



5.0 RELOCATION ASSISTANCE

5.0.1 Purpose and Authority

The purpose of this Chapter 5 - Relocation is to outline the policies and procedures for providing relocation assistance under the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended](#) (Uniform Act), [49 CFR Part 24](#), Wisconsin Statutes [s. 32.185 to 32.27](#), and Wisconsin Administrative Code, Chapter Adm 92 Relocation Assistance ([Adm 92](#)). This chapter establishes minimum standards for providing relocation payments and services to a person(s) who moves from a dwelling, business or farm operation because of an acquisition for a highway project and to assure that such persons do not suffer disproportionate costs because of projects designed to benefit the public as a whole.

This chapter establishes procedures for relocation assistance and services by WisDOT staff and consultants serving as relocation agents on behalf of WisDOT. It is all inclusive of procedures established herein, and shall be performed with full compliance of applicable state and federal laws and regulations as applied to all WisDOT projects in which a relocation may be involved. All provisions of this chapter shall be fully implemented based on appropriate circumstances. Authority is derived from the Uniform Act (also see [information guidance](#) and [FHWA FAQs](#)); [49 CFR Part 24](#); Wisconsin code and statutes, [Adm 92](#) and [Chapter 32](#).

Payments required by this chapter do not affect any right to seek compensation specified in the Wisconsin statutes, under [Chapter 32](#), s. 32.01 through 32.18 and 32.28. Relocation assistance is not contrary to [s. 86.255, Wis. Stats.](#) regarding the purchase of lands located outside the 1/4-mile limitations of highways. WisDOT may compensate certain individuals, businesses and farm operations for the purchase of comparable housing, businesses and/or farm property as replacement for such property taken in association with a highway project. Questions regarding relocation can be directed to WisDOT's Bureau of Technical Services-Real Estate (BTS-RE) statewide relocation facilitator.

5.0.2 Fair Housing Policy

WisDOT shall carry out a relocation assistance advisory program satisfying the requirements of the [Fair Housing Act, 42 U.S.C. 3601 et seq.](#), and the Wisconsin Open Housing Law, [s. 106.50, Wis. Stats.](#), to ensure that replacement housing resources are open to all without discrimination. The following will be exercised:

- Persons to be displaced will be assisted in a manner to ensure against discriminatory practices in the purchase and rental of residential units based on race, sex, color, handicap, religion, national origin, age, marital status of the persons maintaining a household, ancestry, or sexual orientation.
- Persons to be relocated are fully informed of fair housing rights and options to select replacement housing in an area of their choice.
- Replacement housing resources used are open housing to all races and sexes without discrimination.

Upon receipt of a fair housing discrimination complaint, the relocation agent will refer displaced person to the state of Wisconsin Department of Workforce Development/Equal Rights Division ([DWD/ER](#)) or the nearest office for Department of Housing and Urban Development ([HUD](#)).

5.0.3 No Duplication of Payment

No person can receive any payment under this chapter if that person receives a payment under federal, state or local law that is determined by the agency to have the same purpose and effect as such payment under this chapter.

5.0.4 Payments Not Considered Income

Payments received under provisions of this chapter are not considered as income pursuant to [s. 32.19](#) or [s. 32.195, Wis. Stats.](#), except for reasonable net rental losses under [s. 32.195\(6\)](#), Wis. Stats. No or no payment received under the Uniform Act is considered income for the purposes of the Internal Revenue Code of 1954 or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other federal law (except for any federal law providing low-income housing assistance).

5.0.5 WisDOT Assurance

WisDOT assures that:

