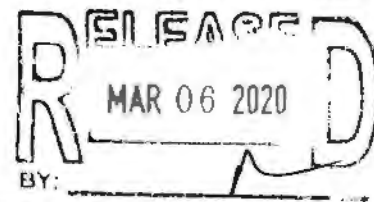




Republic of the Philippines  
**Department of Education**  
REGION III-CENTRAL LUZON

REGION III - RECORDS SECTION



**REGIONAL MEMORANDUM**

No. 77, s. 2020

To: **ALL SCHOOLS DIVISION SUPERINTENDENTS**

Subject: **Submission of Fund Requests for Acquisition of  
New School Sites**

With reference to the Memorandum dated February 12, 2020, from Atty. Alberto T. Escobarte, Assistant Secretary for Legal Affairs, this Department, requesting the Regional Offices to submit their respective fund requests for acquisition of new school sites to address congestion and safety issues in public schools, if there would be any, *all Schools Division Superintendents are directed to coordinate with concerned school heads to look for potential properties for acquisition through posting a call for donation or offer to sell in areas where new school sites are needed.*

**The Schools Division Superintendents shall submit to this Office their respective recommendations on the proposed acquisition of properties, together with the documents contained in hereto attached *List of Documents to be Submitted for Initial Evaluation.***

For ready reference, the *Acquisition Assessment Forms*, the *Checklists in Acquiring New School Sites*, and the Implementing Rules and Regulations of the "Right-of-Way Act" (RA No. 10752) are likewise attached hereto.

Previous requests for acquisition shall be prioritized if complete documentary requirements are submitted to the Office of Assistant Secretary for Legal Affairs on or before March 31, 2020. New requests for acquisition with complete documentary requirements shall be submitted to the Office of Assistant Secretary for Legal Affairs on or before May 31, 2020.

Assistance on the process of acquisition of new school sites may be requested from the Sites Titling Office, DepEd Central Office.



**Address:** Matalino St. D.M. Government Center, Maimpis, City of San Fernando (P)  
**Telephone Number:** (045) 598-8580 to 89; **Email Address:** region3@deped.gov.ph



For immediate dissemination and compliance.



**NICOLAS T. CAPULONG, PhD, CESO V**  
Director III  
Officer-in-Charge  
Office of the Regional Director

**Attachments:**

- Memorandum dated February 12, 2020
- Documents to be Submitted for Initial Evaluation
- Acquisition Assessment Forms
- Checklists in Acquiring New School Sites
- IRR of Right-of-Way Act

Legal1/Legal 3  
March 3, 2020

RELEASED  
03879

Date: FEB 24 2020



Republic of the Philippines

# Department of Education

Office of the Assistant Secretary for Legal Affairs  
DepEd Complex, Meralco Avenue, Pasig City

Sites Titling Office

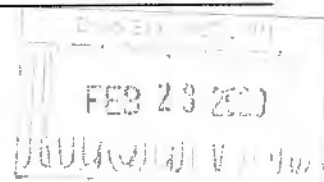
## MEMORANDUM

TO : ALL REGIONAL DIRECTORS

ATTENTION : SCHOOLS DIVISION SUPERINTENDENTS

SUBJECT : SUBMISSION OF REQUESTS FOR ACQUISITION  
OF NEW SCHOOL SITES

DATE : February 12, 2020



With reference to the school sites data previously submitted by Schools Division Offices pursuant to Memorandum No. DM-LA/STO-2016-0 dated September 9, 2016 (copy attached) Re submission of list of schools in need of land acquisition, you are hereby requested to submit fund request for acquisition of new school site to address congestion and safety issues in public schools, if there would be any.

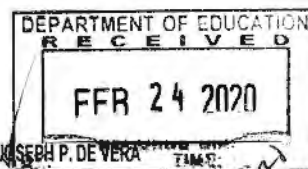
The above-mentioned request is in line with the mandate of the Department to provide safe and conducive learning environment to all children in public schools.

All Schools Division Offices are hereby directed to coordinate with concerned School Heads to look for potential properties for acquisition through posting of a call for donation/offer to sell in areas where new school sites are needed. Attached hereto are the Implementing Rules and Regulations of Republic Act No. 10752 or the "Right-of Way Act," checklists in acquiring new school sites, acquisition assessment forms, for ready reference.

Previous requests for acquisition shall be prioritized if complete documentary requirements are submitted to this Office on or before March 31, 2020. New requests with complete documents shall be submitted on or before May 31, 2020.

Regional Offices may request technical assistance from the Sites Titling Office on the process of acquisition of new school site.


For clarifications, please call Sites Titling Office at the following contact details: (02) 637-3743 and [sto@deped.gov.ph](mailto:sto@deped.gov.ph)



PAUL JOSEPH P. DE VERA

Attached is the consolidated data per regions that submitted list of schools in need of additional land.

For your information and please be guided accordingly.



**ATTY. ALBERTO T. ESCOBARTE, CESO III**  
Assistant Secretary

**Summary of School Sites Needing Additional Land to Address School Congestion  
Submitted per Memorandum DM-LA/STO-2016-0 dated September 9, 2016**

<b>Region</b>	<b>No. of school sites needing additional land</b>
CAR	<b>1</b>
Region I	-
Region II	<b>6</b>
Region III	<b>30</b> ✓
Region IV-A	<b>111</b>
Region IV-B	<b>3</b>
Region V	<b>15</b>
Region VI	<b>20</b>
Region VII	<b>40</b>
Region VIII	-
Region IX	<b>32</b>
Region X	<b>5</b>
Region XI	<b>36</b>
Region XII	<b>3</b>
CARAGA	<b>5</b>
NCR	<b>167</b>
<b>TOTAL</b>	<b>474</b>

PROPERTY:

OWNER:

LOCATION:

GROSS AREA:

Note:

