

**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

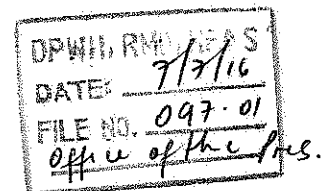
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**IMPLEMENTING RULES AND REGULATIONS  
OF REPUBLIC ACT NO. 10752,  
AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY, SITE OR  
LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS**

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**

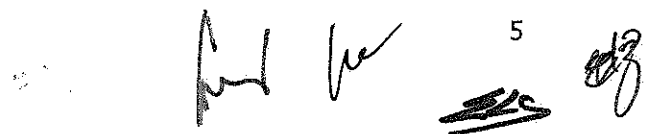
### **6.1 Compensation Price**

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,



economy and the need of the IA to facilitate the implementation of national government infrastructure projects:

- a. A government financial institution (GFI) with adequate experience in property appraisal to be selected by the IA through a competitive process; or
- b. An independent property appraiser (IPA) accredited by:
  - (1) the Bangko Sentral ng Pilipinas (BSP) or
  - (2) a professional association of appraisers recognized by BSP.

The IPA shall be procured by the IA under the provisions of RA No. 9184, otherwise known as the "Government Procurement Reform Act," and its IRR pertaining to consulting services.

For this purpose, the BSP and the professional association of appraisers shall provide their lists of IPAs upon request of the IA. The BSP and the professional association of appraisers shall not be accountable for any acts of the IPAs stated in the list.

Whenever applicable, priority shall be given to the engagement of the services of a GFI.

The IA may use the appraisal reports of the GFI or IPA as one of the bases of the IA's price offer for negotiated sale, consistent with the standards for assessment under Section 12 of this IRR. For this purpose, the IA is encouraged to develop its in-house personnel capable of validating appraisal reports.

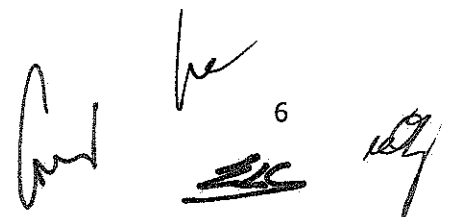
### **6.3 Terms of Reference for GFIs and IPAs**

As basis for the engagement of the services of a GFI or IPA, the IA shall prepare the Terms of Reference (TOR) for the services. The TOR shall contain, among other things, the following basic content:

- a. Background of the project for which the ROW is required, and the objectives of the property appraisal services to be provided by the GFI or IPA;
- b. Desired outputs to be delivered by the GFI or IPA, their description and degree of detail - e.g., estimated market value of the land under consideration, the Replacement Cost of structures and improvements therein, and/or the market value of crops and trees therein;
- c. Standards and specifications to be observed by the GFI or IPA in providing the services and producing the desired outputs, which shall include those listed under Section 12 of this IRR, as may be applicable;
- d. Duration of the services and timetable for the delivery of outputs by the GFI or IPA; and
- e. Qualifications of the GFI or IPA to be engaged.

In preparing the TOR, the IA may consult the GFI in case of services to be provided by the latter.

The IA shall adopt the TOR template given in **Annex A**.


  
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#### 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.

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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.



(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

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If engaged by an IA to determine the Replacement Cost of structures and improvements, the GFI/IPA may use applicable provisions of the valuation standards adopted by the Professional Regulatory Board of Real Estate Service under the Professional Regulation Commission (PRC).

#### **6.7 Acceptance or Rejection of Price Offer**

As provided in Section 5 of the Act, the property owner is given thirty (30) days from receipt of the written offer by the IA to decide whether or not to accept the offer as payment for his property. Upon refusal or failure of the property owner to accept such offer or if he fails and/or refuses to submit the documents necessary for payments, the IA shall immediately initiate the expropriation proceedings as provided in Section 7 of this IRR.

