

GRANTS AND SERVICES POLICY OF THE DEPARTMENT OF LAND AFFAIRS

Version 7



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DEPARTMENT: LAND AFFAIRS

REPUBLIC OF SOUTH AFRICA

GRANTS AND SERVICES OF THE LAND REFORM PROGRAMME (Version 7)

1. INTRODUCTION

The Department of Land Affairs offers the following grants and services in support of the Land Reform Programme. To varying degrees and in different ways, each of these is applicable to each of the main Land Reform focus areas, i.e. land restitution, land redistribution, land tenure reform, and land development. The provision of financial assistance for land acquisition, and for settlement support by the Department of Land Affairs is made possible by the Provision of Land and Assistance Act (Act 126 of 1993) as amended, the Land Reform (Labour Tenants) Act (Act 3 of 1996) as amended, the Restitution of Land Rights Act (Act 22 of 1994) as amended, and the Extension of Security of Tenure Act (Act 62 of 1997), the provisions and regulations of which take precedence over this explanatory document.

In summary, the grants and services are:

1.1 Grants

- a) **LRAD Grant:** This grant, consisting of a sliding scale of matching grants, falls under the new sub-programme of Land Redistribution and Agricultural Development. The LRAD grant allows for black South African citizens to access land specifically for agricultural purposes. This grant can be accessed, on an individual basis, per sliding scale from a minimum of R20 000 to a maximum of R100 000, depending on the participants' own contribution. The grant would be used to cover expenses such as land acquisition, land improvements, agricultural infrastructure investments, capital assets, short-term agricultural inputs and lease options.
- b) **LRAD Planning Grant:** This grant provides financial assistance for project planning to applicants that apply for grant financing under the Land Redistribution for Agricultural Development sub-programme (LRAD).
- c) **Settlement/Land Acquisition Grant:** This grant is currently set at a maximum of R16 000 per qualifying household, to be used for land acquisition, enhancement of tenure rights, and investments in infrastructure, home improvements, and farm capital investment according to the plans put forward by applicants. **(This grant will be retained in its current form but will be amended during the course of the next financial year)**
- d) **Grant for the Acquisition and Development of Land for Municipal Commonage:** This grant is to enable primary municipalities to acquire land in order to extend or create a commonage and provide infrastructure on the land to be acquired or on existing commonage for the use of qualifying persons.
- e) **Settlement Planning Grant:** This grant is to be used to enlist the services of planners and other professionals, who will assist applicants for (c) in

preparing grant applications and post-transfer support, and beneficiaries of (g). **(This grant will be retained in its current form but will be amended during the course of the next financial year)**

- f) **Grant for the purpose of determining land development objectives (LDOs):** This grant provides for under-resourced, poor or rural local authorities to undertake a strategic planning process to set land development objectives (under Section 28 of the Development Facilitation Act, Act No 67 of 1995), on the basis that the LDO planning process is significantly different from the way planning has historically been carried out. Due to capacity constraints many municipalities struggle to establish LDOs. LDOs present a mechanism for ensuring that planning for land reform takes place within the context of local integrated planning.
- g) **Restitution Discretionary Grant:** This grant is set at a maximum of R3 000 per restitution beneficiary household where the original land is to be restored or where compensatory land is to be granted, through means of a negotiated settlement of the restitution claim, including a settlement in terms of s42D of the Restitution of Land Rights Act, Act 22 of 1994, and including a settlement concluded on the basis of a recommendation or decision of the then (Advisory) Commission on Land Allocation. The grant is awarded to enable the successful claimants to take charge of their land upon transfer.

1.2 Services

- a) **Facilitation services** are provided to ensure that grant applicants can obtain the necessary information relating to the relevant land reform programme and are able to obtain appropriate assistance from government and other service providers, before and after land transfer.
- b) **Training and capacity building** services can be obtained to encourage people to become actively involved in the land reform process and to equip service deliverers to participate more effectively.
- c) **Dispute resolution services** can be accessed to prevent and, where necessary, to resolve land and land-related conflict.

2. ELIGIBLE APPLICANTS

- 2.1. Applications for the above-mentioned grants can be made by, or on behalf of, the following categories of people:
 - a) Landless people or people who have limited access to land, especially women, who wish to gain access to land and settlement opportunities in rural or urban areas.
 - b) Farm workers and their families who wish to acquire land and improve their settlement and tenure conditions.
 - c) Labour tenants and their families who wish to acquire and improve the land which they hold or alternative land, in accordance with the Land Reform (Labour Tenants) Act (Act 3 of 1996).

