

Summary of Land Acquisition, Resettlement and Rehabilitation Policy for Infrastructure Development Project 2015

Vision

Contribute to overall development of the nation and its citizens by creating conducive environment for implementation of infrastructure development projects.

Mission

Support timely execution (completion) of development projects, minimizing adverse impacts on economic, social and cultural aspects of affected families/people and the project area.

Goal

Improve social and economic status of project affected families by providing fair and adequate compensation, appropriate resettlement and rehabilitation assistances/allowances while acquiring land for infrastructure development projects and projects of public interests.

Objective

1. To avoid displacement wherever possible and if not, explore alternatives to minimize adverse impact as far as possible.
2. To provide adequate compensation, rehabilitation assistance, and opportunities of social and economic benefit to the affected person, family, and the community
3. To create conducive environment for timely completion of project by making land acquisition, valuation, compensation, resettlement, and rehabilitation process simple, easy, transparent and fair.

Policy Principles

Policies related with objective 1:

- Screen projects early on to identify adverse impacts and risk resulting from project implementation;
- Prioritize and select project alternative having minimum physical and economic displacement;
- Ensure project executing agency allocates adequate means and resources to restore affected person/families' livelihood.

Policies related with objective 2:

- Conduct social impacts assessment to identify impacts on affected people, community and vulnerable group;
- Prepare resettlement and rehabilitation plan to ensure livelihoods of the affected persons and family is improved or at least restored at pre-project level;

- Pay compensation and provide resettlement, and rehabilitation assistance to the affected persons and families before economic and physical displacement;
- In case of negotiated settlement (land purchase), ensure that the negotiation process is transparent, systemic and fair;
- Resettle displaced households within vicinity of the current residence as far as possible unless AP opt self-relocation;
- In case of affected person losing entire land under private ownership, give priority to provide land for land option to AP to the extent possible;
- Design social inclusion programs by means of additional support and assistance for socioeconomic improvement of excluded groups such as disadvantaged, dalit, indigenous nationalities and single women
- Ensure that affected persons- who don't possess titled land anywhere of the country or does not have recognizable claim of the land they residing- get compensation and resettlement assistances for the loss of assets other than land;
- For revenue generating projects, create conducive situation in which the benefits generated by the project drawn-out to the affected people;

Policies related with objective 3:

- Ensure the project proponent carried meaningful consultation with AP, the community and vulnerable groups especially people living below the poverty line, landless, senior citizens, women, children, indigenous people, disabled, incapacitated people and non-titleholders;
- Pay compensation within specified timeframe, and determine the compensation with adoption of scientific valuation method based on current market value;
- Ensure appropriate grievance redress mechanism is in place to hear affected person's and communities' grievances and to facilitate resolving them;
- Disclose information and progress on resettlement and rehabilitation activities, their management, and outcomes periodically to ensure transparency in implementation;
- Establish an effective monitoring and evaluation mechanism to ascertain whether the objectives of land acquisition and compensation plan (LACP) or resettlement and rehabilitation plan (R&RP) are achieved; and to monitor and evaluate impacts of implementation of these plans on livelihood of affected people.

Strategy and working policy:

1. At project concept stage, the project will be proposed with risk assessment on preliminary involuntary displacement, institutional capacity, and required resource and means to execute the project.