#### **6.8 Owners of Structures and Improvements With No Rights to the Land**

The provisions of Section 6.6 of this IRR pertaining to the replacement cost of structures and improvements shall also apply to all owners of structures and improvements who do not have legally recognized rights to the land, and who meet all of the following criteria:

- a. Must be a Filipino citizen;
- b. Must not own any real property or any other housing facility, whether in an urban or rural area;
- c. Must not be a professional squatter or a member of a squatting syndicate, as defined in RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992," and
- d. Must not occupy an existing government ROW.

As defined in RA No. 7279, "professional squatters" refers to:

- a. individuals or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing, as identified by the proper Local Inter-Agency Committee (LIAC) with the assistance of the Urban Poor Affairs Office (UPAO); or
- b. persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally on a different homelot or housing unit but in the same place or in another urban area, and non-bona fide occupants and intruders of lands reserved for socialized housing.

"Squatting syndicate," as defined in RA No. 7279, refers to a group of persons engaged in the business of squatter housing for profit or gain. The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.

To complement the four criteria mentioned in the first paragraph of this Section 6.8, the owner and occupant of the structure or improvement must show a proof of ownership of the structure/improvement, e.g., a certification from the Barangay concerned.

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

Philippines. The IA shall cause the annotation of the Deed of Absolute Sale on the Transfer Certificate of Title.

In case of sale of land with structures and other improvements, the Deed of Sale shall provide a stipulation allowing the IA or its authorized representatives to demolish and remove them. The Deed of Sale shall also include a stipulation on the right of the IA to immediately enter the property and implement the project.

In case the sale pertains to structures and improvements only, as provided in Section 5(b) of the Act, the property owner and the IA shall execute an Agreement to Demolish and Remove Improvement (ADRI), provided that the former has submitted to the latter the necessary documents to establish proof of ownership of said structures and improvements, as mentioned in Section 6.8 of this IRR. Similarly, the IA shall remit to the LGU concerned the amount corresponding to any unpaid tax on such structures and improvements, subject to the deduction of this amount from the total negotiated price, provided that it is not more than the negotiated price.

Upon the execution of a Deed of Sale, the IA shall pay the property owner:

- a. Fifty percent (50%) of the negotiated price of the affected land, exclusive of the payment of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR; and
- b. Seventy percent (70%) of the negotiated price of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR.

Where the property owner owns both the land and 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 fifty percent (50%) of the negotiated price of the affected land, and 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, provided that the land is already completely cleared of structures, improvements, crops and trees, as certified by the IA:

- 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.

Where the property owner owns only the land, as provided in Section 5(g) of the Act, the IA shall, at the periods stated below, pay the property owner the remaining fifty percent (50%) of the negotiated price of the affected land, exclusive of unpaid taxes remitted to the LGU concerned under Section 6.9 of this IRR:

- 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.




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

necessary for payment, or when negotiation is not feasible, then the appropriate IA, through the Office of the Solicitor General (for national agencies), the Office of the Government Corporate Counsel (for government-owned and -controlled corporations), or their deputized government or private legal counsel, shall initiate the expropriation proceedings by filing a verified complaint before the proper court under the following guidelines:

- a. Upon the filing of the complaint or at any time thereafter, and after due notice to the defendant, the IA shall immediately deposit to the court in favor of the owner, the amount equivalent to the sum of:
  - (1) One hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the BIR, issued not more than three (3) years prior to the filing of the expropriation complaint, subject to Section 7(c) of this IRR;
  - (2) The replacement cost at current market value of the improvements and/or structures as determined by:
    - (a) the IA;
    - (b) a GFI with adequate experience in property appraisal; and
    - (c) an IPA accredited by the BSP.
  - (3) The current market value of crops and trees located within the property as determined by the government financial institution or an independent property appraiser to be selected as indicated in Section 6 of this IRR.

Upon compliance with the above guidelines, the court shall immediately issue an order to take possession of the property to the IA which shall start the implementation of the project.

