

Chapter Two **Commonly Used Concepts, Definitions, and Term**

The Relocation Assistance Program utilizes concepts and terms unique to the discipline. The purpose of this Chapter is to aid those unfamiliar with the technical jargon used in the Relocation Assistance discipline. This Chapter will focus on those concepts and terms used in all aspects of the Relocation Program. Other chapters in this manual will provide definitions for those concepts and terms unique to the situations detailed in that chapter.

The following definitions may be found in either 49 CFR Part 24 or 761 IAC Chapter 111. For simplification this manual will cite the Iowa Administrative Code location. The Iowa Administrative Code will provide corresponding federal and state requirements.

Decent, Safe and Sanitary (DSS)

The definition for DSS is found in 49 CFR Part 24.2 (8) "The term decent, safe, and sanitary dwelling means a dwelling which meets local housing and occupancy codes." However, any of the following standards which are not met by the local code shall apply unless waived for good cause.

- The dwelling must have an adequate supply of potable (drinking) water.
- When considering a housekeeping unit, there shall be a kitchen area containing a fully usable sink properly connected to potable hot and cold water and to a sewage drainage system. There must also be adequate space and utility connections for a stove and refrigerator.
- The dwelling must contain a heating system capable of sustaining a temperature of approximately 70 degrees. The furnace should have been inspected or installed within past 12 months. If not, a furnace inspection by a qualified person is required.
- The property must have a separate, well-lighted and ventilated bathroom affording privacy to the user, containing a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and a sewage system.
- The dwelling's electrical system must have an adequate and safe electrical wiring system for lighting and other electrical services.
- The replacement dwelling must be structurally sound, weather-tight and in good repair. Examples: no broken windows; chipped or peeling paint; no major foundation problems; weather proof roof; functional gutters; drainage away from the foundation, etc. The dwelling must have a safe, unobstructed means of egress to safe, open space at ground level.
- Replacement Housing must be adequate in size with respect to the number of rooms,

bedrooms and living space needed to accommodate the displacee. The number of persons occupying each habitable room used for sleeping shall not exceed the number permitted by local housing codes, or in the absence of local codes, each sleeping room should contain at least 72 square feet of floor space for the first occupant and at least 68 square feet for each additional occupant. Generally children of different sex should not be required to share bedrooms. Unique situations may be considered on a case by case basis considering the age and sex of adults and children sharing the unit, cultural customs and the appropriateness of sharing bedroom space.

- For a displacee who is disabled, the dwelling must be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling by such person. Examples: wheelchair ramps, wider doorways, grab bars and special bathing facilities, first floor laundry, etc.
- The replacement dwelling must have operating smoke alarms, a minimum of one per floor, including the basement, and outside each sleeping area. Steps and stairways must have adequately attached and functioning handrails.

Direct Payments

In order to minimize or eliminate a hardship, the displacee may request that the vendor be paid directly. The Relocation Advisor can arrange for such payments. The displacee may request in writing to assign payments to movers and/or other vendors providing applicable services required by the displacement. An "Assignment of Interest" form has been provided in Appendix.

If the vendor has an outstanding lien with the State of Iowa, the Iowa Department of Revenue may attach any payments to satisfy said lien. When this occurs it is important that the Relocation Advisor notify both the displacee and vendor of this event. Neither the displacee nor the Iowa DOT will be required to make additional payments to the vendor.

Displaced Person (Displacee)

Complete definitions for displaced persons may be found in 761 IAC, Chapter 111.2(9).

Generally a person is considered to be displaced if required to move from the real property or move their personal property from the real property as a direct result of:

- The acquisition of the real property in whole or in part or,
- A written notice of intent to acquire from the Iowa DOT, or
- The initiation of negotiations for the purchase of the real property by the Iowa DOT.

Please note per 761 IAC Chapter 111.2 (22) a "Person" includes any individual, family, partnership, corporation, or association.

