

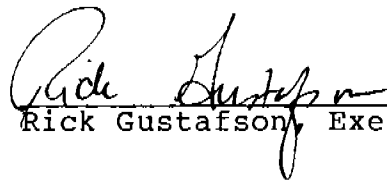
EXECUTIVE ORDER NO. 29

EFFECTIVE DATE: OCTOBER 15, 1986

SUBJECT: RELOCATION REGULATIONS

In accordance with ORS Sections 281.045 to 281.105, the Metropolitan Service District establishes Attachment "A" entitled "Relocation Regulations" as rules for projects or programs undertaken by the District which will result in the acquisition of real property.

ORDERED by the Executive Officer this 15th day of October 1986

A handwritten signature in cursive script, appearing to read "Rick Gustafson", is written over a horizontal line.

Rick Gustafson, Executive Officer

NM/gl
6355C/474-2

ATTACHMENT "A"
METROPOLITAN SERVICE DISTRICT
RELOCATION REGULATIONS

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REGULATIONS GOVERNING RELOCATION PAYMENTS

1.0 INTRODUCTION

- 1.1 Purpose. These regulations constitute the policies and requirements of the Metropolitan Service District (Metro) with respect to making relocation payments.
- 1.2 Persons who are to be displaced are encouraged to contact or visit Metro's or the office of the entity Metro may assign its responsibilities for relocation and acquisition. The regular Metro office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday; and by arrangement appointments can be made at other than regular office hours. Metro is anxious to consult with those expected to be displaced.
- 1.3 These regulations are intended to comply with the requirements of Oregon State Law governing relocation assistance to displaced persons.

2.0 DEFINITIONS

- 2.1 Displaced person. A displaced person is defined as: Any person who moves or is required to move his or her residence and personal property incident thereto, or his or her business or farm operation as a result of:
- 2.1.1 Acquisition of real property in whole or in part, by Metro or its designee; or
 - 2.1.2 The receipt of a written order by such a person from Metro or its designee to vacate the property for public use.
- 2.2 Business. A business is defined as any lawful activity, conducted primarily:
- 2.2.1 For the purchase, sale, lease or rental of personal and real property, and for the manufacture, processing or marketing of products, commodities or any other personal property including farming; but not including outdoor advertising displays; or
 - 2.2.2 For the sale of services to the public; or
 - 2.2.3 By a nonprofit organization.
- 2.3 Number of Businesses. Separate legal entities may actually constitute only one business for purposes of relocation payments. In determining the number of businesses, the factors listed in Section 6.3.2 will be considered.
- 2.4 Family. A family is defined as two or more individuals who by blood, marriage, adoption or mutual consent live together as a family unit.
- 2.5 Metro. Metropolitan Service District, or its designee for the performance of acquisition or relocation services as may be required for a District project or program. Metro may delegate its responsibilities under these rules to another governmental entity by agreement with that entity.

3.0 CLAIMS FOR PAYMENT

- 3.1 Time Limit for Submission of Claim. Any claim for a payment shall be submitted to Metro within 12 months after displacement of the claimant. Displacement occurs upon complete vacation of the premises acquired.
- 3.2 Payment. No payments can be made until the displaced person has completely moved from the premises acquired.
- 3.3 Approval of Claim. Metro staff or its designee shall determine the eligibility and amount of all claims. Any claimant who is dissatisfied with a determination as to eligibility or the amount of payments, may have his claim reviewed in accordance with Chapter 2.05 of the Code of the Metropolitan Service District entitled "Procedure for Contested Cases."

4.0 RESIDENTIAL RELOCATION PAYMENTS

- 4.1 Individuals and families who are displaced persons and move from their residence shall be eligible for relocation payments and assistance from Metro.
- 4.2 Relocation payments and assistance to such individuals and families shall be made in the same amounts and to the same extent that such relocation payments and assistance would be made available if the relocation payments and assistance were made by Metro to such individuals and families pursuant to Part 42 of Title 24 of the Code of Federal Regulations (HUD Relocation Payments and Assistance Regulations) as amended.