If within seven (7) working days after the deposit to the court of the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR, and 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 immediately issue the writ of possession ex parte; no hearing shall be required.

The court shall release the said amount to the owner upon presentation of sufficient proofs of ownership.

- b. In case the owner of the property cannot be found, is unknown, or is deceased in cases where the estate has not been settled, after exerting due diligence, or there are conflicting claims over the ownership of the property and improvements and/or structures thereon, the IA shall deposit the amount equivalent to the sum under items (a)(1) to (a)(3) of Section 7 of this IRR to the court, for the benefit of the person to be adjudged in the same proceeding as entitled thereto.

Upon compliance with the above guidelines, the court shall immediately issue to the IA an order to take possession of the property.

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.


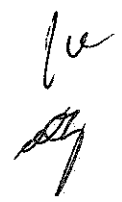

The court shall release the said amount to the person adjudged in the same expropriation proceeding as entitled thereto.

- 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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- a. follow the other modes of acquisition enumerated in this IRR, if the landowner is not the original patent holder and any previous acquisition of said land is not through a gratuitous title; or
- b. follow the provisions under CA No. 141 regarding acquisition of ROW on patent lands, if the landowner is the original patent holder or the acquisition of the land from the original patent holder is through a gratuitous title.

With respect to Section 8b above, under the provisions of CA No. 141, particularly Section 112, a ROW strip not exceeding 20 meters in width within the land acquired under that law is reserved by the government for public use with damages to improvements only. CA No. 141 was amended by Presidential Decree (PD) No. 635, dated 07 January 1975, which increased the ROW strip reserved for public use to a width not exceeding 60 meters.

If the government decides to exercise its right to use the ROW strip reserved for public use within the land acquired under CA No. 141, the owner is required to execute a quit claim. The IA shall then take possession of the property affected by the ROW without any compensation to the owner for the land, but shall pay the owner the cost of the damages for the improvements within that land equivalent to their replacement cost as determined in accordance with Section 6.6 of this IRR. If the owner refuses or is unable to issue a quit claim, the concerned government officials responsible for the implementation of projects are authorized to immediately take possession of the portion of property subject of the lien, as the need arises and upon due notice to the owner. This is without prejudice to the IA resorting to appropriate proceedings to acquire immediate possession of the property.


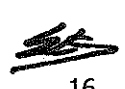

PD No. 1381 also allows the government to utilize the reserved ROW strip for temporary buildings for Resident and/or Project Engineers needed in the prosecution of an infrastructure project. Once the infrastructure project is completed and the temporary buildings used by Resident/Project Engineers are no longer needed, the possession of the portion of property used for the building shall revert to the title holders.

The IA shall extend financial assistance to the property owner in accordance with the provisions of Executive Order No. 1035, series of 1985.

## **Section 9. EXCHANGE OR BARTER**

Instead of being paid the money value of his property, the owner of a property needed for a ROW of a national government project may request the government to exchange or barter an old abandoned government road or other government property near the project with his said property. The IA may favorably consider this mode, subject to the provisions of relevant laws and the following conditions:

- a. The exchange shall be done on a "value-for-value" basis, i.e., the properties being exchanged are equivalent in market value or price;
- b. If the government property to be exchanged with the private property was originally donated by a previous owner, the donation must be verified to ensure that there is no condition which prohibits the government from disposing of it to other private persons. If the said government property was originally acquired through sale, the previous owner



  
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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.

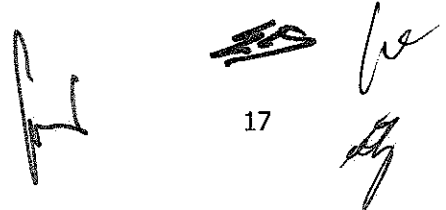
The mode of ROW acquisition through easement agreement may also be used in government agency-to-agency transactions, including those involving government-owned and controlled corporations.