	<i>Documents to be Submitted for initial evaluation</i>	
	<b>Letter- Request from Regional Office for funds for acquisition</b>	
	Form A-1 Congestion Data Justification on the need to acquire a new school site	
	Acquisition Assessment Form	
	Congestion data of neighboring school (within 2kms)  Call for Donation/or Offer to Sell	
	<b>Recommendation/Comment from SDO and RO Engineer</b>	
	Offer to sell (duly signed by the Owner/Atty-in Fact/Representative)	
	Special Power of Attorney for Atty-in-Fact/Representative (individual property)/Board Resolution or Secretary's Certificate for the authorized representative (Company property)	
	Photocopy of Original Certificate of Title/Transfer Certificate of Title	
	Photocopy of Latest Tax Declaration and Tax Clearance	
	Site Visit Photo of Property	
	<b>Recommendation of SDO on the proposed property for acquisition</b>	
	Request for fund {breakdown – Property Price + Other expenditures} to be signed by SDS	
	Request for Special Power of Attorney for School Division Superintendent to sign the a.) contract to sell (prior to issuance of SARO / b.) deed of sale (after issuance of SARO)  Draft copy of Contract to Sell  Draft copy of Deed of Sale	
	Certification from LGU that they are not acquiring the property	
	Request of the SDO to GFI (Landbank, DBP, Veterans) for quotation for the Appraisal of property for acquisition	
	Response from GFI's on SDOs request for quotation	
	Geohazard Certification from Mines and Geosciences Bureau	

	(Regional Office)	
	MOA with selected GFI	
	Approved Report of GFI	
	Others	
	Publication Report	

## ACQUISITION ASSESSMENT FORM

Region: \_\_\_\_\_

Division Office: \_\_\_\_\_

### General Information of the Identified Congested School

Name of School: \_\_\_\_\_

Address: \_\_\_\_\_

Land Area: \_\_\_\_\_

Number of Enrolment:

SY 2015-2016	SY 2014-2015	SY 2013-2014	SY 2012-2013	SY 2011-2012	SY 2011-2010

Number of Permanent Building(s): \_\_\_\_\_

Number of existing classrooms (within permanent building): \_\_\_\_\_

With Buildable Space: YES  NO

Congestion Situation:

Grade/Year Level	Pupil/ Student Room Ratio	Pupil/ Student Land Ratio	Number of Shifts	Congested YES/ NO



**Congestion Situation of Nearby Schools:**

a. Name of the School: \_\_\_\_\_

Address: \_\_\_\_\_

Number of Enrolment:

SY 2015-2016	SY 2014-2015	SY 2013-2014	SY 2012-2013	SY 2011-2012	SY 2011-2010

Land Area: \_\_\_\_\_

Number of Permanent Building(s): \_\_\_\_\_

Number of existing classrooms (within permanent building): \_\_\_\_\_

Distance from the Identified Congested School: \_\_\_\_\_

Congestion Situation:

Grade/Year Level	Pupil/ Student Room Ratio	Pupil/ Student Land Ratio	Number of Shifts	Congested YES/ NO

b. Name of the School: \_\_\_\_\_

Address: \_\_\_\_\_

Number of Enrolment:

SY 2015-2016	SY 2014-2015	SY 2013-2014	SY 2012-2013	SY 2011-2012	SY 2011-2010

Land Area: \_\_\_\_\_

Number of Permanent Building(s): \_\_\_\_\_

**Number of existing classrooms (within permanent building):** \_\_\_\_\_

**Distance from the Identified Congested School:** \_\_\_\_\_

**Pupil/ Students Ratio:** \_\_\_\_\_

**c. Name of the School:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Number of Enrolment:**

SY 2015-2016	SY 2014-2015	SY 2013-2014	SY 2012-2013	SY 2011-2012	SY 2011-2010

**Land Area:** \_\_\_\_\_

**Number of Permanent Building(s):** \_\_\_\_\_

**Number of existing classrooms (within permanent building):** \_\_\_\_\_

**Distance from the Identified Congested School:** \_\_\_\_\_

**Congestion Situation:**

Grade/Year Level	Pupil/ Student Room Ratio	Pupil/ Student Land Ratio	Number of Shifts	Congested YES/ NO

## Prospective Properties

(Property No. 1)

a. Name of Property: \_\_\_\_\_

b. Name of Owner: \_\_\_\_\_

c. Complete Address: \_\_\_\_\_

d. Proof of Ownership

TCT

DOD

OCT

DOS

TAX DEC

Court Decree

e. Viable for Acquisition:  YES  NO

Property Description

Land Area (in sq.m): \_\_\_\_\_

Description of Buildings

Number of Buildings: \_\_\_\_\_

Number of Storey: \_\_\_\_\_

Number of Classrooms: \_\_\_\_\_

Estimated Price:

BIR Current Zonal Valuation: \_\_\_\_\_

LGU Appraised Value: \_\_\_\_\_

Owner's Proposed Price: \_\_\_\_\_

Others:

Contact Person: \_\_\_\_\_

Contact Number: \_\_\_\_\_

Remarks:

\_\_\_\_\_  
\_\_\_\_\_

## Checklist

- General information of the identified congested school**
- Congestion Situation of nearby schools**
- Prospective property**
- Property description**
- Estimated Price**
- Documentary Requirements for Acquisition**

