DATE: March 10, 2017

TO: Users of the Real Estate Manual

FROM: James J. Viau, Manager, Relocation Section

RE: Changes and Updates to the Real Estate Manual

The only current and accurate source of ODOT’s Real Estate Manual is on the Office of Real Estate’s website. This site is located at: www.dot.state.oh.us/Divisions/Engineering/RealEstate/. Desired information can be accessed by scrolling down the left hand column and selecting “Manuals.” Specific information can be selected by clicking on the desired manual section.

The Real Estate Manual is ever evolving, as procedures are subject to revision and change. Individuals or firms providing relocation services on federal or state funded projects must perform these services in compliance with the most current policies and procedures. Individuals utilizing a hard copy version of the manual, without accessing the website for updates, risk providing non-compliant services to our displacees. Therefore, all users must only use those manual sections contained on our website.

ODOT will provide notice of manual changes on the Design Reference Resource Center (DRRC) web page. Users of the manual can access this page and subscribe to be made aware of manual changes via e-mail notification. Then, when changes to the manual occur, ODOT will provide direct notice to the subscriber. This page can be accessed at http://www.dot.state.oh.us/DRRC. Scroll down to “Real Estate Policies and Procedures Manual” and select the desired section for updates, or enter your e-mail address to subscribe for changes. It is the user’s responsibility to maintain their most current e-mail address on the DRRC notification system. The DRRC web site is updated four times annually.

The Office of Real Estate may also provide additional guidance to its procedures by Inter-Office Communications (IOC’s). These communications will be made a part of the Real Estate Manual and will be found in the Addenda of each section of the manual.
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6300 REQUIRED RELOCATION NOTICES

6301 GENERAL

Certain written notices are required by law on all relocation parcels. These notices inform the Displaced Persons of their rights under the Relocation Assistance Program. The Relocation Agent is responsible for ensuring that applicable notices are presented to the Displaced Person at the appropriate time.

6301.01 All Relocation Notices must comply with the following:

A. Notices shall either be hand delivered or sent certified mail with return receipt requested. If hand delivered, the Agent should secure a copy of the notice signed and dated by the Displaced Person, or a separate receipt signed and dated by the Displaced Person (e.g., brochures).

B. All notices must conform to the templates provided on the ODOT website located at: www.dot.state.oh.us/Divisions/Engineering/RealEstate/. No wording or language shall be changed on any notice without prior approval of the Relocation Section Manager in ODOT Central Office.

C. All notices shall be fully explained to the Displaced Person by the Relocation Agent.

All individuals, families, businesses, farms and non-profit agencies that are displaced by a project shall receive the applicable ODOT Relocation Brochure. With few exceptions, Displaced Persons will also receive a Relocation Offer letter. In unusual circumstances, and with prior approval from the Relocation Section Manager in ODOT Central Office, a Letter of Intent to acquire or Relocation Eligibility Letter may be issued instead of, or before, the Relocation Offer Letter. And only in critical situations will a Notice to Vacate be issued.

6302 ODOT Relocation Brochure

6302.01 What is the purpose of the ODOT Relocation Brochure?

A. Provides Displaced Persons and potentially displaced individual’s general information about the Relocation Assistance Program.

B. There are separate Brochures for Residential displacement and Non-Residential displacement. Brochures can be requested from ODOT’s Central Office Relocation Section Manager, or they can be downloaded and printed from the ODOT website.
6302.02 When is the ODOT Relocation Brochure issued?

A. Public Hearings - At all public hearings for projects in which Right of Way is involved, copies of both Relocation Assistance Brochures shall be available to the public. There is no need to seek receipts from individuals who receive a brochure at a public hearing or meeting.

B. Pre-Acquisition Survey - At the Pre-Acquisition Survey (see Section 6203) the appropriate brochure shall be given to the Displaced Person. The Relocation Agent shall carefully explain all the contents of the brochure. It should be emphasized that the brochure does not establish eligibility for relocation payments and services. It is required that the Displaced Person sign and date a receipt when they are given the brochure. The receipt shall remain in the relocation parcel file.