5.0 BUSINESS RELOCATION PAYMENTS

5.1 Eligibility. To qualify for benefits, a business must meet the following requirements:

- A. It must qualify as a business, and
- B. It must qualify as a displaced person.

5.2 Notification of Intention to Move.

5.2.1 Requirement. The business concern shall notify Metro of its intention to move at least 30 days prior to the date that the first item of personal property is moved, but not earlier than 90 days prior to the move. Metro may waive this notice requirement after documenting its file accordingly.

5.2.2 Information to be Submitted to Metro. The business concern's notification to Metro shall be in writing and shall include the following:

- A. A statement of its intention to begin to move and/or to dispose of personal property, and the date(s) of the intended move or disposition of property, including a list of the items to be moved.
- B. A list of the property which the business may offer for sale as a result of the displacement and/or which may be the basis for a claim for direct loss of property.
- C. If the move is to be in whole or in part a self-move, a statement indicating the intention of the business to make a self-move and identifying specific portions of the move to be performed by employees of the business concern.
- D. If the move is to be contracted out, assurance that, prior to the issuance of invitations to bids, the business concern will furnish Metro with:
 - A statement setting forth in detail the proposed scope of work and a complete inventory of the tangible personal property to be relocated.
 - The dates on which the move is expected to begin and to be completed.
- E. Intention to purchase substitute items of personal property pursuant to Section 5.3.7.

5.3 Moving Expenses.

5.3.1 Actual Reasonable Moving Expenses. A business concern that elects to receive payment for actual moving and related expenses shall be paid the full amount of eligible expenditures incurred, subject to the following:

- A. Metro will pay only eligible expenditures in amounts determined by it to be reasonable and not in excess of an acceptable low bid or estimate. (See Bid Requirements, Section 5.3.10)
- B. No item of property included in the real property acquisition of Metro is eligible for relocation benefits.
- C. No item of personal property moved from real property not being acquired is eligible for relocation benefits.

5.3.2 Moving Expenses--Eligible Expenditures. A relocation payment for actual reasonable moving expenditures may include the cost of:

- A. Transporting personal property from the acquired site to a replacement site (including to and from storage). Transportation costs beyond the first 50 miles from the site from which the displacement occurred are not eligible, except where Metro determines that a move of a longer distance is justified and reasonable.
- B. Packing and crating and unpacking and uncrating personal property.
- C. Disconnecting, dismantling, removing, reassembling and installing relocated machinery, equipment, and other personal property, including connection to utilities available at the replacement location and modifications necessary to adapt such property to the replacement location or to adapt such utilities to the personal property. (See Section 5.3.6)
- D. Storing personal property for a period not to exceed 12 months, when Metro determines that storage is necessary. (See Section 5.3.5)
- E. Insurance premiums covering loss of or damage to personal property while in storage or transit.
- F. Any license, permit or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location. The amount may not exceed the

amount that the business concern would be required to pay annually, limited to the amount covering the remaining useful life of the existing license, permit or certification.

- G. Relettering trucks, signs, and similar items, and replacing stationery and other printed matter on hand at the time of the move that is made obsolete as a result of the move. The actual cost of replacing signs painted on a door or window or on walls may also be compensable, but such compensation shall not include cost of acquisition of a site for such sign.
- H. Searching for a replacement location. (See Section 5.3.9)
- I. Actual direct loss of tangible property. (See Section 5.3.11)
- J. Moving expenses incurred in conducting a self-move to the replacement location. (See Section 5.3.8)
- K. Disconnecting and reinstalling leased equipment, such as telephone, burglar and fire alarm systems and similar items of personal property.
- L. Substitute equipment. (See Section 5.3.7)

5.3.3 Moving Expenses--Ineligible Expenditures. A relocation payment for moving expenses may not include the cost of:

- A. Additional expenses incurred because of operating in a new location.
- B. Moving structures, improvements, or other real property acquired by Metro at the former location, or in which the displaced person reserved ownership. Any building, structure, or other improvement which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property.
- C. Interest on loans to cover moving expenses.
- D. Loss of good will.
- E. Loss of profit.
- F. Loss of trained employees.
- G. Personal injury.

