

NON-RESIDENTIAL RELOCATION ASSISTANCE

NON-RESIDENTIAL DEFINITIONS

PERSON

The term “person” means any individual, family, partnership, corporation or association.

DISPLACED PERSON (DISPLACED)

Any person (individual, partnership corporation or association) is considered to be displaced if required to move from the real property as a direct result of:

1. The acquisition of the real property in whole or in part; or
2. A written notice of intent to acquire from the Iowa Department of Transportation; or
3. The initiation of negotiations for the purchase of the real property by the Iowa Department of Transportation.

Persons considered **NOT** to be **DISPLACED** are persons who:

1. Are not lawfully present in the United States.
 - 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. Certification may be made by the principal owner, manager or operating officer on behalf of other persons with an ownership interest.
 - In the case of an incorporated business, farm or nonprofit organization, that the corporation is authorized to conduct business within the United States; or
2. Move before the initiation of negotiations, unless the Iowa Department of Transportation determines they were displaced as a direct result of the project; or
3. Initially enter into occupancy of the property after the date of its acquisition for the project; or

4. Has occupied the property for the purpose of obtaining relocation assistance under the Uniform Act; or
5. Are not required to relocate permanently as a direct result of the project; or
6. The Iowa Department of Transportation determines is not displaced as a direct result of a partial acquisition; or
7. Is notified in writing, after receiving an Offer of Relocation Assistance, that they will not be displaced. Notice will not be given unless the person has not moved and the Iowa Department of Transportation agrees to reimburse for any expenses incurred to satisfy binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or
8. Retain the right of use and occupancy of the real property for life after its acquisition by the Iowa Department of Transportation; or
9. Are determined to be in unlawful occupancy prior to the initiation of negotiations or have been evicted for cause under applicable laws.

UNLAWFUL OCCUPANCY

Any person who occupies the real property and is not in lawful occupancy on the date of the initiation of negotiations is presumed to be entitled to relocation payments and other assistance unless:

1. The person received an eviction notice prior to the initiation of negotiations and as a result of that notice is later evicted; or
2. The Iowa Department of Transportation determines the person is a squatter who is occupying the property without permission of the owner and otherwise has no legal right; or
3. The person is evicted after the initiation of negotiations for serious or repeated violation of the material terms of the lease or occupancy agreement; and
4. In all cases the eviction was not undertaken for the purpose of evading the obligation to make available the relocation payments or other assistance.

The Relocation Supervisor will be consulted prior to denial of relocation assistance and/or advisory services.

INITIATION OF NEGOTIATIONS

This is also referred to as the “Ninety (90) Day Notice”. This date is the delivery of the initial written offer of just compensation by the Iowa Department of Transportation to the owner (or

designated representative) for the purchase of the real property for the project. If a “Notice of Intent to Acquire” or a “Notice of Relocation Eligibility” is issued and the person moves prior to the initial written purchase offer, the “initiation of negotiations” means the actual move of the person from the property.

BUSINESS

The term “business” means any lawful activity, except a farm operation, that is conducted:

- Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing and/or marketing of products, commodities and/or any other personal property; or
- Primarily for the sale of services to the public; or
- Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- By a nonprofit organization that has established its nonprofit status under applicable federal and state law.

SMALL BUSINESS

A business having not more than 500 employees working at the site being acquired or displaced by the project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of eligibility for reestablishment expenses.

FARM OPERATION

The term “farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

CONTRIBUTE MATERIALLY

The term “contribute materially” means that during the two taxable years prior to the taxable year in which displacement (the move) occurs, or during such other period as the Iowa Department of Transportation determines to be more equitable, a business or farm operation:

- Had average annual gross receipts of at least \$5,000; or
- Had average net earnings of at least \$1,000; or
- Contributed at least 33 1/3 percent of the owner’s or operator’s average annual income from all sources.

NONPROFIT ORGANIZATION

The term “nonprofit organization” means an organization that is incorporated under the applicable laws in Iowa as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code, (26 U.S.C. 501).

SELF-MOVE

A move of personal property where the displacee elects to take full responsibility. Levels and types of documentation are dependent upon the scope and type of move. In general, payment will be limited to an amount less than the lower of two firm bids from competent movers.

COMMERCIAL MOVE

Moves performed by competent, licensed and insured moving firms and are based on firm bids. The displacee will contract with the commercial mover of his or her choice, but reimbursement by the Iowa Department of Transportation is limited to the lower of two bids.

REESTABLISHMENT EXPENSES

Payment, not to exceed, \$10,000 for expenses actually incurred in relocating and reestablishing a small business, farm operation or nonprofit organization at a replacement site. These expenses must be reasonable and necessary as determined by the Iowa Department of Transportation.

FIXED PAYMENT

A payment available to a business, farm operation or nonprofit organization in lieu of payments for actual moving and related expenses and actual reasonable reestablishment expenses. Payment under this provision is not less than \$1,000 nor more than \$20,000.

UTILITY COSTS

The term “utility costs” means expenses for heat, electricity, water and sewer.

TENANT

A tenant is a person who has the temporary use and occupancy of real property owned by another.

OVERVIEW OF NON-RESIDENTIAL RELOCATION ASSISTANCE

This area of relocation deals with all non-residential aspects of moving businesses, farm operations, nonprofit organizations, simple personal property only moves and moving advertising devices, both on and off premise.

Simple personal property moves and advertising device moves are limited to reimbursement of moving expenses.

Businesses, farm operations and nonprofit organizations may choose either of two methods for computing non-residential moving expense payments. They may choose: