



Republic of the Philippines
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

05 March 2013

DEPARTMENT ORDER NO. 2013-05

Subject: CREATION OF TECHNICAL WORKING COMMITTEE FOR THE ACQUISITION OF SITES/RIGHTS-OF-WAY FOR THE DEPARTMENT'S INFRASTRUCTURE PROJECTS

To effectively carry out the acquisition of the site and/or right of ways of this Department's infrastructure projects, a Technical Working Committee, pursuant to Department Order No. 2009-18 dated 18 May 2009, is hereby constituted as follows:

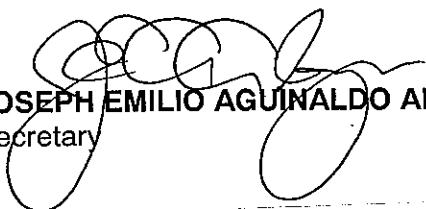
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|---------------|---|--|
| Chairman | - | Director, Legal Service |
| Vice-Chairman | - | Director, Planning Service |
| Members | - | Executive Director Concerned |
| | | Regional Director Concerned |
| | | Assistant Regional Director Concerned |
| | | Chief, Legal Affairs and Research Division |
| | | Project Manager/Engineer Concerned |
| | | Area Project Manager Concerned |
| | | Representative, Legal Service |
| | | Representative, Planning Service |
| | | Representative, Finance and Comptrollership Service |
| | | Representative, Procurement Supply and Property Management Service |
| Observers | - | Representative, COA Resident Auditor |
| | | Representative, Resident Ombudsman |

The TWC shall be responsible for the effective and unhampered implementation of projects. No infrastructure project shall be bid and/or commenced unless the acquisition of site and/or right-of-way of lots affected by the project are determined/settled as certified by the Committee.

All travelling expenses of the Committee members shall be charged against the appropriate funds of this Department subject to the usual accounting and auditing rules and regulations.

All issuances inconsistent with this Order are deemed revoked and/or modified accordingly.

This Order shall take effect immediately.


JOSEPH EMILIO AGUINALDO ABAYA
 Secretary

2013-05 4-22



DOTC-OSEC OUTGOING 13-00461

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Republic of the Philippines
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

18 May 2009

DEPARTMENT ORDER NO. 2009-18

To : All Officials and Employees
DOTC-Central Office
Sectoral Offices
CAR and CARAGA Administrative Regions
Project Management Offices
This Department

Subject : **GUIDELINES AND PROCEDURES IN THE ACQUISITION
OF RIGHT-OF-WAY, SITE OR LOCATION FOR DOTC
INFRASTRUCTURE PROJECTS**

In order to facilitate the acquisition of right-of-way, site or location for DOTC infrastructure projects, the following guidelines and procedures are hereby issued for the guidance of all concerned:

1.0 COVERAGE

This Order shall cover the following:

- 1.1 All acquisition of real properties and improvements thereon needed as right-of-way, site or location for projects undertaken by the Department or other national government agencies or local government unit pursuant to a Memorandum of Agreement (MOA).
- 1.2 The relocation/resettlement of project-affected persons in coordination with other national government agencies or local government units.
- 1.3 The registration, titling, accounting and recording of acquired properties.

2.0 DEFINITION OF TERMS AND ACRONYMS

For purposes of this Order, the following terms, or words and phrases shall mean or be understood as follows:

- 2.1 **Appraisal** – refers to the act or process of determining the value of the property as of a specific date for a specific purpose.
- 2.2 **Current Fair Market Value** – refers to the updated highest estimated price in terms of money which the property will be bought if exposed for sale in the open market allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which is adapted and for which is capable of being used. Also referred to as “the price which a willing seller would sell and a willing buyer would buy, neither under abnormal pressure.”
- 2.3 **Department** - refers to the Department of Transportation and Communications Central Office and its sectoral offices.
- 2.4 **Expropriation** – refers to the taking of private property in the exercise of sovereign power of eminent domain.
- 2.5 **Improvement** – refers to valuable addition made to a property or amelioration in its condition, amounting to more than mere repairs or replacement of waste, costing labor or capital and intended to enhance its value, beauty or utility or to adopt it for new or further purposes.
- 2.6 **Project-Affected Person** – refers to a person with or without legal land title, rights or interest on lands/properties, improvements, other fixed assets or businesses affected partly or fully, temporarily or permanently by the involuntary acquisition and relocation due to project construction.
- 2.7 **Relocation** – refers to the physical transfer or translocation of relocatees and rebuilding housing, assets including productive land and infrastructure in another location outside the project-affected areas.
- 2.8 **Resettlement** – refers to a rebuilding measure adopted to mitigate any or all adverse social impacts of direct consequence to the involuntary acquisition of assets and/or properties and other belongings in order to compensate lost assets and incomes and provide entitlements due, as necessary.
- 2.9 **Right-of-way** – refers to a legal right of passage over another person’s land/property.
- 2.10 **Title** – refers to an instrument evidencing a person’s right or legal ownership.

The acronyms as used in this Order shall refer to the following:

AD	-	Accounting Division
BIR	-	Bureau of Internal Revenue
CAR	-	Certificate Authorizing Registration
CS	-	Comptrollership Service
DOAS	-	Deed of Absolute Sale
FCS	-	Finance and Comptrollership Service
GFI s	-	Government Financing Institutions
GSD	-	General Services Division
LGU	-	Local Government Unit
JEV	-	Journal Entry Voucher
MOA	-	Memorandum of Agreement
OSG	-	Office of the Solicitor General
PS	-	Planning Service
PSPMS	-	Procurement Supply and Property Management Service
ROD	-	Register of Deeds
TCT	-	Transfer Certificate of Title
TD	-	Tax Declaration

3.0 GUIDELINES

- 3.1 The acquisition of land/site for infrastructure projects implemented by the Department shall be in accordance with Republic Act No. 8974, otherwise known as "An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes" and its Implementing Rules and Regulations.
- 3.2 No infrastructure project shall be advertised for bidding unless the right-of-way, site or location has been settled. However, where the project is of such magnitude that it would take more than one (1) year to complete, advertisement and bidding of the same may be allowed if at least fifty percent (50%) of the required right of way had been acquired on the date of bidding, or the necessary complaint for expropriation had been filed and the corresponding writ of possession had been issued by the court.
- 3.3 Real property needed as site or location may be acquired through donation, quit claim, exchange or barter, negotiated sale or purchase, expropriation, or any other modes of acquisition as authorized by law.
- 3.4 The implementation of infrastructure projects with other national government agencies or LGUs which involves the acquisition of real

property for the right-of-way or location shall be covered by a MOA before such activity is undertaken.

- 3.5 Expropriation proceedings shall be initiated by the Department in coordination with the OSG in case the owner of the private property needed for the infrastructure project does not agree to convey his property to the government by any of the modes of acquiring and/or transferring ownership of the property.
- 3.6 The Inventory Committee created under Special Order No. 2008-18 dated 08 February 2008 shall prepare a comprehensive inventory report of all land acquisitions undertaken by the Department including those acquired by other national government agencies or LGUs pursuant to a duly executed MOA.
- 3.7 All offices concerned shall submit to the Records Section of the GSD of the Department all the original copies of the TCT and TD covering the properties acquired.
- 3.8 The land/site acquisition activity shall be undertaken by a Technical Working Committee composed of the following:

Director, Legal Service	-	Chairman
Director, Planning Service	-	Vice-Chairman
Project Manager/Engineer Concerned	-	Member
Representative, FCS	-	Member
Representative, PSPMS	-	Member
Representative, PS	-	Member
Representative, Legal Service	-	Member

In case of a MOA, the Vice Chairmanship of the Committee to be created by LGU concerned shall be occupied by the Department's representative.

3.8.1 The Committee shall have the following duties and functions:

- a) Provide overall supervision and coordination in the planning, implementation, monitoring and evaluation of land/site acquisition activities.
- b) Evaluate and examine all documents pertaining to the property to be acquired.
- c) Certify that at least fifty percent (50%) of the required right of way had been acquired on the date of bidding where the project is of such magnitude that it would take more than one (1) year to complete before the same is advertised and bid, or the necessary

complaint for expropriation had been filed and the corresponding writ of possession had been issued by the court.

