Oregon Department of Transportation

ACQUIRING LAND FOR HIGHWAYS AND PUBLIC PROJECTS

A description of the Department of Transportation land acquisition program

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When improving highway facilities, the Department of Transportation has the task of acquiring right of way. It is the aim and desire of the Department to obtain right of way with fairness and equity.

The State is empowered to acquire private property for public use. With this power goes the obligation to protect the rights of the individual property owner. The Department thus has a dual responsibility — recognition and protection of the individuals who are affected by acquisition of land, and competent and efficient service to the public.

PUBLIC HEARINGS

Public hearings, when required, are held during the location and design stages of a project. Such hearings provide opportunities for public participation to ensure that highway locations and designs are consistent with Federal, State and Local goals and objectives.

The corridor hearing is held after preliminary studies have been made on several possible routes. During the course of this hearing, testimony is recorded for study by Department personnel and the Transportation Commission.

Upon selection of a corridor, a detailed survey within that corridor is made and a preliminary design plan developed for presentation at a "Design Hearing."

The "Design Hearing" provides an opportunity to present testimony about the final highway design.

In an instance where a choice of corridors is not involved, such as the case of an improvement to an existing highway, a single "Combination Corridor-Design Hearing" may be held.

After all data and testimony has been studied, a final design is adopted by the Transportation Commission and the acquisition of rights of way is authorized.

JUST COMPENSATION

Owners of property needed for a highway project will be offered Just Compensation for the required rights-of-way. Just Compensation includes the estimated value of all the land and improvements within the needed area. In addition, if only a part of a property is to be acquired, Just Compensation will also include any measurable loss in value

to the remaining property due to the partial acquisition.

Just Compensation is based on the Department's valuation of the needed property and its estimation of any damages to the remaining property. Department procedures, guided by Federal Regulations, have been designed to protect both owners of properties needed for highway rights-of-way as well as other taxpayers. The valuation process will be conducted either by an experienced and qualified employee of the Department or by an independent fee appraiser under a contract with the Department. The value arrived at will be by comparison of similar properties in the market that have recently sold, by knowledge and consideration of costs and depreciation for any improvements to be acquired, and when applicable, by the property's income potential. The final value determination will be based on this type of information from the local real estate market.

The property to be acquired is inspected by a qualified appraiser during the first part of the valuation process. With complex acquisitions involving large portions of the property, major buildings or improvements on the property, displacement of residents, and/or damages to the remaining part of the property not being acquired, property owners will be given 15 days to prepare the property, and the opportunity to accompany the appraiser during a detailed inspection of your property.

Any increase or decrease in the value of needed property brought about by public knowledge of the upcoming highway project is disregarded in the valuation process.

The final value estimate is reviewed for completeness and accuracy, and Just Compensation is established by the Department's Review Appraiser. In addition to this estimate of Just Compensation, the Department will make an offer to purchase any remaining property determined to have no remaining economic value to the owner.

ACQUISITION PROCEDURE

The Right of Way Agent who calls on you has studied the Department's valuation of the needed property and can illustrate with maps and other data how the acquisition will affect your property. The Department's offer will be confirmed in writing together with an acquisition summary statement, and

appraisal, or evaluation sheet, which provides the basis for that amount. The Agent is authorized to obtain an option and deed from you to purchase your property, subject to the approval of the Transportation Commission. The Agent is unable, under Department procedures governing acquisitions, to engage in "horse trading"; rather the Agent is confined to those monetary values indicated by the appraisal process.

However, the Department is ready and willing to reconsider its position in light of any new evidence of value presented by you including a documented professional appraisal.

The Department may not take any action which would coerce you into accepting its offer. Prohibited actions include advancing the time of condemnation, deferring negotiations or condemnation, or postponing the deposit of funds in court for your use.

You need not accept the State's offer or enter an agreement felt to be unfair. Owners have a minimum 40-day period to accept or reject the offer, unless an emergency has been declared. A refusal is simply a case of disagreement between the two parties on the value of the property.

In the event the parties are still unable to agree as to the compensation to be paid, or you cannot clear the title, mediation of differences between parties, conducted by an independent mediator, can be arranged by the Department in order to reach settlement prior to filing any condemnation action. Mediation is a non-binding process where all parties reach agreement.

In the event parties are still unable to agree as to compensation to be paid, or if title cannot be cleared, a condemnation action will be filed. Once condemnation is filed, a trial date will be determined. However, an owner can elect binding arbitration prior to trial, through the Court, for amounts of $20,000 or less, and non-binding arbitration for amounts between $20,000 and $50,000. Arbitration is not available above $50,000.