2. The project will be classified into following categories:
 - a. **High Risk Project:** Project that caused both physical and economic displacement
 - i. 50 or more families in the mountain region,
 - ii. 75 or more families in the hills,
 - iii. 100 or more families in the Tarai plains
 - b. **Medium Risk Project:** Project that caused both physical and economic displacement
 - i. less than 50 families in the mountain region,
 - ii. less than 75 families in the hills,
 - iii. less than 100 families in the Tarai plains.
 - c. **Low Risk Project:**
 - i. projects with no physical displacement
 - ii. project with only economic displacement, and
 - iii. none of affected person lose more than 10% of their productive assets
3. Social impact assessment will be carried out in consultation with elected representatives of the local bodies, affected persons and families, stakeholders and concerned authorities.
4. Public notice will be published to inform completion of social impact assessment. The date of notice issuance will be the cut-off date for eligibility of compensation and entitlement.
5. Land Acquisition and Compensation Plan (LACP) will be prepared for low risk projects.
6. Resettlement and Rehabilitation Plan (R&RP) will be prepared for medium and high risk projects with the support from qualified and experienced experts.
7. The plans will be updated in accordance with change in detailed design.
8. The cost associated with implementation of LACP and R&RP will be included in overall project cost.
9. The LACP will be approved by district offices. The R&RP for medium risk project will be approved by concerned Department, and R&RP for high risk project will be approved by concerned ministries or executing agencies.
10. The following arrangement will be adopted to distribute compensation, assistances and benefits:
 - a. In case of transmission lines and towers, underground line for water supply, irrigation, and communication projects, the following arrangements will be followed:
 - i. In case of physical displacement: compensation will be paid to structures and land occupied by the structure.
 - ii. In case of economic displacement only: detail impact assessment on the livelihood of AP will be carried out and loss incurred will be compensated in lump sum or on annual basis through agreement reached between the land owners and the project. The provision of land use rights shall be clearly mentioned in such agreements.
 - b. In case of full compensation: Government or authorized agency can use the land for any public purpose.

- c. If remaining piece of land will be economically unviable, Provision of acquisition of remaining part of land if affected person opt for so.
- d. Affected structures will be compensated on replacement cost. The valuation will be carried out based on approved norms of concerned government agency. No depreciation will be deducted. The affected person will be allowed to take salvaged materials free of cost.
- e. Land or other assets required for temporary use shall be used based on the agreement between the land owner and project implementation authority. Compensation for the loss and damage caused to such property will be as specified in the agreement. The liability of restoring such land to its former state after the contract period shall have to be clearly mentioned in the agreement itself.
- f. In case where the project has not used any land for the project component but implementation caused interruption to locals in using, irrigation, drinking water, sanitation, pasture land, religious shrines and temples, schools, community buildings, market, pathways and other such facilities, an alternative arrangement shall have to be made during the project period, which allows the locals uninterrupted use of such facilities. The project will be responsible to restore those facilities to their former state prior to the project completion.
- g. If the project results into the loss of business of women, compensation shall be provided to the women themselves. If affected women are single women or the heads of their families, their presence is must while distributing compensation.
- h. In case the legal owner failed to presence to receive compensation within given time by the project, compensation can be handed over to their spouse or legitimate heirs or to the nearest relatives if they have no immediate heirs such as spouse or children. For this, the compensation receiving person must submit evidences to prove that they are legitimate heirs along with certification from concerned VDC chairperson or municipality Mayor describing reason of inability of legal owner to presence themselves for claiming compensation.
- i. Land valuation norms will be prepared based on replacement cost principle. The following indicators will be adopted while developing the norms:
 - i. Current land registration cost as specified by the concerned land revenue office,
 - ii. Comparative reference score/ Comparative index (*tulanatmak sandharva anka*) based on composition, structure and size of required area of land.
 - iii. Type of road: paved, graveled or blacktopped (highway, main road or secondary roads etc)
 - iv. Geographical location and its strategic, business and commercial importance of the land,
 - v. Type of land, its classification and its use (agriculture, residential, commercial, business or other)
- j. Based on nature of impact the project will provide additional assistances such as relocation assistance, transportation assistance, goods transportation assistance,

rental stipend, business transfer allowances etc. Such allowances will be identified and included in the R&RP.