**Attachment A:** Vicinity Map

**Attachment B:** Photocopy of TCT or OCT

**Attachment C:** Photocopy of Tax Declaration

**Attachment D:** Building Plan

**Attachment E:** Lot Plan

**Attachment F:** Ocular Inspection Photos

**Attachment G:** Offer to sell

**Attachment H:** Request for Special Power of Attorney

**Attachment I:** LGU Appraisal Committee Report

**Prospective Properties**

**(Property No. 2)**

a. Name of Property: \_\_\_\_\_

b. Name of Owner: \_\_\_\_\_

c. Complete Address: \_\_\_\_\_

d. Proof of Ownership

TCT

DOD

OCT

DOS

TAX DEC

Court Decree

e. Viable for Acquisition:  YES  NO

**Property Description**

Land Area (in sq.m): \_\_\_\_\_

**Description of Buildings**

Number of Buildings: \_\_\_\_\_

Number of Storey: \_\_\_\_\_

Number of Classrooms: \_\_\_\_\_

**Estimated Price:**

BIR Current Zonal Valuation: \_\_\_\_\_

LGU Appraised Value: \_\_\_\_\_

Owner's Proposed Price: \_\_\_\_\_

**Others:**

Contact Person: \_\_\_\_\_

Contact Number: \_\_\_\_\_

**Remarks:**

\_\_\_\_\_  
\_\_\_\_\_

### Checklist

- General information of the identified congested school**
- Congestion Situation of nearby schools**
- Prospective property**
- Property description**
- Estimated Price**
- Documentary Requirements for Acquisition**

**Attachment A: Vicinity Map**

**Attachment B: Photocopy of TCT or OCT**

**Attachment C: Photocopy of Tax Declaration**

**Attachment D: Building Plan**

**Attachment E. Lot Plan**

**Attachment F: Ocular Inspection Photos**

**Attachment G: Offer to sell**

**Attachment H: Request for Special Power of Attorney**

**Attachment I: LGU Appraisal Committee Report**

**Prospective Properties**

**(Property No. 3)**

a. Name of Property: \_\_\_\_\_

b. Name of Owner: \_\_\_\_\_

c. Complete Address: \_\_\_\_\_

d. Proof of Ownership

TCT

DOD

OCT

DOS

TAX DEC

Court Decree

e. Viable for Acquisition:  YES  NO

**Property Description**

Land Area (in sq.m): \_\_\_\_\_

**Description of Buildings**

Number of Buildings: \_\_\_\_\_

Number of Storey: \_\_\_\_\_

Number of Classrooms: \_\_\_\_\_

**Estimated Price:**

BIR Current Zonal Valuation: \_\_\_\_\_

LGU Appraised Value: \_\_\_\_\_

Owner's Proposed Price: \_\_\_\_\_

**Others:**

Contact Person: \_\_\_\_\_

Contact Number: \_\_\_\_\_

**Remarks:**

\_\_\_\_\_

\_\_\_\_\_

### Checklist

- General information of the identified congested school**
- Congestion Situation of nearby schools**
- Prospective property**
- Property description**
- Estimated Price**
- Documentary Requirements for Acquisition**

**Attachment A:** Vicinity Map

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**Attachment E.** Lot Plan

**Attachment F:** Ocular Inspection Photos

**Attachment G:** Offer to sell

**Attachment H:** Request for Special Power of Attorney

**Attachment I:** LGU Appraisal Committee Report



**Completed by:**

**Division Office Personnel:**

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**Name of School Head:**

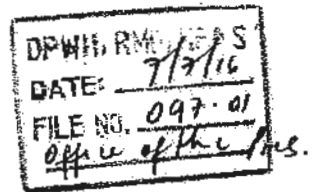
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**COMMITTEE FOR THE PREPARATION OF  
THE IRR OF RA 10752**

**IMPLEMENTING RULES AND REGULATIONS  
OF REPUBLIC ACT NO. 10752,  
AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-  
WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT  
INFRASTRUCTURE PROJECTS**

25 May 2016

*[Handwritten signatures and initials]*



**IMPLEMENTING RULES AND REGULATIONS  
OF REPUBLIC ACT NO. 10752,  
AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY, SITE OR  
LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS**

Pursuant to the provisions of Section 13 of Republic Act (RA) No. 10752, the following Implementing Rules and Regulations (IRR) are hereby promulgated to carry out the provisions of the said Act.

**Section 1. COVERAGE**

This IRR shall cover the acquisition of real properties needed as right-of-way, site or location for national government projects undertaken by any department, bureau, office, commission, authority or agency of the national government, including any government-owned or controlled corporation or state college or university, authorized by law or its respective charter to undertake national government projects.

**Section 2. DECLARATION OF POLICY**

This IRR is governed by the fundamental policy declared in Section 9, Article III of the Constitution which states that private property shall not be taken for public use without just compensation, as reiterated in Section 2 of the Act. Towards this end, the State shall ensure that all persons whose real property is affected by national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of-way (ROW).

In accordance with Section 3 of the Act, subject to the provisions of RA No. 7160, otherwise known as the "Local Government Code of 1991," Local Government Units (LGUs) may also adopt the provisions of this IRR for the acquisition of ROW for local government infrastructure projects.

**Section 3. DEFINITION OF TERMS**

For purposes of this IRR, the following terms shall be understood as defined:

- a. **Act** – means RA No. 10752, otherwise known as "An Act Facilitating the Acquisition of Right-Of-Way, Site or Location for National Government Infrastructure Projects," or "The Right-of-Way Act."
- b. **Implementing Agency or IA**– refers to any department, bureau, office, commission, authority or agency of the national government, including any government-owned or -controlled corporation or state college or university, authorized by law or its respective charter to undertake national government projects.
- c. **IRR** – refers to these Implementing Rules and Regulations for the Act.
- d. **National Government Projects** – as defined in Section 3 of the Act, refers to all national government infrastructure projects and their public service facilities, engineering works and service contracts, including projects undertaken by government-owned and -controlled corporations, all projects covered by RA No. 6957, as amended by RA No. 7718, otherwise known as the "Build-Operate-and-Transfer Law," and other related laws including those

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involving private sector participation and all necessary activities or projects that are intended for public use or purpose, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding. These projects shall include, but not be limited to the following:

- (1) Highways, including expressways, roads, bridges, interchanges, overpasses, tunnels, viaducts and related facilities;
- (2) Railways and mass transit facilities;
- (3) Port infrastructure, like piers, wharves, quays, storage handling and ferry services;
- (4) Airports and air navigation facilities;
- (5) Power generation, transmission and distribution facilities;
- (6) Radio/television broadcasting and telecommunications infrastructure;
- (7) Information technology infrastructure;
- (8) Irrigation, flood control and drainage systems;
- (9) Water and debris retention structures and dams;
- (10) Water supply, sanitation, sewerage and waste management facilities;
- (11) Land reclamation, dredging and development;
- (12) Industrial and tourism estates;
- (13) Government school buildings, hospitals, clinics and other buildings and housing projects;
- (14) Public markets and slaughterhouses; and
- (15) Other similar or related infrastructure works and services of the national government.

e. **Replacement Cost** – refers to the cost necessary to replace the affected structure or improvement with a similar asset based on current market prices.

f. **Right-of-Way or ROW** – means a part or the entirety of a property, site or location, with defined physical boundaries, used or required by a national government project.

#### **Section 4. MODES OF ACQUIRING REAL PROPERTY**

As provided in Section 4 of the Act, the following are the regular modes of ROW acquisition:

- a. Donation

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- b. Negotiated Sale
- c. Expropriation

The other modes of ROW acquisition are the following:

- a. Acquisition of Properties under Commonwealth Act (CA) No. 141
- b. Exchange or Barter
- c. Easement of Right-of-Way
- d. Acquisition of Subsurface Right-of-Way
- e. Other modes authorized by law

### **Section 5. DONATION**

The IA may explore the mode of donation of the needed portion or whole of the affected property, i.e., lots with or without improvements, by the property owner concerned, which may be a private individual/corporation or a government agency/corporation.

If the property owner agrees to donate the property to be acquired by the IA as ROW, a deed of donation shall immediately be prepared. The deed of donation shall be simple and unconditional, and contain clauses to the effect that the donation is made not to defraud the donor's creditors, and that the donor has, if necessary, reserved for himself enough property for his family's subsistence, sustenance and support in case the donor is a private individual.

The donation must be accepted by the IA, which shall be indicated in the deed.

The IA shall pay the documentary stamp tax, transfer tax and registration fees, while the donor shall pay any unpaid real property tax.

### **Section 6. NEGOTIATED SALE**

#### **6.1 Compensation Price**

As provided in Section 5 of the Act, the IA may acquire through negotiated sale the required ROW project, by offering to the property owner as compensation price, the sum of the:

- a. current market value of the land;
- b. replacement cost of structures and improvements therein; and
- c. current market value of crops and trees therein.

#### **6.2 Use of Government Financial Institutions and Independent Property Appraisers**

To determine the appropriate price offer for the acquisition of ROW through negotiated sale, the IA may engage the services of either of the following, taking into consideration efficiency,

 5

#### **6.4 Engagement of GFIs**

If the IA decides to engage the services of a GFI, the IA shall enter into a Memorandum of Agreement (MOA) with the GFI in accordance with the following conditions:

- a. The GFI is capable and has adequate experience to undertake the property appraisal services required by the IA;
- b. The GFI must actually undertake the appraisal by administration using its own in-house manpower and resources; and
- c. The IA shall pay the GFI an appropriate fee for its appraisal services in accordance with the terms of the MOA.

#### **6.5 Procurement of IPAs**

If the IA decides to engage the services of an IPA to determine the appropriate price of a property to be offered to the property owner through negotiated sale under Section 6 of this IRR, the IA shall procure the IPA in accordance with the rules and procedures for the procurement of consulting services under RA No. 9184 and its IRR,

An IPA must meet the following criteria to qualify for the consulting services:

- a. The IPA must be in the list of the BSP or of a professional association of appraisers recognized by the BSP, provided that IPAs not yet included in the list shall not be barred from joining the procurement for such services, and provided further that prior to award of the contract, such IPAs shall be required to submit a proof that they are already included in the list; and
- b. The IPA must comply with the experience and other eligibility requirements provided in RA No. 9184 and its IRR, including the registration and license required for a Real Estate Appraiser.

#### **6.6 Replacement Cost**

With regard to Section 6.1b of this IRR, the Replacement Cost of a structure or improvement affected by the ROW shall be based on the current market prices of materials, equipment, labor, contractors profit and overhead, and all other attendant costs associated with the acquisition and installation of a similar asset in place of the affected asset.

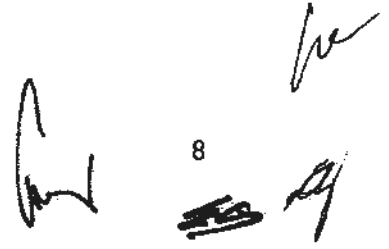
If the affected structure has been damaged, then the Replacement Cost should be based on the pre-damaged condition of that structure. The Replacement Cost of the structure may vary from the market value of the existing structure since the structure that would actually replace it may have a different cost at current market prices. The replacement structure has to perform the same functions and meet the performance specifications as the original structure.

The IA may engage the services of a GFI or an IPA to determine the appropriate price offer, consistent with the guidelines set forth in Section 6.2 of this IRR. The IA may also request the assistance of the DPWH to determine such Replacement Cost.