Discussions and mediation can, of course, continue even after a condemnation action is filed in an effort to resolve differences. The filing allows the State to proceed with the construction project.

IMPROVEMENTS

When the Department acquires an interest in your land, it must acquire an equal interest in your house or any other improvements located on the land acquired. If buildings are required to be removed, the Department may allow the owner to retain the improvements. If you are interested, this can be discussed with the Right of Way Agent.

PAYMENT

If you sign the option agreement and deed, and the Transportation Commission approves it, then the transfer of title and payment may proceed. As in a private sale, you are responsible for clearing encumbrances to the title such as unpaid taxes, assessments, mortgages, outstanding leases and other liens against your property. The Right of Way Agent will assist you in clearing title. No payment can be made until a warranty deed conveying clear title to the Department has been recorded in the appropriate county records.

At the time the deed is available for recording, authorization is given to prepare a check for your property. Normally, when no cloud obscures the title, you will receive payment for your property about four weeks after you give the Department a deed to the property.

If the condemnation action has been filed, the amount established by the Department as just compensation will be deposited with the court for distribution in accordance with the order of the court.

You are entitled to be reimbursed for fair and reasonable costs you incur for expenses incidental to conveying your property to the Department. Such expenses could be, but are not necessarily limited to, penalty costs for prepayment of any pre-existing recorded mortgage encumbering your property, mortgage release fees, and the State's portion of real property taxes.

POSSESSION

You are not required to surrender possession of your property until you have been paid the agreed purchase price or an amount equal to the Department's established estimate of just compensation has been deposited with the court for your benefit.

When negotiations begin, you, as well as any tenants occupying your property, will be notified

in writing that it is the Department's intent to acquire the property. You will not be required to move from your home, farm, or business location earlier than 90 days following that notice or within 30 days after payment, whichever is later. However, if the purchase does not require you to move, the agreement to purchase your property may require you to surrender possession of your property upon payment.

The Department is aware of the need for a reasonable time for relocation. If your property is not needed for several months, your continued occupancy may be permitted on a short term basis. The amount of rent the Department may charge you, or another tenant, may not exceed the fair rental value of the property to a short term occupant.

RIGHT OF WAY OFFICES

For your convenience the Department maintains Regional Right of Way Offices at the following locations:

123 NW Flanders
Portland, Oregon 97209
Telephone No.
(503) 731-8400
FAX (503) 731-8458

63020 O. B. Riley Road
Bend, Oregon 97701
Telephone No.
(541) 388-6196
FAX (541) 388-6381

3500 NW Stewart Parkway, Suite 164
Roseburg, Oregon 97470
Telephone No.
(541) 957-3559
FAX (541) 957-3563

2960 State St. SE
Salem, Oregon 97310
Telephone No.
(503) 986-2600
FAX (503) 986-2622

3012 Island Avenue
La Grande, Oregon 97850
Telephone No.
(541) 963-7552
FAX (541) 963-9079

734-3773 (9-97)

MOVING BECAUSE OF THE HIGHWAY OR PUBLIC PROJECTS?

A DESCRIPTION OF THE
OREGON DEPARTMENT OF TRANSPORTATION
RELOCATION ASSISTANCE
PROGRAM

Department of Transportation policy requires that no family or individual will be required to vacate any dwelling until such displacee has found or been offered comparable replacement housing.

All replacement housing offered will be fair housing open to all persons regardless of race, color, religion, sex, or national origin.

Federal funds cannot be used to provide relocation payments or relocation advisory services to an alien not lawfully present in the United States, except in cases of exceptional or extreme hardship. Persons not lawfully present in the United States may be eligible for relocation benefits using State funds only, except in hardship cases. Displacees will be asked to sign a "Certification of Legal Residency in the United States"

Relocation legislation, because of its wide scope, is somewhat complicated and difficult to read and interpret. For the benefit of those who are affected by the Department of Transportation property acquisitions, this leaflet summarizes the principal provisions of relocation services and benefits. However, persons reading this leaflet are urged not to form advance opinions as to the benefits and amounts to which they may be entitled. The right of way agent assigned to purchase a property will have detailed information for displaced persons.

OREGON DEPARTMENT OF TRANSPORTATION

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 or for the purpose 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.