- H. Cost of preparing the claim for moving and related expenses.
- I. Any addition, improvement, or other physical change in or to the replacement structure or its premises, including changes required by OSHA, or other code requirements.
- J. Downtime.
- K. Loss of lease or leasehold interests.
- L. Professional services including but not limited to attorneys, architects, consultants, and engineers.
- M. Cost of replacing or repairing property lost, stolen, or damaged in process of moving.
- N. Advertising except signs moved as personal property as provided in Section 5.3.2.
- O. Expenditures incurred after 12 months of the date of displacement. Displacement occurs upon complete vacation of the premises acquired.
- P. Any other items that Metro determines are not reasonable or necessary.
- Q. Any expenditure which duplicates any eligible expenditure.

5.3.4 Limitation on Moving Costs. Where in the judgement of Metro the cost of moving any item of personal property which is used in connection with a business would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation.

5.3.5 Storage Costs

- 5.3.5.1 General. A relocation payment for moving expenses may include actual reasonable storage costs (dead storage) incurred by a business concern that either (1) does not immediately reestablish at a new location, or (2) although reestablishing at a new location, cannot complete its move until the total required space becomes available. No payments for storage cost may be made unless Metro has determined that storage is necessary in connection with relocation of the business.

5.3.5.2 Time Limit. Costs in connection with storage (including insurance while in storage) are limited to a period not to exceed 12 months.

5.3.5.3 Ineligible Costs. A payment for storage may not include costs related to:

- A. Any item(s) stored in or upon property owned or occupied by the claimant.
- B. Any items replacing item(s) removed from storage. (Storage costs compensable as a moving expense must be reduced accordingly for any item(s) removed, if permitted in the warehousing contract).
- C. Any item(s) subsequently replaced by substitute equipment under Section 5.3.7.
- D. Any item(s) not owned by the business at the time of the beginning of the move.

5.3.5.4 Loss of Property. No payment for direct loss of property, (See Section 5.3.11) may be made for any item(s) placed in storage, except when the move to storage is made because of an emergency (e.g., fire) and (a) the claimant is not permitted time to determine the items that he wishes to dispose of, and (b) Metro determines that the claimant has moved expeditiously to remove from storage those items for which he intends to file a claim for direct loss of property.

5.3.6 Installation of Relocated Machinery, Equipment or Other Personal Property.

5.3.6.1 General.

- A. A relocation payment for moving expenses may include necessary and reasonable costs for the installation of relocated machinery, equipment or other personal property at the replacement location. The term "replacement location" is defined as only the replacement structure, not the surrounding premises.
- B. At the time that the business concern notifies Metro pursuant to Section 5.2 of its intention to move and its expectation that costs will be incurred at the replacement location for the installation of relocated machinery, equipment or other

personal property, the business concern and Metro shall explore together the most feasible method of accomplishing the installation activity that is the least costly for successfully carrying out the move.

5.3.6.2 Eligible Costs. Eligible installation costs include reasonable amounts incurred for the following:

- A. Connection of relocated machinery, equipment or other personal property to available utility services at the replacement location.
 - 1. "Available utility services" are defined as currently existing utilities on or within the structure which are distributed throughout the structure from the utility service entrance and/or main panel or main value system.
 - 2. Utility services include electrical, water, gas, compressed air, vacuum, vent, sewer, oil, and similar service lines.
 - 3. Connection to available utility services shall be either: (i) at or on the relocated machinery, equipment, or other personal property, or (ii) at a nearby distribution point within the structure as determined by Metro.
- B. Modification to adapt or convert the relocated machinery, equipment or other personal property to the available utility services at the replacement location.
- C. Modifications to the existing utility services at the replacement location to accommodate the relocated machinery, equipment or other personal property when Metro determines that it would be less expensive than modifying the relocated items to the available utility services.
- D. Costs necessary to place or situate the relocated machinery, equipment or other personal property at the replacement location in order to install the relocated items. Costs are limited to those necessary to allow access to the