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

- Are not legal residents of the United States of America; or
- Move before the initiation of negotiations, unless the Iowa DOT determines they were displaced as a direct result of the project; or
- Initially enter into occupancy of the property after the date of its acquisition for the project; or has occupied the property for the primary purpose of obtaining relocation assistance under the Uniform Act; or
- Are determined to be in unlawful occupancy prior to the initiation of negotiations or have been evicted for cause under applicable laws.
- Are not required to relocate permanently as a direct result of the project; or
- A person, other than the original occupant, who occupies the property on a rental basis for a short term subject to termination when the real property is needed for the project.
- As owner-occupants, voluntarily sell the property after being informed in writing that if a mutually satisfactory agreement cannot be reached, the Iowa DOT will not acquire the property (displaced tenants are eligible); or
- The Iowa DOT determines the person is not displaced as a direct result of a partial acquisition; or
- Is notified in writing, after receiving an Offer of Relocation Assistance, that he or she will not be displaced. Notice will not be given unless the person has moved and the Iowa DOT 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
- Retain the right of use and occupancy of the real property for life after the acquisition by the Iowa DOT of the real property.

Eligibility of Aliens Not Lawfully Present in the United States

Each person seeking relocation payments or Relocation Advisory services shall, as a condition of eligibility, certify:

- In the case of an individual, that he or she is either a citizen or national of the United States or an alien, who is lawfully present in the United States.
- In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The head of the household may certify on behalf of other family members.

- 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.

Certifying that the displacee is a citizen or national of the United States or an alien who is lawfully present in the United States is accomplished on the first contact between the Relocation Advisor and the potential displacee via the Receipt for Brochure form. Refusal to sign the receipt should be noted by the advisor and brought to the attention of the Relocation Supervisor. The advisor is not expected to do an exhaustive investigation as to whether the displacee is a legal resident, but should be relatively certain that the criteria for certification have been met. Documentation may include, but is not limited to, a birth certificate, driver's license, and social security card, green card, etc. Any review of documentation must be conducted in a nondiscriminatory manner. Our standard of review must be consistent for all persons.

If the Iowa DOT has reason to believe that a person's certification is invalid, and that, as a result, the person may be an alien not lawfully present in the United States; verification should be obtained from the local Bureau of Citizenship and Immigration Service (BCIS) Office.

Fair Market Value

The term *fair and reasonable market value* means, the cash price which would be arrived at between a voluntary seller, willing but not compelled to sell, and a voluntary purchaser, willing but not compelled to buy, both of whom are acting freely, intelligently and at arm's length, bargaining in the open market for the sale and purchase of the real estate in question.

Initiation of Negotiations

761 IAC Chapter 111.2(16) provides a thorough description of the Initiation of Negotiations. Generally, Iowa DOT projects will consider Initiation of Negotiations to commence when an Offer to Purchase is provided to the owner.

Notices

Acquiring agencies are required to provide several notices to the displacee during the Relocation Assistance process. The Iowa DOT complies with these requirements through forms and brochures. Descriptions of these notices have been provided.

- General Notice

The “Relocation Assistance and Advisory Services” brochure has been prepared for people who will be required to move or move their personal property. All displacee’s and any interested party are entitled to receive a written description of the Iowa DOT’s Relocation Assistance Program. Copies of this brochure are available to attendees of public hearings and upon request.

This brochure is presented by the Relocation Advisor at the first contact with the owner or tenant of a parcel requiring relocation assistance. The Receipt for Brochure should be signed to demonstrate that the general information contained in the brochure was made available. Refusal to sign the receipt should be noted by the advisor and included in the parcel file. The purpose of the brochure is to inform the relocatee that they may be required to move as a result of the project. The brochure provides information which includes the following:

- ❖ Describes payments that may be available, and how the person may become and/or remain eligible
- ❖ Informs the person that assistance will be made available to them, including assistance in filing claims for reimbursement, locating potential replacement properties, obtaining assistance from other sources (housing authorities, social services, etc.) and other assistance that may be required to successfully relocate.
- ❖ Informs the person that he or she will not be required to move without at least 90 days written notice, and if the person is the occupant of a home to be acquired. The notice will not be issued until the Iowa DOT has informed them, in writing, of comparable replacement housing currently available to them.
- ❖ Describes the person’s right to have their claim reviewed (the appeal process).

