

WAC 468-100-304 Fixed payment for moving expenses—Nonresidential moves. (1) **Business.** A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by WAC 468-100-301, 468-100-303, and 468-100-306. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with subsection (5) of this section, but not less than one thousand dollars nor more than twenty thousand dollars. The displaced business is eligible for the payment if the agency determines that:

(a) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site;

(b) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the agency determines that it will not suffer a substantial loss of its existing patronage;

(c) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the agency, and which are under the same ownership and engaged in the same or similar business activities;

(d) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;

(e) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(f) The business contributed materially (defined in WAC 468-100-002(7)) to the income of the displaced person during the two taxable years prior to displacement.

(2) **Determining the number of businesses.** In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(a) The same premises and equipment are shared;

(b) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(c) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(d) The same person or closely related persons own, control, or manage the affairs of the entities.

(3) **Farm operation.** A displaced farm operation (defined in WAC 468-100-002(12)), may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with subsection (5) of this section, but not less than one thousand dollars nor more than twenty thousand dollars. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the agency determines that:

(a) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(b) The partial acquisition caused a substantial change in the nature of the farm operation.

(4) **Nonprofit organization.** A displaced nonprofit organization may choose a fixed payment of one thousand to twenty thousand dollars in lieu of the payments for actual moving and related expenses and ac-

tual reasonable reestablishment expenses, if the agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the agency demonstrates otherwise. Any payment in excess of one thousand dollars must be supported with financial statements for the two twelve-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

(5) **Average annual net earnings of a business or farm operation.**

The average annual net earnings of a business or farm operation are one-half of its net earnings before federal, state, and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the agency determines is satisfactory.

[Statutory Authority: Chapter 8.26 RCW. WSR 06-02-068, § 468-100-304, filed 1/3/06, effective 2/3/06; WSR 89-17-048 (Order 121), § 468-100-304, filed 8/14/89, effective 9/14/89.]