



ACQUISITION OF REAL PROPERTY INTERESTS AND RELOCATION ASSISTANCE

The purpose of this policy is to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition programs carried out by SANDAG. This policy also covers relocation assistance provided by SANDAG to individuals, families, businesses, farm operations, and nonprofit organizations that are required to relocate as a result of projects constructed by SANDAG for the benefit of the public.

Section 14085 et seq. of the California Government Code states that whenever any public entity is to receive state or federal funds for the purposes of project planning, design, rights-of-way, construction, acquisition, or improvement of exclusive public mass transit guideways (and their related fixed facilities, power systems, passenger facilities, vehicles, and equipment), it shall prepare plans for the complete project that are applicable to the type of project, and transmit them to the Department of Transportation for its review and approval of policies, procedures, and performance standards, prior to the implementation of the project or the project phases affected. This policy is intended to cover the following components of Section 14085: acquisition of rights-of-way and other related real properties; and relocation assistance.

Additionally, Government Code sections 7260-7276, require public entities such as SANDAG to provide relocation assistance to displaced persons and to implement a relocation assistance program.

Procedures

1. Acquisition of rights-of-way and other related real properties will be prosecuted within the following policy parameters:
 - 1.1 All property owners will be dealt with fairly and equitably in the acquisition of lands or interests therein required by SANDAG.
 - 1.2 Settlements will be based on estimates of fair market value as supported by current appraisal practices.
 - 1.3 SANDAG shall pay for expenses which the owner(s) must incur for title and escrow fees incidental to conveying real property to SANDAG.
 - 1.4 SANDAG shall make reasonable efforts to acquire expeditiously by negotiation the required property interests.

- 1.5 Condemnation will be utilized where negotiations have reached an impasse or there is a requirement to meet time restraints imposed by funding sources or construction schedules.
- 1.6 The Relocation Assistance Program will be fairly administered to ensure that all owners receive any and all benefits to which they are legally entitled.
2. The following guidelines shall be utilized by SANDAG or its agents to ensure fair and equitable treatment of all property owners affected by SANDAG acquisitions as set out in Government Code Section 7267 et seq., as it may be amended from time to time:
 - 2.1 The real property interests to be acquired shall be appraised and the fair market value established before the initiation of negotiations and the property owner shall be given the opportunity to accompany the appraiser during his inspection on the property. The property owner may request an independent appraisal to be conducted at SANDAG expense for an amount not to exceed \$5,000. (Government Code Section 7267.1 and 7267.2)
 - 2.2 SANDAG or its agents shall make a prompt offer to the property owner for the full estimate of market value established by the Executive Director or his or her designee. SANDAG or its agents also shall provide the property owner with a written statement of, and summary of the basis for, the amount established as just compensation. The summary shall contain the following elements:
 - 2.2.1 The owner's name and address.
 - 2.2.2 Zoning and present use of the property.
 - 2.2.3 Highest and best use of the property.
 - 2.2.4 Consideration to be paid by SANDAG.
 - 2.2.5 Total property area and amount to be acquired.
 - 2.2.6 Market value of the property to be acquired and a statement as to how the value was established, i.e., market data approach, income approach, or cost approach.
 - 2.2.7 Amount of damages or a statement indicating that there are no compensable damages. (Government Code Section 7267.2)
 - 2.3 SANDAG shall make reasonable efforts to acquire by negotiation the real property interests required so as to reduce the need for litigation. SANDAG shall strive at all times to assure consistent treatment of property owners involved in public improvement projects and to promote public confidence in SANDAG's acquisition practices. (Government Code Sections 7267 and 7267.1a)
 - 2.4 SANDAG shall schedule the construction or development of a public improvement, insofar as it is practicable, so that no person lawfully occupying real property shall be required to move from a dwelling or business, assuming a replacement dwelling is

- available, without at least 90 days written notice from the SANDAG. (Government Code Section 7267.3)
- 2.5 Should rental property become vacant, SANDAG may rent the vacated premises prior to acquisition.
 - 2.6 The threat of condemnation shall not be used to coerce a property owner into agreement. (Government Code Section 7267.5 and 7267.6)
 - 2.7 SANDAG will offer to acquire the entire property if the owner so desires where the acquisition of a portion of the property would leave the remaining portion in such shape or condition as to constitute an uneconomic remnant. (Government Code Section 7267.7)
3. Relocation assistance is a program that has been established by federal and state law to provide help to individuals, families, businesses, farm operations, and nonprofit organizations required to relocate as a result of a public improvement project. Its primary objective is to assist all project displacees to the end that they do not suffer disproportionate injury as a result of projects constructed for the benefit of the public as a whole.
 - 3.1 Relocation assistance shall be in accordance with Section 7260-7276 of the State Government Code, as it may be amended from time to time.
 - 3.2 No person will be required to relocate due to a proposed construction project until a replacement facility has been made available which meets the following standards:
 - 3.2.1 Decent, safe, and sanitary.
 - 3.2.2 Fair housing.
 - 3.2.3 In areas not generally less desirable than the property to be acquired in regard to public utilities or public and commercial facilities.
 - 3.2.4 Within the financial means of the displacee.
 - 3.2.5 Reasonably accessible to the displacee's place of employment, public services, and commercial facilities.
 - 3.2.6 Adequate to accommodate the displacee.
 - 3.2.7 In an equal or better neighborhood.
 - 3.2.8 Available on the market to the displacee.
 - 3.3 In lieu of a replacement facility, the eligible owner or occupant may agree to accept a cash settlement as provided by state law.
 - 3.4 Moving and related payments will be paid as provided by state law.

