



SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED

SPECIFICATIONS FOR VALUATION, ACQUIRING PROPERTY AND RIGHTS IN PROPERTY

VOLUME 2 BOOK 2

PREPARED AND ISSUED BY:

**CHIEF EXECUTIVE OFFICER
SOUTH AFRICAN NATIONAL ROADS AGENCY SOC LIMITED
PO BOX 415
PRETORIA
0001**

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P1000 ACQUISITION OF PROPERTY AND RIGHTS IN PROPERTY

P1100 ACQUISITION OF PROPERTY AND RIGHTS IN PROPERTY

P1101 GENERAL

The Employer continuously acquires property, rights in property, or the right to use property for the construction of new national roads or the rehabilitation and upgrading of existing National Roads.

Property and rights in property may be acquired for the following purposes;

- a) Road reserves, new and existing,
- b) Temporary or permanent material sources, including borrow pits, quarries, stockpile and spoil areas,
- c) Temporary or permanent access and haul roads,
- d) Temporary deviations,
- e) Servitudes for reinstatement of infrastructure such as pipe and powerlines and other purposes,
- f) Surplus property, which is property that is acquired in addition to actual road related requirements due to it being entirely severed from the parent property, left without access, or if the property is rendered unviable as an independent unit.

The Employer acquires the following rights in property, depending on the circumstances:

- a) Full title ownership,
- b) Servitudes,
- c) Temporary (short term) right to use.

P1102 STATUTORY POWERS TO ACQUIRE PROPERTY

The Employer's powers to acquire privately owned, state land and to request the Minister of Transport to expropriate property on its behalf are provided for in Sections 26(t), 41 and 42 of The South African National Roads Agency Limited and National Roads Act, No 7 of 1998.

The power to acquire property and rights in property is subject to payment of compensation, which is determined in terms of Section 25 of the Constitution and Section 12 of the Expropriation Act, No 63 of 1975.

P1103 ACQUISITION BY AGREEMENT

Property is acquired by negotiation. Only if agreement cannot be reached, can property or property rights be expropriated in terms Section 41 The South African National Roads Agency Limited and National Roads Act, 7 of 1998 and the Expropriation Act, 63 of 1975. Specifications for acquiring property by expropriation are covered under section P1500.

The Employer acquires property and property rights by means of the following proforma acquisition agreements, depending on the circumstances, the nature and rights to be acquired and the purpose of acquisition:

- a) Deed of Sale,
- b) Access Servitude Agreement,
- c) Short Term Consent Agreements,
- d) Compensation Agreement,
- e) Relocation Agreement.

P1104 PROGRAMMING

The Service Provider shall acquire property and property rights in accordance with the LAC programme which must be maintained by the Service Provider in ITIS, and which from time to time may be amended in the LAC Meetings and at any time on instruction from the Employer.

P1105 GENERAL

The Service Provider shall procure all necessary information and conduct the land survey actions that are required to enable the acquisition to proceed, as covered by the Surveying Specifications, and obtain valuations to determine the compensation to be offered to affected landowners, as covered by the Valuation Specifications in section P1700.

Close collaboration between the various stakeholders, including but not limited to civil engineers, surveyors, valuers, conveyancers and the Employer will be necessary to ensure the timely acquisition of land.

It will also be the responsibility of the Service Provider to ensure that all statutory requirements relating to the acquisition of land are always complied with.

P1106 ACQUIRING RIGHTS AND SERVITUDES

The processes for acquiring servitudes and other limited real rights are the same as those described for full title ownership, but instead of transfer of full title ownership taking place, a right in the favour of the Employer, or another authority such as a municipality, provincial government or water boards, may have to be notarially registered against the title deed of the affected property.

The Service Provider will be required to capture and maintain information pertaining to rights and servitudes acquired in a register on ITIS / SAP, the same as in the case of full title ownership as is set out below.

P1107 TRANSFER AND REGISTRATION OF PROPERTY AND REAL RIGHTS

The Service Provider shall survey the acquired property or property rights which must be transferred or registered in favour of SANRAL or another authority. The Service Provider is responsible for securing sub-divisional and other statutory consents for any property or property right acquired from the Surveyor-General and municipalities (see Surveying Specifications).

The transfer of ownership and registration of rights in the name of the Employer or other parties must be outsourced to third party conveyancers by the Service Provider. The Service Provider will be required to project manage this process, including but not limited to appointing the conveyancers, ensuring they have all the documentation required, managing progress, paying conveyancers and ensuring that transfer or registration takes place as soon as possible.

However, if a landowner chooses to appoint a conveyancer of his choice, who is not on the panel of conveyancers of the Service Provider, the fees of the conveyancer must be paid from the PC Sum provided below

P1108 PAYMENT OF COMPENSATION

The Service Provider shall closely manage the process of submitting applications for payments of compensation for land or rights acquired on behalf of the Employer.

Various parties will need to receive the proceeds of the compensation, such as bond holders, the property owner, the trust account of the conveyancer, etc.

Within 21 days of having received a signed agreement and all the required supporting documents, the Service Provider shall submit a memorandum together with other required documentation to the Employer for approval.

Following as soon as possible after receipt of the Employer's approved memorandum, the Service Provider shall prepare and submit a payment authorisation, together with all the required information and supporting details.

P1109 REAL RIGHTS REGISTER

A Real Rights Register, located on ITIS/SAP, must be kept up to date by the Service Provider.

Real rights may include, but are not limited to mining permits, servitudes, and leases in favour of the Employer and mining closure certificates.

Appropriate fields will be available in ITIS for the capturing of the relevant details. Payment for this work is provided for in other rates, such as information sourcing, and Procedure A of the Acquisition of Privately owned Land, and therefore no specific payment item is provided for.

P1110 PROPERTY REPORTS

Design engineers produce submit property reports and final designs containing information to enable the Service Provider to commence with property acquisition. Property reports and designs, signed off by the Employer's Project Manager, trigger the land acquisition process by the Service Provider. The Service Provider is referred to the Land Acquisition Guidelines for Consulting Engineers contained in Volume 3 for the details contained in a Property Report.

Where design engineers provided inaccurate, inadequate and incomplete property reports, or submit property reports after the due dates, the Employer must be immediately informed by the Service Provider so that remedial action can be taken. The Employer may either require the design engineers to remedy the problem, or, in view of urgency, instruct the Service Provider to complete the property report for which it will be paid an hourly rate.

The property report and design must always be signed off by the Employer's Project Manager for the acquisition of property to commence.

If this procedure is not followed, the Service Provider will be liable for a penalty outlined in the General Specifications.

P1111 PAYMENT

Finalisation of incomplete or substandard Property Reports

Item	Units
P11.01 Finalisation of incomplete or substandard Property Reports	Hour

The Service Provider shall be paid at the tendered rate provided that it has been instructed to assist with the completion of a property report(s).

P1200 ACQUISITION OF PRIVATELY OWNED PROPERTY AND PROPERTY RIGHTS

P1201 SCOPE

This section covers the acquisition of privately owned property and property rights that are registered in the name of natural and legal persons, including companies, closed corporations and trusts, but excluding Organs of State and unalienated state and tribal land, which are dealt with separately in these specifications.

P1202 PROCEDURES FOR ACQUISITION OF PROPERTY AND PROPERTY RIGHTS

The acquisition of property and property rights, regardless of ownership or owner type proceeds from receipt of an approved property report and final design, where-after the administrative procedures described as Procedure A and B below must be followed by the Service Provider. Procedure A relates to all property acquisitions, while Procedure B relates to all processes that follow agreement and where Expropriation is not required.

These two procedures are generic, and with a few minor differences, apply to the acquisition of property and property rights from private owners, Organs of State, unalienated state land and what is commonly known as tribal land.

P1202(a) PROCEDURE A

Procedure A describes the tasks and steps from receipt of an approved property report and final design to submitting a signed acquisition agreement and memorandum to the Employer for approval.