- d) Residents who wish to secure and upgrade the conditions of tenure under which they live, or wish to develop the land with the consent of the landowner.
- e) Successful claimants of the Land Restitution Programme in terms of the Restitution of Land Rights Act (Act 22 of 1994), or in terms of a settlement concluded as the basis of a recommendation or decision of the then (Advisory) Commission on Land allocation, who require additional funds for meeting basic needs on restored land, or for purchasing additional land, or for maintaining and securing restored/compensatory land, or for moving onto the land.
- f) Dispossession cases which fall outside the ambit of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).
- g) Municipal Council to acquire land to be used as a commonage or to extend an existing commonage, or to provide infrastructure on land to be acquired or on existing commonage.
- h) Occupiers, former occupiers and other persons who need long term security of tenure in accordance with the Extension of Security of Tenure Act (Act 62 of 1997).
- i) The local government body having jurisdiction in respect of any rural local government area whom is setting LDOs, or a provincial government department responsible for LDOs .

3. LAND REDISTRIBUTION FOR AGRICULTURAL DEVELOPMENT GRANT (LRAD)

3.1 Objective

3.1.1 The objective of the LRAD Grant is to improve land tenure security and to extend property ownership and/or access to productive resources to black South African citizens.

3.1.2 To this end the grant can be used:

- a) in part, or in its entirety, to acquire land (including the fees and taxes related to the land purchase) for agricultural purposes.
- b) in part, or in its entirety to purchase capital assets for the development of the land acquired with the grant or communally held land or donated land.**
- c) in part, or in its entirety, to acquire equity in an existing agricultural enterprise as long as security of tenure is ensured.
- d) in part or in its entirety to secure a lease option for those participants that intend to farm
- e) in part, or in its entirety, for successful claimants of the Land Restitution Programme in terms of the Restitution of Land Rights Act (Act 22 of 1994), Land Reform (Labour Tenants) Act (Act 3 of 1996) and the Extension of Security of Tenure Act (Act 62 of 1997) who show intention to farm and who are willing to make an own contribution, other than the land secured to them through the Restitution Programme or Tenure grant.

3.1.3 This grant is designed to assist those who in the first instance have land and agricultural needs. Where mainly water provision or housing is sought, the applicant should be directed to another, more appropriate institution, such as the Department of Water Affairs and Forestry or the Department of Housing.

3.2 Eligibility

3.2.1 Being eligible in no way ensures awarding of the grant. Rather, eligibility determines whether an application will be considered. The award of the grant will depend upon the approval of a grant application, including a business plan where required by the Department.

3.2.2 An individual shall qualify for the maximum amount of the subsidy, depending on own contribution and as per sliding scale, only if:

- a) he or she is a black South African citizen (African, Coloured or Indian as defined in the Constitution);
- b) he or she is 18 years and older;
- c) he or she can make the stipulated own contribution (of at least R5000 for the minimum subsidy of R20 000) in terms of cash, labour and/or kind; and related own contributions, as per sliding scale, up to the maximum subsidy of R100 000
- d) he or she is willing to participate in a training programme after the acquisition of the grant;
- e) Qualifying persons may apply individually or as groups. If people choose to apply as a group, the required own contribution and the total grant are scaled up by the number of individuals represented in the group.

3.3 Disbursement

3.3.1 The grant to an eligible person has a range of limits (from R20 000 to R100 000 depending on the amounts of their own contribution in kind, labour and/or cash) per qualifying person and may be paid in advance. To receive a grant higher than the minimum limit of R20 000, applicants must commit R5000 of their own contribution for each additional R1000 in grant e.g to obtain the maximum grant amount of R100 000, an own contribution of R400 000 must be committed.

3.3.2 Own contribution by participants by labour can be up to R5000 per applicant (individual). In order for individuals to claim the full R5000 in own labour towards the own contribution requirement, the business plan must show evidence that the applicant intends to devote a significant amount of

own labour towards the establishment and operation of the project. The contribution in kind would be calculated by costing assets such as machinery equipment, livestock and other assets that a participant may possess. The three types of own contribution cited (labour, cash and kind) can be added in any combination to form the required own contribution from the beneficiary.

