



Relocating Government Agencies

The complexities can pose major challenges

BY DARRYL ROOT, R/W-RAC, JD

The first article in this series appeared in the July/August 2014 issue of *Right of Way*, and examined the regulatory basis for relocating government agencies for a federally-funded project and the relocation choices these regulations offer agencies. This article will highlight some practical considerations when relocating both owner-occupant and tenant-agency displacees.

Special Concessions

An important first consideration is determining whether there have been any concessions made by the displacing agency prior to implementing the relocation program. When emergency services such as police and fire departments are impacted by a project, it is likely that discussions were conducted between the displacing agency and the emergency service. The relocation agent must be sure that he understands who promised what to whom. Were these promises put in writing? Can these promises be met under the Uniform Act, or will they require special permission from the project's funding source?

Even if concessions to the displaced agency were well documented, there may be additional state law requirements for the operation of the

agency that may place additional requirements on both the displacee and the displacing agency. Further, the relocation agent should review the project's approved environmental report to investigate if any special considerations for the displaced governmental agency were documented.

Displaced Agency's Statutory Basis

If there has not been a lot of communication between the displaced government agency and the project sponsor, additional challenges may occur. First, there may be questions about the ability of one tier of government to displace an agency of a higher tier. In other words, can a state agency displace a federal owner-occupant or tenant without the federal agency's consent?

Another important consideration is whether the agency's charter or enabling legislation allows them to accept public relocation benefits. The agency's statutory basis may have special rules about the acceptance of public funds. If the displaced agency cannot accept relocation benefits, do they have internal funds to accomplish the relocation? How long does it take, and what is necessary to access these internal funds?



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Scheduling

The schedule for displacing a government agency is also critical. Many public agencies have lengthy and burdensome requirements in regards to procuring a replacement site. Part of this procurement process often involves the agency requiring that its own personnel devise a set of specifications that the new site will have to conform to. For example, emergency services agencies such as police and parole organizations could house weapons that necessitate special handling and storage. These types of requirements must be built into the specifications. In addition, these types of agencies may require security features that necessitate special permits. These permits may take months to obtain. Law enforcement agencies may also house evidence for criminal court cases that will require them to establish and document a chain of custody procedures that must be followed as the evidence is relocated to the replacement site. These procedures may be time-consuming to establish and implement.

Once the specifications for the replacement site are approved, the agency may require mandatory bidding times during which potential landlords can submit proposals on properties for the agency to either buy or rent. Even after a property is selected, there may be a lengthy approval process and a legal review before a lease or a purchase contract is signed with the new landlord. Once a deal is signed, the agency may require budget approvals from the head of the agency to authorize higher rent payments or other expenses, unless advanced payments are made by the displacing agency.

Amortized Costs of Tenant Improvements

Many times, a specialized government agency tenant will need extensive improvements to facilitate its services. For example, as previously discussed, evidence rooms and weapons rooms will be necessary for a police station. Such improvements may be costly and complex, and thus,

may have been difficult and expensive for the landlord to install. The landlord may have in turn passed on the costs of the improvements to the agency tenant in the form of higher amortized rent payments. Depending on the length of the higher amortized rent payments, the agency tenant may be close to paying off the improvements when the displacing agency approaches it. With only \$10,000 for reestablishment expenses (and \$25,000 as of October 1, 2014), is the displacing agency equipped to handle the cost of the government agency's improvements in excess of these figures? State and federal laws may require that these same improvements be present in the replacement site, and often these types of specialized features are not found in properties on the open market.

These and other issues will present challenges to the project sponsor's schedule and budget. By being aware of important challenges regarding displacing government agencies, the relocation agent can play a key role in keeping the project moving forward. 🚧

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