- d) Recommend the purchase price of the real property to be acquired, including improvements thereon, following the Implementing Rules and Regulations of RA 8974.
- e) Conduct relocation/resettlement activities including payment of relocation benefits to project-affected persons/families, if applicable.

3.8.2 The Committee may recommend to the Secretary the creation of appropriate sub- committees in the performance of its tasks.

3.9 The following standards shall be used in the determination of the purchase price of the property to be acquired:

- 3.9.1 The classification and use for which the property is suited. This shall be based on the approved land use plan and/or zoning ordinance, if any, of the city or municipality concerned.
- 3.9.2 The development costs for improving the land. This shall be based on the records and estimates of the City or Municipal Assessor concerned.
- 3.9.3 The value declared by the property owners, as shown in their latest TD Certificates or Sworn Statements.
- 3.9.4 The current selling price of similar properties in the vicinity. This shall be based on the records on Deeds of Sale in the office of the ROD concerned.
- 3.9.5 The reasonable disturbance compensation for the removal and/or demolition of certain improvements on the land and for the value of improvements thereon.
- 3.9.6 The size, shape or location, tax declaration and zonal valuation of the land.
- 3.9.7 The price of the property as manifested in the ocular findings, oral as well as documentary evidence presented.
- 3.9.8 Such facts and events as to enable the affected property owners to have sufficient funds to acquire similarly-situated land whose areas and values approximate those required from them by the

government, and thereby rehabilitate themselves as early as possible.

- 3.10 The Department may, if it deems necessary, engage the services of government financing institutions and/or private appraisers duly accredited by the said institutions to undertake the appraisal of the property and to determine its fair market value.
- 3.11 The amount equivalent to 20% of the total consideration of the property to be acquired shall be retained by the Department until the title to the property has been transferred in the name of the government.
- 3.12 Payment of untitled property shall be made upon registration of the sale, submission of TD and posting of indemnity or property bond pursuant to Executive Order No. 1035 (Providing the Procedures and Guidelines for the Expeditious Acquisition by the Government of Private Real Properties or Rights thereon for Infrastructure and other Government Development Projects) the amount of which shall be fixed by the Provincial/City/Municipal Treasurer concerned on the basis of the market value as determined by the assessor and as appearing on the current tax declaration of the property.
- 3.13 Other national government offices or LGUs undertaking site acquisition activities thru a MOA shall be required to submit periodic status report on their activities which shall indicate, among others, the name of the lot owners, TCT No., TD No., actual area affected, classification of the property, acquisition cost, total amount paid and such other relevant information.
- 3.14 Upon full payment, the government office concerned or LGU shall submit to the Comptrollership Service, the original copy of the TCT/TD in the name of the "Republic of the Philippines thru the Department of Transportation and Communications".
- 3.15 All TCTs in the name of the "Republic of the Philippines thru the Department of Transportation and Communications" shall be subsequently turned over by the Department to the office/ end-user concerned for consolidation into one (1) TCT, if applicable and recording of the same in its Books of Accounts.

4.0 PROCEDURES

The Project Management Service/Project Management Office shall:

- 4.1 Conduct an ocular inspection of the property to be acquired.