3.3.3 Whether any grant money will be awarded at all, and if so, how much, depends upon the availability of funds and the decision of the Provincial Grant Committee and/or the Delegated Official of the Department of Land Affairs, after consultation with the relevant structures.

3.3.4 Small farmers may choose to access land as a group, either with the intention of maintaining it within group ownership, or of subdividing it. Group production projects will, however, be discouraged.

3.3.5 Disbursements of the grant may be made for other inputs that is part of a going concern, subject to the approval of the Department.

3.3.6 The grant may be applied to the acquisition of state land, where this is available and has been identified for redistribution purposes. The value of the state land would be debited against the grant for which the applicant qualifies.

3.3.7 The grant may be applied to secure short, medium and long- term lease options. In relation to short and medium term lease options, 50% of the LRAD grant can be released, whereas a total grant can be released when a long-term lease is considered.

3.3.8 The LRAD grant may also be used for the payment of first year rental or first production cycle rental and to register the lease and the remainder should be invested in infrastructure and development of land.

3.3.9 The new grant allows flexibility in terms of how an applicant may seek to secure further grant finance within this programme over time. For example, the applicant may apply for and be awarded the minimum R20 000 grant, and may then apply for additional financing up to a maximum of R100 000 (with own contribution) at a later stage. This does not preclude applicants from applying for finance outside of this programme.

3.3.10 Two principles govern the graduation process:

- (i) The required own contribution will be gauged not in relation to the new grant being applied for but in relation to the total amount of grant(s) that the applicant(s) have accessed thus far plus the new grant.
- (ii) Assets acquired by means of the grant cannot be counted as an own contribution when applying for an additional grant.

3.3.11 Until an award of a LRAD Grant is approved, the applicant(s) will generally not be in a position to make a firm offer on a particular piece of land. Properties offered for sale should nonetheless be identified and their

affordability assessed on the basis of what share of the Grant might go towards land purchase and the size of their own contribution.

3.3.12 The grant will not necessarily cover the total costs involved in land acquisition and development. Own equity, loan financing and other sources may have to be tapped, either in terms of a partnership agreement or according to some other arrangement, e.g as may be developed in the course of the planning processes assisted through the LRAD Planning Grant.

3.3.13 All disbursements will take place in accordance with the provisions of the relevant legislation, policy and procedural stipulations.

3.3.14 Those who have previously accessed the erstwhile Settlement/Land Acquisition Grant (SLAG) are eligible to apply, though priority will be given to first-time applicants.

3.5. How to obtain the LRAD Grant

- a) The grant can be obtained on application to the Department of Land Affairs. This should include a farm plan or land use proposal.
- b) Depending upon the circumstances, the applicant(s) may need the assistance of a design agent, who may be financed through the LRAD Planning Grant (see section 3.4).
- c) With or without the assistance of a design agent, the applicant prepares a farm plan or land use proposal (project proposal), indicating a rough cash flow projection and intended agricultural use of land. The applicant must also obtain evidence of additional financial resources (loan, own resources or both)
- d) The applicant then submits his/her documentation to the local officer and once the officer has assessed the feasibility of the proposal and provided an opinion, the complete package will be then submitted to the Provincial Grants Committee (which comprises officers from Land Affairs and Agriculture).
- e) The application will then be reviewed by the relevant Provincial Grants Committee.
- f) Upon review of proposal, the Provincial Grants Committee will make one of three determinations:
 - (1) complete and in conformity with the requirements of the Programme: Recommend
 - (2) complete but not in conformity with the requirements of the Programme: do not recommend and state reasons
 - (3) incomplete: return to applicant(s) and state reasons

Recommendations for grant approval are made to the Provincial DLA Director, who in turn decides whether or not to approve the release of the grant.

3.4 LRAD PLANNING GRANT

3.4.1 Objective

3.4.1.1 The objective of this grant is to provide for the payment of services of design agents, valuers, transaction costs and costs associated with subdivision only for those projects that fall under the Integrated Land Redistribution and Agricultural Development Programme.

