

A. Policy Statement

The Land Acquisition Policy (“Policy”) establishes the governance and practise necessary for acquiring land rights for Public Improvement projects. The Policy is subject to *The Water Security Agency Act (WSA Act)* and is materially influenced and supported by *The Expropriation Procedure Act (EPA)*, *The Public Utilities Easements Act (Easements Act)* and the *Value to the Owner* principle prevailing in Saskatchewan.

B. Effective Date, Application and Policy Contact

1. The Policy is effective January 1, 2022. Except for the Land Acquisition of Crown Lands, the Policy applies to all Water Security Agency (WSA) Land Acquisitions for Public Improvement projects.
2. The contacts for the Policy are:
 - WSA Corporate:
General Counsel, Legal Services (or designate)
Legal Services, Lands and Aboriginal Affairs
 - WSA Irrigation Development:
Project Land Manager, Irrigation Development
Agricultural Services Division

C. Definitions

1. Agent: A person duly appointed to acquire Land for Public Improvement projects.
2. Appraisal: A formal opinion of value.
3. Appraiser: A member of a reputable professional body, such as the Appraisal Institute of Canada (AIC), who is qualified to opine compensation (in part or in whole).
4. Arbitrator: An independent person or body appointed to settle a dispute. An arbitrator’s decision is binding.
5. Binding Appraisal: An alternative form of dispute resolution whereby an independent Appraiser is appointed by a Landowner and WSA to determine Compensation.
6. Compensation: Payment, either in terms of cash or cash equivalents, due to a Landowner for Land acquired by WSA.
7. Expropriation: The acquisition of Private Land by statutory means without a requirement for Landowner consent.
8. Land: Includes any estate, term, easement, right or interest in, to, over or affecting land (EPA).
9. Land Acquisition: The act of obtaining Land, including improvements, for Public Improvement projects.
10. Landowner: A person who has an estate, term, easement, right or interest in, to, over or affecting land (EPA).

11. Market Value: “The most probable price, as of a specified date, for which the specified [Land] should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and the seller each acting prudently, knowledgeably, and for self-interest, assuming that neither is under duress.” (Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) 2018).
12. Mediator: A person who attempts to help negotiating parties reach a consensus agreement. A mediator has no power to make binding decisions.
13. Mediation: Dispute intervention intended to help resolve a dispute. Mediation is non-binding.
14. Negotiations: The process of attempting to purchase land in accordance with the Policy.
15. Private Land: Land that can be expropriated by the Crown.
16. Public Improvement: Anything for the purpose of which WSA may expropriate Land.
17. Severance Damages: The value loss caused to remainder Lands by the severance of Land required for public improvement.
18. Expenses: The financial sum, for which WSA is not immune, that a Landowner has responsibly and reasonably incurred but would not have incurred had it not been for the willing sale of Land to WSA for Public Improvement. Financial sums incurred by a Landowner that impedes or negatively impacts WSA’s lawful activities are not Expenses pursuant to the Policy.
19. Value to Owner: The principle for determining Compensation in Saskatchewan.

Land Acquisition plans, standards and technical bulletins made pursuant to this Policy will adopt the definitions herein.

D. Land Acquisition Principles

Land Acquisition is heterogeneous: no two Land transactions are the same. Consequently, the Policy takes a principled approach. The following principles are mandatory and apply equally in all situations:

1. Consistency: To instill trust and confidence in Land Acquisition decisions, consistency in practice is required. Consistent application of the Policy enables stakeholders to better predict outcomes.

Deviation from the Policy is permitted in exceptional cases with the prior approval of WSA’s President and CEO. Deviations shall not be inconsistent with the Policy.

2. Efficiency: Fiscal responsibility demands that Land Acquisition be conducted in a demonstrable efficient manner. A Land Acquisition plan and strategy for each Public Improvement project is required to demonstrate efficient use of resources. It is important that Land acquired represents prudent expenditures; this means, among other things, that all Lands acquired must have a prudent business justification.
3. Fairness: The Policy adopts the fairness framework promoted by the Saskatchewan Ombudsman. All Landowners shall be treated with respect. If an atmosphere of mutual respect is challenging, engage a Mediator, internal or external to WSA. Landowners shall be afforded the opportunity to act in an informed manner. Prior to any discussion about compensation, WSA shall provide all Landowners relevant information about their rights and responsibilities, the obligation and rights of the WSA, and

the Land Acquisition process including dispute resolution options and timelines. The Land Acquisition process and timelines shall afford every Landowner reasonable opportunity, if they elect, to obtain professional advice. Every Landowner, from whom Land is required, shall be given the opportunity to provide input into decisions that affect their Land. Landowners must also be provided reasons for decisions that directly impact their Land.