- a) Verify that the approved design and property report conforms with the standards specified in the Land Acquisition Guidelines for Consulting Engineers and consult with the Design Engineers should there be any shortcomings or omissions,
- b) Prepare an acquisition plan based on the latest deeds office registered cadastre, taking into account all previously acquired areas (purchased, expropriated, or otherwise acquired by the Employer, its predecessors a provincial government or municipality),
- c) Source the property and ownership information as provided for in the Surveying Specifications,
- d) Determine the correct number for the acquisition plan and update the Plan Register in ITIS / SAP,
- e) Open / obtain the case file. The information and documents that must be filed on the case file are described in the Surveying Specifications,
- f) Update the File Register and the Employer's document management system,

- g) Verify sourced information and acquisition plan against the property report, previously acquired land on the same property captured in ITIS, the case file and Expropriation Register and where applicable, capture the information in ITIS/SAP,
- h) Finalise the acquisition plan, add the RDS (asset) number and execute quality control on the final acquisition plan, owner- and property information,
- i) Print the acquisition plans on film (described in the Surveying Specifications), submit to the Employer for approval, scan the approved acquisition plans and circulate copies to all the role players,
- j) Capture the required information throughout the process on the LAC Project Schedule (Tracking Register), Land Register in ITIS/SAP,
- k) Ensure the property information, approved acquisition plans (in PDF and DGN formats) and contents of the case files are uploaded into the Employer's document management system, the areas to be acquired are spatially integrated on the Land Acquisition Layer of the Employer's GIS and correctly linked to the properties in the Land Register and ITIS/SAP,
- l) Prepare the appropriate Acquisition Agreement and covering letter to owner,
- m) Refer the case to the Valuer for valuation (P1700) and negotiation (P1800). If negotiations fail, or if the landowner requires to be expropriated, follow the provisions of section P1500,
- n) Post the Acquisition Agreement, or otherwise deliver the document with a covering letter to landowner,
- o) Upon conclusion of a successful negotiation, submit a covering letter and memorandum to the Employer, together with all required information (signed Acquisition Agreement, Valuation Report and Certificate, Title Deed, Resolution/s, proof of Banking Details, proof of VAT Registration and approval of Special Conditions by the Employer's Project Manager, copies of documents and letters delivered to the landowner). The Employer shall consider and either require amendments or approve the memorandum,
- p) Update the LAC Programme and relevant information in the Land Register and ITIS/SAP. Ensure that all documents are filed on the case file and the contents of the case files are recorded in the Employer's document management system,
- q) Ensure that the properties in the Employer's GIS are correctly linked to the entries in the Land Register and in ITIS/SAP,

Negotiations fail for a variety of reasons, but usually over a dispute concerning the amount of compensation payable, the landowner's refusal to pay rates and tax accounts, or because the landowner simply wishes to be expropriated. In these cases, the Service Provider is referred to expropriation procedures outlined in Section P1500.

P1202(b) PROCEDURE B

Procedure B covers the process from approval of a signed acquisition agreement by the Employer to transfer of ownership or registration of a limited real right by conveyancers:

- a) Verify the Valuation Report and Certificate, the Employer's Memorandum of Approval and signed Acquisition Agreement,
- b) Capture the relevant information in a Commitment Register. It is envisaged that a commitment register will be made available on SAP in the earlier part of the contract,
- c) Appoint and brief a Conveyancer in terms of the relevant specifications,
- d) Complete a Payment Authorisation Form (an example of which will be provided to the Service Provider after award of the contract) and submit it to the Employer,
- e) Request payment for the acquisition from the Employer, and ensure that proof of payment is received from the Employer,
- f) Prepare a payment covering letter to landowner and conveyancer (not applicable in cases where right of use or informal rights were acquired),
- g) Prepare covering letter to the Employer's Regional Office with the necessary attachments, including special conditions of contract that the Employer's Project Manager have approved,
- h) Post payment letter to landowner and conveyancer (where applicable) with proof of payment received from Employer, with a copy to the Employer's Regional Office,
- i) Update Commitment Register, payment details, LAC programme and Land Register in ITIS/SAP,
- j) Ensure all documents are filed on the case files and uploaded into the Employer's document management system.

The Service Provider is required to scan and forward electronic copies of the signed acquisition agreements to the relevant Employer's project manager within 48 hours of obtaining said signed document, failing which penalties shall be applied in terms of the General Specifications.

P1203 PAYMENT

Procedure A for acquisition of privately owned property and property rights

Item	Unit
P12.01 Verify final design and property report	No

P12.02	Prepare acquisition plan	No
P12.03	Update Plan Register in ITIS/SAP	No
P12.04	Open /obtain the case file once the draft acquisition plan has been completed	No
P12.05	Update the file register	No
P12.06	Print plan on film and submit for approval, scan, circulate and file approved plan	No
P12.07	Capture all relevant information on the Project Schedule and in ITIS/SAP	No
P12.08	Perform document and spatial integration and linking	No
P12.09	Prepare acquisition agreement and covering letter to owner	No
P12.10	Post the acquisition agreement with covering letter to owner	No
P12.11	Post covering letter to the Employer together with all required information	No
P12.12	Update ITIS/SAP	No

The unit of measurement for all items shall be the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

Procedure B for acquisition of privately owned property and property rights

Item		Unit
P12.13	Verify valuation report / certificate, Employer's approval memorandum and signed acquisition agreement	No
P12.14	Capture relevant information in the Commitment Register	No
P12.15	Prepare and post letter of appointment to conveyancer to attend to transfer of ownership / registration of servitudes and copy Employer's Regional Office	No
P12.16	Complete Payment Authorisation Form to be provided to the Employer	No
P12.17	Request payment from the Employer	No

P12.18	Prepare and post payment covering letter to owner with proof of payment and copy the Employer's Regional Office	No
P12.19	Prepare and post payment covering letter to conveyancer with proof of payment and copy Employer's Regional Office	No
P12.20	Update the Commitment Register, ITIS/SAP, Land Register, LAC Programme and upload required documents into the Employer's document management system	No

The unit of measurement for all items shall be the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

P12.21	Payment of owner's conveyancer	PC Sum
P12.22	Administrator of owner's conveyancer	Percent

Where property owners insist on appointment of their own conveyancers, the conveyancer shall be paid from the PC Sum. An administration fee is payable to the Service Provider at the tendered rate. The conveyancer may count towards the achievement of the contract participation requirements.

P1300 ACQUIRING UNALIENATED STATE AND TRIBAL PROPERTY AND PROPERTY RIGHTS

P1301 SCOPE

This section covers the acquisition of unalienated State and Tribal property and property rights for national road purposes. Unalienated State and Tribal property and property rights are located in the former homelands and TVBC states.

P1302 BACKGROUND

Unalienated State and Tribal property and property rights are administered by the Department of Land Reform and Rural Development (DLRRD). The Ingonyama Trust Board (ITB) administers tribal property and property rights in KwaZulu-Natal.

The DLRRD has provincial offices that receive applications for the alienation of property and property rights to tribal property. The Employer has negotiated a Memorandum of Understanding with the DLRRD concerning the requirements to be met when applying for acquisition of property and / or property rights. This document is provided in Volume 3 in its own folder named “Tribal Property Acquisition Guidelines” and must be considered and applied by the Service Provider when acquiring property rights in tribal areas.

The ITB administers property and property rights in large areas of KwaZulu-Natal. The ITB currently grants rights to the Employer to build roads and for related purposes on property administered by the Trust. The Employer has come to an arrangement with the ITB by which rights of use to property for building of roads and related purposes are granted in exchange for a negotiated fee per square meter. This arrangement may change in due course to enable road reserve properties to be transferred to the Employer. Discussions between the Employer and the ITB are ongoing, and the Service Provider may be called upon to assist the Employer in this regard.

The Service Provider must interact with the DLRRD, the ITB, traditional leaders, municipal councillors and individual holders of informal property rights when acquiring property and property rights in tribal areas.

The acquisition of property and property rights in tribal areas where densification has taken place is complicated by many encroachments onto the road reserve, which varies from gardening activities, keeping of livestock and informal trading, to residences and commercial developments. Acquisition of property and property rights in these cases requires balancing of the many interests and the seeking of compromises. The Service Provider must expect to become deeply involved in discussions and meetings with design engineers, local authorities, tribal authorities, local chiefs, the community and lobbyists representing numerous interests. A guideline document for handling tribal land densifications is provided in Volume 3, in the folder “Tribal Property Acquisition Guidelines”.

It is important that the Service Provider notes that when dealing with tribal or communal property, individuals always hold informal rights over the property, as defined in the Interim Protection of Informal Land Rights Act, 31 of 1996. These informal rights are recognised

in South African law and may be acquired or expropriated for public purposes and in the public interest subject to payment of fair and equitable compensation.

The Service Provider shall assist the Employer to arrange meetings and consider and comment on the requirements of the DLRRD and ITB. At other times, the Service Provider will need to meet with the DLRRD and ITB to deal with projects, acquisitions and amendments of memoranda of understanding, etc.

P1303 THE TRIBAL PROPERTY AND PROPERTY RIGHTS ACQUISITION PROCESS

The process followed for acquiring unalienated State or Tribal property and property rights is dealt with in detail in the Memorandum of Understanding with DLRRD included in the “Tribal Property Acquisition Process” folder in Volume 3. The process is complex and is best explained by means of the flow charts included in the Memorandum of Understanding.

The acquisition process involves the acquisition of property rights held by various parties by means of different agreements and plans, collectively known as acquisition plans / diagrams and acquisition agreements.

Community compensation plans and compensation agreements are used to acquire communal tribal property (see “i)” to “o)” below),

Quitrent compensation plans and compensation agreements are used to acquire quitrent property rights from quitrent owners or their descendants (see “p)” to “t)” below).

Notional site plans and compensation agreements are relevant for acquisition of informal property rights held by natural persons (see “u)” to “y)” below).

It is sometimes preferable to reinstate improvements affected by a road project on the same quitrent or notional site, or to acquire a different notional site and reinstate the improvements on that site, rather than compensate the affected owner or rights holder. The relocation process is explained under “z)” to “hh)” below.

Procedure A relates to all property acquisitions, while Procedure B relates to all processes that follow agreement and where Expropriation is not required. With a few exceptions, the same Payment Items described under Procedures A and B for Acquisition of Privately Owned Property and Property Rights apply to Unalienated State and Tribal Property and Property Rights insofar as the administrative processes and documentation are concerned.