3.4.2 Eligibility, disbursement and obtaining the LRAD Planning Grant

- a) Under the LRAD, participants may choose to do all the planning themselves, or may choose to accept the assistance of a design agent.
- b) The design will be paid in two parts :
 - (i) a small up-front payment will be made to defray travel expenses, etc
 - (ii) a second, larger payment will be paid **only upon approval** of the project. If the project is not approved and no transfer takes place, the design agent will not be awarded the second payment.
- c) Valuers and expenses associated with subdivision, etc will be paid out of this grant.
- d) The LRAD Planning Grant is set at a maximum level of 15% of the total project costs (grant plus medium and long-term loan amount) subject to the discretion of the Director of the Provincial Department of Land Affairs.
- e) Of this 15%, a maximum of 9% can be paid to the design agent for rendering professional services. Design agents may also derive a commission directly from the land seller.
- f) The Planning Grant will only be disbursed to design agents/service providers appointed through the Department of Land Affairs' procurement system.
- g) For project applications that are processed directly through banking institutions in terms of both loans and government land grants, no up-front Planning Grant money will be accessed from the Government.
- h) Applicants may also choose to pay a retainer to design agents out of their own resources, which can be counted towards their own contribution requirement for the LRAD Grant.

4. SETTLEMENT/LAND ACQUISITION GRANT

The Settlement/Land Acquisition Grant (S/LAG) will only be available for the following project types:

- a) Settlement
- b) Tenure
- c) Non-agricultural projects e.g. eco-tourism projects

4.1 Objective

4.1.1 The objective of the Settlement/Land Acquisition Grant is to improve land tenure security and to extend property ownership and/or access to land to the historically disadvantaged and the poor.

4.1.2 To this end the grant can be used:

- a) in part, or in its entirety, to acquire rural or urban land (including the fees and taxes related to the land purchase) for residential purposes and small business development;
- b) in part, to purchase capital items for the development of the land acquired with the grant;
- c) in part, to define or measure, secure, upgrade and register tenure rights;
- d) in part, to effect homestead and land improvements through the provision of on-site basic infrastructure such as water, sanitation, internal roads, top structures and fencing (bulk infrastructure and connectors to internal services, e.g. electricity, roads, water and sanitation, are not covered by the grant);
- e) in part, or in its entirety, to acquire equity in a land-based enterprise as long as security of tenure is ensured.
- f) in part, or in its entirety, for successful claimants of the Land Restitution Programme in terms of the Restitution of Land Rights Act (Act 22 of 1994) who require additional funds for meeting basic needs on restored land or for purchasing additional land.

4.1.3 This grant is to assist those who in the first instance have land needs and security of tenure needs. Where mainly water provision or housing is sought, the applicant should be directed to another, more appropriate institution. Where land is needed for agricultural purposes, applicants can access the DLA's LRAD grant.

4.2 Eligibility

4.2.1 Being eligible in no way ensures awarding of the grant. Rather, eligibility determines whether an application will be considered. The award of the grant will depend upon the approval of a grant application, including a business plan where required by the Department.

4.2.2 In line with the Department of Housing guidelines in the *Housing Subsidy Scheme Manual* (November 1995), any person who complies with the criteria laid down in this section may qualify for a grant, if he or she is married (in terms of the civil law or in terms of customary union) or habitually cohabits with any other person; or if he or she has proven financial dependants. For the purposes of the grant, the word "spouse" includes any partner with whom an applicant under the Scheme habitually cohabits. A person shall qualify for the maximum amount of the subsidy only if:

- a) he or she is lawfully resident in South Africa;
- b) he or she is legally competent to contract;
- c) the gross monthly household income of his or her household does not exceed R1 500;
- d) neither that person nor his or her spouse has previously derived benefits from the grant or the Housing Subsidy Scheme, or any other state funded or assisted housing subsidy schemes (including the capital subsidy scheme implemented by the Independent Development Trust) which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant. (In the event of a divorce, the terms of the divorce order will determine an applicant's eligibility). This paragraph shall not preclude a second or other spouse who maintains a separate household from that of his/her spouse from being eligible merely because his/her spouse has derived benefits in relation to that other household of which the applicant is not a part.

4.2.3 Single persons (of either sex) without dependants will not normally qualify for the grant. In cases where it can be reasonably established that this regulation unfairly acts against a single needy person without dependants, the Department official responsible will use his or her discretion in deciding whether a grant should be awarded.

4.2.4 Qualifying persons may apply individually or as groups.

4.2.5 Qualifying persons who have an average household income of less than R1 500 per month are eligible for the grant. For groups, the average household income of the group must be less than R1 500 per month. Although a means test for groups will not be applied as a matter of routine, in certain cases investigations may be conducted by the relevant authority and thereafter a decision made on the eligibility of the group.