replacement location, such as removing and replacing doors, panels, and similar items to permit placement of the relocated personal property.

5.3.6.3 Limitations. Eligible installation costs do not include costs for the following:

Construction of a new structure, the rehabilitation, or modification of an existing structure to rehouse the relocated machinery, equipment, or other personal property.

The cost of increasing the load carrying capacity of a floor or structure.

Supplying utility services from the public right-of-way to the utility service entrance and/or main valve system in or on the replacement location.

Changes or modifications to a utility service entrance and/or main panel or main valve system within the replacement location, except as provided in Section 5.3.6.2.A.

Construction of concrete pads or foundations necessary to install relocated machinery, equipment, or other personal property.

5.3.7 Substitute Equipment.

5.3.7.1 General. A displaced business concern may elect to replace with a substitute item, any unit or article of personal property currently utilized in its operation but which is not to be moved. Substitute items must perform approximately the same function as the item replaced.

5.3.7.2 Notification to Metro. a business concern that contemplates the use of substitute equipment must so indicate to Metro at the time that it submits written notification of its intention to move. (See Section 5.2)

5.3.7.3 Allowable Costs. The allowable cost includable in the relocation payment for moving expenses shall be the lesser of:

- A. The actual cost of the substitute equipment delivered and installed at the replacement location, less any proceeds received from the sale or trade-in of the old equipment (see subparagraph 5.3.7.5 below); or

- B. The estimated cost to relocate the old equipment to the new location (disconnect, cartage, reconnect). Metro shall obtain necessary bids or estimates to determine the reasonable cost of the move. No amount for storage costs may be included in the bids or estimates.

5.3.7.4 Ineligible Cost. No payment for direct loss of any item of property may be made when a payment for a substitute item is made. No payment for substitute equipment may be made if the original equipment has been moved to property owned, leased or occupied by the claimant.

5.3.7.5 Equipment Left on Site by Business Concern. If personal property that the business concern replaced with substitute equipment is not sold or traded in, it must be conveyed to Metro.

5.3.8 Self-Moves

5.3.8.1 General. A business concern may elect to make a self-move and not submit documentation in support of the moving costs actually incurred as long as the amount of the claim does not exceed an acceptable low bid or estimate as determined by Metro. the business concern may carry out the move by using its own employees and equipment or engage a mover or contractor to handle all or part of the move. A business concern planning a self-move must notify Metro at least 30 days prior to the date of the move.

5.3.8.2 Limitations.

- A. The amount of a relocation payment for a self-move shall not exceed the estimated cost of the move or of an acceptable low bid determined pursuant to Section 5.3.10. Metro shall obtain necessary bids or estimates to determine the reasonable cost of the move.
- B. The "no documentation" provision applies only to the portion of the claim representing the moving cost component supported by an acceptable bid or estimate. All other costs included in the claim are subject to applicable limitations and requirements.

5.3.8.4 Requirements.

- A. The work performed in moving the business concern must conform with the scope of work covered by the acceptable low bid or estimate (other than the time period for completion).
- B. In determining the acceptability of cost to be claimed, Metro, in negotiating with the claimant, shall consider the following factors:
 - 1. The relationship of the move to the scope of work and the time duration covered by the acceptable low bid or estimate.
 - 2. The reasonableness of labor and supervisory costs associated with the move.
 - 3. The reasonableness of costs attributed to equipment used in the move.