Example of Brochure Receipt: See ODOT Website for Most Current Template of RE-BRO.

C. At the Relocation Offer, the Relocation Agent shall ensure that the Displaced Person has received a relocation brochure. If the Displaced Person is unsure if they have received one or does not have the brochure on hand, the Agent shall provide another copy.

D. The Ohio Administrative Code, Section 5501:2-5-02(C)(1) describes the requirements for the General Information Notice (ODOT Relocation Brochure):

(C) Relocation notices

(1) General information notice: as soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency’s relocation program which does at least the following:

(a) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(b) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(c) Informs the displaced person that he or she will not be required to move without at least ninety days’ advance written notice (see paragraph (C)(3) of this rule) and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(d) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless...
such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in paragraph (H) of this rule; and

(e) Describes the person’s right to appeal the agency’s determination in accordance with paragraph (J) of rule 5501:2-5-01 of the Administrative Code.

Similar language is contained in 49 CFR 24.203(a).

6303 Relocation Offer Letter

The Relocation Offer Letter is a written notice to the Displaced Person that they are eligible for relocation payments and services. The Relocation Offer Letter also serves as the required 90 Day Notice. For residential Displaced Persons, it also informs them of the location of the comparable replacement property.

The Initiation of Negotiations/Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer) triggers relocation eligibility. The Relocation Offer Letter shall be presented at the same time as the Acquisition Offer, or depending on the Displaced Person’s occupancy status, within seven days thereafter. This notice is required by OAC Section 5501:2-5-02(C)(2):

(2) Notice of relocation eligibility: eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in paragraph (C)(3)(e) of this rule), the initiation of negotiations (defined in paragraph (B)(17) of rule 5501:2-5-01 of the Administrative Code), or actual acquisition, whichever occurs first. When this occurs, the agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

Similar language is contained in 49 CFR 24.203(b).

6303.01 What is the purpose of the Relocation Offer Letter?

A. Establishes eligibility for relocation payments and services.

B. Informs the Displaced Person that they will not be required to move until at least 90 days have elapsed from the date of receipt of the Relocation Offer Letter.

C. For residential Displaced Persons, the Relocation Offer letter informs them of the location of the prime comparable replacement dwelling.

D. Fully informs the Displaced Person of all benefits and services for which they are eligible.

6303.02 When is the Relocation Offer Letter issued?

A. At the same time as the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer), or
6300 REQUIRED RELOCATION NOTICES

B. In the case of a displaced tenant, the Relocation Offer letter shall be presented at the same time or within 7 days of the Acquisition Offer being presented to the owner of the parcel. If an available comparable dwelling has not been located, the agency may issue an Eligibility Letter with prior approval as required in section 6304.

6303.03 Responsibility of the Relocation Agent

A. Present the Relocation Offer Letter in person and fully explain its contents and the Relocation Program. Answer all questions. Only in very unusual circumstances and with prior approval from ODOT Central Office may the Relocation Offer Letter be sent via certified mail with return receipt requested.

B. Obtain the Displaced Person's signature and date of receipt on a copy of the Relocation Offer Letter. This copy shall remain in the relocation parcel file.

6303.04 Regulatory requirements of the Ninety Day Notice.

A. The Relocation Offer letter also serves as the Ninety Day Notice as required by OAC 5501:2-5-02(C)(3):

(3) Ninety day notice

(a) General: no lawful occupant shall be required to move unless he or she has received at least ninety days advance written notice of the earliest date by which he or she may be required to move.

(b) Timing of notice: the displacing agency may issue the notice ninety days or earlier before it expects the person to be displaced.

(c) Content of notice: the ninety-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least thirty days in advance, the specific date by which he or she must move. If the ninety-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than ninety days after such a dwelling is made available.