4.3 Disbursement

4.4.1 The grant to an eligible person currently has an upper limit of R16 000 per qualifying person and may be paid in advance. Whether any grant money will be awarded at all, and if so, how much, depends upon the availability of funds and the decision of the Provincial Director and/or the Director General of the Department of Land Affairs, after consultation with the relevant structures.

4.3.2 Grants awarded to applicants who have applied as a group, must be disposed of according to collective decision making, as determined in the group's charter or constitution. The pooling of grants does not preclude catering to differences among applicants in terms of how the money may be used, e.g. the group may agree that some applicants will benefit more in terms of agricultural land than housing, while other group members will benefit more in terms of housing than land.

4.3.3 Disbursement of the grant for:

- a) permanent improvements to the land, and,
- b) settlement

will be subject to, inter alia, the following conditions:

- a) The allocation of the grant for this purpose reflects the informed decision of the beneficiaries.
- b) It is linked to the acquisition or donation of land.
- c) In cases where capital items are to be bought on the land to be acquired, these should be valued and specified separately as part of the valuation of the property being considered for purchase.

Disbursements of the grant may be made for other inputs that is part of a going concern, subject to the approval of the Department.

4.3.4 Any government assistance for either land purchase or on-site services (excluding grants for the provision of connector and/or bulk infrastructure), will be debited against the grant and/or the Housing Subsidy. To effect this, the grant will be registered on the same national database as the national Housing Subsidy. A qualifying person may apply for both, and in any order, but cannot qualify for a total of more than R16 000. Also, any settlement benefits received from the government since 1 April 1994 will be taken into consideration in deciding the value of subsidy that a qualifying person may obtain.

4.3.5 The grant may be applied to the acquisition of state land, where this is available and has been identified for redistribution purposes. The value of the state land would be debited against the grant for which the applicant qualifies.

4.3.6 The burden is on the applicant to consider carefully in advance how to use this once-off resource. By choosing to use the grant in a certain way, the applicant may have to forego other possible uses, particularly if the applicant has already drawn near the maximum. There should be flexibility in terms of how an applicant may seek to secure grant finance over time. For example, the applicant may apply for and be awarded a portion of the R16 000, and may then re-apply for an additional portion at some later date.

4.3.7 Until an award of a Settlement/Land Acquisition Grant is approved, the applicant(s) will generally not be in a position to make a firm offer on a particular piece of land. Properties offered for sale should nonetheless be identified and their affordability assessed on the basis of what share of the Grant might go towards land purchase and the size of their own contribution.

4.3.8 The grant will not necessarily cover the total costs involved in land acquisition and development. Own equity, loan financing and other sources may have to be tapped, either in terms of a partnership agreement or according to some

other arrangement, e.g. as may be developed in the course of the planning processes assisted through the Settlement Planning Grant.

- 4.3.9 All disbursements will take place in accordance with the provisions of the relevant legislation, policy and procedural stipulations.

4.4 Tenure and settlement options

- 4.4.1 The grant will be applied in a flexible way in order to allow local initiatives to be accommodated in a range of different land acquisition and tenure situations. For example:

- a) in which land is to be acquired and held under individual or communal freehold tenure;
- b) in the conversion of an insecure form of tenure to a more secure form;
- c) in equity schemes;
- d) in off-farm and on-farm settlement options for farm workers.

4.4.2 How to obtain the Settlement/Land Acquisition Grant

- a) The grant can be obtained on application to the Department of Land Affairs. This should include a business plan.
- b) Depending upon the circumstances, the applicant(s) may need the assistance of a planner, who may be financed through the Settlement Planning Grant (see section 5).
- c) The relevant Provincial Director of the Department of Land Affairs will review the application. The recommendations of the relevant provincial departments, the municipality and other key role players will be solicited in considering applications.
- d) The Provincial Director of the Department of Land Affairs will obtain advice from the relevant provincial and municipal structures and thereafter make decisions on grant applications in terms of the criteria set out above (see section 2). The response to an application could be outright rejection (e.g. if it does not fall within the Department of Land Affairs' brief), rejection with suggestions for re-submission (e.g. application may have merit, but needs refinement), partial approval (e.g. only some of the group's intentions are considered worthy of funding at the time), or full approval. The review of the Grant applications will be flexible and informative. The Department of Land Affairs will draw on its accumulated experience as much as possible to communicate with applicants as to how they may improve their applications.