➤ Ninety (90) day notice

761 IAC, Chapter 111.203 (3) states no lawful occupant will be required to move without at least 90 days written notice. This notice is usually delivered by the acquisition agent within the Iowa DOT’s official “Offer to Purchase”. Delivery of the “Offer to Purchase” is considered as the Initiation of Negotiations, which serves to establish eligibility for relocation assistance benefits.

The displacee cannot be given a ninety (90) day notice until the acquiring agency has demonstrated replacement housing is currently available. A comparable is considered not to be available if there is a sale pending, sold, or inactive. The Acquisition Agent who delivers the offer must confirm the availability of comparable replacement housing. This is accomplished by contacting the listing Realtor identified on the Comparable Inspection Sheet just prior to the appointment.

The ninety (90) day notice must also state the displacee will receive a written notice at least 30 days prior to the specific date when they must move. (Please see 30 day notice)

➤ **Thirty (30) Day Notice**

The subsequent thirty (30) day notice will not be issued until the displacee has received payment as agreed in the contract or until the condemnation award has been deposited by the State as prescribed by law.

The displacee and the Iowa DOT may mutually agree to terms that waive the thirty day notice.

➤ **Notice of Intent to Acquire**

Generally persons that move prior to initiation of negotiations are not considered eligible for relocation assistance payments. (761 IAC, Chapter 111.2 (9) (c) (i)) One exception occurs when the acquiring agency provides a “Notice of Intent to Acquire” as provided in 761 IAC Chapter 111.2(20). In unique situations the Iowa DOT will approve these types of notices to be provided. For example a shortage of available replacement properties, a particular hardship, or a determination that it is in the best public interest to allow the displacee to move from the property prior to the “Initiation of Negotiations”. This written notice will be issued by the Relocation Supervisor if necessary.

Salvage Value

The term “salvage value” means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer’s expense, allowing a reasonable period of time to find a person buying with the knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap, when there is no reasonable prospect of sale except on that basis.

Subsequent Occupant

A person who has occupied the property being acquired after the Initiation of Negotiations but before the date the property is actually acquired by the Iowa DOT.

Tenant

A tenant is a person who has the temporary use and occupancy of real property owned by another. (761 IAC Chapter 111.2(29))

Transfer Ownership of Personal Property

In some cases the displacee and/or the Iowa DOT may determine acquiring, rather than moving the personal property is in the best interest of all parties. In these cases the displacee shall transfer ownership of the personal property to the Iowa DOT. The transfer may be accomplished using a “Letter of Understanding” as provided in Appendix “or through a “Bill of

Uneconomic Remnant

The term “uneconomic remnant” refers to the remaining property after a partial acquisition that the Iowa DOT has determined has little or no value or utility to the owner.

Unlawful Occupancy

Any person who occupies the real property in an unlawful occupancy on the date of the initiation of negotiations is presumed to not be entitled to relocation payments and other assistance. A person is considered to be in an unlawful occupancy if:

- The person received an eviction notice prior to the initiation of negotiations and as a result of that notice is later evicted.
- The Iowa DOT determines the person is a squatter, who is occupying the property without permission of the owner and otherwise has no legal right.
- The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement.
- In no event shall the eviction be undertaken for the purpose of evading the obligation to make available the relocation payments or other assistance. The Relocation Supervisor should be consulted prior to denial of relocation assistance and/or advisory services.

Value in Place

The term “value-in-place” means the amount a prudent purchaser would pay for an item in place. Its value is determined by the use the item contributes to the value of the whole.