(d) Urgent need: in unusual circumstances, an occupant may be required to vacate the property on less than ninety days advance written notice if the displacing agency determines that a ninety-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the agency's determination shall be included in the applicable case file.

(e) Notice of intent to acquire: a notice of intent to acquire is a displacing agency's written communication that is provided to a person to be displaced, which clearly sets forth that the agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations.

Similar language is contained in 49 CFR 24.203(c).
Types of Relocation Offer Letters

A. **Relocation Offer Letter for 90+ day Residential Owner (RE-O):** This letter is presented to home owners who have occupied the displacement site for 90 days, or more, prior to the Initiation of Negotiations. The Form RE-O is always presented at the same time as the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer).

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-0.

B. **Relocation Offer Letter for Residential Tenants and Residential Owners of less than 90 days. (RE-T):** This letter is presented to all tenants who have occupied the displacement site regardless of the length of occupancy. The Form RE-T must be presented to tenants within seven days of the Acquisition Offer, or if an available comparable dwelling has not been located, the agency may issue an Eligibility Letter with prior approval from the District Real Estate Administrator, as defined in Section 6304. The Form RE-T is also presented to home owners who have occupied the displacement site for less than 90 days prior to the date of the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer).

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-T.

C. **Offer Letter for Personal Property Moves (RE-PP):** This letter is presented to Displaced Persons who only have personal property to relocate. The Form RE-PP must also be presented at the same time as the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer).

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-PP.

D. **Offer Letter for Displaced Non-Residential Owners (RE-OB):** This letter is presented to business, farm and non-profit Displaced Persons who own the real estate that is being acquired. The Form RE-OB must always be presented at the same time as the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer).

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-OB.

E. **Offer Letter for Displaced Non-Residential Tenants (RE-TB):** This letter is presented to business, farm and non-profit Displaced Persons, who are tenants occupying the real estate being acquired. The form RE-TB must always be presented at the same time as the Acquisition Offer, or within seven days of the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer).
See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-TB.

F. **Offer Letter for Non-Residential Displaced Persons who MAY be Displaced (RE-PD):** The Form RE-PD is for business, farm and non-profit Displaced Persons whose property has been damaged by a project to the extent that the business may not be able to effectively remain in business after the take. One example may be when business parking is reduced to the point that the business may be rendered inoperable. The Form RE-PD must be presented at the same time as the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer). This notice is only presented upon receiving approval from the Central Office Relocation Section Manager.

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-PD.

### 6304 Relocation Eligibility Letter

A Relocation Eligibility Letter is only used for a displaced residential tenant. The Form RE-TEL will be presented to the tenant after the Acquisition Offer (aka - Notice of Intent and Good Faith Offer) has been presented to the fee owner of the property, but before a Relocation Offer Letter can be presented to the tenant. A typical situation where an Eligibility Letter would be used is when the Acquisition Offer has been presented to the fee owner and a comparable residential dwelling has yet to be found to base an offer on to the tenant. Since eligibility for relocation benefits begins when an acquisition offer has been presented to the owner, it is necessary to present an Eligibility Letter to the tenant to establish their relocation eligibility. This letter must be presented within seven days of the Acquisition Offer to the fee owner. An Eligibility Letter can only be issued with prior approval of the District Real Estate Administrator. If an Eligibility Letter is issued, every effort must be made to expeditiously locate a comparable replacement dwelling so that a Relocation Offer Letter (RE-T) can be presented to the Displaced Person.

### 6304.01 What is the Purpose of the Eligibility Letter?

A. Informs the tenant that they are now eligible for relocation benefits and that in the very near future they will receive a Relocation Offer (RE-T).

B. Informs the tenant that they cannot be required to move until 90 days after a comparable dwelling has been made available to them.

C. Informs the tenant to not move until a Relocation Offer has been made, and that if they do move before a Relocation Offer has been made, they may not receive all of the benefits for which they are entitled.
6304.02 When is the Eligibility Letter Issued?