5. SETTLEMENT PLANNING GRANT

5.1 Objective

5.1.1 The objective of the Settlement Planning Grant is to assist poor communities to plan for the acquisition, settlement on, use and development of land and for the mobilisation of the necessary resources to do this, or in circumstances of insecure occupation of land, to clarify and record occupiers rights to land.

5.1.2 The grant is designed to support each of the three sub-programmes, namely restitution, redistribution and tenure reform. The grant can assist applicants for the Settlement/Land Acquisition Grant and the Restitution Discretionary

Grant. It could also be used to support land reform initiatives undertaken by other institutions, e.g. local authorities and NGOs (e.g. churches) who wish to use their own land resources to implement land reform projects.

5.1.3 The grant enables those engaged in land reform initiatives to select and appoint accredited planners and other professionals from private firms and NGOs, with whom they will collaborate on a strategy for land reform. The services which can be covered by the grant include legal and financial-planning assistance, land use planning, infrastructure planning, land valuation, land survey (both the inner and /or the outer boundary survey), assistance with land purchase negotiations including the formation of a legal entity, and the management, administration and disbursement of the remainder of the Settlement/ Land Acquisition Grant (where applicable) to a legal entity, or to a 2nd or 3rd tier level of government.

5.1.4 There are two principal planning phases that may be financed through the Settlement Planning Grant:

- a) preliminary settlement, land use, and/or business planning, contributing to the preparation of a Settlement/Land Acquisition Grant Application, or the use of a Restitution Discretionary Grant;
- b) detailed settlement, land use, and/or business planning, after land transfer. If a Province or Municipality performs an agency service, an administration fee of 2% of the project implementation costs or such other amount agreed upon, may be paid from the planning grant.

A given applicant may seek to take advantage of one or the other, or both.

5.1.5 In certain restitution cases, the planning grant may be made to claimants early on in the negotiation process, on conditions to be determined on a case by case basis.

5.2 Eligibility

- 5.2.1 Application for the Settlement Planning Grant can be made by, or on behalf of, lawful citizens or permanent residents of the Republic of South Africa as set out in section 2.

5.3 Disbursement

- 5.3.1 The Settlement Planning Grant (estimated at 9% of the project cost) is intended to be disbursed in two stages: 3% for feasibility study; and 6% for detailed design.
- 5.3.2 Provincial Directors should use their discretion in deciding how much to allocate at each stage. For projects of average size and complexity, the initial stage payment for feasibility study will usually be adequate. Only the large and complex projects should require a second instalment to pay for a detailed settlement plan.
- 5.3.3 Nine per cent of the total project cost should be seen as a reasonable upper limit to allocate to planning, rather than a hard and fast rule. Proposals to spend sums in excess of that amount on planning will be examined closely. The twin dangers of over-planning and over-expenditure on planning are ever present.
- 5.3.4 In cases where the Restitution Discretionary Grant is awarded, the provisions of 4.3.1 above will not apply, but a planning grant of up to 9% of the current value of the Settlement/Land Acquisition Grant (i.e. R1440) per claimant household may be awarded to undertake planning work as set out in 4.1.4 above.
- 5.3.5 In cases involving Tenure reform, the amount of the planning grant will be determined on a case by case basis.

5.4 How to obtain the Settlement Planning Grant

- 5.4.1 Interested parties wishing to acquire land under the Land Redistribution Programme should make contact with the office of the Department of Land Affairs within the province concerned. They should provide information about the applicants, where they are looking for land and clarify what the land is to be used for. If their request for assistance is appropriate, and with the assistance of the relevant departmental official, they should complete a Registration-of-Interest Form. A request for a Settlement Planning Grant will then be prepared, on their behalf, by the official concerned and submitted to the relevant Provincial Director.
- 5.4.2 Restitution claimants who are reaching a negotiated settlement of their land claim, and who are applying for the Restitution Discretionary Grant, should make contact with the office of the Department of Land Affairs within the

province concerned to lodge an application for a Planning Grant. A request for a Planning Grant as set out in 4.3.4 above, will be prepared by an official on their behalf, and submitted to the relevant Provincial Director for consideration. Depending on the circumstances, advance, in-principle approval may be granted as part of an integrated negotiated restitution settlement package.

- 5.4.3 Many situations may require a range of skills. In these instances a planning agent will be selected who, by agreement with the applicant, sub-contracts under a consortium arrangement for planning.