RELOCATION SERVICES

The Department of Transportation maintains Regional Right of Way offices in the following locations:

123 NW Flanders Portland, Oregon 97209 Telephone No. (503) 731-8400 FAX (503) 731-8458	63020 O. B. Riley Road Bend, Oregon 97701 Telephone No. (541) 388-6196 FAX (541) 388-6381

3500 NW Stewart Parkway, Suite 164
Roseburg, Oregon 97470
Telephone No.
(541) 957-3559
FAX (541) 957-3563

2960 State St. SE Salem, Oregon 97310 Telephone No. (503) 986-2600 FAX (503) 986-2622	3012 Island Avenue La Grande, Oregon 97850 Telephone No. (541) 963-7552 FAX (541) 963-9079

These offices maintain current lists of replacement dwellings, businesses, and farms for displaced persons, as well as current data regarding required deposits for utilities, closing costs, typical down payments, interest rates, and FHA and VA requirements and information. The offices also have maps showing the location of schools, parks, playgrounds, and shopping areas. Public transportation routes are shown, and schedules and fare information is available. Experienced right of way agents are available to aid displaced persons to the fullest extent. Right of way agents do not expect and will not accept any fee for any service rendered.

ELIGIBILITY

It is important to note that eligibility to receive any of the following benefits is not complete until you have received a written notice of eligibility from the State.

GENERAL MOVING EXPENSES

Service charges for reconnecting utilities are reimbursable except under schedule move procedures.

INDIVIDUAL AND FAMILY MOVING EXPENSES

Any individual or family displaced by a Department of Transportation project is entitled to receive a payment for actual and reasonable expenses of moving personal property a distance not to exceed a 50-mile radius or to the nearest available and adequate site.

In order to obtain a moving expense payment, a displaced person must file, within 18 months after displacement, a written claim with the Department of Transportation on a form provided for that purpose. In some cases, where it is to the benefit of the displaced person, a written arrangement with the Department of Transportation will allow the displaced person to present an unpaid commercial moving bill, and the Department of Transportation will make payment directly to the mover. If the residential displacee chooses, costs may be reimbursed according to a set schedule based upon the number of rooms of furniture to be moved.

RESIDENTIAL MOVING SCHEDULE

Unfurnished
[Relocatee owns furniture]

$300 [1 rm]	$700 [3 rm]
$500 [2 rm]	$825 [4 rm]

plus $125 for each additional room

Furnished
[Relocatee does not own furniture]

$275 for first room plus $40/each added room

REESTABLISHMENT PAYMENT
(businesses, farms, nonprofit organizations only)

Displaced small business, farm operations and nonprofit organizations may receive a payment not to exceed $10,000 for expenses actually incurred to relocate and reestablish themselves at a replacement site. Eligible expenses can include repairs and improvements required by law, replacement of soiled and worn surfaces at the replacement site and other modifications, exterior signing, advertisement of the replacement location, and estimated increased cost of operation for the first two years.

BUSINESS, FARM & NONPROFIT ORGANIZATION MOVING EXPENSES

Displaced businesses, farm operations, and nonprofit organizations are entitled to receive actual reasonable moving expenses for moving personal property a distance not to exceed a 50-mile radius or to the nearest available and adequate site. The actual and reasonable cost of searching for a replacement location may be claimed in an amount up to $1,000 for a farm, nonprofit organization or business. Such payments must be supported by receipted bills or other evidence of expenses incurred.

As an alternate moving expense procedure, in the case of a self move, the business, farm operations, or nonprofit organization may be paid an amount not to exceed the lower of two estimates secured by the Department of Transportation from qualified moving companies.

Under certain conditions, businesses, farms, and nonprofit organizations may receive payments for direct losses of tangible personal property resulting from the necessity to relocate.

A displaced or discontinued business nonprofit organization or farm operation, except advertising sign owners, may, under certain conditions, elect to receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation during the two tax years immediately preceding the year in which such business or farm operation is displaced. The payment cannot exceed $20,000 and will not be less than $1,000. Those who choose the fixed payment are not eligible for any other relocation benefit payment.

STORAGE OF PERSONAL PROPERTY

Storage of personal property requires the written approval of the Department of Transportation and may not exceed twelve months except in unusual circumstances. It should be clearly understood that those dislocatees who accept the schedule move or fixed payment are not eligible to receive the storage expense benefit.

REPLACEMENT HOUSING

A displaced owner-occupant of a dwelling owned and occupied for 180 days or more immediately prior to the initiation of negotiation for such property may be eligible for additional payments, the combined total of which may not exceed $22,500.