A. Within seven days of the Acquisition Offer (aka - Notice of Intent to Acquire and Good Faith Offer) being given to the fee owner of the parcel; and,

B. Only if a Relocation Offer letter cannot be issued because a comparable replacement dwelling has yet to be located.

C. After receiving prior approval from the District Real Estate Administrator.

6304.03 Responsibility of the Relocation Agent

A. Present the Letter of Eligibility in person and fully explain its contents. The Displaced Person must understand that the maximum allowable relocation amount has not been established; therefore, should they agree to purchase or rent a replacement site prior to the Relocation Offer they risk spending more or less than what may be reimbursable. Only in very unusual circumstances and with prior approval from the District Real Estate Administrator may the Relocation Eligibility Letter be sent via certified mail with return receipt requested. The Relocation Agent must address all questions and insure that the Displaced Person understands the Eligibility Letter.

B. Obtain the Displaced Person signature and date of receipt on a copy of the Eligibility Letter. This copy shall remain in the relocation parcel file.

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-TEL.

6305 Relocation Notice of Intent to Acquire

A Relocation Notice of Intent to Acquire (this is a FHWA term, not to be confused with the Ohio Revised Code Term, Notice of Intent to Acquire and Good Faith Offer, aka: “NIAGFO”) is used to establish relocation eligibility on a parcel prior to the Acquisition Offer. A Relocation Notice of Intent to Acquire should only be used in situations where a Displaced Person is in a hardship situation. This notice may only be issued with prior approval of the Relocation Section Manager in ODOT Central Office. The risk in issuing this notice is that a person displaced from a dwelling may purchase a replacement site without knowing the amount of the appraisal and the maximum allowable relocation amount. Therefore, should they agree to purchase or rent a replacement site prior to the NIAGFO and Relocation Offer they may end up spending more or less than what is ultimately determined by the Price Differential.
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6305.01 What is the purpose of the Relocation Notice of Intent to Acquire?
A. To establish relocation eligibility prior to the initiation of negotiations.
B. To fully inform the Displaced Person of all relocation benefits to which they may be entitled.
C. Informs the Displaced Person that if they move prior to an acquisition offer and relocation offer they may not receive all of their benefits.

6305.02 When is the Relocation Notice of Intent to Acquire issued?
A. Prior to the initiation of negotiations (aka - Notice of Intent to Acquire and Good Faith Offer).
B. After receiving prior approval from the Relocation Section Manager in ODOT Central Office.

6305.03 Responsibility of the Relocation Agent
A. Present the letter in person and fully explain the contents. The Displaced Person must understand that the maximum allowable relocation amount has not yet been established; therefore, should they agree to purchase or rent a replacement site prior to the Relocation Offer they risk spending more or less than what may be reimbursable. The Relocation Agent must address all questions and ensure that the Displaced Person understands the Relocation Notice of Intent to Acquire.
B. Obtain the Displaced Person’s signature and date of receipt on a copy of the Relocation Notice of Intent to Acquire. This copy shall remain in the relocation parcel file. Only in very unusual circumstances and with prior approval from ODOT Central Office may the Relocation Notice of Intent to Acquire Letter be sent via certified mail with return receipt requested.

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current templates of the Forms RE-IO, RE-IT and RE-IB.

6306 Notice to Vacate
The Notice to Vacate (RE-V) shall be issued at the direction of the District Real Estate Administrator on all ODOT and LPA projects, and only after the Agency has obtained legal possession of the property and it is absolutely necessary that the property be vacated. Ultimately, only a judge and local law enforcement has the authority to evict a person from a structure, so the issuance of any Notice to Vacate must be coordinated with the Attorney General's Office on ODOT projects or with the City Attorney or County Prosecutor on LPA projects. Issuance of the RE-V must be approved in advance by the Assistant Attorney General or their local counterpart.
There are several time frames mandated by law that must be adhered to when issuing a Notice to Vacate. It generally takes a considerable amount of time to process an eviction, and the District Project Manager must take this into consideration when planning their project’s clearance. The RE-V must be sent at least 30 days in advance of the date that is required for the Displaced Person to vacate. Prior to sending the Notice to Vacate, the file shall be reviewed to ensure that all advisory services have been provided, a Move Authorization letter has been issued and all other applicable requirements have been met.