*[Handwritten signatures and initials]*

If the IA shall directly determine the Replacement Cost of structure or improvement, the following guidelines derived from DPWH standards for estimating civil works costs shall be used:

- a. The IA shall prepare the basic plan and performance-type specifications for the structure to be replaced, generally considering its original condition. These shall indicate, among other things, the following:
  - (1) Main function or purpose of the structure – e.g., residential;
  - (2) Basic configuration and dimensions of the structure – e.g., two-storey house with a total floor area of 150 square meters; and
  - (3) Major structural features – e.g., concrete and wooden structure, with galvanized iron (GI) roof.
- b. Based on the basic plan and specifications prepared in Section 6.6a of this IRR, the IA shall prepare the Replacement Cost of the structure. The Replacement Cost is the price that the IA will pay the owner to replace the existing structure or asset with a similar asset at current market prices.
- c. The Replacement Cost shall be composed of the Estimated Direct Cost and the Estimated Indirect Cost of the replacement structure. These components shall be calculated in accordance with the succeeding items.
- d. The Estimated Direct Cost (EDC) shall consist of the following:
  - (1) Current market cost of materials to be used in doing the work item called for, which shall include the following:
    - (a) Cost at source including processing, crushing, stockpiling, loading, royalties, local taxes, construction and/or maintenance of haul roads, etc.;
    - (b) Expenses for hauling to project site;
    - (c) Handling expenses;
    - (d) Storage expenses; and
    - (e) Allowance for waste and/or losses, at five percent (5%) of materials requirement.
  - (2) Current market cost of labor to be used for:
    - (a) Salaries and wages, within the limits authorized by the Department of Labor and Employment; and
    - (b) Fringe benefits, such as vacation and sick leaves, benefits under the Workmen's Compensation Act, Social Security System (SSS) contributions, allowances, 13<sup>th</sup> month pay, bonuses, etc.

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(3) Equipment Expenses:

- (a) Rental of equipment – usually based on the current Associated Construction Equipment Lessors, Inc. (ACEL) rental rates. For simple computation, the operated rental rates are preferred to the bare rental rates as the former includes operator's wages, fringe benefits, fuel, oil, lubricants and equipment maintenance.
  - (b) Mobilization and demobilization – at one percent (1%) of the EDC of the civil works items.
- e. The Estimated Indirect Cost shall consist of the following items based on accepted construction industry practices:
- (1) Overhead Expenses not exceeding eight percent (8%) of the EDC, which include the following, as applicable:
    - (a) Engineering and Administrative Supervision, including expenses for office equipment and supplies, power and water consumption, communication and maintenance;
    - (b) Transportation allowances;
    - (c) Premium on Contractor's All Risk Insurance, where necessary; and
    - (d) Financing Cost, e.g., premium on bonds.
  - (2) Contingencies and Miscellaneous not exceeding four percent (4.0%) of the EDC. These include expenses for unforeseen events and other activities.
  - (3) Contractor's Profit Margin not exceeding eight percent (8%) of the EDC for projects with an EDC of more than PhP 5 million and ten percent (10%) for projects with an EDC of PhP 5 million and below.
  - (4) Value Added Tax (VAT) Component in accordance with law, five percent (5%) in the case of a property owned by a government agency, or twelve percent (12%) in the case of a property owned by a private party, of the sum of the EDC, Overhead, Contingencies, Miscellaneous, and Profit.

In all cases, the Indirect Costs shall not exceed the following limits:

<b>Estimated Direct Cost (EDC)</b>	<b>Overhead, Contingencies, and Miscellaneous (OCM) as % of EDC</b>	<b>Profit, as % of EDC</b>
Up to PhP5M	12	10
Above PhP5M to PhP50M	9	8
Above PhP50M to PhP150M	7	8
Above PhP150M	6	8

*[Handwritten signatures and initials]*



Informal settler families classified as underprivileged and homeless citizens as defined in RA No. 7279 and not qualified under the four criteria above shall be entitled to relocation pursuant to RA No. 7279 in accordance with Section 14 of this IRR.

#### 6.9 Taxes and Fees

As provided in Section 5(c) of the Act, the IA shall pay for account of the seller/owner, the Capital Gains Tax (CGT), as well as the Documentary Stamp Tax (DST), transfer tax and registration fees, while the owner shall pay any unpaid real property tax.

The IA shall pay the CGT to the Bureau of Internal Revenue (BIR) based on the actual consideration stated in the Deed of Sale, as expressed below:

$$AC = NAC + CGT$$

where:

AC = Actual Consideration indicated in the Deed of Sale to be appropriated and paid out by the IA for the negotiated sale,

NAC = Compensation Price as offered by the IA to the property owner in accordance with Section 6.1 of this IRR, net of CGT, and

CGT = Capital Gains Tax to be paid by the IA to the BIR, for the account of the owner.

Since  $CGT = x\%$  of AC,

then  $NAC = AC - CGT = 100\%AC - x\%AC = (100\% - x\%)AC$ ,

and, therefore,  $AC = NAC / (100\% - x\%)$

Annex B shows an illustrative example in computing the AC, NAC and CGT for a hypothetical property affected by a ROW to be acquired through negotiated sale.

The above provision pertaining to CGT does not apply to the sale of property classified as ordinary assets. The latter is subject to the existing BIR rules and regulations.

In addition, the DST, transfer tax and registration fees for the negotiated sale shall be paid by the IA in accordance with pertinent laws and regulations.

Upon the request of the property owner, the IA shall remit to the LGU concerned the amount corresponding to any unpaid real property tax, subject to the deduction of this amount from the total negotiated price, provided that the said amount is not more than the negotiated price.

#### Section 6.10 Deed of Absolute Sale and Payments

As provided in Section 5(e) of the Act, the property owner and the IA shall execute a Deed of Absolute Sale after the property owner has submitted to the IA the Transfer Certificate of Title, Tax Declaration, Real Property Tax Certificate or Clearance (as issued by the Treasurer of the concerned LGU) and other documents necessary to transfer the title to the Republic of the

Where the property owner owns only the structures/improvements, as provided in Section 5(g) of the Act, the IA shall, at the periods stated below, pay the property owner the remaining thirty percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR, immediately after the IA has certified that the land is already completely cleared of structures, improvements, crops and trees.

- a. At the time of the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected; and
- b. At the time of the annotation of a deed of sale on the title, in cases where the land is partially affected.

The IA shall ensure the faithful and prompt compliance with the above payment procedures and may revise or issue the necessary orders and directives to this effect.

