation payments shall not be considered as income for such purposes as establishing eligibility of any person or family for publicly sponsored housing or public assistance programs including, without limitation, state and federal assistance to veterans. To the extent permissible under applicable state and federal tax law, relocation payments are not to be deemed taxable income.

27.05: Relocation Payments to Business Concerns, Non-Profit Organizations and Farm Operations

(1) Eligible Expenses. Any business, including a non-profit business or farm operation, which qualifies as a displaced person is entitled to payment for actual and reasonable moving and related expenses. The displacing agency, in providing such payments, shall assure that each displaced business is treated in a fair and equitable manner and that the relocation is undertaken in a manner that minimizes costs commensurate with successful accomplishment of the move. These moving and related expenses shall be determined in the same manner as similar expenses are determined under federal regulations appearing at 49 CFR 24.303, 24.304, 24.305, and 24.306, (as amended and as they may be amended), and any pertinent guidelines issued by the Bureau.

(2) Temporary Move. A business that makes a temporary move for the convenience of the displacing agency shall be compensated for both the temporary move and the subsequent move to a permanent location.

(3) Inventory of Personal Property. The owner of a displaced business shall prepare and present to the relocation advisory agency an inventory of personal property to be moved. This inventory shall be certified by the business owner and the relocation advisory agency after inspection of the property by the agency. The certified inventory shall be checked against the real/personal property report to insure that items which are included as part of the real property are not inventoried as personal property. Businesses with fluctuating inventories shall have their inventories recertified immediately prior to displacement.

(4) Move Specifications. When deemed necessary by the displacing agency, the owner of the displaced business shall prepare and present to the relocation advisory agency written move specifications detailing the work reasonably necessary to disconnect, move, and reinstall personal property included on the certified inventory. Move specifications may include contractual work, separated into work categories, to be done in connection with the disconnection and reconnection of a business' moved or substituted property. The relocation advisory agency shall review the move specifications to assure that the work specified is reasonably necessary in order to disconnect, move and install personal property. Move specifications shall be prepared before the move or any contractual work in connection with the move shall have begun, and shall not be finalized until the business has identified a replacement location. On request, the relocation advisory agency may assist the business in preparing move specifications.

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(5) Negotiated Self-Moves. A displaced business, with the advance agreement of the displacing agency, may make a self-move as long as the amount eventually claimed for relocation payment does not exceed a maximum negotiated between the business and the relocation advisory agency in advance of the move. In such a case the business shall use its own employees and/or movers and contractors to make the move. The Bureau shall issue guidelines setting out the process to be followed when a displaced business seeks to make a negotiated self-move.

(6) Bids. A displaced business shall use sound business practices when employing movers and/or contractors for a move. Whenever feasible, three competitive written bids based upon clear and complete specifications shall be obtained by the displaced business for each category of work to be performed and in advance of the move. The relocation advisory agency shall review the specifications prior to bids being sought. The displaced business shall make solicitations only to qualified and capable movers and/or contractors, and shall certify to the relocation advisory agency that all responses, of which it shall provide copies, were independent and *bona fide*.

(7) Notice to Move By a Displaced Business. A displaced business shall send notice to the relocation advisory agency of its intent to move at least 30 days prior to the moving date. This notice shall include the address of the replacement location and the anticipated commencement of the move. The notice shall include a list of property (if any) to be sold qualifying for the benefit of the direct loss of property and a copy of the move specifications if they are necessary and have not previously been provided. If the displaced business does not provide this notice in a timely manner, a relocation payment shall not be made unless the displacing agency has suffered no substantial prejudice as a result. If there is good cause for failure to provide timely notice and the displaced business has provided some prior notice about a move, notwithstanding prejudice, the displacing agency may make a relocation payment.

27.06: Relocation Payments to Displaced Residents

(1) Payments for Actual Reasonable Moving and Related Expenses. Legal occupants displaced from residences are entitled to payment of actual moving expenses. These expenses shall be determined in the manner prescribed by federal regulations appearing at 49 CFR 24.301 and 24.302, (as amended and as they may be amended), and guidelines issued by the Bureau. A claim for a payment for actual moving expenses from a dwelling shall be supported by a receipted bill or other reliable written documentation of expenses incurred. Pursuant to an advance written request, the agency may at its discretion pay the mover directly. A displaced person who moves temporarily may claim payment for actual moving expenses at the time of the temporary move.

(2) Multiple Occupants of One Dwelling Unit. If two or more displaced legal occupants of a housing unit move to separate replacement dwellings, each legal occupant is entitled to a reasonable prorated share, as determined by the relocation advisory agency, of the relocation payment which would have been made if the occupants had moved together to a comparable replacement dwelling, provided that if two or more occupants legally maintained separate households within the same dwelling, each separate household is entitled to separate relocation payments.

(3) Replacement Housing Payments. If they qualify, displaced homeowners and tenants shall be eligible for additional payments for costs relative to obtaining replacement housing. These payments shall be determined in the manner prescribed by federal regulations at 49 CFR 24.401, 24.402, 24.403, and 24.404 (as amended and as they may be amended).

(4) Manufactured Housing Units (Mobile Homes). If they qualify, persons displaced from manufactured housing units shall be eligible for payments determined in the manner prescribed by federal regulations appearing at 49 CFR 24.501, 24.502, 24.503, 24.504, and 24.505, (as amended and as they may be amended).

27.07: Guidelines

The Bureau may issue guidelines of which the contents shall be consistent with the provisions of M.G.L. c. 79A and 760 CMR 27.00. Interested persons, who advise the Bureau of their interest, shall be given a reasonable opportunity to comment in writing on any proposed guideline prior to its issuance.

27.08: Waivers by the Bureau

Waivers. The Bureau may, upon written request, waive any requirement in 760 CMR 27.00 which is not required by law if the Bureau determines that the requested waiver will not reduce any assistance to which a displaced person is entitled, will result in a public benefit and is by its terms fair and equitable. Request for waivers shall be in writing with a detailed explanation of the reasons why a waiver is being sought. Such waiver requests shall be determined on a case by case basis. With respect to particular acquisitions, the Bureau may waive any provision of M.G.L. c. 79A when such provision constitutes a bar to federal reimbursement otherwise available with respect to a project.

REGULATORY AUTHORITY

760 CMR 27.00: M.G.L. c. 79A, § 12.

(PAGES 247 THROUGH 270 ARE RESERVED FOR FUTURE USE.)