- All displaced persons are treated fairly, consistently and equitably under laws of the United States and state of Wisconsin.
- Authorization to proceed with any phase of a project that will cause relocation of any displaced person or to proceed with any construction project concerning any right of way acquired by WisDOT will not be given until there has been a specific plan submitted to provide orderly, timely and efficient relocation of displaced persons as provided in this chapter, and has had such plan approved by the Wisconsin Department of Administration/Relocation Assistance Program. Authority to approve Acquisition Stage Relocation Plans (RE2238) is delegated to the BTS-RE statewide relocation facilitator by the Department of Administration.
- No person lawfully occupying real property will be required to move from an acquired dwelling, business or farm operation without at least ninety (90) days written notice by WisDOT.
- No person to be displaced will be required to move permanently from a dwelling or business location unless at least one comparable replacement dwelling as defined by this chapter has been made available. A comparable replacement dwelling or business location is considered to have been made available to a person when such person has sufficient time to negotiate and enter into a purchase agreement or lease for a property; is assured of receiving relocation assistance and acquisition compensation, subject to reasonable safeguards, to which entitled; and, is informed of its location.
- Persons will not suffer disproportionate injuries because of projects designed for benefit of the public as a whole.
- WisDOT shall not proceed with a construction project having right of way to be acquired by the agency, unless relocation payments and services are provided as set forth in this chapter.

5.0.6 Organization

WisDOT administers and coordinates relocation assistance services through the BTS-RE for all acquisition projects, and may supervise such program with respect to local public agencies engaged in acquisitions for local road and transportation projects in accordance with this chapter.

5.0.6.1 BTS-RE Responsibilities

Primary responsibility for administration and supervision of the relocation program rests within WisDOT's Bureau of Technical Services-Real Estate (BTS-RE)/Appraisal, Relocation & Property Management section. The BTS-RE statewide relocation facilitator has the primary responsibility for daily administration and coordination of relocation for WisDOT, including:

- Relocation plan approvals.
- Relocation claim reviews and approvals.
- Quality reviews.
- Policy and procedures development.
- Facilitation of the WisDOT Relocation User Group and similar leadership.
- Statewide technical assistance.
- Training and other guidance.
- Liaison with federal government, other states and Wisconsin agencies.

5.0.6.2 Regional Responsibilities

Regional Technical Services chiefs, supervisors and staff work with BTS-RE management and specialists to:

- Participate in Relocation User Group
- Plan and provide relocation services and payments for relocatees
- Provide staff
- Provide training opportunities
- Set project priorities.

Each regional program has one or more individuals with direct responsibility for providing relocation assistance and who are assigned to each right of way project where relocation will occur. Consultants may also provide relocation services on behalf of WisDOT.

5.0.7 Relocation Definitions

Acquisition - A property purchased by an agency by any legal means including a negotiated sale and exercise of eminent domain; or a tenant-occupied unit where possession or use is denied to the occupant under rehabilitation, code enforcement, or other program or project being carried out with public financial assistance.

Agency - A displacing agency (see displacing agency topic below).

Alien - Not lawfully present in United States, as defined in [8 CFR 103.12](#), and includes:

- In the United States, but has not been admitted or paroled into United States pursuant to Immigration and Nationality Act and whose stay in United States has not been authorized by United States Attorney General; and,
- In the United States after expiration of period of stay authorized by United States Attorney General, or who otherwise violates terms and conditions of admission, parole or authorization to stay in United States.

Average annual net earnings - One-half of net earnings of a business or farm operation, before federal and state income taxes, during the two taxable years preceding the taxable year of displacement, or another period an agency determines more equitable. It includes compensation paid by a business or farm operation to an owner, spouse or dependents. An owner, as used under this subsection includes a sole proprietorship, a principal partner of a partnership and a principal stockholder of a corporation. Stock held by a spouse and dependent children is treated as one principal stockholder (the sum remaining after all expenses are met or deducted).

Average monthly income - For determining financial means, this is the annual gross income of an individual or the adults in a family, including salaries; wages; public assistance payments; tips; commissions; unemployment payments; rents; royalties; dividends; interest; profits; pensions; annuities and other income; and; divided by 12.

Business - A legal activity, other than a farm operation, regardless of the income produced, and may be conducted for the purpose of, or:

- As a non-profit organization established as non-profit status under federal or state law.
- For the purchase, sale, lease or rent of personal and real property and to manufacture, process or market a product, commodity, or other personal property.
- For the sale of a service to public.
- Primarily for outdoor advertising display purposes when display must be moved due to a project.

Carve-out - A method for computing a replacement housing, business or farm operation payment that is applied to separate the value of a portion of a property acquired, or a comparable selected.

