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# Policies and Procedures

No. 9

SUBJECT:

Board Approval: 1/29/04

RELOCATION ASSISTANCE PROGRAM

PURPOSE:

To provide relocation assistance to individuals, families, businesses, farm operations, and nonprofit organizations required to relocate as a result of San Diego Metropolitan Transit System (MTS) transit projects.

BACKGROUND:

Relocation assistance is a program that has been established by federal and state law to provide help to individuals, families, businesses, farm operations, and nonprofit organizations required to relocate as a result of a public improvement project. Its primary objective is to assist all project displacees to the end that they do not suffer disproportionate injury as a result of projects constructed for the benefit of the public as a whole.

POLICY:

1. Relocation assistance shall be in accordance with Sections 7260-7276 of the State Government Code.
2. That no person will be required to relocate due to a proposed construction project until:
  - A. A replacement facility has been made available that meets the following standards:
    - (1) Decent, safe, and sanitary.
    - (2) Fair housing.
    - (3) In areas not generally less desirable than the property to be acquired in regard to:
      - a. Public utilities.
      - b. Public and commercial facilities.
    - (4) Within the financial means of the displacee.



- (5) Reasonably accessible to the displacee's place of employment, public services, and commercial facilities.
  - (6) Adequate to accommodate the displacee.
  - (7) In an equal or better neighborhood.
  - (8) Available on the market to the displacee.
- B. In lieu of a replacement facility, the eligible owner or occupant agrees to accept a cash settlement as provided by state law.
- C. Moving and related payments will be paid as provided by state law.

### Moving-Related Expenses

Individuals, businesses, and nonprofit organizations occupying the property to be acquired at the time of the first written offer to purchase and move as a result of the agency's acquisition will be eligible for reimbursement of moving expenses.

Residential occupants will receive either the actual reasonable costs involved in moving family and personal property up to a maximum of 50 miles or a payment based on a schedule relating to the size of their present dwelling not to exceed \$500.

Businesses, farms, and nonprofit organizations will be entitled to reimbursement for: (1) actual reasonable costs involved in moving the operation and personal property up to a maximum of 50 miles; (2) actual reasonable expenses incurred in searching for a replacement property; and (3) actual direct losses of tangible property.

### Payment in Lieu of Moving Expenses

Instead of accepting an actual moving expense payment, a business owner may be paid an amount equal to the average annual net earnings of the farm or business for the last two years prior to relocation. The payment may not be less than \$2,500 or more than \$10,000.

A business may qualify for an in-lieu payment if the agency determines that the business cannot be relocated without a substantial loss of the existing dollar volume of business, and it is not a part of a business having an additional establishment. A part-time individual or family occupation in the home that does not contribute materially to the income of the displaced owner is ineligible for an in-lieu payment.

- D. MTS may, pursuant to Government Code Section 7261.5, contract for the provisions of relocation assistance in connection with the San Diego Trolley system.

E. MTS adopts the California Department of Transportation's (Caltrans') relocation assistance regulations set forth in Title 21, Chapter 2, Subchapter 2 of the California Administrative Code, except as modified herein, as MTS's Relocation Assistance Program for all projects not covered by the Caltrans contract. The modifications to said program shall be as follows:

- (1) The terms "Department of Transportation," "Department" and "State" as used in the regulations shall mean the "San Diego Metropolitan Transit System (MTS)."
- (2) The term "Director" as used therein shall mean the "Chief Executive Officer (CEO)."
- (3) The term "Highway Purposes" and provisions relating thereto shall be deleted.
- (4) References to "State Highway System" shall be deleted.
- (5) Section 1407.04(a) relating to appeals shall be modified to read in its entirety as set forth below and shall apply to all MTS projects, including those for which a contractor has acted as the agent for conducting condemnation and relocation activities.

F. APPEAL PROCEDURE (REPLACING SECTION 1407.04(A))

(a) Appeals

- (1) Any complainant, that is any person who believes himself aggrieved by the MTS CEO's determination as to eligibility for a relocation payment or the amount of such payment, may have his application reviewed in accordance with the procedures set forth in Subsections (2) through (6).
- (2) Any complainant may request MTS to provide him with a written explanation of its determination. MTS shall provide such an explanation to the complainant within three (3) weeks of its receipt of the request.
- (3) All complainants shall be informed by MTS of their right to review.
- (4) Any complainant desiring review pursuant to Subsections (5) and (6) shall make a request to MTS within six (6) months following the date specified in Subsection (d) of Section 1407.04 for applying for relocation payments.