The procedures described under “a)” to “h)” below are common to all the subsequent acquisition actions and procedures.

- a) Obtain the start and end points of the project from the design engineer,
- b) Prepare orthophotos showing the route,
- c) Meet with traditional leaders to demarcate the boundaries of affected communities along the route and workshop the land acquisition process,

- d) Receive and verify the final design and property report from design engineer. The property report must include details of identified quitrents and notional sites,
- e) Prepare a draft Surveyor General (SG) diagram for the corridor that must be acquired from DLRRD, for the national road,
- f) Prepare and submit an application to DLRRD as per paragraph 7.5 and 7.7 of the draft Memorandum of Agreement between the Employer and DLRRD. The submission must include draft SG diagrams, proof of community engagements by the design engineer, and relevant national road declarations. The Service Provider must request DLRRD to reserve identified land on the DLRRD GIS and request assistance with obtaining a community resolution,
- g) Advertise pre-resolution community meetings and erect site notices,
- h) Arrange and attend pre-resolution meetings with DLRRD, affected communities, traditional leaders and municipal councillors and sign access agreements (giving permission to the Employer's agents to enter the area and conduct negotiations with holders of affected informal property rights). The land acquisition process is explained and all role-players are introduced at these meetings,
- i) Compile communal compensation plans, a form of acquisition plan specifically for acquisition of multi-parcel **communal property**, using information provided by the design engineer (Property Report and final Design),
- j) Obtain communal compensation plan approval from the Employer,
- k) Compile valuations reports and compensation schedules.
- l) Prepare compensation agreements and draft community resolutions,
- m) Arrange the second community meeting (community resolution meeting) to approve and sign the community compensation agreement and community resolution,
- n) Prepare memoranda for approval of compensation agreements and compensation by the Employer,
- o) Arrange payment of compensation to communities,
- p) Verify identified **quitrent properties** that are affected and obtain records of quitrents from the Surveyor-General's Office and Deeds Office,
- q) Prepare quitrent land acquisition diagrams for the portions of land required and have same approved by the Employer,
- r) The portions of quitrent land required must be valued, compensation agreements compiled and concluded by negotiation with the quitrent "owners". Consult Traditional Leaders to confirm quitrent property ownership. Identify quitrent acquisitions where relocation and reinstatement are preferred to acquisition and compensation,

- s) Prepare and submit signed quitrent site compensation agreements and memoranda to the Employer for approval of quitrent compensation agreements,
- t) Arrange payment of compensation to quitrent owners,
- u) Verify details of **notional site** boundaries (i.e. properties over which individuals have informal rights as defined in the Interim Protection of Informal Land Rights Act, 31 of 1996), and the names and contact details of notional site owners received from the consulting engineer,
- v) Prepare notional site acquisition diagrams and compensation agreements for required portions of notional sites required and have same approved by the Employer,
- w) Compile valuations of the property rights required from the notional site holders. Negotiate for acquisition of property rights from notional site holders. Consult Traditional Leaders to confirm notional site holders' ownership. Identify notional site acquisitions where relocation and reinstatement are preferred to acquisition and compensation,
- x) Prepare and submit signed notional site compensation agreements and memoranda to the Employer for approval,
- y) Arrange payment of compensation to notional site owners,
- z) Identify **relocation** sites in liaison with the design engineers and traditional authorities in cases where it is not possible to relocate an affected dwelling and other fixed improvements to another position on the same site,
- aa) Compile relocation site acquisition plans and acquisition agreements for approval by the Employer. These could be on communal land, quitrent properties or notional sites, depending on where relocation sites have been identified,
- bb) Negotiate and conclude relocation agreements and the improvements to be relocated and reinstated with the owners of the property rights,
- cc) Compile valuations, negotiate and conclude acquisition agreements with the owners of relocation sites,
- dd) Prepare and submit memoranda, signed relocation acquisition agreements and signed relocation agreements to the Employer for approval,
- ee) Arrange payment of compensation to relocation site owners,
- ff) Arrange for the drafting of building plans for the relocation structures,
- gg) Obtain approval of building plans from the persons to be relocated,
- hh) Facilitate relocation to new structures,

- ii) Upon completion of construction of the road project, prepare and submit a final submission to DLRRD in accordance with paragraph 7.10 of the draft MOU. The submission must include, *inter alia*, approved SG diagrams, compensation schedules of the affected properties and persons, and a relocation report with a request to start the transfer of the acquired property to the Employer,
- jj) Engage with DLRRD to ensure state properties and rights are transferred to the Employer.

P1304 FAILURE TO REACH AGREEMENT

The occupants of tribal property hold informal rights over the property and own improvements on it. They are entitled to compensation based on the market value of their property, and the rights and losses suffered when their property is affected by an acquisition.

Many complications may occur during the acquisition of tribal land, such as absent rights holders, deceased rights holders, unreported deceased estates, disputed ownership, compensation disputes, etc. In these and other cases where the parties cannot reach agreement by negotiation, expropriation may be the only solution, in which case, the provisions of Section P1500 shall apply.

P1305 SURVEY AND DOCUMENTATION

The Service Provider shall survey the land which must be transferred to SANRAL as provided for in the Surveying Specifications.

The Service Provider will also be responsible for providing the Department of Agriculture, Land Reform and Rural Development (DLRRD) with all the necessary documentation to enable that Department to make application to the Provincial State Land Disposal Committee for consent to transfer land to the Employer.

P1306 PAYMENT**Procedure A for the acquisition of unalienated state and tribal property and rights over property**

Item		Unit
P13.01	Verify final design and property report	No
P13.02	Prepare acquisition plan	No
P13.03	Update Plan Register in ITIS/SAP	No
P13.04	Open /obtain the Case File once the draft acquisition plan has been completed	No
P13.05	Update the File Register	No
P13.06	Print plan on film and submit for approval, scan, circulate and file approved plan	No
P13.07	Capture all relevant information on the Project Schedule and in ITIS/SAP	No
P13.08	Perform document and spatial integration and linking	No
P13.09	Prepare acquisition agreement and covering letter to owner	No
P13.10	Post the acquisition agreement with covering letter to owner	No
P13.11	Post covering letter to the Employer together with all required information	No
P13.12	Update ITIS/SAP	No

The unit of measurement for all items shall be the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

Procedure B for the acquisition of unalienated state and tribal property and rights over property

Item		Unit
P13.13	Verify valuation report / certificate, Employer's approval memorandum and signed acquisition agreement	No

P13.14	Capture relevant information in the Commitment Register	No
P13.15	Complete Payment Authorisation Form to be provided to the Employer	No
P13.16	Request payment from the Employer	No
P13.17	Prepare and post payment covering letter to owner (where possible) with proof of payment and copy the Employer's Regional Office	No
P13.18	Update the Commitment Register, ITIS/SAP, Land Register, LAC Programme and upload required documents into the Employer's document management system	No

Note that in respect of Procedure B, a conveyancer is not appointed at this stage as the transfer of ownership will only follow once the project is complete, surveyed and DLRRD is in a position to effect transfer of unalienated state property.

The unit of measurement for all items shall the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

The term acquisition plan in this context includes communal compensation plans, quitrent acquisition plans, notional site plans and relocation site plans. Similarly, the term acquisition agreement includes community compensation agreement, quitrent acquisition agreement, notional site compensation agreement and relocation agreement.

In addition, the Service provider shall be paid as shown below for all other work involving interactions with Tribal Authorities, Communities, Municipal Councillors, DLRRD, including arranging and attendance of community and other stakeholder meetings, drafting and submission of applications, correspondence, relocations and conclusion of communal compensation agreements.

Valuation and negotiation for the conclusion of acquisition agreements involving quitrent and notional site property rights are however excluded and shall be paid under the valuation and negotiation specifications under P1700 and P1800 respectively.

Item		Unit
P13.19	Senior Manager acquiring Unalienated State and Tribal Property	Hour
P13.20	Middle Manager acquiring Unalienated State and Tribal Property	Hour
P13.21	Junior Manager acquiring Unalienated State and Tribal Property	Hour
P13.22	Other staff acquiring Unalienated State and Tribal Property	Hour
P13.23	Expenses incurred in preparing building plans	PC Sum
P13.23(a)	Administration of building plans	Percent

Payment for the involvement of personnel in the various categories under items P13.19 to P13.22 shall be made by the person-hours of the people involved in mentioned actions. Auditable time sheets must be kept which show the name of the person involved, his/her level of management, dates, hours of work and a brief task description.

The costs of having building plans drafted and approved is remunerable from the PC item. The Service Provider shall be reimbursed for procuring, administering and paying the architects that drew up the building plans as a percentage of the cost of preparing building plans.

The Service Provider shall be paid for the remaining items including, but not limited to the use of Third Parties and remunerable expenses, all in accordance with the rates prescribed in other specifications.

Other billable items specifically included in other specifications will be paid for under the relevant items.

P1400 ACQUIRING PROPERTY AND PROPERTY RIGHTS FROM ORGANS OF STATE

P1401 SCOPE

Organs of State include the Department of Public Works, the Department of Agriculture Land Reform and Rural Development (DLRRD) in respect of land acquired for land reform purposes, Provincial Governments, Municipalities and State-Owned Companies and Enterprises.