5.3.8.5 Exception to "No Documentation" Provision in Connection with Self-Move.

- A. Determination to Document Moving Costs. When bids cannot be obtained or the business concern elects to make a self-move and Metro and the concern cannot agree on an acceptable amount to cover the cost of the move, the business concern must submit full documentation in support of all amounts claimed. Documentation shall include such reasonable evidence of costs incurred as required by Metro.
- B. Cost Limitations. The amount of a payment for a documented self-move is subject to the following limitation:
 - 1. If an acceptable low bid or estimate was obtained, the amount of the payment may not exceed the lesser of (a) the actual costs incurred as documented by the business concern, or (b) the amount of the acceptable low bid or estimate.
- C. Allowable Expenses. Compensable costs for a documented self-move may include reasonable and necessary expenses incurred by the business concern for:

1. The use of equipment to accomplish the move. This may be either the cost of renting equipment to accomplish the move or the cost of the use of the concern's equipment at a rate not to exceed the reasonable cost of rental equipment.
2. Wages paid for the labor of persons who physically participated in the move. The labor may be performed by regular employees of the concern, owners of the concern, or persons employed for the move.

5.3.9 Searching For A Replacement Location.

5.3.9.1 Eligible Costs. Searching expenses may include:

- A. Transportation expenses within a radius of 50 miles from the boundaries of the Metropolitan Service District, at a mileage rate not to exceed the amount normally paid by Metro for travel of its staff.
- B. Meals and lodging while away from home.
- C. An amount to cover the reasonable time spent in searching based on the average hourly wage rate of the business concern's representative, but not to exceed \$15.00 per hour.
- D. Reasonable fees paid to a real estate agent or broker to locate a replacement site or operation.

5.3.9.2 Maximum Amount. The maximum total amount of compensation for searching expenses is limited to \$1,000.

5.3.9.3 Documentation. Expenses incurred by the business concern in searching for a replacement location must be supported by receipted invoices, where appropriate. A list of the dates and addresses viewed as possible relocation sites must accompany a claim.

5.3.10 Bid Requirements.

- 5.3.10.1 When Bids Must Be Obtained. When relocation expenses of a business concern are estimated to exceed \$1,000 the business concern must obtain a competitive bid from two reputable movers and/or other contractors with respect to the work, except as provided in Section 5.3.10.7. If the total cost of a move by a general contractor, is estimated to cost \$10,000 or more, the sealed-bid procedure described in Section 5.3.10.8 must be followed.
- 5.3.10.2 Time Requirements for Submission of Bids. Bids are required to be submitted to the business concern at least 10 days prior to the commencement of the concern's move.
- 5.3.10.3 Low Bid Sets Maximum Payment. A relocation payment for moving expenses of a business concern may not exceed the amount of an acceptable low bid.
- 5.3.10.4 Bid Form. State or local laws or regulations governing bidding procedures shall be followed in obtaining bids, or, in obtaining estimates where estimates will be used.
- 5.3.10.5 Preparation of Bid or Estimate Specifications by Business Concern.
 - A. Scope of Work. The scope of work covered by each bid or estimate obtained by a business concern must be the same. To achieve this uniformity, all contractors must be provided with the same work specifications on each individual phase of the move.
 - B. Specifications. The specifications should be subdivided to reflect the specific responsibilities of each trade or craft that will perform a separate category of services in the move.
 - C. Metro Assistance. Metro may assist in the preparatin of bid or estimate specifications if the business concern wishes, but selection of movers and other contractors who will be requested to bid shall be the sole prerogative of the business concern.