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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If the national government project involves underground works within a depth of fifty (50) meters from the surface, the IA may undertake the mode of acquisition in the following order:

- a. Negotiate with the property owner a perpetual easement of ROW for the subterranean portions of his property required by the project; and
- b. Offer to acquire from the property owner the affected portion of the land, including the affected structures, improvements, crops and trees therein in accordance with the provisions of the Act.

To assist the IA in determining (a) the appropriate price offer for the perpetual easement of the ROW under Section 11a of this IRR or (b) the appropriate price offer for the entire affected land including structures, improvement, crops and trees under Section 11b of this IRR, the IA may engage the services of a GFI or an IPA, in accordance with the procedure provided in Section 6 of this IRR. The easement price under Section 11a of this IRR shall be twenty percent (20%) of the market price of the land.

The IA shall follow the other rules for negotiated sale provided in Section 6 of this IRR.

## **Section 12. STANDARDS FOR ASSESSMENT FOR NEGOTIATED SALE**

As provided in Section 7 of the Act, in order to facilitate the determination of the market value of the property, the following relevant standards shall be observed:

- a. The classification and use for which the property is suited based on, among other things, the latest approved land use plan and/or zoning ordinance, if any, of the city or municipality concerned;
- b. The development cost for improving the land based on, among other things, the records and estimates of the City or Municipal Assessor concerned, GFI or IPA for similar or comparable lands;
- c. The value declared by the owners based on the value shown in the owners' latest Tax Declaration Certificates or Sworn Statements;
- d. The current selling price of similar lands in the vicinity based on, among other things, the latest records on Deeds of Sale for similar lands in the office of the Register of Deeds concerned;
- e. The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon considering, among other things, the replacement cost of improvements at current market prices as provided in Section 6.6 of this IRR;
- f. The size, shape or location, tax declaration and zonal valuation of the land based on, among other things, the latest records on Deeds of Sale in the Register of Deeds, tax declaration by the City or Municipal Assessor, zonal valuation of the BIR for comparable properties;
- g. The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and

- 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.

Immediately after the project approval by the appropriate agency, the IA shall notify the HUDCC of its proposed project which may require the acquisition of ROW that may cause the displacement or relocation of informal settlers.

## **Section 15. APPROPRIATIONS**

As provided in Section 10 of the Act, the government shall provide adequate appropriations that will allow the concerned IAs to acquire the required right-of-way, site or location for national government infrastructure projects in advance of the project implementation. These appropriations shall include the funds needed to cover the following expenses for activities directly related to right-of-way acquisition for the projects as provided in this Act:

- a. Cost of parcellary surveys and appraisal of properties affected by the projects;
- b. Compensation for the project-affected land, structures and improvements, including relocation or replacement of compensable utilities, crops and trees;
- c. Cost of development and implementation of resettlement projects covered by this Act, including planning, social preparation, in accordance with HUDCC design standards and costings. Where necessary, this may include land development and housing construction, provision of basic services and community facilities, livelihood restoration and improvement, and other activities under the resettlement action plan in coordination with concerned government agencies; and
- d. Related expenses of the IA, including CGT in the case of negotiated sale under Section 6 of this IRR, DST, transfer tax and registration fees for the transfer of titles, and other relevant administrative expenses for right-of-way management, including the cost of ECC application.

For PPP projects, the IA may, as part of the contract terms and conditions, require the project proponent to:

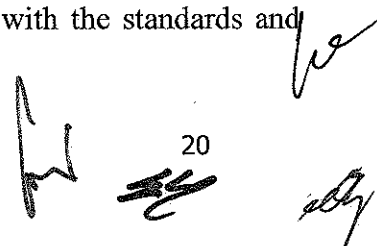
- a. advance the funds covering the cost of the ROW which shall be reimbursed later by the IA, except for unsolicited proposals; or
- b. finance the ROW cost for the government which shall be recovered partly or fully by the proponent from the tolls, fees, or tariffs to be charged to the users of the completed project.

