



MAKE IT COUNT

Maximizing a displacee's searching benefits

BY DARRYL ROOT, JD, MBA, R/W-RAC

Business and non-profit displacees in a federally funded project are hoping that \$2,500 will reimburse enough expenses to find an appropriate replacement site under the benefits provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (URA).

The URA and its implementing provisions, which allows for the reimbursement of certain expenses incurred in searching for a replacement site, are as follows:

49 CFR 24.301

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation;

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

What Gets Reimbursed?

Displacing agencies have different requirements for the reimbursement of searching expenses. Most require a travel diary that documents the miles traveled, sites visited, contact information for sellers of the sites, and receipts for meals and lodging if overnight stays are necessary and reasonable. The amount reimbursed for meals and lodging are usually capped at the agency's usual per diem rates for contractors or the GSA CONUS rate for the area.

The displacee's time spent searching for and/or negotiating the purchase of a replacement qualifies for reimbursement if the displacee supplies evidence of their hourly earnings. This evidence can include certified payroll records and other wage-related documents. Fees paid to real estate brokers can also be paid if the fees are reasonable, can be documented and do not include commissions.

It should be noted that some agencies will restrict reimbursement for searching expenses to a 50-mile radius unless the displacee can demonstrate that it is reasonable and necessary to look beyond that radius. This need for a larger search area often comes into play when non-residential displacees have very specialized businesses that need unique replacement sites or when the businesses are located in very rural areas.

The benefits for time spent obtaining permits and attending zoning hearings refers to reimbursement of the displacee's time, not an attorney's time. However, an attorney's time spent attending zoning hearings may be reimbursed under 49 CFR 24.301(g)(12) (Payment for actual

reasonable moving and related expenses) and 49 CFR 24.303 (b) (related nonresidential eligible expenses).

The Relocation Plan

The relocation professional can maximize the displacee's searching benefits even before the business receives a Notice of Eligibility by preparing a detailed and thorough Relocation Plan. The Relocation Plan should document the availability of non-residential replacement sites. It should be noted that unique businesses may encounter difficult searches. The author of the plan should anticipate this difficulty and be familiar with any restrictive ordinances that may segregate businesses to only certain parts of the jurisdiction. In this way, the displacing agency can have a head start on anticipating searching needs.

Beyond preparing a thorough Relocation Plan, the relocation professional can maximize the value of searching benefits by combining them with advisory services and professional services. Advisory services can be used to refer the displacee to local realtors that have been useful in the past with helping business displacees. Although the relocation agent should not recommend a specific broker, providing the displacee with a list of experienced realtors can help narrow the search. The more targeted the displacee's referrals are, the less time will be spent viewing properties that might not fit the needs of the business. Experienced realtors with connections in the community may be able to refer displacees to "pocket listings" and other properties not publicly listed. The relocation professional should coordinate his or her efforts with the realtor to provide a steady stream of well-tailored referrals.

Professional services benefits under 49 CFR 24.301, 303 can also be used to help the displacee get the most out of limited searching benefits. When replacement sites are located that need zoning changes and/or variances, reasonable attorney fees can be paid for appearances before zoning boards. The relocation professional should coordinate with the displacee and the attorney to make sure beforehand that the attorney's fees are reasonable and necessary. Again, a list of attorneys who are familiar with relocation and zoning issues can be provided to the displacee upon request, but no particular attorney should be recommended. It should be noted that if the attorney the displacee wants to use is already on retainer or is an employee (in-house counsel), payment of these types of benefits may not be applicable.

An Important Task

Guiding the nonresidential displacee to the best replacement site is one of the most important and daunting tasks for the relocation professional. But the limited amount of searching benefits can be maximized through detailed planning and the combination of advisory and professional services. ⚡



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