6. GRANT FOR THE ACQUISITION AND DEVELOPMENT OF LAND FOR MUNICIPAL COMMONAGE

6.1 Objective

- 6.1.1 The objective of the grant is to enable primary local authorities to:
- a) acquire land to extend or create a commonage for the purpose of establishing schemes involving the productive use of the land resources (e.g. food gardens, arable, grazing, wood fuel and for other veld products, eco-tourism); and
 - b) provide infrastructure on the land to be acquired or on existing commonage for the benefit of poor and disadvantaged residents.

Ownership would be retained by the municipality, which would lease the land to qualifying applicants.

6.2 Eligibility, disbursement and obtaining to the grant

- 6.2.1 The Department of Land Affairs will consider applications from municipalities subject to the following conditions being met:
- a) the applicant provides an undertaking to lease the land thus acquired to its poor residents;
 - b) a plan is provided by the municipality showing how the land will be used, developed and managed;
 - c) potential users have participated in the process and have indicated a willingness to contribute payments within their means;
 - d) the application is accompanied by a full disclosure of the municipality's books and information on its existing land and leasing arrangements;
 - e) a contribution is forthcoming from the municipality for the purchase and/or development of the land to be acquired;
 - f) the applicant makes a commitment to budget to meet the needs of its poor residents, especially in relation to leasing its land;
 - g) the purchase price of the land to be acquired reflects prices obtained in market-related sales of land in the locality;
 - h) an agricultural feasibility report is provided;
 - i) an assessment report indicating what infrastructure is needed and an estimate cost; and

j) the applicant provides an undertaking to sign the infrastructural agreement.

6.2.2 To ensure that the land acquired with the grant is used for the intended purposes a notarial deed of perpetual servitude will be endorsed on the title deed.

6.2.3 The Provincial Director of the Department of Land Affairs will appraise the application for the grant. The recommendations of the relevant provincial authorities and other key role players will be solicited in considering the application.

6.2.4 In determining the level of the Grant the following criteria will be considered:

- a) the total amount of money available for acquiring and/or developing Municipal Commonage within the financial year;
- b) the expected demand for such grants;
- c) the principle of fairness and equity;
- d) the level of need of residents - the most critical needs will receive priority;
- e) the number of residents who will benefit - the principle being to maximise the benefit while maintaining sustainable land use;
- f) the numbers of women who will benefit directly;
- g) the viability of the land use plan and the administrative institutions in place to manage this.

7. GRANT FOR THE PURPOSE OF DETERMINING LAND DEVELOPMENT OBJECTIVES (LDOS)

7.1 Objective

7.1.1 The grant may be obtained by poor, under-resourced and mainly rural local authorities for use in preparing Land Development Objectives in terms of Section 27 of the Development Facilitation Act (Act 67 of 1995). Land Development Objectives require local authorities to set out a development framework for their area which includes service delivery targets, land use planning, development strategies and to consult with local stakeholders and other relevant parties in the preparation thereof.

7.1.2 Where the Department of Land Affairs funds the preparation of Land Development Objectives, a condition of the grant is that land reform planning will be undertaken as part of the planning process.

7.2 Disbursement and how to access

7.2.1 Applications for the grant should be made by the concerned provincial or local government authorities, to the Department of Land Affairs.

7.2.2 The merits of the application will be assessed against criteria set by the Department and the applicant notified in writing of the decision, together with

any conditions deemed necessary. Decisions on how much and what part of the LDO planning process to fund will be made in the assessment process using the assessment criteria set by the Department. The amount of funds that are available will also be taken into consideration.

7.2.3 Two options exist to disburse the grant. The first option entails the transfer of funds to district councils to fund the setting of LDOs by qualifying local government bodies. Local government bodies can apply for the grant but the Department will transfer funds only to district councils. The second option entails the transfer of funds to provincial governments for the local government bodies in the province whose applications have been approved. In this option it is the responsibility of the provincial governments to transfer the grant onward to local government bodies whose applications have been approved.

7.2.4 The provincial Director of the Department of Land Affairs has the authority to choose which option will be apply within a province.

8. RESTITUTION DISCRETIONARY GRANT

8.1 Objective

8.1.1 The objective of the Restitution Discretionary Grant is to make a grant available that will assist beneficiaries of a negotiated restitution settlement, to immediately manage and secure their restored/compensatory land, and/or to relocate to the land, and/or to settle on the land.