Where there is a dispute about fairness in the application of the Policy, it is appropriate, but not mandatory, to have the matter referred to an independent third party that is qualified to evaluate the dispute and provide professional judgement specific to the issues in contention.

4. Evidence-based decisions: Land Acquisition decisions shall be evidence-based and (at a minimum) not inconsistent with the WSA Act and the EPA. Evidence used in making decisions must be relevant, verifiable and reasonably valid. Where the evidence available is subject to a standard, evaluation of that evidence against its standard shall be completed by personnel qualified to evaluate the evidence and such evaluation shall be documented. Where there is competing evidence, Mediation and or a binding dispute resolution mechanism may be explored.
5. Transparency: Subject to privacy laws, client-attorney privileges and contractual obligations that may exist, at the earliest opportunity, Landowners should be provided available relevant information that will enable them to make informed decisions.

E. Land Acquisition Process

There are mandatory requirements that must be followed regardless of the Land Acquisition process adopted at the project level. First, no offer shall be made to purchase Land without prior written approval pursuant to WSA's approval process, signing authority requirements, and this Policy. Second, no offer shall be made to a Landowner without first making reasonable effort to engage that Landowner to understand their perception of the project impact on their rights. The information gathered through engagement shall inform Compensation offers. Finally, every Landowner shall be given sixty (60) calendar days to respond to an offer to purchase. If after said 60 calendar days the Landowner does not respond, WSA may elect to acquire the land required under the EPA or the Easements Act. Where within said 60 calendar days the Landowner expresses a desire to consult professionals, such as an Appraiser, the Landowner shall be given ninety (90) calendar days from the date of the initial offer to purchase to respond. If an agreement is not reached after said 90 days, WSA may proceed to acquire the Land rights required under the EPA or the Easements Act.

It is recommended that no Expropriation occur without first making reasonable efforts to negotiate purchase, notwithstanding EPA provisions to the contrary.

A recommended Land Acquisition process is shown in Appendix A.

F. Compensation

Compensation shall not be inconsistent with EPA and Saskatchewan jurisprudence. Landowners must be appropriately compensated: no Landowner shall be financially disadvantaged or financially enriched as a result of Land Acquisition.

Landowner Compensation shall comprise, at a minimum, Market Value, Severance Damages where applicable, and Expenses if any. Advice on Expenses shall be had from WSA's legal team prior to any agreement on Expenses.

Compensation shall be offset by the monetary value of any special advantages derived by individual Landowners. However, in no event shall a Landowner's Compensation be less than the Market Value of the Land acquired unless required by law. If Compensation, when calculated, is less than Market Value, a legal interpretation of the application of s.49(1) of the EPA to the Negotiation should be requested.

G. Professional Conduct

The ethical record and ethical commitments of Agents, Appraisers and other professionals to be employed and or instructed by WSA must be evaluated in the procurement process. Agents, Appraisers, and any person or entity employed and or instructed by WSA to act in Land Acquisition must affirm they will always:

1. follow the applicable laws, regulations and WSA's policies;
2. be respectful and treat all parties with dignity;
3. conduct themselves with honesty and integrity;
4. act in good faith;
5. avoid conflicts of interests; and
6. ensure confidential information is not inappropriately disclosed.

Failure to adhere to WSA ethical standards should be included in agreements as a cause for termination of agreements.

H. Expropriation

The Expropriation process in the EPA shall be followed.

I. Payments

A maximum of 50 per cent compensation is payable upon registering an interest on a Landowner's title at Information Services Corporation (ISC). The outstanding balance shall be payable, less any deductions or plus any additions to reconcile surveyed Land acquired, once Land title is in WSA's name.

Mortgagees shall have a first claim on compensations payable to a Landowner.

J. Land Acquisition Plan

The complexity of a Land Acquisition project will determine the level of details required in the Land Acquisition plan. However, at a minimum, the plan will define the Land Acquisition scope, schedule, budget, and importantly, how Compensation will be determined and the project-specific approach to dispute resolution.

Following the principle of efficiency, it is not prudent for the Policy to mandate external appraisals as there will be numerous situations where internal evaluations pursuant to the EPA will be sufficient. Notwithstanding, it is recommended that Compensation of \$250,000 or more be supported by an independent Appraiser.

It is also recommended, but not mandatory, that an independent legal review of major projects' Land Acquisition plans be completed.

K. Approvals

Negotiations to purchase Land must be pre-approved by two WSA executives. And Land payments must follow WSA's signing authority requirements as they exist at the time of Negotiations.

Appendix A

Land Acquisition Process

