

Chapter 10 **Miscellaneous**

This final chapter will provide discussions concerned with an assortment of issues that do not blend well with the other chapters and do not warrant a separate chapter for each of the items presented.

Claims and Payments

Process for Payment

A claim for payment should be submitted to the Production Coordinator for review, with the appropriate documentation. Bona fide estimates and/or receipts are required for payment. Upon satisfactory review by the Production Coordinator, the claim is then submitted for payment to the Payment and Audit Unit of the Office of Right of Way.

The Payment and Audit Unit will review the claim to ensure such things as project number, parcel number, correct spelling of names of displacee, vendors, addition, etc. are correct. Any questions will be resolved with the appropriate advisor and/or the Relocation Supervisor. A voucher will be prepared and submitted for the preparation of a payment warrant and the file will be promptly returned to the Relocation Assistance Section. Processing for payment usually takes seven to ten working days.

Advance Payments

At times it is necessary to make an advance payment in order to reduce a hardship to the displacee. Funds can be advanced subject to safeguards. In the instance when the displacee needs the RHP funds to close on the replacement dwelling, the displacee is required to sign an agreement to perform. The form required for the advancement of funds is the *Relocation Housing and Possession Agreement*. Other advance (partial) payments may be necessary to enable the displacee to complete a transaction, rent necessary moving equipment, close on the replacement house, etc., prior to actually moving or giving possession of the acquired property. In these instances the Relocation Supervisor and/or Production Coordinator should be consulted. The Relocation Advisor shall advise the displacee of the requirements for the early release of funds. The Relocation Advisor shall clearly document the file.

Deductions From Relocation Assistance Payments

No payment will be withheld from a displacee to satisfy an obligation to any creditor.

Time for Filing Claims

All claims for payment must be filed within a specific time frame unless there are extenuating circumstances. This time frame is dependent on occupancy status.

- Tenants must claim payments within 18 months after the date of their move from the displacement.
- For owners, the date is the later of:
 - ❖ 18 months after the actual date moved, OR,
 - ❖ 18 months after the final acquisition payment, including condemnation or court awards.

In all residential cases, the eligible expenses must be incurred within 12 months. Business relocations are allowed 18 months to incur and claim.

Not Considered as Income

Relocation Assistance payments are not considered as income for tax purposes. However, the Relocation Advisor should avoid giving the impression of providing tax advice.

Computing Relocation Payments

If any member(s) of a household or owner(s) 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 will be made to that person.

Any payments for which a household, unincorporated business, farm or nonprofit organization would otherwise be eligible will be computed as follows:

- For a household, payment will be based on the number of eligible members.
- For the unincorporated business, farm or nonprofit organization, payment will be based on the ratio of ownership between eligible and ineligible owners.

Unless a person who is determined not to be a legal resident of the United States can demonstrate that the denial of relocation benefits will result in an “exceptional and extremely unusual hardship” to the 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, no relocation payments or advisory services will be paid.

“Exceptional and extremely unusual hardship” means that the denial of relocation payments and advisory services will directly result in:

- A significant and demonstrable adverse impact on the health or safety of such spouse, parent or child;
- 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
- Any other impact that the Iowa Department of Transportation determines will have a significant and demonstrable impact on such spouse, parent or child.

Project Files

The assigned Relocation Advisor is responsible for maintaining a parcel file for each displacee. When one parcel has both a residential and non-residential move, the Relocation Advisor will maintain a parcel file for each. This file will contain all information specific to that parcel and will contain all documentation needed to support payment of relocation benefits. A Summary of Payments form will be in each file to assist in an up to date review of remaining eligibility. The Relocation Advisor will complete the Parcel Check Sheet and submit the parcel for review within 45 days after completion of (known) relocation assistance activities. Parcel files should not be held for review until the expiration of eligibility for funds.

All information gathered on a project that is not parcel specific should be included in the Project General File. This includes:

- Relocation Plan
- Public Hearing Information
- Sign Information
- ROW Design Submittal Housing Offers of Relocation Assistance
- General Correspondence Building & Moving Cost Data Financial Information

Relocation Appeal Process

The appeal process should be explained by the Relocation Advisor to anyone who believes that the Iowa DOT has failed to properly determine the amount of, or eligibility for relocation benefits. This process is designed to be an uncomplicated procedure for the resolution of grievances relating to claim or eligibility review.

A request for review should be submitted in writing within 60 days after written notification of a relocation assistance determination has been sent or delivered to the displacee. The request should outline the items or issues and amounts in dispute and provide documentation supporting the position. The request for review should be submitted to:

Director, Highway Division
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010-6993

Response to Request

The Relocation Supervisor will review the claim and attempt to resolve the dispute prior to arranging a hearing. If there is a resolution, it will be approved by the appellant in writing. A hearing will then not be necessary.

Appeal Review Board

If the claim cannot be resolved, the Highway Division Director will appoint a three-person review board consisting of persons who have not been involved directly in the matters under appeal. These persons will be familiar with the statutes and regulations involved and review the Department's records that relate to the matters under appeal. One member of the review board will be the District Engineer, or their designee.

The Relocation Supervisor will attempt to schedule a time and location convenient to the appellant and will notify the review board, as well as the appellant. Legal counsel for the appellant is not necessary; however, they do have the right to counsel, at their expense.

Hearing Agenda

During the hearing, both the appellant and relocation representative will be given a full and equal opportunity to be heard. Both parties may present oral and written information on an informal basis without regard to rules of evidence. Each may object to the information presented and may question those presenting the information.

The appellant may inspect and copy materials pertinent to the claim, except, those items that are, by law, confidential and not open to public inspection. Consistent with applicable law, the Department may impose reasonable conditions on this activity.

Determination of the Decision

Promptly after all information is submitted by the appellant, the committee shall prepare a decision. The review board may refer back to notes of oral and written information. An internal document will be prepared as a written summary of the information considered and a listing of documents received. This document will be included in the appeal file.

The decision will award all benefits and payments for which the appellant is deemed to be eligible. This decision will also report the rationale underlying the decision, showing appropriate calculations and cite the sections of the law or regulations that support the determination.

Decision

Using the Report of Appeal Award, the decision of the review board will be reported to the Highway Division Director. The Director will then forward the results to the Relocation Supervisor. At that time, the Relocation Supervisor will notify the appellant in writing and provide a copy of the appeal award. The appellant will also be informed, in writing, of their right to seek judicial review.

All information relating to the claim may be sent by regular mail. The appeal payments, if any, will be reported and accepted by the Department and will be vouchered by the appropriate section in the amount determined by the appeal board and shown in the Report of Appeal Board.

All records related to the claim will be retained in the Relocation Assistance Section for three years after the final payment is made for project right of way.