Comparable replacement business - A business or farm property* should be substantially the same as that acquired. For the purpose of determining a business replacement payment under this section, a comparable replacement business is one which, when compared with the business being acquired, is adequate for the needs of the business, is reasonably similar concerning all major characteristics and functionally equivalent with respect to:

- Access to transportation for business operation, customer utilities and public services.
- Building size required.
- Condition.
- Free of environmental conditions that may cause significant impact on business.
- Land area.
- Meeting all local, state, and/or federal codes.
- State of repair.
- Within reasonable proximity of business acquired.

** Farm property: adequate for needs of farmer and suited for same type of farm operation; farm operations only; and, soil quality, yield per acre, land area.*

Comparable replacement dwelling - A dwelling that is currently available to the displaced person and, when compared with dwellings being acquired:

- Is adequate and is decent, safe and sanitary (DSS) under Adm 92.04.
- Is available to person regardless of sex, race, color, handicap, religion, national origin, or marital status of person maintaining a household, legal source of income, age, ancestry, sexual orientation or other applicable federal, state or local fair housing laws.
- Provides same function and same utility as acquired dwelling, regarding:
 - Area of habitable living space, number and size of rooms, and size and utility of any garage or outbuilding within immediate surrounding yard.
 - Area is not less desirable than acquired dwelling with respect to public utilities, public and commercial facilities and neighborhood conditions, including schools and municipal services, and is accessible to person's place of employment.
 - Type of construction, age or state of repair.

Comparable replacement farm operation - A replacement farm operation currently available to a displaced person and, when compared to the acquired farm operation:

- Is adequate for needs of farmer and suited for same type of farm operation.
- Meets applicable federal, state or local codes.
- Similar in major characteristics and functionally equivalent with respect to:
 - Area is free of adverse environmental conditions, which may cause significant impairment of the farm operation.
 - Soil quality, yield per acre, land area, transportation access necessary for farm operation, utilities and public services.
 - Type of farm operation, condition and state of repair of farm buildings.
- Within reasonable proximity of acquired farm operation to extent necessary.

Conventional financing - For determining a down payment assistance payment, a loan or promissory note secured by a mortgage made by a financial institution and not insured or guaranteed by an agency of the state or federal government, or any other private insurer.

Displaced person - Any person who moves from real property, or who moves personal property from real property that is required for a project or a program undertaken by WisDOT or a local public agency because of:

- Denial of possession or use by owner in anticipation of acquisition by an agency, if removal is unrelated to a material breach of a rental agreement by tenant.
- Property rehabilitation, conversion, demolition, or other related displacing activity.
- Written notice of intent to acquire.
- Written notice of intent to deny possession or use of rented property or to purchase real property, initiation of negotiations for, or purchase of, such real property.

A person is also considered to have moved because of purchase when person occupies a property at time of initiation of negotiations, but moves before acquisition, if property is subsequently acquired.

Displaced person does not include, among others, any person who is or may be:

- A non-occupant owner of commercial or residential property that is rented to others, except that such owner may qualify for actual and reasonable moving and re-establishment expenses under [Adm 92.52](#) and [92.67](#).
- A tenant-occupant who has been promptly notified that he/she will not be displaced by project, provided if a temporary move is necessary, the temporary replacement dwelling is decent, safe and sanitary and tenant is compensated for actual out-of-pocket expenses incurred for temporary move, including moving costs to and from temporary dwelling, any increased rent or utility costs and other reasonable expenses incurred.
- After receiving a notice of relocation eligibility, is subsequently notified in writing that they would not be displaced for project. Such notice shall not be issued unless person has not moved. WisDOT will provide compensation for any expenses incurred up to time no displacement notice is issued and agency withdraws any attempt to acquire property or carry out project affecting property.
- Determined to be in unlawful occupancy of property or has been evicted for cause under applicable law before initiation of negotiations for the property. Unlawful occupancy is defined under [Adm 92.01\(42\)](#).
- Initially occupying affected property after date of acquisition by agency.
- Moving before initiation of negotiations, unless WisDOT determines person was displaced by project.
- Occupying property for express purpose of obtaining relocation benefits under this chapter.
- Voluntarily retaining right of use and occupancy of real property for life following its acquisition by WisDOT.