The IA shall pay the CGT to the BIR within thirty (30) days after (a) the release of the initial payments specified above or (b) the notarization of the Deed of Sale, whichever is earlier. The IA shall also pay the DST within five (5) days after the close of the month when the Deed of Sale is notarized.

#### **6.11 Outstanding Claims for ROW Payments**

In accordance with Section 5 of the Act, the provisions of Section 6.1 of this IRR shall also apply to outstanding claims for right-of-way payments, except that the amount to be offered shall be the price at the time of taking of the property, including legal interest until fully paid, subject to the transitory provision in Section 19 of this IRR.

#### **6.12 Special Cases**

In case of untitled lands being acquired through negotiated sale, the IA shall compensate the owner using the procedures in Section 6 of the IRR, provided that the land owner shall present:

- a. a Tax Declaration showing his and his predecessors' open and continuous possession of the property for at least thirty (30) years;
- b. Certification from the Department of Environment and Natural Resources (DENR) that the land is alienable and disposable; and
- c. Other documents that may show proof of ownership.

In case of failure to establish ownership over the land, but where improvements are introduced thereon, the apparent property owner may be entitled to compensation for the said improvements subject to Section 6.8 of this IRR.

### **Section 7. EXPROPRIATION**

Whenever it is necessary to acquire real property for the ROW, site or location for any national government infrastructure through expropriation, which includes, among others, the case in Section 6.7 of this IRR where, within thirty (30) days, the property owner refuses or fails to accept the price offer of the IA for negotiated sale or fails and/or refuses to submit the documents



If within seven (7) working days after the deposit with the court of the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR, the court has not issued to the IA a writ of possession for the affected property, the counsel of the IA shall immediately seek from the court the issuance of the writ of possession.

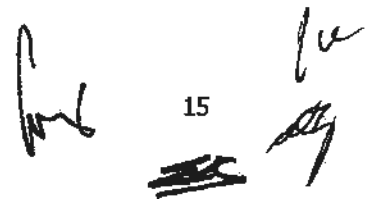
The court shall release the said amount to the person adjudged in the same expropriation proceeding as entitled thereto.

- c. In provinces, cities, municipalities and other areas where there is no land classification, the city or municipal assessor is hereby mandated within the period of sixty (60) days from the date of filing of the expropriation case, to come up with the required land classification and the corresponding declaration of real property and improvement for the area. In provinces, cities, municipalities and other areas where there is no zonal valuation, or where the current zonal valuation has been in force for more than three (3) years, the BIR is mandated within the period of sixty (60) days from the date of filing of the expropriation case, to conduct a zonal valuation for said area, based on the land classification done by the city or municipal assessor.
- d. With reference to item (a)(1) of Section 7 of this IRR, in case the completion of a government infrastructure project is of utmost urgency and importance, and there is no land classification or no existing zonal valuation of the area concerned or the zonal valuation has been in force for more than three (3) years, the IA shall use the BIR zonal value and land classification of similar lands within the adjacent vicinity as the basis for the valuation.
- e. In any of the cases in items (a) to (d) of Section 7 of this IRR, upon its receipt of the writ of possession issued by the court, the IA may take possession of the property and start the implementation of the project.
- f. In the event that the owner of the property contests the IA's proffered value, the court shall determine the just compensation to be paid the owner within sixty (60) days from the date of filing of the expropriation case. When the decision of the court becomes final and executory, the IA shall pay the owner the difference between the amount already paid and the just compensation as determined by the court.
- g. With regard to the taxes and fees relative to the transfer of title of the property to the Republic of the Philippines through expropriation proceedings, the IA shall pay the DST, transfer taxes under RA No. 7160 and registration fees, while the owner shall pay the CGT, any unpaid real property tax, and all other applicable taxes under the law.

The owner shall pay the CGT to the BIR within thirty (30) days after the judgment in the expropriation case had become final and executory. The IA shall also pay the DST within five (5) days after the close of the month when the judgment in the expropriation case had become final and executory.

#### **Section 8. ACQUISITION OF PROPERTIES UNDER CA 141**

As provided in Section 4 of the Act, in cases of lands granted through CA No. 141, dated 07 November 1936, known as the Public Land Act, and its amendments, the IA shall:

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shall have the first priority to re-acquire the property if required by law or by the contract or deed of sale;

- c. Owners of property whose land abut the said abandoned government road or other property shall not be deprived of access, i.e., egress or ingress, to the new highway to be built, if any; and
- d. The private property owner and the IA which are parties to the exchange or barter agreement shall be subject to applicable CGT and DST in accordance with BIR rules and regulations.

#### **Section 10. EASEMENT OF RIGHT-OF-WAY**

If the portion of a lot needed for a ROW is minimal, such that the expenses for surveying or segregating that portion from the main lot would be very much more than the value of the part of the lot needed, the IA may, if the property owner agrees, resort to the mode of Easement of ROW provided under the Civil Code.

Under this mode, a ROW easement agreement shall be executed by the property owner and the IA whereby the former will grant the latter the right to use the affected portion of the lot as ROW, but the owner retains ownership of that portion of the lot.

The IA shall pay the owner the value of that portion of the lot based on the existing zonal valuation declared by the BIR. In addition, the IA shall compensate the property owner the replacement cost of any improvements and structures on the land affected by the ROW in accordance with Section 6.6 of this IRR. Entry by the IA to the acquired property may be effected upon full payment of the value of the property. The IA may engage the services of an IPA to determine the amount of the easement to be paid.

The mode of ROW acquisition through easement agreement may also be used in government agency-to-agency transactions, including those involving government-owned and controlled corporations.

The IA shall cause the registration of all ROW easement agreements with the Register of Deeds concerned within ten (10) days from the date of their execution. The Register of Deeds shall annotate on the respective titles the agreements within seven (7) days from receipt thereof.