It is not always clear from the property report, or the title deed, which Organ of State is the owner and / or user entity. The title deed often simply states that the registered owner is the “Republic of South Africa”. The Service Provider must identify the Organ of State that has jurisdiction over the property, uses the property and has the power to dispose of the property, before making contact with the responsible officials and submitting applications to acquire the property or property rights required by the Employer. The national Department of Public Works (DPW) or DLRRD can be approached to confirm ownership and jurisdiction from the state’s asset register.

P1402 OUTSTANDING HISTORIC AND NEW ACQUISITION APPLICATIONS

Once ownership and user departments have been identified, the acquisition process must follow. Applications to acquire property or property rights from Organs of State, in particular DPW and DLRRD, are dealt with according to the history of the acquisition. Large numbers of historic acquisitions are outstanding. These are referred to as backlog acquisitions, as opposed to new acquisitions required for purposes of new road projects. The backlog acquisitions are processed in priority batches. A single application per batch is submitted by the Service Provider to the DPW and DLRRD, who then processes the application in terms of procedures unique to that particular department.

It must be noted that acquisitions of land from government departments, state owned enterprises and local authorities are particularly complicated and time consuming and that there is a backlog of over 900 property acquisitions at the time of tender.

The new applications are compiled and processed individually, per acquisition plan and not in batches. In the case of NDPW and DLRRD, individual new applications are submitted to the Regional Offices of these Departments.

The Service Provider must establish the application requirements of each organ of state. Typically, formal written applications include a covering letter, Title Deed, Surveyor General Diagram, draft Surveyor General Diagram of the area to be acquired, written confirmation of Restitution Claim status of the property from the Regional Land Claim Commissioner, Valuation Report and Acquisition Plan, but specific Organs of State may require additional information and documentation.

P1403 GENERAL PROCEDURES

Co-operation and ongoing interaction between the Service Provider and the relevant organ of state is essential. This involves regular meetings, site inspections, comparing and updating valuations, meetings between valuers to resolve valuation differences, requesting amendments to acquisition plans, etc.

Once a valuation has been agreed between the valuers of the Service Provider and organ of state, valuation approval is generally obtained from a committee, the municipal council, Premier or Minister.

This is followed by negotiating and drafting of agreements between the Service Provider and the organ of state.

The usual order of signing agreements is reversed in the case of most Organs of State. Once valuations and contents of agreements have been agreed between the Service Provider and the organ of state, a memorandum must be drafted and submitted by the Service Provider to the Employer to obtain pre-approval of the valuation, or valuation and agreement, or in some cases also the Employers signature of the agreement, before final submission to the organ of state for signature.

In the case of DPW and DLRRD the Ministers and in some cases Provincial Managers have delegated powers to sign property agreements. In the case of provincial governments, the Premier usually signs the agreement after a lengthy multi layered approval process. Municipal councils must approve property transactions, but senior managers of the mayor are usually delegated to sign the agreements. The Boards of Directors or committees of State-Owned Companies and Enterprises usually approve transactions and authorise senior managers to sign agreements.

The processes are so multi-facetted with many and constantly changing procedures and requirements, that it requires ongoing active monitoring, coordination and intervention from the Service Provider to prevent land acquisitions from getting stuck along the way.

P1404 FAILURE TO REACH AGREEMENT

It is important to note that the Employer does not have the authority to expropriate property or property rights owned by another organ of state. Such land may only be acquired by means of negotiation, failing which by applying the Principles of Co-operative Government and Intergovernmental Relations stipulated in Chapter 3 of The Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996) and the provisions of the Intergovernmental Relations Framework Act, No 13 of 2005.

P1405 TRANSFER OF OWNERSHIP AND REGISTRATION OF SERVITUDES AND OTHER LIMITED REAL RIGHTS

In the case of Organs of State, it may be required that the Office of the State Attorney deals with the transfer of ownership or registration of rights, in which case the Service Provider will not appoint a conveyancer, but is still responsible to oversee the process and provide the required documentation and statutory consents.

Administratively and in terms of documentation, Procedures A and B described under the section that dealt with Privately Owned Property and Property Rights are largely the same for acquisition of property and property rights from Organs of State.

P1406 PAYMENT

Acquiring property and property rights from Organs of State

Item	Unit
Procedure A;	
P14.01 Verify final design and property report	No
P14.02 Prepare acquisition plan	No
P14.03 Update Plan Register in ITIS/SAP	No
P14.04 Open /obtain the case file once the draft acquisition plan has been completed	No
P14.05 Update the file register	No
P14.06 Print plan on film and submit for approval, scan, circulate and file approved plan	No
P14.07 Capture all relevant information on the Project Schedule and in ITIS/SAP	No
P14.08 Perform document and spatial integration and linking	No
P14.09 Post covering letter to the Employer together with all required information	No
P14.10 Update ITIS/SAP	No

The unit of measurement for all items shall be the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

Item		Unit
Procedure B;		
P14.11	Verify valuation report / certificate, Employer's approval memorandum and signed acquisition agreement	No
P14.12	Capture relevant information in the Commitment Register	No
P14.13	Complete Payment Authorisation Form to be provided to the Employer	No
P14.14	Request payment from the Employer	No
P14.15	Prepare and post payment covering letter to owner with proof of payment and copy the Employer's Regional Office	No
P14.16	Update the Commitment Register, ITIS/SAP, Land Register, LAC Programme and upload required documents into the Employer's document management system	No

The unit of measurement for all items shall the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

With regards to Procedure B, it will not be required to appoint a conveyancer and manage the transfer of ownership or registration of rights in cases where the organ of state requires that conveyancing is done by the Office of the State Attorney.

Negotiating, drafting and approval of acquisition agreements are different from the normal pro-forma acquisition agreement processes in the case of Organs of State and shall be paid on an hourly basis in terms of the relevant payment items set out below.

In the case of batch applications of backlog acquisitions, all the actions under Procedure A would have been completed previously and it would not be required to perform any of the Procedure A tasks, unless the acquisition plan has to be amended to accommodate the specific requirements of the Organ of State. Procedure B tasks would however still be necessary following signature of an acquisition agreement by both parties

Valuations shall be paid under section P1700

Negotiations, assistance to Town Planners and Valuers representing Organs of State, appearance before and presentations to Committees of Organs of State, all administrative processes and managerial actions to secure an approval and signature of an acquisition agreement or batch agreements in the case of historic acquisitions from an organ of state, including management of the conveyancing process shall be paid as follows:

Administration, management and negotiation for acquisition of property and property rights from Organs of State

Item		Unit
P14.17	Senior Manager acquiring land from an Organ of State	Hour
P14.18	Middle Manager acquiring land from an Organ of State	Hour
P14.19	Junior Manager acquiring land from an Organ of State	Hour
P14.20	Other staff acquiring land from an Organ of State	Hour

Payment for the involvement of personnel in the various categories under the above shall be made by the person-hours of the people involved in actions taken to secure the necessary agreements. Auditable, time sheets must be kept which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

The Service Provider shall be paid for the remaining items, such as, but not limited to the use of Third Parties, in accordance with the rates prescribed in other Specifications.

Other billable items specifically included in other Specifications will be paid for under the relevant items.

P1500 EXPROPRIATION OF PROPERTY AND PROPERTY RIGHTS

P1501 SCOPE

The South African National Roads Agency Limited and National Roads Act, No 7 of 1998, requires property to be acquired by negotiation. Expropriation should only be used as a method of last resort, or if a landowner specifically requests to be expropriated.

P1502 GENERAL

Should any process of negotiation fail, or if a landowner requests to be expropriated in terms of Section 2(4) of the Expropriation Act 1975 (Act 63 of 1975), the Board of Directors of the Employer may be requested to approach the Minister to expropriate the property in terms of the Expropriation Act, No 63 of 1975. Expropriation may furthermore be the only solution to acquire land from deceased estates, from trusts where decisions cannot be taken, from absentee landowners, from unreported estates, where there is no identifiable landowner, where landowners refuse to cooperate at all, etc.

The Service Provider shall prepare a well-motivated and detailed account of the failed negotiations in a memorandum to the Board of Directors of the Employer, recommending that the Minister of Transport be requested to expropriate the required property or right, and where applicable, providing evidence that a property owner requests to be expropriated.

Upon the approval of the Board to approach the Minister to expropriate the property, a draft memorandum to the Minister, providing all the relevant details to enable a rational decision to be made and requesting of him/her to embark upon the recommended course of action must be submitted to the Employer.

P1503 EXPROPRIATION PROCEDURES

These specifications set out administrative procedures to be followed by the Service Provider when an acquisition by negotiated agreement failed, or if a property owner formally requests that his / her property or property right be expropriated.

It follows that, in all cases of acquisition dealt with in sections P1200, P1300 and P1400, Procedure A must have been followed, for which the Service Provider shall be paid as provided for. It also follows that Procedure B could not have been followed, as that deals exclusively with what is to be done if agreement has been reached.

Under this Section;

- a) **Procedure C** covers the required procedures from the point of failed negotiation up to requesting the Minister to expropriate.
- b) **Procedure D** deals with the procedures to be followed after receiving the Minister's approval to expropriate, up to the point of transfer or registration of ownership or limited real rights.