Displacing agency - A condemnor, state agency, political subdivision of the state. An agency vested with eminent domain powers under [Chapter 32](#), Wis. Stats. Acquiring real property in whole or in part for a public project, is a displacing agency, regardless of whether or not any or all of the statutory procedural steps necessary to exercise such power has been taken, or whether the property is acquired by negotiated purchase or by eminent domain. In a project being carried out by a person without eminent domain power, the condemnor, state agency or political subdivision of the state that is the principal public funding source for the project, shall insure compliance with the provisions of Adm 92 and the Uniform Act.

Dwelling - Single family house, a single family unit in a duplex, multi-family or multi-purpose property, a condominium or cooperative housing unit, a sleeping room, a mobile home, or other residential unit.

Economic rent - Rent that a property would most probably command in the open market, as indicated by current rents paid in same area as acquired property.

Eminent domain - Right of government and others under [Chap 32.02, Wis. Stats.](#), permitting a taking of private property for a public purpose with payment of just compensation.

Existing patronage - Business from specific clientele or as evidenced by an annual net income during the two taxable years preceding the taxable year of an acquisition or during a more equitable period determined by an agency. Patronage for a non-profit organization includes persons, clientele and community served or affected by the organization.

Farm operation - Activity conducted mainly for the production of one or more agricultural products or commodities, or timber, for sale or home use and customarily producing these in sufficient quantity to contribute materially to a person's support.

Financial means - Standard for determining if a dwelling is affordable when:

- Owner occupant – Acquisition price of a comparable replacement dwelling does not exceed sum of the payment for acquired dwelling and comparable replacement housing payment available under this chapter.
- Tenant occupant – Monthly rent of comparable replacement dwelling does not exceed monthly rent at displacement dwelling, after taking into account any rental assistance payment available under this chapter.

Household income - The total gross income received for a twelve (12) month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, and/or the net income from a business. It does not include income received or earned by dependent children and full time students less than eighteen (18) years of age. Full time students may be considered dependent unless the person demonstrates otherwise.

Initiation of negotiations - In acquisition projects, the date a displacing agency, or its representative, initially contacts an owner of real property, or the owner's representative and makes a written monetary offer to purchase the property. Initiation of negotiations does not generally include a situation where the agency obtains only a first right of refusal to acquire or option that does not also include a monetary offer or establishment of a purchase price and where the agency is not otherwise committed to the acquisition of the property; and, the initiation of negotiations does not include:

- Entering into a lease, including a lease with an option to purchase.
- Obtaining a right of first refusal to acquire that does not also include a monetary offer or establishment of a purchase price and does not otherwise commit agency to acquisition of the property.
- Responding to an offer to sell property and negotiating for purchase of the property when offer does not involve involuntary displacement of any occupant and agency is not implementing a project to acquire property.

Mobile home - Includes manufactured homes and vehicles used as residences. See 49 CFR Part 24, Appendix A, Sec. 24.2(a)(17).

Mortgage - A lien given to secure an advance for the unpaid purchase price of real property, together with a credit instrument secured thereby.

Moving expense/actual - Actual and reasonable expenses necessary to move a person and personal property including charges by public utilities for starting service, storage of property up to 12 months and necessary temporary lodging and transportation.

Moving expense/optional fixed payment - An alternate payment for moving.

- Business or farm: A fixed payment (“in lieu of” other actual moving expenses) for a business or farm operation is based on average annual net earnings and may not be less than \$1,000 or more than \$40,000.
- Residential: A payment for an occupant of a dwelling is based on the federal room schedule that includes a dislocation allowance.

Non-profit organization - A corporation, partnership, individual or other public or private entity engaged in a legal business, professional or instructional activity on a non-profit basis and having fixtures, equipment, stock in trade or other tangible property on the premises and established as a non-profit organization under federal or state law.

Owner - A person who has an interest in a dwelling or real property to be acquired by a displacing agency in the form of the following:

- A contract purchaser of any estates or interests under this subsection.
- A fee title or life estate.
- A mobile home on a permanent foundation, or a mobile home which is not decent, safe and sanitary and cannot be moved without substantial damage or unreasonable cost or there are no replacement sites to where it can be moved.
- Has succeeded to any of the interests under this subsection by devise, bequest, inheritance or operation of law, except the tenure of ownership, not occupancy, of a succeeding owner will include the tenure of a preceding owner.
- Interest in cooperative housing including a right to occupy a dwelling.
- Interest other than under this subsection, which is considered ownership by an agency or the department.

