

# Relocating Government Agencies

Timing and continued functionality is crucial



BY DARRYL ROOT, R/W-RAC, JD

Relocation professionals are regularly faced with a variety of unusual types of displacements. One of the biggest challenges relocation managers and agents confront is adapting to unfamiliar factual circumstances in order to accurately determine eligibility and benefits for displacees. One of the more uncommon challenges a relocation professional may face is the prospect of relocating a local, state or Federal government agency.

## As An Owner

If the government agency is the owner-occupant of the property to be acquired, the relocation professional should be aware of the acquisition doctrine of functional replacement. This doctrine is defined in 23 CFR § 710.509. FHWA describes functional replacement as a program that “amounts to an administrative settlement where recognition is given to the situation where cash compensation may be insufficient to restore the status quo as the result of acquiring a public facility. In a sense, this is similar to a last resort housing concept applied to publicly owned properties.” The doctrine provides a way for State Departments of Transportation carrying out a Federal-aid highway project to “provide compensation by functionally replacing the publicly-owned real property with

another facility which will provide equivalent utility” in lieu of paying the fair market value for the property.

FHWA will participate in these costs if the following conditions are met:

- (1) It is allowed under state law;
- (2) The owning agency requests functional replacement;
- (3) The state right of way operating manual incorporates full procedures covering review and oversight that will be applied to each case; and
- (4) The State Department of Transportation requests functional replacement from the FHWA, and FHWA concurs that it is in the public’s best interest.

There are limits to the amounts of federal participation under functional replacement. Costs of increases in capacity and other betterments are not eligible for federal participation except where necessary to replace the public facility’s utility. Enhancements required by existing codes, laws or zoning regulations can qualify for federal participation.



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Those governmental agencies commonly involved in functional replacement scenarios include police and fire stations, libraries and county/municipal maintenance facilities. However, it is the governmental agency being displaced that has the choice to either accept the appraised fair market value or request functional replacement. In fact, the displaced agency may actually elect to waive its right to have just compensation established by appraisal if it has already decided to request functional replacement. Therefore, the relocation agent may be faced with relocating a public agency under two very different circumstances. Becoming familiar with the relocation implications stemming from each situation is critical to a successful relocation.

**As A Tenant**

Another scenario to be aware of when relocating governmental entities involves tenant displacements where the agency leases space from a private landlord. In this situation, the relocation agent's role will differ from the functional replacement scenario. One of the initial steps in effectively determining the relocation agent's role is to understand the nature of the agency's functions, no matter what acquisition scenario takes place. What does the agency do and what special needs might it have? How can the

relocation manager ensure that these needs are met and there is no down time in the transition from the subject site to the replacement site?

As with most relocation situations, the earlier the displacing agency plans for relocating the public agency, the better. This is especially true when the displaced agency provides emergency services to the public, such as in the case of fire and police departments. Although displaced emergency agencies may require the most planning, other institutions such as libraries and administrative agencies also provide important public services and need special attention when it comes to the preparation of relocation implementation documents. The relocation agent must also consider how members of the public may be affected by the relocation.

The history of contacts between the displacing agency and the displaced entity should also be examined. Were special concessions or other commitments made to the displaced entity? Is the displaced agency expecting more from the relocation assistance program than the program can give under the regulations? The next article in this series will examine these and other questions more closely, as well as provide some best practices to facilitate the successful relocation of governmental agencies. ☺

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