- 5.3.10.6 Review of Specifications. Metro shall review the bid or estimate specifications prepared by the business concern to determine conformance with these regulations and with recognized sound bidding procedures.
- 5.3.10.7 Obtaining Bids. Bids shall be obtained by the business concern except when substitute equipment will be used at the new location and/or when the concern will conduct a self-move. The concern must obtain bids from at least two contractors, or at least two contractors for each trade or craft where there is no general contractor. Exceptions may be made under the following circumstances:
- A. Concern Unable to Obtain Two Bids. If the business concern is unable to obtain two bids for any category of work, the justification therefore shall be submitted, in writing, to Metro. No relocation payment may be made in such cases unless Metro finds that two bids were unobtainable. In the event that no bids are obtained, Metro shall obtain a technical evaluation of the cost of the move and allow the move to proceed on an actual cost basis supported by adequate documentation. The nature and complexity of the move will govern Metro's decision.
 - B. Legal Prohibition on Bids. If bids for any portion of the work to be performed are prohibited by Federal, State, or local laws or regulations, the business concern may submit estimates for that portion of the move.
- 5.3.10.8 Sealed-Bid Procedure. If the total cost of the move by a general contractor, or of any separately identified category involved in the relocation, is estimated to cost \$10,000 or more, the sealed-bid procedure described in this subparagraph shall be followed.
- A. Submission of Bids or Estimates. The original and one copy of the completed sealed bid or estimate must be mailed or otherwise presented by the bidder to the business concern not less than 10 days prior to commencement of the move. Each bid or estimate must specify the precise scope of work covered by the bid or estimate.

B. Bid Openings. The business concern shall open the sealed bids or estimates at the established time (which should be not less than 10 days prior to the commencement of the move) and place. An authorized representative of Metro must be present at the bid opening unless Metro has notified the business and has requested that the bid opening proceed without Metro's representation. Metro shall be promptly provided with a copy of each bid submitted.

5.3.10.9 Contract Award. When the business concern has determined which is the lowest bid and Metro has concurred, the business concern shall award the contract to the low bidder. Where estimates rather than bids have been submitted, the amount to be compensated as a moving expense shall not be determined until invoices and other required documentations of actual costs have been submitted and reviewed by Metro.

5.3.10.10 Verification of Reasonableness of Bids. if it is deemed desirable in order to verify the reasonableness of bids obtained by the business concern, Metro shall obtain an independent analysis or estimate of the cost of the move.

5.3.11 Actual Direct Loss of Property.

5.3.11.1 General. A business concern may receive a payment for any actual direct loss of any of its tangible personal property, including inventory or goods held for sale, which it chooses not to relocate.

The following policies and limitations apply:

- A. The payment may not exceed the estimated reasonable expense of moving the property.
- B. The business concern must make an effort to achieve a bona fide sale to dispose of the property.
- C. The payment may cover only items of tangible personal property. Items for which compensation was made in the real property acquisition, or which were identified as real property in the acquisition are not eligible.

- D. A payment may not be made for any item for which compensation has otherwise been made, including any item sold or traded in and replaced with a substitute item as provided in Section 5.3.7.
- E. A payment may not be made for actual or estimated storage costs for the items for which a property loss is claimed except as provided in Section 5.3.5.

5.3.11.2 Amount of Property Loss Payment. The amount of the payment for actual direct loss of property shall be determined by adding (1) the reasonable costs incurred by the business concern in its efforts to sell the property, and (2) the lesser of:

- A. The value not recovered by the sale (i.e., the fair market value for continued use of the property at the displacement site, less any proceeds recovered by the sale). When property loss is claimed for goods held for sale, the fair market value shall be based on the cost (to the business concern) of the items, not the potential selling price.
- B. The lowest estimated reasonable moving expenses which would have been incurred had the property been moved. Estimated moving costs as determined by Metro are limited to the amount which would have been necessary for the reasonable cost of transporting (not to exceed 50 miles), packing and unpacking, crating and uncrating, disconnecting and reconnecting, removing, reassembling, and reinstalling those items of personal property not moved and for which a property loss is claimed. The estimate may not include the cost of physical changes or conversions.
- C. If a bona fide sale cannot be effected, the payment for direct loss of property shall be the lesser of (a) the fair market value for continued use, or (b) the estimated moving expense.