For budgeting purposes, the ROW costs of projects without any benchmark prices may be based on the BIR zonal values times a factor not exceeding two (2).

For projects that have undergone pre-feasibility or feasibility study only, the proposed budget or appropriations for the replacement cost of affected structures or improvements may be based on benchmark unit costs which are derived from industry standards and accepted by the DPWH. An example of a benchmark unit cost is cost per square meter of floor area of a house or building.

For projects that have undergone detailed engineering design, the proposed budget or appropriations for the replacement cost of affected structures or improvements shall be based on detailed estimates, including bill of materials/quantities, in accordance with the standards and procedures set by the DPWH.

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## **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

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## **2. PROCEDURES FOR THE ROW ACQUISITION PROCESS**

- 2.1 ROW Action Plan as part of Project Feasibility Study and Design
- 2.2 Preparation of LAPRAP
- 2.3 Environmental Impact Assessment (EIA)
- 2.4 Conduct of Parcellary Survey
- 2.5 ROW Acquisition through Donation
- 2.6 ROW Acquisition through Negotiated Sale
- 2.7 Determination of Compensation Price Offer for Negotiated Sale – based on Market Value of Land, Replacement Cost of Structures and Improvements, and Market Value of Crops and Trees
- 2.8 Determination of Package of Compensation and Entitlements to Project-Affected Persons (PAPs)
- 2.9 Use of GFIs and IPAs in Determining Price Offer and Compensation Package for Negotiated Sale
- 2.9 Determination of CGT and Other Taxes and Fees
- 2.10 Preparing Budget and Appropriations for ROW Acquisition – covering all Relevant Expenses – at Preliminary Stage (ROW Action Plan) and Final Stage (based on Price Offer and Relevant Expenses)
- 2.11 Execution of Deed of Sale
- 2.12 Transfer of Title/Tax Declaration
- 2.13 Payments to Owners and PAPs
- 2.14 ROW Acquisition through Expropriation
- 2.15 Obtaining and Implementing Writ of Possession and Permit to Enter Sale
- 2.16 Relocation of PAPs based on LAPRAP
- 2.17 Clearing of Structures/Improvements and Crops/Trees within ROW
- 2.18 Management of ROW including Documents

## **3. PROCEDURES FOR OTHER CASES**

- 3.1 ROW Acquisition for Lands under CA No. 141
- 3.2 ROW Acquisition through Exchange or Barter
- 3.3 ROW Acquisition through Easement of ROW
- 3.4 Acquisition of Subsurface ROW
- 3.5 Other Special Cases

## **APPENDICES**

RA No. 10752  
 IRR of RA No. 10752  
 CA No. 141  
 Relevant Department/Agency Orders  
 ROW Action Plan Preliminary Cost Estimates: for Land, Structures/Improvements and Crops/Trees  
 ROW Action Plan Data Checklist  
 ROW Action Plan Report Outline  
 Templates for Environmental Scoping, EIA, Environmental Management Plan (EMP), Screening, Initial Environmental Examination (IEE) Checklist  
 ROW Action Plan Final Cost Estimates: for Land, Structures/Improvements and Crops/Trees  
 Parcellary Survey ROW Land Data  
 ROW Compensation Matrix  
 Deed of Donation Template

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**

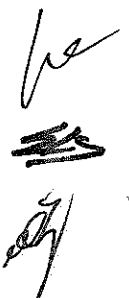
As provided in Section 14 of the Act, the provisions of this IRR shall apply to all ROW transactions, except ongoing transactions which, as of the effectivity of this Act, have already reached a written agreement as to the price between the IA and the property owner.

## **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.

## Section 22. REPEAL

As provided in Section 16 of the Act, RA No. 8974 is hereby repealed and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

## Section 23. EFFECTIVITY

This IRR shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2016.