The replacement housing payment is the amount, if any, which when added to the amount for which the

State acquired his or her dwelling, equals the actual cost which the owner is required to pay for a decent, safe, and sanitary replacement dwelling or the amount determined by the State as necessary to purchase a comparable dwelling, whichever is less. This payment includes compensation for increased interest costs for financing the replacement dwelling and actual closing costs incidental to the purchase of replacement housing.

A displaced owner-occupant of a dwelling actually owned and occupied by the owner for 90 days or more but less than 180 days or a tenant-occupant of 90 days or more immediately prior to initiation of negotiation for such property may be eligible for additional payments, the combined total of which may not exceed $5,250. This payment is the amount necessary to make a down payment on the purchase of a replacement dwelling and to reimburse the relocatee for the actual closing costs incidental to the purchase of the replacement dwelling. Necessary deposits for taxes and insurance are not considered as closing costs. In those cases where an owner-occupant of 90 days or more but less than 180 days or a tenant-occupant of 90 days or more chooses to rent instead of purchase a replacement dwelling, he or she may, under certain conditions, be eligible for a payment of up to $5,250 to rent a decent, safe, and sanitary replacement dwelling.

The rent payment is the increase in rent necessary to rent a comparable dwelling for 42 months or the amount determined by the State as necessary to rent a comparable dwelling for 42 months, whichever is less.

To be eligible for these benefits, the displaced occupant must purchase or rent and occupy a decent, safe, and sanitary replacement dwelling within one year after the required date of displacement or within one year after the actual date of displacement, whichever is later.

Claims for housing additives and rent supplements must be made in writing on a Department of Transportation form supplied for this purpose and must be filed with the Department of Transportation no later than 18 months after the date of displacement.

Before payments for any replacement dwelling benefits can be made, the replacement dwelling must be checked by Department of Transportation personnel to ascertain that it meets the decent, safe, and sanitary standards established by the Federal Department of Transportation. It is recommended that this determination be made prior to a commitment to rent or buy. The decent, safe, and sanitary inspection of the replacement dwelling by agency personnel is for the sole purpose of determining a relocatee's eligibility for a relocation payment.

POSSESSION

No person lawfully occupying real property shall be required to move from his home, farm, or business location without at least 90 days' written notice. A displaced residential occupant will not be required to move earlier than 90 days after the date comparable replacement housing is made available.

The displacee will again be notified 30 or more days prior to the date the property must be vacated. The 30-day notice will not be given until the property owner has been paid for his or her property. However, if a purchase does not require the person to move, the agreement to purchase the property may require the person to surrender possession of his/her property upon payment.

APPEALS

Any relocatee who is dissatisfied with any ruling on his or her eligibility or claim for any relocation benefit payment shall have the right of appeal. Appeal forms can be secured from the right of way agent who is handling the property acquisition. The Chief Administrative Officer of the Department of Transportation has delegated his review authority to a hearings officer. Appeals must be filed with the board within 90 days after the State acts on a claim or denies eligibility for a benefit.

Any person making such an appeal will be given full opportunity to be heard at an appeal hearing arranged to examine his or her complaint. A decision will be provided giving reasons in support of the result reached.

RIGHT OF WAY AGENT

Relocatees will be given information regarding their eligibility and possible benefits by the right of way agent assigned to acquire the property.

734-3772 (4-00)

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GENERAL SUMMARY OF RELOCATION BENEFITS

RESIDENTIAL		BUSINESS, FARM, & NPO'S	
Owner-occupant of 180 days or more prior to initiation of negotiations for the parcel.		Owner-occupant of 90 days or more but less than 180 days and tenant-occupants of 90 days or more occupancy prior to initiation of negotiations for the parcel.	
Housing Additive	$22,500 max.	Rent Supplement	$5,250 max.
Including		Or	
Costs incidental to purchase of replacement dwelling		Down payment benefit and costs incidental to purchase of replacement dwelling	$5,250 max.
And Including		Plus	
Increased interest cost on replacement dwelling		Actual reasonable moving costs	Actual
Or		Or	
Rent Supplement	$5,250 max.	Moving costs based upon schedule	
Plus		Or	
Actual reasonable moving costs	Actual	Storage of personal property for up to twelve months with prior approval	Actual
Or		Plus	
Moving costs based upon schedule		Reestablishment expenses at the replacement site	$10,000 max.
Or		Or	
Storage of personal property up to twelve months with prior approval	Actual	Fixed payment in lieu of all other benefits — requires approval of agency	Average of annual net earnings for two years prior to year of relocation $1,000 min. $20,000 max.