5.3.11.3 Bona Fide Sale. A bona fide sale as determined by Metro is a sale at the highest price offered, after reasonable efforts have been made over a reasonable period of time to

interest prospective buyers, including secondhand dealers, and, if appropriate, junkmen, who customarily deal in similar property. An auction held after reasonable public notice is a bona fide sale. A private sale to one's relatives or associates is not a bona fide sale. A trade-in may be considered a bona fide sale, but if the item so traded has been compensated through a Substitute Equipment payment as described in Section 5.3.7, no property loss payment shall be made.

5.3.11.4 Cost of Sale. Ordinary and reasonable expenses incurred by the business concern in its efforts to sell personal property may be included in the amount of a payment for a direct loss of property.

5.3.11.5 Fair Market Value.

A. Procedure. The fair market value of the property for continued use at the location from which the business concern is displaced shall be ascertained by an appraisal secured by either Metro or the claimant and concurred in by the other. It shall be made by a qualified appraiser or a valuation consultant in accordance with the accepted standards of the appraisal profession.

B. Exception. If the value of the property to be disposed of is so small that the expense of an appraisal is not warranted, the fair market value for continued use may be ascertained by either of the following methods:

1. Through consultation with an equipment dealer, determine a value which reflects current used market value of the item or its nearest functional equivalent of the same approximate age and condition; or

2. Compute the fair market value by multiplying:

a. The original cost of the item to the claimant (exclusive of installation) by

- b. The figure obtained by dividing (a) the period of the remaining useful life of the property at the date of removal, by (b) the period of normal useful life of the property on the date of its acquisition by the claimant.

5.3.11.6 Cost of Appraisal. The cost an initial appraisal by Metro to determine actual direct loss of property shall be borne by Metro. The cost of any other appraisal obtained by the claimant shall be borne by the claimant.

5.3.11.7 Claim for Payment for Direct Loss of Property. A claim for a payment for direct loss of property shall be supported by:

- A. Written evidence of the loss, which may include appraisals, certified prices, copies of bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction documents, and other appropriate records.
- B. A list of the items of machinery, equipment trade fixtures, inventory, stock-in-trade, or other tangible personal property excluded from the appraisals of the real property.
- C. Documentation of the fair market value of each item, or each lot or group of similar items, for continued use in place, unless an appraisal secured by Metro has been concurred in by the claimant.

6.0 FIXED PAYMENT FOR MOVING EXPENSES

6.1 General. A fixed payment in lieu of moving and related expenses may be made to a business that elects to receive such a payment and that meets the eligibility requirements for a payment for moving and related expenses and the additional requirements set forth in this Section.

6.2 Amount of Payment. A payment in lieu of moving and related expenses shall be equal to the average annual net earnings of the business concern, but not less than \$2,500 nor more than \$10,000. Payment to a nonprofit organization shall be \$2,500.

6.3 Eligibility Requirements -- Business Concern.

6.3.1 A displaced business concern may be eligible for a payment in lieu of moving and related expenses if Metro determines that the business meets all three of the following tests. Any business that meets these three tests is eligible irrespective of whether it continues or discontinues its operations.

A. Test 1. The business cannot be relocated without a substantial loss of its existing patronage. Existing patronage means either clientele or net earnings. Loss of existing patronage is presumed unless the type of operation is such that patronage is not dependent upon the location in the neighborhood from which displacement takes place. Examples of this type of business include, but are not limited to, the general practice of any of the professions, and businesses whose sales operations do not require customers to travel to the place of business.

B. Test 2.

(1) General Rule. The business is not part of a commercial enterprise having another place of business and which is engaged in the same or similar business activity and which is not being acquired; but, the sole remaining facility of a business that has been displaced from its principal location shall not be considered as "another place of business" if, during the two taxable years prior to displacement from its principal location the other place of business had:

- a. Average gross receipts of less than \$5,000;
or
- b. Average annual net earnings of less than \$1,000.