Owner-occupant/business - A person who is an owner of a property being acquired and is the owner and operator of a business or farm operation that was conducted on the property for at least one year before initiation of negotiations or the date of vacation when given a notice of intent to acquire, whichever is earlier.

Owner-occupant/residential - A person who is the owner of a property being acquired and occupies a dwelling on the property as a primary residence.

Person - An individual, family, partnership, corporation, association, business or farm operation, or non-profit organization under this chapter.

Personal property - Tangible property located on real property but not acquired by an agency as real property or fixtures.

Prepaid expense - An item paid in advance by a seller of real property and prorated between a seller and buyer at the time of closing on a property including property tax, insurance, assessment, fuel and utilities and others.

Primary residence - A dwelling occupied as a customary and usual place of residence but not a vacation dwelling. A person occupies it for a substantial period before initiation of negotiations. It is evidenced by place of voter registration, address on a tax return, mailing address, rent receipt, proximity to work, school, utility and phone bill or other evidence acceptable to an agency.

Public financial assistance - Direct funding received from a public entity, such as:

- A private project, which is able to proceed because of governmental zoning changes, variances or related actions.
- Another related public construction or improvement project receiving federal financial assistance covered under federal relocation regulation.
- Demolition activity accomplished on a random basis if there is no planned public project for property affected.
- Direct acquisition by a federal agency carrying out a federal program or project.

An authority using its own funds for a project is not receiving public financial assistance.

Real property - Land and improvements on and to the land, estates in land and fixtures or other personal property directly connected with the land.

Relocation payment - A payment under this chapter, including actual moving expense, a fixed payment in lieu of actual moving expense, purchase, rental and interest differential payment, down payment assistance and cost incidental to a purchase of replacement property. An agency may pay more than the minimum amounts under this chapter, provided the payments are uniform.

Relocation plan - A document prepared by an agency and submitted to and approved by the department before any property acquisition activity begins. A plan describes the relocation assistance and payments to be provided and indicates whether displaced persons can be satisfactorily relocated.

Replacement housing payments (RHP) - If necessary, limits may be exceeded and a greater payment calculated for the purchase or rent supplement under last resort housing, see Section 5.5.

- Owner – A purchase supplement not to exceed \$31,000, which when added to price paid by WisDOT for acquired dwelling, equals amount, if any, necessary to purchase a comparable decent, safe and sanitary (DSS) dwelling.
- Tenant – A rent supplement not to exceed \$8,000, which when added to rent of subject site with utilities, equals amount necessary to rent a comparable DSS dwelling.

Searching expense payment - Payment to a displaced business or farm operation, not to exceed \$2,500, to compensate for actual and reasonable expenses in locating a replacement business or farm operation.

Selected comparable - A comparable dwelling, business or farm operation selected by an agency from one or more comparable properties as the most comparable for computing a replacement differential payment.

Tenant - A person who occupies real property and has not been, or could not otherwise be dispossessed, except pursuant procedures under [Chapters 704](#) and [799, Wis. Stats.](#)

Tenant-occupant/business - A person who is a tenant-owner and operator of a business or farm operation that was conducted on the property for at least one year before initiation of negotiations or the date of vacation when given a notice of displacement from the agency, whichever is earlier.

Tenant-occupant/residential - A person who is the tenant of a displacement dwelling and occupies the dwelling as a primary residence.

Unlawful occupancy - Occupancy by a person who has been ordered to move by a court of competent jurisdiction prior to initiation of negotiations for the acquisition of the property. At the discretion of the agency, persons who occupy property without permission of the owner may be considered to be in unlawful occupancy. Technical violations of law and unlitigated violations of the terms of a lease, such as having an unauthorized pet or withholding rent because of improper building maintenance, do not constitute unlawful occupancy.

Utility charge - Average monthly cost for space and water heating, lighting, water and sewer and trash removal, but not telephone service, internet service, cable or satellite TV.