- (5) (a) Any complainant may request an informal oral presentation before seeking formal review. MTS shall afford any complainant the opportunity to make such presentation within fifteen (15) days of the request.
- (b) The presentation shall be made to the CEO who shall have the authority to review the initial determination if he decides a revision is necessary. Within five (5) days of the oral presentation, the CEO shall notify the complainant of its decision.
- (c) The right to formal review shall not be conditioned upon requesting an oral presentation.
- (6) (a) Any complainant may make a written request for formal review by MTS. Such review shall be conducted by the Board of Directors of MTS (Board) who shall consider every request regardless of form.
- (b) Notwithstanding the time limitations set forth in subsection (a)(4), a request for a formal review that follows an informal oral presentation shall be made either within the time limitations set forth in Subsection (a)(4) or within twenty (20) days of the oral presentation if the time for review has otherwise elapsed.
- (c) The Board shall inform the complainant that they have the right to be represented by an attorney, to present his case by oral or documentary evidence, to submit rebuttal evidence, to conduct such cross-examination as may be required for a full and true disclosure of facts, and to seek judicial review once they have exhausted the review procedure set forth herein.
- (d) The Board shall review and reconsider the initial determination of the complainant's case in light of:
  - (i) All material upon which the MTS CEO based his original determination, including all applicable rules and regulations, except that no evidence shall be relied upon where a complainant has been improperly denied an opportunity to controvert the evidence or cross-examine the witness.

- (ii) The reasons given by the complainant for requesting review and reconsideration of the claim.
  - (iii) Any additional written or relevant documentary material submitted by the complainant.
  - (iv) Any further information that the Board in its discretion, obtains by request, investigation, or research, to ensure fair and full review of the claim.
- (e) (i) The determination on review by the Board shall include, but is not limited to:
- (a) the Board's decision on reconsideration of the claim.
  - (b) the factual and legal basis upon which the decision rests, including any pertinent explanation or rationale.
  - (c) a statement to the displaced person that administrative remedies have been exhausted and judicial review may be sought.
- (ii) The determination shall be in writing with a copy provided to the complainant.
- (f) (i) The Board shall issue its determination of review as soon as possible but no later than six (6) weeks from receipt of the last material submitted for consideration by the complainant or the date of hearing, whichever is greater.
- (ii) In the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, MTS shall furnish a written statement to the complainant stating the reason for the dismissal of the claim as soon as possible but no later than two (2) weeks from receipt of the last material submitted by the complainant or the date of the hearing, whichever is later.

- (7) Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, the Board shall permit the complainant to inspect all files and records bearing upon his claim or the prosecution of the complainant's grievance. If a complainant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.
- (8) The principles established in all determinations by MTS shall be considered as precedent for all eligible persons in similar situations regardless of whether or not a person has filed a written request for review. All written determinations shall be kept on file and available for public review.
- (9) Any aggrieved party has a right to representation by legal or other counsel at his expense at any and all stages of the proceedings set forth in these sections.
- (10) If a complainant, other than the owner of a displaced advertising sign, seeks to prevent displacement, MTS shall not require the complainant to move until at least twenty (20) days after it has made a determination and the complainant has had an opportunity to seek judicial review. In all cases, MTS shall notify the complainant in writing twenty (20) days prior to the proposed new date of displacement.
- (11) Where more than one person is aggrieved by the failure of MTS to refer them to comparable permanent or adequate temporary replacement housing, the complainants may join in filing a single written request for review. A determination shall be made by MTS for each of the complainants.
- (12) Nothing in this Subsection shall in any way preclude or limit a complainant from seeking judicial review of a claim upon exhaustion of such administrative remedies as are available under this Subsection.

3. That eligible owners and occupants will qualify for relocation assistance immediately after MTS adopts a "Resolution of Necessity." (Revised 8/27/79)

GUIDELINES:

- A. Before any project may be undertaken that involves the displacement of people, MTS or its agent shall complete a Replacement Housing Study to determine the needs of the relocatees and the availability of replacement housing. MTS studies shall serve to assure that orderly relocation can be accomplished and that realistic and adequate plans are developed for relocating all displaced persons.
- B. Comparable replacement dwellings will be available or provided for each displaced person within a reasonable amount of time. Such assurance is a part of the MTS Relocation Assistance Program study process and must be specifically given on every project requiring displacement.
- C. Relocation advisory services will be provided to assist persons in relocating into safe, decent, and sanitary housing that meets their needs and is within their financial means. The same will be provided for displaced business and farm operators to aid them in finding suitable replacement locations to continue operations. Assistance is required throughout the acquisition phase of the project and starts at the time MTS begins acquiring properties on a project.
- D. No person lawfully occupying real property shall be required to move from a dwelling, assuming a decent, safe, and sanitary replacement dwelling is available, or to move a business or farm operation, without at least 90 days' written notice from MTS prior to the date the move is required.
- E. MTS shall follow generally the procedures outlined in the following Caltrans guides.
  - 1. Right-of-Way (Caltrans)
  - 2. Relocation Assistance Handbook (Caltrans)
  - 3. How to Make Relocation Studies and Plans (Caltrans)
- F. All cash payments to owners or occupants for any purpose shall be formally reported to the Board as to amount, rationale, and applicable code or statute.
- G. Real property acquisition and relocation assistance shall comply with guidelines issued by the California Department of Housing and Community Development. (Revised 4/16/79)

SGreen/JGarde  
POLICY.9.RELOCATION ASSISTANCE PROGRAM  
7/11/06

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