- c) **Procedure E** addresses procedures for dealing with compensation claims, following serving of a notice of expropriation on a property owner.

P1504 PROCEDURE C; LEADING UP TO MINISTERIAL APPROVAL

This procedure follows Procedure A, described under the sections for Acquisition of Privately Owned Property and Property Rights and Acquisition of Unalienated and Tribal Property and Property Rights, after negotiations failed or cannot be completed, or if the owner requested expropriation. Note that expropriation as a last resort means of acquisition may also be used when acquiring limited real property rights such as servitudes, informal property rights and when Donation Agreements cannot be concluded following a land identification process (described in the Surveying Specifications). The procedures below must be carried out:

- a) Prepare a Notice of Expropriation using the proforma and in compliance with section 7 of the Expropriation Act, No 63 of 1975,
- b) Prepare a Declaration in terms of Section 26 of the Expropriation Act,
- c) Prepare a covering letter to the landowner under which the Notice of Expropriation, Expropriation Plan and Declaration is posted,
- d) Prepare a covering letter addressed to the relevant Registrar of Deeds accompanied by a certified copy of the Expropriation Notice served on the registered owner as well as two Expropriation Plans,
- e) Prepare the Certificate in terms of Regulation 57 promulgated in terms of Section 10 of the Deeds Registry Act, 47 of 1937 and the Acknowledgements of Receipt of Notice of Expropriation to accompany the covering letter to the Registrar of Deeds,
- f) Prepare a covering letter to bond holder(s), if applicable,
- g) Prepare a covering letter to the relevant municipality with jurisdiction in the area,
- h) Prepare a covering letter to each of the other affected parties such as a mineral right holder, etc,
- i) Prepare a Memorandum to the Board of the Employer to obtain approval to approach the Minister for expropriation,
- j) If necessary, prepare a Gazette notice for the Employer to publish in the Government Gazette in terms of Section 7 of the Expropriation Act,
- k) If necessary, prepare newspaper advertisements in two official languages as provided for in Section 7 of the Expropriation Act,
- l) Prepare a detailed Ministerial Memorandum requesting expropriation.

If the Ministerial memorandum is approved and signed by the Minister, it shall be returned by the Employer to the Service Provider who shall then follow **Procedure D**.

P1505 PROCEDURE D; FOLLOWING MINISTERIAL APPROVAL

- a) Post all the above covering letters and documents as approved and signed by the Minister,
- b) Deal with objections to the compensation payable and claims made against the expropriation as described in **Procedure E**,
- c) Update all relevant details in ITIS/SAP, including the project schedule, Acquisition Register, Land Register and Valuation Register,
- d) Complete a Payment Authorisation Form to be provided to the Employer if the landowner accepts the compensation amount and request payment from the Employer for the expropriation. If the compensation offered is not accepted, the Payment Authorisation Form shall reflect 80% of the amount offered in terms of Section 11(1) of the of the Expropriation Act, 1975 (Act 63 of 1975). The Payment Authorisation Form shall also include statutory interest and a schedule of how such interest was calculated under the circumstances provided for in terms of Section 12(3) of the of the Expropriation Act, 1975 (Act 63 of 1975). Where necessary, prepare the documentation to make payment of the compensation to the Master of the Supreme Court,
- e) Prepare a covering letter for the payment of compensation to the owner,
- f) If necessary, prepare a covering letter to Master (Section 11(1)) or municipality (Section 20) for the payment of compensation,
- g) Prepare a covering letter to the bond holder(s),
- h) Prepare a covering letter to the Employer's Regional Office,
- i) Post all above letters on receipt of proof of payment,
- j) Prepare and post a letter to appoint a conveyancer to attend to the transfer of the land or registration of a right in favour of the Employer,
- k) Update Commitment Register, and all relevant data in ITIS/SAP when the property is registered.

The Service Provider shall appoint, manage and oversee the transfer and registration process by conveyancers and provide the approved Surveyor General diagram, Title Deed, Expropriation Notice and any other documentation that may be required to affect transfer or registration.

The Service Provider shall further deal with compensation claims and disputes that may be lodged by the owner as provided for in Procedure E.

P1506 PROCEDURE E; DEALING WITH CLAIMS AGAINST THE MINISTER

An expropriated party has an statutory obligation to indicate to the Minister if the compensation is acceptable or not, and if not accepted, submit a detailed claim as provided for in Section 9 of the Expropriation Act, within sixty days from date of notice. The owner may request the Minister to extend the sixty-day period.

The Service Provider shall perform the duties laid out in Section 9 of the Expropriation Act as follows:

- a) Receive and record all claims and Section 9 statements,
- b) Evaluate the claims and submit a detailed memorandum to the Employer explaining why the claim is justified and that the compensation should be increased, or provide a detailed account of why the claim should be rejected, or that an amended offer should be made. The memorandum shall include a draft letter from the Minister to the expropriated owner as envisaged in Section 10(4) of the Expropriation. If approved by the Employer, the memorandum and draft response letter shall be submitted to the Minister for approval and signature. If approved by the Minister, the Service Provider shall post or serve the Minister's letter on the expropriated owner. The Service Provider shall be responsible for administration of the process described in Section 9 and 10 of the Expropriation Act, including reporting and making valuation, compensation and legal recommendations to the Employer and Minister,
- c) If the owner and Minister cannot reach agreement, the owner may seek determination by Court, in which case the Service Provider shall be required to provide all assistance with expert professional valuation inputs, legal documentation and provide evidence if called upon to do so,
- d) The Employer may in its sole discretion appoint its own legal team, or direct that the Service Provider appoints a legal team and manages it,
- e) Once the matter has been resolved, prepare payment documentation for bondholders, holders of builder's liens, the SARS, municipality, Master, etc. and submit a Payment Authorisation Form to the Employer for payment,
- f) Upon receipt of proof payment, deliver to all parties.

P1507 PAYMENT

Expropriation approval and serving of notices and letters

Item	Unit
Procedure C; Leading up to expropriation	
P15.01 Prepare Notice of Expropriation	No

P15.02	Prepare Declaration that will accompany the covering letter to the landowner	No
P15.03	Prepare covering letter to landowner under which the Notice of Expropriation, Expropriation Plan and Declaration is posted	No
P15.04	Prepare covering letter addressed to the relevant Registrar of Deeds accompanied by a certified copy of Expropriation Notice served on the registered owner, as well as two Expropriation Plans	No
P15.05	Prepare the Certificate in terms of Regulation 57 promulgated in terms of Section 10 of the Deeds Registry Act, 47 of 1937 and the Acknowledgements of Receipt of Notice of Expropriation to accompany the covering letter to the Registrar of Deeds	No
P15.06	Prepare covering letter to bond holder(s)	No
P15.07	Prepare covering letter to the relevant municipality	No
P15.08	Prepare covering letters to other affected parties	No
P15.09	Prepare Memorandum to the Board	No
P15.10	Preparation of Gazette notice	No
P15.11	Preparation of newspaper advertisements in two official languages No	
P15.12	Serve all the covering letters and documents on landowners;	
P15.12(a)	By hand	No
P15.12(b)	Delivery by sheriff	No
P15.12(c)	By registered mail	No
P15.13	Costs of sheriff, postage and newspaper adverts	PC Sum
P15.13(a)	Administration fee in respect of P15.13	%
P15.14	Prepare Ministerial Memorandum	No

The unit of measurement for all items shall be the number of acquisition diagrams for which the Service Provider has carried out the actions described in the applicable procedures.

If a Minister is replaced before documentation has been signed and the memorandum and documentation have to be amended for the new Minister, or if this documentation has to be regenerated because documentation has become misplaced, the above items may be charged again to the extent that a task or process has to be redone and submitted.

The costs of employing sheriffs, postage and newspaper advertisements shall be remunerated at cost, with an administration fee being payable at the tendered percentage.

Procedure D: Administrative Tasks following serving of statutory Notices and Letters

Item		Unit
P15.15	Update Project Schedule, Acquisition Register, Land Register and Valuation Register	No
P15.16	Complete Payment Authorisation Form for the Employer and request payment for the expropriation	No
P15.17	Prepare covering letter to landowner for the payment of Compensation	No
P15.18	Prepare covering letter to bond holder	No
P15.19	Prepare documentation for the Master	No
P15.20	Prepare covering letter to the Employer's Regional Office	No
P15.21	Post, deliver all proofs of payment	No
P15.22	Update Commitment Register and all other information in ITIS.	No

The unit of measurement for all above items shall be the number of duties or tasks actually carried out.

Procedure E: Dealing with Compensation Claims

Item		Unit
P15.23	Administration of expropriation claims received and submitted to the Minister	Month
P15.24	Payment documentation for each payee	No
P15.25	Preparation of claim evaluation reports by a Professional Valuer	Hour
P15.26	Procurement of legal representative to defend expropriation claims	No
P15.27	Legal services to deal with expropriation claims Sum	Prov

The Service Provider shall be remunerated for the hours spent administering claims received from expropriated persons and submissions to the Employer and Minister. This includes correspondence, enquiries, meetings and managing Ministerial submissions and approvals.

Claim evaluation reports compiled by a Professional Valuer shall be remunerated on an hourly basis.