8.2 Eligibility

8.2.1 An applicant is eligible for the grant if

- (a) He/she has successfully negotiated the settlement of his/her duly validated restitution claim; and
- (b) The land or part of the land from which the claimant was removed is to be restored in whole or part settlement of the claim; or
- (c) Compensatory land is to be granted in whole or part settlement of the claim; and
- (d) He/she is lawfully resident in South Africa; and
- (e) He/she is legally competent to contract;

- 8.2.2 Qualifying persons may apply individually or as groups.
- 8.2.3 Receipt of this grant does not preclude a claimant from applying for access to any other state subsidy, grant or development programme, and will therefore not be recorded on the national housing subsidy database.
- 8.2.2 Being eligible for this grant does not ensure the awarding of the grant. Rather, eligibility determines whether an application will be considered. Budgetary constraints will determine the extent of any grant award.

8.3 Disbursement

- 8.3.1 The grant can be obtained on application to the relevant provincial Director of the Department of Land Affairs, who will if necessary review the application in consultation with the Commission on Restitution of Land Rights, and any other relevant parties. Depending on the circumstances, advance, in-principle approval may be granted as part of an integrated negotiated restitution settlement package.
- 8.3.2 The grant to an eligible person has an upper limit of R3000 per qualifying person. Whether any grant money will be awarded, and if so, how much, depends upon the availability of funds and the considered decision of the Provincial Director of the Department of Land Affairs.
- 8.3.3 Grants may be paid to qualifying individuals or to a qualifying group.
- 8.3.4 Grants awarded to applicants who have applied as a group, must be disposed of according to collective decision-making, as determined in the groups' charter or constitution. The pooling of grants does not preclude catering to differences among applicants in terms of how the money may be used.
- 8.3.5 Application for a planning grant (as set out in Section 5 above) may be made at the same time as application for a Restitution Discretionary Grant.

9. FACILITATION SERVICES

9.1 Objective

- 9.1.1 The services of a facilitator are needed to assist applicants and build their capacity to access the land reform programme and/or extend the capacity of the Department.

9.2 Applications

9.2.1 The authority to decide whether or not to appoint a facilitator funded by the Department of Land Affairs lies with the Provincial Director of the Department, in which case funds can be obtained from the DLA's Community Facilitation and Support Fund or from the DLA's Professional and Special Services budget. Applications for the services of a Community Facilitator should therefore be directed to the relevant Provincial Director. The relevant application and approval procedures are summarised in a booklet available from DLA provincial offices.

9.2.2 The decision to appoint a facilitator will be based on an assessment of the capacity of the group to organise themselves unaided. Account will be taken of staff availability within the relevant DLA office. A community facilitator may be nominated by the applicants. However, if the group wishes the Department to cover the costs of hiring the facilitator, the person so nominated must be approved by the Provincial Director.

10. TRAINING AND CAPACITY BUILDING SERVICES

10.1 Objectives

10.1.1 The purpose of the Training Fund is to make available specialist training in a variety of disciplines to key staff who are associated with the implementation of land reform at the national, provincial and municipal levels. The objectives are to:

- a) target training within those parts of the DLA responsible for land reform;
- b) support the structural changes taking place at national and provincial levels within the department;
- c) create the capacity for the successful implementation of land reform.

10.2 Applications to the Training Fund

10.2.1 The DLA's Training Fund is available to officials within the DLA and to those associated with implementing the land reform programme only. Applications may be submitted through:

- a) a DLA national director
- b) a DLA provincial director

10.2.2 Details of the fund are set out in a □ Guide to the DLA's Training and Technical Assistance Funds, which can be obtained from the Department.

11. DISPUTE RESOLUTION SERVICES

11.1 Objectives

11.1.1 Advice is available to prevent and, where necessary, to resolve land-related conflicts. Dispute resolution applies to all categories of land reform. Special facilities are needed to handle land restitution and labour tenant cases.

11.2 Applications

11.2.1 A National Land Reform Mediation and Arbitration Panel has been established, whose members are available to implement dispute resolution procedures in specific situations upon application. Applications can be made by:

- a) the DLA Provincial Director;
- b) a Land Claims Commissioner.

12. GENERAL

Whilst this explanatory document attempts to be as inclusive and comprehensive as possible, nothing contained herein shall preclude the Department from exercising any of its rights or performing any of its functions in terms of legislation, policy, procedural developments, etc.

APPROVED BY:
MINISTER
16 JULY 2001