- 3.4.1 Individuals, businesses, and nonprofit organizations occupying the property to be acquired at the time of the first written offer to purchase and move as a result of SANDAG's acquisition, will be eligible for reimbursement of moving expenses.
- 3.4.2 Residential occupants will receive either the actual reasonable costs involved in moving family and personal property up to a maximum of 50 miles, or a payment based on a schedule relating to the size of their present dwelling, not to exceed \$500.
- 3.4.3 Businesses, farms, and nonprofit organizations will be entitled to reimbursement for (1) actual reasonable costs involved in moving the operation and personal property up to a maximum of 50 miles, (2) actual reasonable expenses incurred in searching for a replacement property, and (3) actual direct losses of tangible property.
- 3.5 Instead of accepting an actual moving expense payment, a business owner may be paid an amount equal to the average annual net earnings of the farm or business for the last two years prior to relocation. The payment may not be less than \$2,500 or more than \$10,000. A business may qualify for an In Lieu Payment if the agency determines that the business cannot be relocated without a substantial loss of the existing dollar volume of business and it is not a part of a business having an additional establishment. A part-time individual or family occupation in the home that does not contribute materially to the income of the displaced owner is ineligible for an In Lieu Payment.
- 3.6 The Board hereby adopts the Department of Housing and Community Development relocation assistance regulations set forth in Title 25, Division 1, Chapter 6, Subchapter 1 of the California Administrative Code, except as supplemented herein, as SANDAG's Relocation Assistance Program for all projects that must have such regulations apply pursuant to Government Code section 7267.8.
- 3.7 Pursuant to section 6152 of Title 25 of the California Administrative Code, the provisions for review commencing with section 6150 shall be supplemented as follows:
 - 3.7.1 In the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, SANDAG shall furnish a written statement to the complainant stating the reason for the dismissal of the claim as soon as possible but no later than two (2) weeks from receipt of the last material submitted by the complainant or the date of the hearing, whichever is later.
 - 3.7.2 Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, the Board shall permit the complainant to inspect all files and records bearing upon his claim or the prosecution of the complainant's grievance. If a complainant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.
 - 3.7.3 The principles established in all determinations by SANDAG shall be considered as precedent for all eligible persons in similar situations regardless of whether or not

a person has filed a written request for review. All written determinations shall be kept on file and available for public review.

- 3.7.4 Any aggrieved party has a right to representation by legal or other counsel at his expense at any and all stages of the proceedings set forth in these sections.
- 3.7.5 If a complainant, other than the owner of a displaced advertising sign, seeks to prevent displacement, SANDAG shall not require the complainant to move until at least twenty (20) days after it has made a determination and the complainant has had an opportunity to seek judicial review. In all cases, SANDAG shall notify the complainant in writing twenty (20) days prior to the proposed new date of displacement.
- 3.7.6 Where more than one person is aggrieved by the failure of SANDAG to refer them to comparable permanent or adequate temporary replacement housing, the complainants may join in filing a single written request for review. A determination shall be made by SANDAG for each of the complainants.
- 3.8 Before any project may be undertaken which involves the displacement of people, SANDAG or its agents shall complete a Replacement Housing Study to determine the needs of the relocatees and the availability of replacement housing. The SANDAG studies shall serve to assure that orderly relocation can be accomplished and that realistic and adequate plans are developed for relocating all displaced persons.
- 3.9 Comparable replacement dwellings will be available or provided for each displaced person within a reasonable amount of time. Such assurance is a part of the SANDAG Relocation Assistance Program study process and must be specifically given on every project requiring displacement.
- 3.10 Relocation advisory services will be provided to assist persons in relocating into safe, decent, and sanitary housing that meets their needs and is within their financial means. The same will be provided for displaced business and farm operators to aid them in finding suitable replacement locations to continue operations. Assistance is required throughout the acquisition phase of the project and starts at the time SANDAG begins acquiring properties on a project.
- 3.11 No person lawfully occupying real property shall be required to move from a dwelling, assuming a decent, safe, and sanitary replacement dwelling is available, or to move a business or farm operation, without at least 90 days written notice from SANDAG, prior to the date the move is required.
- 3.12 SANDAG shall follow generally the procedures outlined in the following Caltrans guides: Right-of-Way; Relocation Assistance Handbook; and How to Make Relocation Studies and Plans
- 3.13 All cash payments to owners or occupants for any purpose shall be formally reported to the Board as to amount, rationale, and applicable code or statute.

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