If the compensation cannot be agreed upon and landowner seeks remedy in a Court, the Service Provider shall with the concurrence of the Employer, appoint a law firm to handle the Court Proceedings. An administration fee is payable at the tendered percentage rate.

Expropriation Consultations, Reports, Meetings and Appearances in Court

Item	Unit
P15.28 Reports to and consultations with Attorneys/Advocates and others;	
P15.28(a) Professional Valuer	Hour
P15.28(b) Professional Associated Valuer	Hour
P15.28(c) Candidate Valuer	Hour
P15.28(d) Non-Valuer staff	Hour
P15.29 Appearance in court and preparation for giving evidence;	
P15.29(a) Professional Valuer	Hour
P15.29(b) Professional Associated Valuer	Hour
P15.29(c) Candidate Valuer	Hour
P15.29(d) Non –Valuer staff	
Hour	

The unit of measurement for consulting and meeting with attorneys, advocates and others and associated reports in respect of expropriation shall be the number of hours, including hours spent preparing for the meeting(s). Auditable, time sheets must be kept which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

The unit of measurement for court appearances shall be actual hours giving evidence and under cross examination and spent in preparation of giving evidence.

P1600 OUTSTANDING TRANSFERS DUE TO STATUTORY CONSENTS

P1601 SCOPE

This section covers the management, administration and special interventions that must be made to conclude transfers that are outstanding due to sub-divisional and other consents being outstanding. A sub divisional consent or clearance certificate shall be considered outstanding if it has not been approved and issued within 3 months from the date of submission of an application by the Service Provider.

P1602 DESCRIPTION

Properties and portions of properties in respect of which full title ownership is acquired for national road reserves must be transferred into the name of the Employer. The formal transfer of ownership requires sub divisional consent, clearance certificates and, in some cases, also planning consent from municipalities and the Surveyor General.

Obtaining these consents is the responsibility of the Service Provider and is dealt with in terms of these and the Surveying Specifications. There are often long delays in obtaining consents and certificates required for transfer of ownership, despite the Service Provider having submitted applications and complied with the requirements of the municipality or Surveyor General.

Where delays in obtaining consents are due to the actions or omission of property owners, the option of expropriation is available, provided that the owner is not an organ of state.

If delays are due to the omissions, actions or failure to process applications by a municipality or the Surveyor General, the Service Provider must keep record of all outstanding acquisitions and transfers, and all relevant details to enable continued effort to be applied in finalising these acquisitions, and shall manage and administer outstanding consents and statutory requirements for transfer, including reports, follow-up correspondence, minutes of meetings, registers and records.

The Service Provider shall take the necessary steps and undertake any interventions that are appropriate and prudent to conclude outstanding acquisitions and transfers.

P1603 PAYMENT

Outstanding transfers due to statutory consents

Item	Unit
P16.01 Senior Manager doing outstanding transfers	Hour
P16.02 Middle Manager doing outstanding transfers	Hour
P16.03 Junior Manager doing outstanding transfers	Hour

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P16.04 Other staff doing outstanding transfers

Hour

Payment shall be made by the person-hours of the people involved in actions taken to resolve long outstanding acquisitions. Auditable, time sheets must be kept which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

Other billable items specifically included in the Specifications will be paid for under the relevant items, e.g. subsistence and travel.

P1700 VALUATIONS

P1701 SCOPE

This section covers the requirements in respect of valuations for the acquisition and expropriation of property and property rights, with a view to determining compensation of their owners.

P1702 GENERAL

The Service Provider shall compile valuations for determining the compensation due for the acquisition of property and property rights.

This work may only be performed by registered Professional and Associated Professional Valuers without restrictions.

Valuations must consider and comply with the following:

- a) Section 25 of the Constitution,
- b) Section 12 (1), (2) and (5) of the Expropriation Act, No 63 of 1975, including assessment of actual financial loss,
- c) Relevant legal opinions,
- d) Relevant case law,
- e) Professional Standards

When property is required for national roads and ancillary purposes, the owners of registered formal and informal property rights that are to be dispossessed or otherwise affected are entitled to fair and equitable compensation based on a detailed assessment of the market value of their property and rights, and their financial losses.

The time allowed for valuations and negotiations shall comply with the LAC Programme.

P1703 VALUATION FOR ACQUISITION AND EXPROPRIATION

The Service Provider shall prepare and obtain approval for acquisition plans and draft agreements as stated elsewhere in these specifications. These shall form the departure point for compiling valuations and the actual financial loss assessments for the purposes of determining compensation.

The subject of valuations shall be the full title ownership of registered properties, portions of registered properties, servitudes and other limited real rights, rights of use and informal property rights as defined in the acquisition plans approved by the Employer.

It is required of the Service Provider to provide the Employer with a valuation report and certificate, signed by a registered Professional Valuer or Professional Associated Valuer without restrictions and in good standing.

Valuers are required to physically inspect the properties and rights to be acquired, and meet with their owners on site for valuation, and the identification and quantification of relevant actual financial losses.

The valuation report and certificate shall separately indicate market value, actual financial losses and solatium in respect of each acquisition plan.

The Service Provider shall issue new valuation reports and certificates for re-valuations of different portions of the same parent property every time an amended acquisition plan is approved by the Employer.

P1704 OTHER VALUATIONS AND THE EVALUATION OF CLAIMS

The Employer may require the Service Provider to evaluate and report on claims by persons in terms of Sections 44(6) and 53 (b) of the South African National Roads Agency Limited and National Roads Act, No 7 of 1998.

It may also be required of the Service Provider to compile market rental valuations for occupational rental or lease purposes.

P1705 VALUATION QUALITY MANAGEMENT

All valuation reports and certificates shall be subject internal quality control by senior Professional or Associated Professional Valuers without restrictions before submission of memoranda to the Employer.

At least the following valuation control checks shall be undertaken:

- a) Property Description
- b) Total and acquisition areas
- c) Title conditions
- d) Affected servitudes and other real rights
- e) Land use and zoning
- f) Valuation approach and methodology
- g) Market research
 - i) Comparable sales
 - ii) Comparable rentals
 - iii) Operating expenses
 - iv) Vacancy rates
 - v) Capitalisation rates
 - vi) Discount rates
 - vii) Replacement cost rates, quotations and estimates
- h) Adjustments
- i) Valuation and actual financial loss calculations
- j) Compensation allocation to market value, actual financial loss and solatium

Where there is a lapse of diligence or valuations are substandard, steps must be taken to further investigate the performance and standard of work of the valuer and the necessary

remedial training undertaken. If an investigation or standard quality control procedures reveal professional misconduct, unethical behaviour or criminal actions, a report must immediately be submitted to the Employer. Where deemed necessary, disciplinary procedures must be followed by the Service Provider, other corrective measures may be taken as deemed appropriate, including reference to the SACPVP or to the SAPS.

The Service Provider shall document quality control procedures and keep detailed quality control records. The Employer shall be entitled to review quality management records and procedures.

At the commencement of the contract, the Service Provider may be required to explain the quality management procedures that the Service Provider intends to have in place during the course of the contract.

P1706 PAYMENT

Valuations for Acquisition and Expropriation Purposes

Item	Unit
P17.01 Valuations for the acquisition and expropriation of property	No

Remuneration for the valuation of properties and rights in property shall be measured by the number of acquisition diagrams for which valuation reports and certificates are produced, entered into ITIS/SAP and submitted as required in the specifications.

The Service Provider shall be remunerated at the same rate if a new, or an amended acquisition plan is issued by the Employer, or if an acquisition is cancelled after a valuation report and certificate has been compiled and submitted with a memorandum to obtain Employer approval.

Valuation and Evaluation for Other Purposes

Item	Unit
P17.02 Valuation and Evaluation for Other Purposes;	
P17.02(a) Professional Valuer	Hour
P17.02(b) Professional Associated Valuer	Hour
P17.02(c) Candidate Valuer	Hour

Performing valuations and evaluations for the above-mentioned purposes shall be paid by the hour of work undertaken, considering the registration level of the Valuer involved. Auditable, time sheets must be kept which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

Subsistence and travel will be paid for under the relevant General Specifications item.

Payment is subject to the entry of the data into ITIS and/or the document management system of the Employer.

Valuation quality management

Item	Unit
P17.03 Valuation quality management	Month

The Service Provider shall be paid monthly for conducting quality management on the valuations of internal and subcontracted valuers.

P1800 NEGOTIATION OF AGREEMENTS FOR THE ACQUISITION OF PROPERTY AND RIGHTS

P1801 SCOPE

This section covers the requirements in respect of the negotiations for acquisition of property and property rights for all purposes, and with any owner of property or rights in property.

P1802 GENERAL

Although it is advisable for the negotiation of acquisition agreements to be conducted by valuers, it is not a requirement and the Service Provider may appoint competent negotiators if it so chooses.

The acquisition of property and property rights shall be on a negotiated basis with a view to concluding an agreement. Only when all reasonable attempts to reach a negotiated agreement fail, does expropriation by the Minister of Transport become a possibility, unless the property or property right is held by an organ of state, in which case, expropriation is not possible under current laws.

The negotiation process commences and is conducted simultaneously with the valuation process.

