



Ohio Administrative Code

Rule 5501:2-5-02 General relocation requirements.

Effective: January 9, 2014

(A) Purpose: this rule prescribes general requirements governing the provision of relocation payments and other relocation assistance.

(B) Applicability: these requirements apply to the relocation of any displaced person as defined in paragraph (B)(9) of rule 5501:2-5-01 of the Administrative Code. Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by Chapter 163. of the Revised Code and this rule.

(C) Relocation notices

(1) General information notice: as soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program which does at least the following:

(a) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(b) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(c) Informs the displaced person that he or she will not be required to move without at least ninety days' advance written notice (see paragraph (C)(3) of this rule) and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(d) Informs the displaced person that any person who is an alien not lawfully present in the United



States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in paragraph (H) of this rule; and

(e) Describes the person's right to appeal the agency's determination in accordance with paragraph (J) of rule 5501:2-5-01 of the Administrative Code.

(2) Notice of relocation eligibility: eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in paragraph (C)(3)(e) of this rule), the initiation of negotiations (defined in paragraph (B)(17) of rule 5501:2-5-01 of the Administrative Code), or actual acquisition, whichever occurs first. When this occurs, the agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(3) Ninety day notice

(a) General: no lawful occupant shall be required to move unless he or she has received at least ninety days advance written notice of the earliest date by which he or she may be required to move.

(b) Timing of notice: the displacing agency may issue the notice ninety days or earlier before it expects the person to be displaced.

(c) Content of notice: the ninety-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least thirty days in advance, the specific date by which he or she must move. If the ninety-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than ninety days after such a dwelling is made available.

(d) Urgent need: in unusual circumstances, an occupant may be required to vacate the property on less than ninety days advance written notice if the displacing agency determines that a ninety-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the agency's determination shall be included in the applicable case file.



(e) Notice of intent to acquire: a notice of intent to acquire is a displacing agency's written communication that is provided to a person to be displaced, which clearly sets forth that the agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations.

(D) Availability of comparable replacement dwelling before displacement

(1) General: no person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person if:

(a) The person is informed of its location; and

(b) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(c) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(2) Circumstances permitting waiver: the federal agency funding the project may grant a waiver of the policy in paragraph (D)(1) of this rule in any case where it is demonstrated that a person must move because of:

(a) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended at the time of the effective date of this rule, 42 U.S.C. 5122 (2013); or

(b) A presidentially declared national emergency; or

(c) The governor declares an emergency; or



(d) Another emergency that requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(3) Basic conditions of emergency move: whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (D)(2) of this rule, the agency shall:

(a) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and

(b) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(c) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

(E) Relocation planning, advisory services, and coordination

(1) Relocation planning: during the early stages of development, projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

(a) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and



persons with disabilities when applicable.

(b) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of housing of last resort actions should be instituted.

(c) An estimate of the number, type and size of the businesses, farms and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(d) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

(e) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

(2) Loans for planning and preliminary expenses: in the event that an agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the agency will establish criteria and procedures for such use upon the request of the federal agency funding the program or project.

(3) Relocation assistance advisory services

(a) General: the agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000D et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described in paragraph (E)(3)(b) of this rule. If the agency determines that a person occupying property adjacent to the real property acquired for the



project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(b) Services to be provided: the advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

(a) 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) Determination of the need for outside specialists in accordance with paragraph (A)(7)(l) of rule 5501:2-5-03 of the Administrative Code that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(c) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

(d) An estimate of the time required for the business to vacate the site.

(e) An estimate of the anticipated difficulty in locating a replacement property.

(f) An identification of any advance relocation payments required for the move, and the agency's legal capacity to provide them.

(ii) Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be



eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each residential displaced person.

(a) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in paragraph (D) of this rule.

(b) As soon as feasible, the agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see paragraph (C)(1) of rule 5501:2-5-04 of the Administrative Code) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(c) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (see paragraph (B)(8) of rule 5501:2-5-01 of the Administrative Code) If such an inspection is not made, the agency shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(d) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(e) The agency shall offer all persons transportation to inspect housing to which they are referred.

(f) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (see paragraph (B)(6)(i) of rule 5501:2-5-01 of the Administrative Code), as well as of the long term nature of such rent subsidy, and the limited (forty-two month) duration of the relocation rental



assistance payment.

(iii) Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loan and other programs administered by the small business administration, and other federal and state programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(4) Coordination of relocation activities: relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized.

(5) Any person who occupies property acquired by an agency, when such occupancy began, subsequent to the acquisition of the property, and the occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the agency.

(F) Eviction for cause

(1) Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the agency determines that:

(a) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or



(b) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(c) In either case the eviction was not undertaken for evading the obligation to make available the payments and other assistance set forth in this rule.

(2) Determination of eligibility: for purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project.

(G) General requirements: claims for relocation payments

(1) Documentation: any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(2) Expeditious payments: the agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(3) Advance payments: if a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(4) Time for filing

(a) All claims for a relocation payment shall be filed with the agency no later than eighteen months after:



- (i) For tenants, the date of displacement;
 - (ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.
- (b) This time period shall be waived by the agency for good cause.
- (5) Notice of denial of claim: if the agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination and the procedures for appealing that determination.
- (6) No waiver of relocation assistance: a displacing agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by section 163 of the Revised Code and this rule.
- (7) Expenditure of payments: payments, provided pursuant to this part, shall not be considered to constitute federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.
- (8) Multiple occupants of one displacement dwelling: if two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.
- (9) Deductions from relocation payments: an agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any creditor.
- (H) Aliens not lawfully present in the United States.



(1) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(a) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(b) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(c) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(d) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(2) The certification provided pursuant to paragraphs (H)(1)(a), (H)(1)(b), and (H)(1)(c) of this rule shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the federal funding agency and, within those parameters, that of the displacing agency.

(3) In computing relocation payments under Chapter 163. of the Revised Code, if any member of a household or owner of an unincorporated business, farm, or nonprofit organization is determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(4) The displacing agency shall consider the certification provided pursuant to paragraph (H)(1) of



this rule to be valid, unless the displacing agency determines in accordance with paragraph (H)(6) of this rule that it is invalid based on a review of an alien's documentation or other information that the agency considers reliable and appropriate.

(5) Any review by the displacing agency of the certifications provided pursuant to paragraph (H)(1) of this rule shall be conducted in a nondiscriminatory fashion. Each displacing agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(6) If, based on a review of an alien's documentation or other credible evidence, a displacing agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination:

(a) If the agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing agency shall obtain verification of the alien's status from the local bureau of citizenship and immigration service (BCIS) office. Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If an agency is unable to contact the BCIS, it may contact the FHWA in Washington, DC, office of real estate services or office of chief counsel for a referral to the BCIS.)

(b) If the agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(7) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this paragraph or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing agency's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is



an alien lawfully admitted for permanent residence in the United States.

(8) For purposes of paragraph (H)(7) of this rule, "exceptional and extremely unusual hardship" to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

- (a) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;
- (b) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or
- (c) Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(9) The certification referred to in paragraph (H)(1) of this rule may be included as part of the claim for relocation payments described in paragraph (G) of this rule.

(I) Relocation payments not considered as income: no relocation payments received by a displaced person under rules 5501:2-5-01 to 5501:2-5-05 of the Administrative Code shall be considered as income for the purpose of the Internal Revenue Code or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law, except for any federal law providing low-income housing assistance.