6306.01 Regulatory requirements of the Notice to Vacate

There are two regulatory requirements that must be met prior to the date the Agency requests a Displaced Person to vacate a parcel.

A. OAC 5501:2-5-02(C)(3)(a)

(a) General: no lawful occupant shall be required to move unless he or she has received at least ninety days advance written notice of the earliest date by which he or she may be required to move.

The Relocation Offer letter lists the specific date the ninety day notice expires.

B. ORC 163.06 (B)

... The owner or occupant of such structures shall vacate the same within sixty days after service of summons as required under section 163.07 of the Revised Code, after which time the agency may remove said structures....

The Attorney General’s office or the City or County Attorney will contact the appropriate court to verify the service of summons date.

6306.02 What is the purpose of the Notice to Vacate?

A. Inform the Displaced Person of the date by which they must vacate the property.

B. Satisfy legal requirements should it become necessary for a judge to order the Displaced Person to move.

6306.03 When is a Notice to Vacate Issued?

A. The Notice to Vacate may be issued any time after ODOT has gained possession of the property. Possession could be obtained by a standard closing, or when the Court awards possession in an appropriation case. A Notice to Vacate cannot be issued prior to the agency gaining possession.

B. The Notice to Vacate may be issued once ODOT has gained possession of the property and at least 30 days prior to the date that the Displaced Person is asked to vacate. This date shall be specifically stated in the notice.
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C. Unless the assigned Assistant Attorney General negotiates something shorter with the owner’s attorney, the vacate date shall be at least 60 days after the service of summons to the property owner in an appropriation case.

D. The Notice to Vacate may only be issued with approval by the District Real Estate Administrator, in consultation with the respective Attorney General’s Office or City/County equivalent.

6306.04 Responsibility of the Relocation Agent

A. Inform the District Manager of the impending need for a Notice to Vacate. The District Manager must coordinate with the AAG’s office or the local legal authority.

B. Ensure that all time frames are met and the Agency’s actions are in full compliance with all applicable laws, regulations and policies.

C. Hand deliver the notice and ensure that the Displaced Person signs a copy of letter as a receipt, or mail letter certified mail, return receipt requested.

See ODOT website (www.dot.state.oh.us/Divisions/Engineering/RealEstate/) for the most current template of the Form RE-V.

6307 Claims for Relocation Payments

6307.01 Documentation

Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals or other evidence of such expenses. The Relocation Agent must provide the Displaced Person with assistance necessary to complete and file any required claims for payment.

6307.02 Expeditious Payments

The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified by the Relocation Agent as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as possible following receipt of sufficient documentation to support the claim.

6307.03 Time for Filing

All claims for a relocation payment shall be filed with the Agency no later than 18 months after the following:

A. For tenants, the date of displacement.
B. For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later. Or in the case of a condemnation, the date the final acquisition payment is deposited with the court, or the date of displacement, whichever is later.

The Agency shall waive this time period for good cause.

The standard claim form (RE-117 or RE-117-1) is provided by the Relocation Agent to the Displaced Person for making all claims. As with all relocation forms and determinations, all claims are subject to State and Federal Audit.

**6308 Notice of Denial of Claim or Benefits**

If the Agency does not approve a payment claim or refuses to consider a claim because of failure to meet eligibility requirements, untimely filing or other grounds, the claimant shall be promptly notified in writing of the basis for the determination. The letter must also notify the claimant of the right to appeal and how to file an appeal (see Section 6114).