Agreements reached between the Service Provider and the owners of property and property rights, and any presentations, proposals or offers are always subject to the approval of the Employer and must be done without prejudice of the Employer's rights. It is reiterated that the Service Provider does not have the authority to bind the Employer, contractually or otherwise, to an undertaking or obligation.

P1803 OWNERS AND REPRESENTATIVES OF OWNERS

The Service Provider shall negotiate directly with owners, or with the authorised representatives of owners if the property, or rights in property are held jointly, or by legal persons.

The Service Provider shall take reasonable care to ensure that representatives are indeed authorised to negotiate, enter into an agreement and sign the agreement on behalf of the owner.

In the case of Organs of State, the Service Provider shall establish which responsible officials are mandated to deal with property matters. In the case of DPW and DLRRD, the starting point is usually the Regional Managers in the provincial offices. For properties owned by provincial governments, negotiations are usually held with officials in the Provincial Departments of Public Works and Transport / Roads. The responsible officials in municipalities could be the executive mayor or municipal manager in small municipalities, but more often officials in the Corporate and Legal Services and Infrastructure Departments.

In the case of tribal and informal property rights generally, acquisition agreements are negotiated with communities and the individual owners or holders of informal property rights, as described in the relevant acquisition specifications.

SPECIAL CONDITIONS

The Service Provider may be required to negotiate compensation for the loss of, or reinstatement of certain types of improvements such as entrances, gates, signage, internal roads and driveways, boundary walls and fencing, etc. The Service Provider shall liaise with the Employer's Project Manager regarding any special condition, or further conditions of compensation that impose a duty to execute works or reinstate facilities on the roads project, instead of paying compensation. Special or further conditions of contract shall be negotiated and agreed with owners and approved by the Employer before submission of a signed agreement and memorandum for the Employer's approval.

P1804 NEGOTIATION OUTCOMES

Completion of the following negotiation tasks shall constitute a successful negotiation:

- a) Signature by the owner of an acquisition agreement, including agreement on purchase price, additional compensation, compensation and occupational interest or rental,
- b) Employer approval for, and agreement with the owner on special or further conditions of contract,
- c) Proof of Value Added Tax registration of registered owners, where applicable,
- d) Proof of Banking details of owners,
- e) Signed resolutions by members, directors, joint owners or trustees accepting the terms and conditions of the agreement, the compensation and authorising a person to sign the agreement on behalf of the entity,
- f) In the case of Organs of State, resolutions and signature by officials, political office bearers, municipal officers with council's delegated powers replace the resolution requirement.

The Service Provider shall take all reasonable steps to reach agreement and shall before submission of a failed negotiation report to the Employer, serve or post a final written compensation offer (subject to the Employer's approval) to the owner that sets out details of the remaining disputes, the proposed compensation, special or further conditions of contract and other relevant terms. The owner shall be given the opportunity to accept, reject or make further representations within a reasonable period of at least 21 days from delivery of the final offer. The final offer shall furthermore contain a paragraph that serves as a notice of intention to expropriate and an opportunity to make representations in the terms of Section 3(2) of the Promotion of Administrative Justice Act, No 3 of 2000.

Should no agreement with the owner of the property or right be reached, the specifications in P1500 relating to expropriation shall apply, unless the owner is an Organ of State.

Another possible outcome of a negotiation is the amendment of the engineering design and acquisition plan. The Service Provider shall report any circumstances that may justify a reconsideration of the design and acquisition plan to the Employer's Project Manager. The

Service Provider may be instructed to cancel the acquisition, await the amended design and follow the applicable steps to acquire the required property.

P1805 PAYMENT

Negotiation of Agreements for the acquisition of property and rights

Item	Unit
P18.01 Negotiation of Agreements	No

The above payment item shall apply only to negotiation of acquisition agreements in respect of the type of property or owner indicated below:

- a) Full title privately owned property,
- b) Registered limited real rights held by private individuals and corporations,
- c) Quitrent property,
- d) Notional sites,
- e) Relocation agreements where the relocation sites are located on quitrent properties or notional sites.

Remuneration for negotiation and conclusion of acquisition agreements involving communal tribal land, property and property rights owned by Organs of State shall be at the hourly rates provided for in the relevant sections of the specifications.

Remuneration shall be measured by the number of acquisition plans in respect of which an agreement is concluded and signed, submitted and approved

In the event of a failed negotiation, subject to a failed negotiation expropriation memorandum being approved by the Employer, the Service Provider shall be remunerated at the above rate as if for a successful negotiation.

Should any acquisition have to be re-negotiated after signature by the property owner due to changes to the acquisition plan being ordered by the Employer, the Service Provider shall be entitled to the above negotiation fee being payable only in respect of the new amended acquisition plan.

In the event of an acquisition plan that is cancelled after conclusion of an acquisition agreement, the Service Provider shall be entitled to full remuneration as if the acquisition had been negotiated successfully, subject to submission of a motivating memorandum to the Employer.

Where an agreement must be resigned by an owner due to delays in approval of submitted special conditions or the actual agreement itself by the Employer, the Service shall be entitled to charge the above negotiation fee again.

Due to delays with statutory consents, it often takes very long for the transfer of ownership of acquired property to be concluded. This has two possible consequences for a negotiation;

- a) The first is that the owners of sold properties request that the acquisition by agreement be replaced with an acquisition by expropriation, so that they are able to receive payment. The Service Provider shall be entitled to claim the tendered negotiation fee for dealing with the owner a second time,
- b) The second complication arises if, after signature of the acquisition agreement by the owner, approval by the Employer and appointment of a conveyancer, the owner sells the property. The Employer may require of the Service Provider to negotiate and secure a new acquisition agreement with the new owner, in which case the Service Provider would be entitled to a negotiation and other fees in terms hereof.

P1900 MEMORANDA

P1901 SCOPE

This section deals with the various memoranda that the Service Provider will be required to prepare, to obtain the approval of the Employer or the Minister of Transport.

P1902 PURPOSES OF MEMORANDA

The Service Provider shall prepare and submit memoranda to the Employer in the following circumstances and for the purposes indicated;

- a) Approval of acquisition agreements signed by registered owners and holders of registered and informal property rights in the following circumstances;
 - i) Privately owned property acquisitions,
 - ii) Unalienated State and Tribal Land (communal, quitrent, notional sites and relocation sites,
 - iii) Property and property rights owned by Organs of State
- b) Failed negotiations memoranda to the Employer to seek approval for requesting the Minister to expropriate properties / property rights,
- c) Expropriation memoranda to the Minister of Transport,
- d) Cancelled and / or amended acquisition memoranda,
- e) Other Valuation and Evaluation memoranda,
- f) Expropriation compensation claim evaluation memoranda,
- g) Relocation memoranda,
- h) Pre-approval Organs of State memoranda.

P1903 CONTENTS OF MEMORANDA

The memoranda for the approval of acquisitions by the Employer shall be accompanied by the following supporting documents:

- a) Signed acquisition agreement,
- b) Proof of banking details of registered or de facto owner,
- c) Proof of Value Added Tax Registration of registered owner,
- d) Resolution in the case of property owned by legal persons,
- e) Employer Project Manager approval of further or special conditions of contract,
- f) Valuation Report and Certificate.

Failed negotiation memoranda shall contain diary-type records of all negotiations, meetings, correspondence, compensation proposals and counter proposals made, disputed and agreed items or components of compensation, and any other facts and reasons why acquisition by agreement was not possible. Where owners are untraceable or deceased, written proof must be provided to show that all reasonable attempts have been made to find the owners, or the descendants of the owners, with the request to execute the transaction by expropriation.

Expropriation memoranda to the Minister shall include the failed negotiation memoranda plus the documents prescribed in the Expropriation Act, No 63 of 1975.

Expropriation compensation claim evaluation memoranda shall include the valuation, offered compensation, the compensation claimed by the owner under the Section 9 of the Expropriation Act, a statement and motivation and evaluation of the offered versus the claimed compensation in the light of the valuation report, market evidence and legal precedent.

In the case of valuations for other purposes, and evaluations done in terms of Sections 53 and 44(6) of the South African National Roads Agency and National Roads Act No 7 of 1998, the memorandum shall include a report from a valuer.

Pre-approval memoranda to obtain the Employer's consensus to acquire property from Organs of State shall include the agreed compensation, references to the valuation report(s) with motivation for any differences in valuations, the contents of negotiated "non-proforma" acquisition agreements, and approvals of the terms and conditions of the negotiated transactions.

Memoranda in general, and for any purposes and circumstances, shall always contain sufficient information, motivation, supporting documentation and recommendations to enable the Employer to make informed and rational decisions.

The Service Provider shall initially submit paper copies of memoranda and supporting documents to the Employer for consideration. Approved memoranda and annexures shall be uploaded into the Employer's document management system.

The Service Provider shall perform quality management using an experienced person to ensure the compliance of memoranda and supporting documents with these specifications, prior to submission of any memoranda to the Employer.