- 4.2 Identify the lot owners, lot numbers, areas and technical descriptions and compare these data with the parcellary map of the proposed area to be acquired.
- 4.3 Conduct an inventory of the affected area to prevent the entry of unscrupulous individuals and the putting up of structures to prevent fictitious claims to arise.
- 4.4 Communicate with the affected lot owners of the Department's intention to construct an infrastructure project on their property and its desire to negotiate with them.
- 4.5 Coordinate with the officials of the LGU where the project is located.
- 4.6 Explore, as its first option, the donation by the lot owner of the property affected by the project. If the owner agrees, the Deed of Donation shall be immediately be prepared. If the owner does not agree, negotiate with him by offering, as just compensation, the price indicated in the current zonal valuation issued by the BIR. If the owner agrees, secure permit to enter the property.
- 4.7 In case the owner disagrees with the price based on the BIR zonal valuation, negotiate with him the price of his property using the relevant standards stated in Section 7 of the IRR of RA 8974. If the owner agrees, secure permit to enter the property.
- 4.8 In case the owner still disagrees, request the services of GFIs and/or private appraisers duly accredited by the said institutions to undertake the appraisal of the property. If the owner accepts the offer based on the valuation by the said GFIs and/or private appraisers, secure permit to enter the property. If the offer is not accepted within fifteen (15) days from receipt thereof and negotiation fails, coordinate with the Office of the Solicitor General for the filing of expropriation case with the proper Court.
- 4.9 Prepare the DOAS and other pertinent documents needed in the processing of payment.
- 4.10 Facilitate the registration, titling and transfer of the acquired properties.
- 4.11 Assist the OSG in the filing of complaint with the proper court for the expropriation of the private property.

5.0 Documentary Requirements

- 5.1 The property owner shall be required to submit the following documents:
- a) Certified copy of the Transfer/Original Certificate of Title;
 - b) Certified copy of the Tax Declaration;
 - c) Tax Clearance from the Provincial/City/Municipal Treasurer;
 - d) Provincial/Municipal Agrarian Reform Office Clearance;
 - e) Community Environment and Natural Resources Office Clearance;
 - f) Land Registration Authority Status;
 - g) Special Power of Attorney, if owner is represented by an Attorney-in-fact or in case of corporation, Board Resolution and Secretary's Certificate;
 - h) Extrajudicial Settlement of Estate (if owner is deceased and there are several heirs) or Affidavit of Self-Adjudication (if owner is deceased and there is only one surviving heir) (if applicable);
 - i) Certification of Publication of Extrajudicial Settlement of Estate (if applicable);
 - j) Community Tax Certificate;
- 5.2 To facilitate processing of claim and recording of payment of the acquisition of lands including improvements thereon, the following supporting documents shall be attached to the Disbursement Voucher in addition to the above requirements:
- a) Parcellary Survey;
 - b) BIR Zonal Valuation;
 - c) Provincial/City/Municipal Appraisal Resolution (if applicable);
 - d) Offer to Buy;
 - e) DOAS or Conveyance executed by the contracting parties in the proper form with the corresponding Special Power of Attorney if the vendor is represented by an Attorney-in-Fact. If the vendor is married, the marital consent of his/her spouse should be indicated

in the DOAS or Special Power of Attorney, unless there is competent showing that the land involved is the separate property of the vendor;

- f) Certificate of Availability of Funds;
- g) Indemnity Bond in case of untitled properties (Section 12, Executive Order No. 1035);
- h) Where subject property is mortgaged, certificate of release of mortgage or letter of consent of the mortgagee to the sale thereof;
- i) Where the property is under guardianship, administration or execution, court approval of the Deed of Sale executed by the guardian, administrator or executor;

6.0 RELOCATION/RESETTLEMENT

All matters pertaining to relocation/resettlement shall be coordinated with the appropriate government agencies concerned.

7.0 REGISTRATION/RECORDING

7.1 The Project Engineer/Project Manager concerned shall:

- a) Secure CAR from the BIR after payment of Capital Gains Tax and Documentary Stamp Tax .
- b) Pay Transfer Tax to the Treasurer's Office where the property is located.
- c) Submit the DOAS, CAR and other documents required by the ROD where the property is located.
- d) Submit to the Assessor's office concerned the processed documents from the ROD for issuance of a new TD.
- e) Secure TCT from the ROD after payment of registration fee.
- f) Transmit all documents to the CS for recording.

7.2 CS shall transmit the TCT and all supporting documents to the Records Section, GSD for safekeeping

7.3 AD shall transmit copy of the JEV to the office/end-user concerned for the recording of the transaction in its Book of Accounts and furnishing the AD of its responding JEV.

All previous orders, circulars, and other issuances inconsistent herewith are hereby revoked and/or superseded.

This Order shall take effect immediately.


LEANDRO R. MENDOZA
Secretary



DOTC-OSEC OUTGOING

09-001267