- C. Test 3. During the two taxable years prior to displacement, the business
- (1) Had average annual gross receipts of at least \$5,000; or
 - (2) Had average annual net earnings of at least \$1,000; or
 - (3) Contributed at least 33-1/3 percent of the average annual gross income of the owners or operators of the business.
 - (4) If in the determination of Metro, the application of any of the above criterion in a specific case would result in substantial hardship to the claimant by denial of the "fixed" payment, Metro may use alternate criteria as determined more equitable under the circumstances.

6.3.2 Determination of Number of Business.

- A. Policy. Separate legal entities, all of which have been or will be acquired, shall be eligible for a single payment in lieu of moving and related expenses if they actually constitute only one business.
- B. Procedure. In determining whether two or more legal entities constitute a single business, the following factors, among others, shall be taken in consideration:
- (1) The extent to which the same premises and equipment are shared.
 - (2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled.
 - (3) The extent to which the entities are held out to the public, and to those customarily dealing with such entities, as one business.
 - (4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

6.4 Eligibility Requirements -- Nonprofit Organization.

A displaced nonprofit organization shall be eligible for a fixed payment in lieu of moving and related expenses (in the

amount of \$2,500) if Metro determines that the following two tests have been met:

- A. Test 1. The nonprofit organization cannot be relocated without a substantial loss of its existing patronage. "Existing patronage" of a nonprofit organization includes the membership, persons, community, and/or clientele serviced or affected by the activities of the nonprofit organization.
- B. Test 2. The nonprofit organization is not a part of an organization having at least one other establishment which is not being acquired for the project and which is engaged in the same or similar activity. Affiliation with a national or another local organization (e.g., fraternal organizations, union locals, or churches) does not disqualify a nonprofit organization for the payment if it can demonstrate that there is no substantial financial dependency between them.

6.5 Average Annual Net Earnings.

- 6.5.1 Definition. Average annual net earnings mean one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years preceding the taxable year in which displacement takes place. Average annual net earnings includes salaries, wages, or other compensation paid by the business or farm operation to the owner (see Section 6.5.3), his spouse, or his dependents.
- 6.5.2 Base Period. If Metro determines that the two-year period immediately preceeding displacement is not equitable for establishing earnings, an alternate base period determined by Metro to be most representative, may be used.

Following are examples:

- A. Business Adversely Affected by Project Activities. If during the two years prior to displacement the earnings of the business or farm were adversely affected by project activities, an alternate period (e.g., the third and fourth year prior to displacement) may be used as an alternate base period.
- B. Business in Operation Less Than Two Years. If the business or farm was not in operation for the full two years prior to displacement, net earnings should be computed on the basis of the period that the business or farm was in operation in the project area, projected to arrive at an annual figure.

- C. Ongoing Operation Moved to Project Area. If a business moved its operations from a site outside the project area to a site within the project area and its earnings within the project area were adversely affected by project activities, a period determined by Metro as being more representative than the two years prior to displacement may be used to compute the amount of net earnings. An alternate period may be used only if the business operation conducted outside of and within the project area is the same.

6.5.3 Ownership.

- A. Definition of "Owner". The term "owner" includes the proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by Metro. For the purpose of determining a principal stockholder, stock held by a husband, his wife, and their dependent children shall be treated as one unit.
- B. Ownership of More than One Business. Ownership in other businesses by one or more of the owners of a displaced business does not necessarily affect eligibility for a fixed payment. For example, A and B owned a displaced laundry. B is the sole proprietor of another laundry not being acquired. As joint owners of the displaced laundry, A and B are eligible for the payment, provided all other requirements are met.

- 6.6 Documentation of Claim. Claims shall be supported by such reasonable evidence of earnings and ownership as may be required by Metro including copies of Federal and/or State income tax returns filed by the business.

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