P1904 PAYMENT

Memoranda

Item	Unit
P19.01 Acquisition Agreement Memoranda	No
P19.02 Memorandum for the cancellation or amendment of acquisition	No
P19.03 Failed Negotiation Expropriation Memoranda to the Employer	No
P19.04 Expropriation Memoranda to the Minister	No
P19.05 Expropriation Compensation Claim Evaluation Memoranda	No
P19.06 Pre-approval Organs of State Memoranda	No

P19.07	Relocation Memoranda	No
P19.08	Other Valuation and Evaluation Memoranda	No

The unit of measurement for P19.01 for acquisition agreement memoranda shall be the number of acquisition plans and agreements covered in acquisition memoranda.

For all other memoranda, the unit of measurements shall be the number of memoranda.

P2000 VALUE ADDED SERVICES

P2100 ASSISTANCE WITH PROJECT DELIVERY PLANNING

P2101 SCOPE

This section covers the assistance provided to the Employer to perform feasibility studies, do project or corridor planning, evaluation and compare design alternatives, finalise designs and expedite project delivery.

P2102 PLANNING INPUTS

To ensure that the most economical road design solution is found which satisfies a range of interests and minimises the constraints that might exist, computer software allows numerous planning alternatives to be considered in detail. This software requires several inputs, such as the market value of the land to be procured and other acquisition costs for each alternative, and how accesses to properties, or local planning may be affected.

Although this work falls mainly within the scope of work of design engineers, the Service Provider may be required to overlay several alternative designs on cadastral plans to identify the properties affected by each alternative and then do estimates of compensation for property acquisition. In areas where tribal land has become densified, the high cost of relocations and compensation will be brought into the discussions and calculations.

The work often entails evaluating several alternative route locations or road improvement strategies. Whereas the work performed will not require formal valuations to be provided, it must account for the estimated market value of affected property, value and financial loss impacts of closed and relocated accesses, current and envisaged future land use and economic activity on the land, and any other aspect discussed and agreed with the Employer.

The Service Provider shall make contributions, provide inputs and reports that deal with acquisition cost estimates based on market value and actual financial loss, spatial and land use planning, extent and estimated cost of relocations, etc.

The work will require a team effort between all the disciplines of experts engaged in this contract.

The Service Provider will be required to submit progress reports, provide ongoing input and attend meetings in any of the major centres of the country on an irregular basis.

P2103 PROJECT IMPLEMENTATION

It is inevitable that projects are accelerated, resulting in very little time to complete property acquisition. It may also occur that designs have to be rapidly amended while the property acquisition process is underway, or that the Employer calls for a “war room” approach whereby the numerous parties representing various government departments, design engineers and communities must work together to expedite project implementation. The process is sometimes made more complex by encroachments of the road reserve, or the need to relocate many people and their households.

Where applicable, the “Guidelines Framework in respect of Design, Planning, Management, And Operational Matters Arising Out of Projects Through Densified Rural Areas” document, included in Volume 3 must be used to provide guidance to the team working on the implementation of the project.

Every project will be unique and will require the contribution of different experts, whether they be valuers, surveyors, lawyers, etc.

The Service Provider may be required to submit regular progress reports, schedules, spatial acquisition reports, and attend meetings throughout the country.

P2104 ASSISTANCE OF THE EMPLOYER AND ITS AGENTS

The Employer may instruct the Service Provider to render assistance to its employees and / or design engineers during the planning, design, construction, or the later phase of road construction projects.

This assistance may include the inspection of properties to determine any aspect of the engineering design that may result in unnecessarily expensive or otherwise uneconomical or undesirable acquisitions, consultation with property owners and design engineers and the providing of advice to the design engineers and/or the Employer.

P2105 PAYMENT

Assistance with project delivery planning

Item	Unit
P21.01 Legal advice;	
P21.01(a) Senior Legal Advisor	Hour
P21.01(b) Legal Advisor	Hour
P21.01(c) Junior Legal Advisor	Hour
P21.02 Surveying advice;	
P21.02(a) Land Surveyor	Hour
P21.02(b) Professional Surveyor	Hour
P21.02(c) Surveyor	Hour
P21.03 Valuation advice;	
P21.03(a) Professional Valuer	Hour
P21.03(b) Professional Associated Valuer	Hour
P21.03(c) Candidate Valuer	Hour
P21.04 Other staff involved in planning and implementation	Hour

The time spent by the Service Provider’s personnel at the various levels, doing the work described shall be paid for at the tendered rates. The time claimed shall only include the time doing the work, excluding time spent travelling. Auditable, time sheets must be kept

which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

Other billable items specifically included in the General Specifications will be paid for under the relevant items.

Any discussions held and assistance provided by the Service Provider to the Employer or design engineers during other regularly scheduled meetings is not remunerable under this Section.

P2200 SPECIAL REPORTS AND PRESENTATIONS

P2201 SCOPE

This section covers the preparing of special reports and presentations for making submissions to the Employer, funders, politicians, communities, etc.

P2202 DESCRIPTION

The Service Provider will be required to prepare reports and presentations that may be presented in meetings by either the Employer or the Service Provider.

These reports and presentations may be for the purposes of the Employer, potential funders of the Employer, politicians, delegations from other countries, community forums, the Employer's Board or for any other purpose or audience.

All reports and presentations must be prepared and submitted to the Employer in one of the latest Microsoft packages for consideration and comment before being finally submitted in both Microsoft editable and .pdf format for record purposes.

The Service Provider may be required to deliver a presentation or report in a meeting.

P2203 PAYMENT

Special Reports and presentations

Item		Unit
P22.01	Senior Manager involved in special reports and presentations	Hour
P22.02	Middle Manager involved in special reports and presentations	Hour
P22.03	Junior Manager involved in special reports and presentations	Hour
P22.04	Other staff involved in special reports and presentations	Hour

The time spent by the Service Provider's personnel at the various levels, doing the work described shall be paid for at the tendered rates. The time claimed shall only include the time actually doing the work and shall exclude any item remunerable under the General or Surveying Specifications. Auditable time sheets must be kept which show at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

P2300 INDEPENDENT NEGOTIATOR

P2301 SCOPE

This section covers participation and involvement of an independent negotiator that must be appointed by the Service Provider to assist in cases where a deadlock has been reached between the Valuers and the Land Owner.

P2302 DESCRIPTION

The Service Provider may be required to;

- a) Provide an independent negotiator,
- b) The Negotiator be used to break deadlocks between valuers and landowners and on request of the Employer.

P2303 PAYMENT

Independent Negotiator

Item	Unit
P23.01 Appointment of Independent Negotiator Sum	Prov

Auditable time sheets must be kept which show, at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

P2400 WORKING GROUPS, WORKSHOPS AND OTHER CONTRIBUTIONS

P2401 SCOPE

This section covers participation and involvement in committees, workshops, working groups and forums of any nature where the Employer has instructed the Service Provider to

assist or represent the Employer. It includes reviewing new legislation, regulations, documents, policies and planning, or preparing workshop and training material, attendance and presentations in forums and workshops by the Service Provider at the request of the Employer.

P2402 DESCRIPTION

The Service Provider may be required to;

- c) Provide expert contributions and comments on bills, regulations, policies and other documents published for comment,
- d) Contribute in committees and working groups to discuss and overcome the unintended consequences of new legislation,
- e) Seek ways to overcome the skills deficit and lack of capacity of various entities that must deal with the land acquisition, and land identification matters of the Employer,
- f) Prepare and present workshop material for a variety of purposes,
- g) Assist the Employer to develop new software, interfaces and reports on computer systems by preparing or reviewing material and attending workshops and meetings,
- h) Assist the Employer to develop new guidelines, proformas and policies, or provide comments and suggestions on documents of this nature,
- i) Assist the Employer to negotiate protocols, memoranda of understanding, guidelines,
- j) Provide specialist advice.

P2403 PAYMENT

Working groups, workshops and other contributions

Item	Unit
P24.01 Senior Manager involved in working groups, workshops, forums, committees and contributions	Hour
P24.02 Middle Manager involved in working groups, workshops, forums, committees and contributions	Hour
P24.03 Junior Manager involved in working groups, workshops, forums, committees and contributions	Hour
P24.04 Other staff involved in working groups, workshops, forums, committees and contributions	Hour

The time spent by the Service Provider's personnel at the various levels, doing the work described shall be paid for at the tendered rates. The time claimed shall only include the time actually doing the work and shall exclude any item remunerable under the General or Surveying Specifications.

Auditable time sheets must be kept which show, at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.

P2500 MENTORING OF VALUERS

P2501 SCOPE

This section covers the mentoring of Valuers within the Service Provider as well as the Employer with a view to enable valuers to reach Professional Registration.

P2502 DESCRIPTION

The Service Provider shall be required to;

- a. Mentor identified valuers within the service Prover's employ as well as the Employer's employ as mutually agreed upon ,
- b. Assisting valuers in obtaining Registration,
- c. Provide specialist advice as well as training opportunities to Valuers.

P2503 PAYMENT

Mentoring of Valuers

Item	Unit
P25.01 Senior Manager	Hour
P25.02 Middle Manager	Hour

The time spent by the Service Provider's personnel at the various levels, doing the work described shall be paid for at the tendered rates. The time claimed shall only include the time actually doing the work and shall exclude any item remunerable under the General or Surveying Specifications.

Auditable time sheets must be kept which show, at least, the name of the person involved, his/her level of management, dates, hours of work and a brief task name/description.