#### **Section 11. ACQUISITION OF SUBSURFACE RIGHT-OF-WAY**

As provided in Section 4 of the Act, when it is necessary to build, construct, or install on the subsurface or subterranean portion of private and government owned lands owned, occupied or leased by other persons, such infrastructure as subways, tunnels, underpasses, waterways, floodways, or utility facilities as part of the government's infrastructure and development project, the government or any of its authorized representatives shall not be prevented from entry into and use of such private and government lands by surface owners or occupants, if such entry and use are made more than fifty (50) meters from the surface.

The IA shall duly consult with and notify the affected property owners of any acquisition of subsurface right of way needed for the infrastructure projects.

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- h. Such facts and events so as to enable the affected property owners to have sufficient funds to acquire similarly situated lands of approximate areas as those required from them by the government, and thereby rehabilitate themselves as early as possible.

In all cases, the increase in the value of the affected property brought about by the government project itself shall not be considered in the determination of the purchase price.

As provided in Section 6.3 of this IRR, the Terms of Reference, which shall be used by the GFIs and IPAs in the determination of the market value of the land, should include the applicable standards stated in this Section.

### **Section 13. ECOLOGICAL AND ENVIRONMENTAL CONCERNS**

As provided in Section 8 of the Act, in cases involving the acquisition of ROW, site or location for any national government infrastructure project, the IA shall take into account the ecological and environmental impact of the project. Before any national government project could be undertaken, the IA shall consider environmental laws, land use ordinances, and all pertinent provisions of RA No. 7160.

During the feasibility study/detailed engineering design of the projects, except for Public-Private Partnership (PPP) Projects, the IA shall secure from the DENR an Environmental Compliance Certificate (ECC) or Certificate of Non-Coverage (CNC), as the case may be, in accordance with PD No. 1586 and its IRR. In the case of ancestral domain, additional requirements in accordance with RA No. 8371 and its IRR must be complied with.

The IA shall also prepare a Preliminary Land Acquisition Plan and Resettlement Action Plan (LAPRAP) or an Indigenous People's Action Plan, as applicable, which shall form part of the Environmental Impact Assessment (EIA).

For projects undertaken through PPP schemes under RA No. 6957 (as amended), its IRR, and other pertinent laws, the provisions of the same shall govern the requirements for obtaining an ECC/CNC.

### **Section 14. RELOCATION OF INFORMAL SETTLERS**

As provided in Section 9 of the Act, the government, through the Housing and Urban Development Coordinating Council (HUDCC) and the National Housing Authority (NHA), in coordination with the LGUs and IAs concerned, shall establish and develop resettlement sites for informal settlers, including the provision of adequate basic services and community facilities, in anticipation of informal settlers that have to be removed from the ROW or site of future infrastructure projects, pursuant to the provisions of the RA No. 7279. Whenever applicable, the concerned LGUs shall provide and administer the resettlement sites.

In case the expropriated land is occupied by informal settlers who are unable or refuse to demolish their structures and other improvements therein despite the writ of possession issued by the court under Section 7 of this IRR, the court shall issue the necessary writ of demolition for the purpose of dismantling any and all structures found within the subject property. The IA shall take into account and observe diligently the procedure provided for in Sections 28 and 29 of RA No. 7279.

## **Section 16. DEVELOPMENTS WITHIN RIGHT-OF-WAY**

As provided in Section 11 of the Act, upon the approval by the Head of the IA concerned of an infrastructure project with funding authorized in the General Appropriations Act and with defined ROW, no National Government Agency or LGU shall, within two years from date of notice of taking, allow within the said ROW any development or construction, or issue any building, construction, development or business permit, which is contrary to the approved plans and purposes of the project, unless explicitly authorized by the Head of the IA for justifiable reasons.

For this purpose, the date of notice of taking is the date of the letter issued by the IA to the concerned landowners, after the approval of the LAPRAP as part of the detailed engineering design, informing them of the intent of the IA to acquire their lands for the ROW.

Once the notice of taking is issued, any new structure or improvement to an existing one on the land covered by the notice shall not be compensated.

In the same manner, no informal settlers will be eligible for compensation if their structures are built after the cut-off date for entitlements. In this IRR, the "cut-off date" refers to the first day of census undertaken as part of LAPRAP preparation after both the project approval by the IA and Detailed Engineering Design.

## **Section 17. RIGHT-OF-WAY SURVEY DOCUMENTS FOR ACQUIRED PROPERTIES**

The IA shall submit the relevant documents indicating the survey limits for the lands acquired for ROW of infrastructure projects to the LGU concerned for information and reference in development planning, taxation, and other purposes.

## **Section 18. AGENCY MANUAL OF PROCEDURES FOR ROW ACQUISITION**

To provide clear, specific, and operational guidelines for the efficient acquisition of ROW for its infrastructure projects, each IA shall prepare and implement its own "Manual of Procedures for ROW Acquisition" (Manual).

Said Manual must be consistent with the provisions of the Act and this IRR and shall be customized to the particular requirements and systems for ROW acquisition of the IA. The IA Manual shall serve as the standard or uniform reference for the specific rules, processes, standard documents, and template forms to be used by the IA and its concerned central and field offices in the acquisition of ROW. The IA Manual shall also be used by property owners as their reference on the requirements and procedures to be followed to facilitate ROW acquisition, while ensuring that they obtain due process and fair compensation. Finally, the IA Manual shall serve as a guide for the GFIs and IPAs to be engaged by the IA in determining the appropriate price offers to property owners affected by ROW acquisition.