### COMMITTEE FOR THE IRR OF RA NO. 10752

**JOSEPH EMILIO A. ABAYA**  
Secretary, Department of Transportation  
and Communications  
Member

**ZENAIDAY. MONSADA**  
Secretary, Department of Energy  
Member  
**JUN 30 2016**

**EMMANUEL L. CAPARAS**  
Secretary, Department of Justice  
Member

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**FLORENCIO B. ABAD**  
Secretary, Department of Budget  
and Management  
Member

**EMMANUEL F. ESGUERRA**  
Secretary of Socio-Economic Planning and  
Director General, National Economic and  
Development Authority  
Member

**CHITO M. CRUZ**  
Chairperson, Housing and Urban  
Development Coordinating Council  
Member

**ROGELIO L. SINGSON**  
Secretary, Department of Public Works and Highways  
Chairperson

Department of Public Works and Highways  
Office of the Secretary

  
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Republic of the Philippines  
DEPARTMENT OF ENERGY  
IN REPLYING PLS. CITE:  
DOE-ZYM-16004397





**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;

This shall be based on, among other things, the records and estimates of the City or Municipal Assessor concerned, GFI or IPA for similar or comparable lands.

- The value declared by the owners;

This shall be based on the value shown in the owners' latest Tax Declaration Certificates or Sworn Statements.

- The current selling price of similar lands in the vicinity;

This shall be based on, among other things, the latest records on Deeds of Sale for similar lands in the office of the Register of Deeds concerned.

- The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon;

This shall consider, among other things, the replacement cost of improvements at current market prices as provided in Section 6.6 of this IRR.

- The size, shape or location, tax declaration and zonal valuation of the land;

These shall be based on, among other things, the latest records on Deeds of Sale in the Register of Deeds, tax declaration by the City or Municipal assessor, zonal valuation of the BIR for comparable properties.

- The price of the land as manifested in the ocular findings, oral as well as documentary evidence presented; and
- 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.

5. **Duration of Services and timetable for Delivery of Outputs**— The GFI/IPA shall perform the services and deliver the said outputs to the IA within *(insert number of calendar days)* days from its receipt of the IA's Notice to Proceed for the Agreement for these services, and according to the following schedule *(example shown below)*:

Phases	Timeline	Deliverables	Remarks
Pre-Project Start-up	(1st Week)	<b>Planning Framework</b> - Conferences/meetings - Confirmation of Proposal - Consolidation and review of documents	Documents needed: Project Layout/ Survey Plans, Parcellary Plans indicating the width of the highway, Title and Tax Declaration per lot.
Pre-Site Visit	2 <sup>nd</sup> Week	<b>Site Familiarization</b> - Meetings with Barangay Officials - Establishment of Field Office - Pre-Site Inspection - Securing Other References (Tax Map/ Tax Declaration) from the Assessors	

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.

**ANNEX B**  
**ILLUSTRATIVE EXAMPLE OF COMPUTATION FOR CAPITAL GAINS TAX**

Given:

Net Actual Consideration (NAC) offered by the Implementing Agency (IA) to the property owner based on, among others, the Fair Market Value (FMV) of the property as determined by the GFI/IPA, and accepted by the IA = PhP1,000,000.

Applicable Capital Gains Tax = 6%

Questions:

- (a) What is the Net Amount that the IA should pay to the property owner?
- (b) What is the Gross Amount to be appropriated and allocated by the IA to cover the negotiated sale?
- (c) How much is the Capital Gains Tax (CGT) to be paid by the IA to the BIR for the account of the owner?

Answers:

(a) Net Amount to be paid to the property owner = NAC = PhP1,000,000.

(b) Gross Amount to be appropriated/allocated by the IA = Actual Consideration (AC):

$$AC = NAC / (100\% - 6\%) = NAC / 94\% = \text{PhP}1,000,000 / 0.94 = \text{PhP}1,063,830.$$

(c) CGT to be paid by the IA to BIR for the account of the owner:

$$CGT = 6\% \text{ of GSP} = 0.06 \times \text{PhP}1,063,830 = \text{PhP}63,830.$$