Land acquisition and ownership transfer

1. Land can be acquired either one or more process as follows:
 - a. **Voluntary donation:** it will be accepted only if a few conditions are fulfilled.
 - b. **Direct negotiation:** 3 conditions have to be fulfilled for this process.
 - c. **Land development program:** If the concerned project prioritizes to acquire land for the project through land development program, and if the majority of the affected land owners agree in written to participate in the land development program, land may be acquired through land development program under the Municipality Development Act, 1989.
 - d. **Expropriation (Use of eminent domain):** If land couldn't be acquired through any of the above mentioned approaches, the required land will be acquired by providing compensation and other benefits as per the provisions of the prevailing land acquisition act.

Land can be acquired for the company

1. Under this Policy, the Government of Nepal may decide to acquire land for a company developing project of public interest. The company can request government to acquire land explaining genuine reason for their inability to acquire land under the prevailing law.
2. Notwithstanding anything contained in 1, land shall not be acquired for a company if it is to serve the economic, financial and business and profit interests and luxury of the company, or if public interest is trying to establish by indirect way linking with imagined gains to the people, and if it is for research and experimentation purpose.
3. The land acquisition process as mentioned in this section will not be effective, unless the company agrees in written to provide compensation and other benefits, to bear all administrative and procedural expenses in the process of land acquisition, and abide by the conditions set forth by the Government of Nepal for public interest.

Institutional arrangement

1. **Compensation Determination Committee:** The committee comprising following members will be responsible to determine compensation for affects assets.

a. Chief District Officer	Chairperson
b. Representative from District Development Committee	Member
c. Mayor of Municipality/ Chairperson of VDC	Member
d. Chief, Land Revenue Office	Member
e. Chief of the concerned project	Member Secretary
2. The committee may invite members of the legislature parliament of the concerned constituencies, representatives of people affected by the project, representatives from the survey office, and resettlement and rehabilitation experts to attend the meeting as invitees.
3. The committee may constitute a **technical sub-committee** comprising technical experts to inspect and value the properties and land. The sub-committee shall recommend

compensation based on valuation norms, reference index and other bases. The Committee shall have to take the decision based on the recommendation of the sub-committee.

4. The Committee may appoint an **independent valuator** if it deems necessary. While appointing the independent valuator the Committee shall have to select competent and qualified person who has received training from recognized institution that has experience in the field of land administration, mapping of land and housing and valuation of immovable property.
5. The Government of Nepal may constitute a public **Land Valuation Agency or Authority** having competent human resources, well equipped information technology, and organizational structure for the purpose of making land and housing valuation system scientific and to establish a uniform approach. The valuation done by such a authority will be the basis for determining mortgage, collateral and compensation, and the decision is binding for all agencies.
6. In each concerned ministries there will be a **permanent resettlement and rehabilitation section** to review and facilitate approval of R&RP, and monitor their implementation.
7. In departmental level there will be a **permanent resettlement and rehabilitation unit** to review and facilitate approval of R&RP and LACP, and monitor their implementation.
8. In each project level there will be a **resettlement and rehabilitation unit** to conduct required surveys, prepare planning document and implement them.

Grievance Redress Mechanism

1. There will be three tier grievance redress mechanism.
2. **At project level a Committee** for hearing grievance and problems, will be formed under the leadership of the project chief comprising person in charge of overseeing resettlement and rehabilitation, affected individuals and families or their representatives.
3. The committee will hear and resolve the grievances at project level, if not settled then forward the grievance to district level committee with the committees' view and input.
4. **At district level a committee** will be formed comprising following member:
 - a. Chief District Officer - Chairperson
 - b. Representative from office of district attorney - Member
 - c. Experts on resettlement and rehabilitation - Member
5. The Committee hears the complaints and grievances forwarded from the project level and take decisions, reviews errors and concern raised on valuation of land and assets and compensation distribution.
6. At regional level a committee will be formed comprising following members:
 - a. Regional administrator - Chairperson
 - b. Joint secretary of the concerned ministry - Member
 - c. Legal Officer, Regional Administration Office - Member
 - d. Resettlement and rehabilitation expert from Ministry from Urban Development - Member
 - e. Chief of resettlement and rehabilitation unit of the concerned department - Member