The IA Manual shall include the following basic content, as adapted with modifications from the DPWH Manual:

- 1. INTRODUCTION**
  - 1.1 Purpose of the Manual
  - 1.2 Coverage and Applications of the Manual

Deed of Sale Template  
Deed of Exchange or Barter Template  
Template Agreement to Demolish and Remove Improvements (ADRI)  
Quit Claim Deed Template  
Easement of ROW Agreement Template  
Permit to Enter Template

#### **WORKFLOW CHARTS**

Overall Process Flow  
Project Identification, Feasibility Study, Design and ROW Action Plan Preparation  
EIA  
Conduct of Parcellary Survey  
Preparation of LAPRAP  
ROW Acquisition through Donation  
ROW Acquisition through Negotiated Sale  
Preparation of Deed of Absolute Sale  
Transfer of Title/Tax Declaration  
ROW Acquisition through Expropriation  
ROW Acquisition for Lands under CA No. 141  
ROW Acquisition through Exchange or Barter  
ROW Acquisition through Easement of ROW  
Acquisition of Subsurface ROW  
Clearing of ROW  
Processing of Title Documents  
Management of ROW

The IA shall ensure that its Manual includes, among other things, faithful and prompt compliance with the prescribed payment procedures under Section 6.10 of this IRR.

#### **Section 19. TRANSITORY CLAUSE**

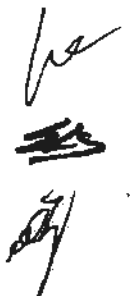
As provided in Section 14 of the Act, the provisions of this IRR shall apply to all ROW transactions, except ongoing transactions which, as of the effectivity of this Act, have already reached a written agreement as to the price between the IA and the property owner.

#### **Section 20. SANCTIONS**

As provided in Section 12 of the Act, violation of any provision of the Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture benefits in accordance with the provisions of the law.

#### **Section 21. IRR AMENDMENTS**

The IRR Committee constituted pursuant to Section 13 of the Act may be reconvened by its Chairperson, at his initiative and/or upon the recommendation of any of its members, to formulate and prescribe amendments to this IRR consistent with the letter and spirit of the Act.



**ANNEX A**  
**TEMPLATE TERMS OF REFERENCE**  
**FOR PROPERTY APPRAISAL SERVICES PURSUANT TO RA NO. 10752**

As basis for the procurement of the services of a Government Financial Institution (GFI) or Independent Property Appraiser (IPA) to determine the appropriate price of properties to be offered to the property owner through negotiated sale under Section 6 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 10752 (The Right-of-Way Act), the GFI/IPA shall provide the appraisal services for the purpose of acquisition of private properties for national government project under this Terms of Reference (TOR):

**1. Background:**

- *Insert a brief description and map of the project for which the Right-of-Way (ROW) is required.*
- *Insert the Parcellary Survey Report for the project indicting the properties affected by the ROW.*

**2. Objectives of the Services (Include all that apply):**

- To determine the fair market value of the land, the replacement cost of structures/improvements, and the fair market value of crops and trees in the properties described above as affected by the ROW requirement of the said project
- To recommend the appropriate price offer for negotiated sale of the affected properties based on the above.
- To provide technical assistance, if necessary, to the IA on the negotiation proceedings, including possible administrative and judicial processes.

**3. Desired Outputs -The GFI/IPA is expected to deliver to the IA an Appraisal Report that contains the following (Include all that apply):**

- Estimated market value of the land under consideration.
- Estimated replacement cost of structures and improvements therein.
- Estimated market value of crops and trees therein.
- Recommended total price offer for negotiated sale for the properties affected.
- Other reports/advisories as needed in the negotiation proceedings.

The Appraisal Report must be signed by a real property appraiser or valuer duly licensed by the Professional Regulation Commission (PRC) and registered with the Professional Regulatory Board of Real Estate Service (PRBRES) pursuant to RA No. 9646 (Real Estate Service Act of the Philippines, 2009).

**4. Standards and Specifications – In providing the services and delivering the desired outputs, the GFI/IPA shall observe the following standards and specification listed under Section 7 of RA No. 10752:**

- The classification and use for which the property is suited;

This shall be based on, among other things, the latest approved land use plan and/or zoning ordinance, if any, of the city or municipality concerned.

- The development cost for improving the land;

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On-Site Investigation and Analysis	3 <sup>rd</sup> & 4 <sup>th</sup> Weeks	<b>Property Identification and Site Analysis</b> - Identification of each property on ground versus plans submitted, that includes its location, accessibility, terrain, developments and improvements thereon. - Definition of physical features of improvements and their conditions and measurements. - Counts of considerable trees within each affected lot and other structures on site. - Investigation, queries and validation of current prices of lots and sold properties in the project vicinity. - Canvas of current construction materials in the locality.	
On Site Validation of Ownership	5 <sup>th</sup> Week	<b>Documentations of Properties Affected</b> - Securing or verification of documents (Titles) with Registry of Deeds and other agencies concerned	
Off Site (Office)	6 <sup>th</sup> 7 Weeks	<b>Write-ups and Preparation of Draft Report</b> - Consolidation and analysis of gathered data and information. - Establishing benchmarks of valuation and calculations of market value per property - Composition and printing of Draft Report	
	7 <sup>th</sup> Week	<b>Review of Draft Report</b> - Reproduction of gathered documents for attachments. - Compilation of write-ups and attachments for submission.	
	8 <sup>th</sup> Week	<b>Review of Revised Draft Report</b> - Review of findings on the Draft Report. - Preparation of Revised Draft Report considering comments/corrections. - Submission of Revised Draft Report.	
	9 <sup>th</sup> Week	<b>Final Report/Output – Six (6) Copies of Report</b> - Review and reproduction of Revised Draft Report and submission as Final Appraisal Report (6 copies)	

6. (If IA is engaging an IPA) **Qualification of IPA-** An IPA must meet the following criteria to qualify for the consulting services:

- The IPA must be in the list of the BSP or a professional association of appraisers recognized by the BSP, provided, that an IPA not yet included in the list shall not be barred from joining the procurement for such services; and provided further that, prior to award of the contract, such IPA shall be required to submit a proof that they are already included in the list.
- The IPA must comply with the experience and other eligibility requirements provided in R.A 9184 and its IRR, including the registration and license required for a Real Estate Appraiser.


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