Cambodia: Rural Investment and Local Governance Project
Framework for Land Acquisition Policy and Procedures

Introduction

The Kingdom of Cambodia seeks an International Development Association credit in support of its Seila Program through a Rural Investment and Local Governance Project (RILGP). The Seila program promotes governmental decentralization and increased local participation. Within the RILGP, support of the Commune/Sangkat Fund is the key component, promoting village and commune participatory processes for prioritizing investment in small-scale infrastructure or improved public services.

Supported infrastructure subprojects – primarily improvements to existing village and commune roads, irrigation and water control, wells, and schools – are small in scale and generally cause little or no significant adverse impacts. Nonetheless, Seila Program experience shows that such activities sometimes do cause loss of land or loss of access to other resources. In practice, land is acquired on an ad-hoc basis; the Seila Program has no policies or procedures upon which to develop a more systematic approach. To meet the requirements of World Bank OD 4.30, Involuntary Resettlement, borrowers in Bank-supported projects must avoid or minimize such losses. And, if involuntary imposition of such losses cannot be avoided, measures must be established to improve, or at least restore, the incomes and living standards of those involuntarily affected.

For Commune/Sangkat Fund investments, local communes will decide on investment priorities during the course of project implementation. Because it is impossible to prepare land acquisition plans in advance, the Kingdom of Cambodia has prepared this Framework for Land Acquisition Policy and Procedures. The Framework defines terms and provides guidance for involuntary acquisition of land or other assets (including restrictions on asset use), and establishes principles and procedures to be followed to ensure equitable treatment for, and rehabilitation of, any persons adversely affected. This Framework refers solely to Commune/Sangkat Fund investments; if necessary, a separate framework will be prepared for reference to activities sponsored under a Provincial Planning and Investment Component.

Key Definitions

Land Acquisition: A process by which any person is compelled to relinquish ownership, possession, control or use of all or part of their land, structures, or other assets. This includes land or assets for which the possessor or user enjoys customary or uncontested access but lacks legal title.

Project-Affected Person: Any person who, on account of the execution of the Project, or any of its components would, as a result of taking of land, have their:

(i) right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, in full or in part, permanently or temporarily;
(ii) business, occupation, work, place of residence or habitat adversely affected;
(iii) standard of living adversely affected; or
(iv) access to productive assets adversely affected temporarily or permanently.

Replacement Cost: With regard to land and structures, replacement cost is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.

Voluntary Contribution: A process by which an individual owner or user agrees to provide land (and attached assets) for provision of public goods without compensation in cash or in kind. Voluntary contribution is an act of informed consent; voluntary contributions are made with the prior knowledge that other options are available, and are obtained without coercion or duress. For the purposes of Commune Fund investments, only minor contributions (no more than 5% of any holding of productive land, or buildings or other fixed assets worth no more than $100) will be sought and/or accepted; voluntary contributions will not be sought or accepted where they would significantly harm incomes or living standards of individual owners or users.

Scope of Commune Fund Investment Activities

RILGP will involve more than a thousand communes in 15 provinces. Commune-level decision-making processes will determine local priorities for investment, selecting from priority lists resulting from village-level participatory processes. Commune Fund investments will be limited to provision of improved public services or small-scale infrastructure: construction or improvement of local roads, bridges or culverts; improvement or repair of irrigation works, construction or improvement of public markets, schools, clinics, or community centers; or provision or improvement of water supply systems.

All infrastructure subprojects that involve new physical works or changes in the siting of existing infrastructure may cause land acquisition. Subproject screening measures will ensure that no major land acquisition or resettlement-related impacts occur. Specifically, screening will exclude the following:

a) Subprojects requiring relocation of residences or commercial enterprises  
b) Subprojects adversely affecting more than 200 persons in total  
c) Subprojects for which sources of necessary compensation have not been established  
d) Subprojects requiring destruction of significant numbers (e.g., more than 10) crop trees or mature forest trees

For any subprojects requiring acquisition of land or other assets, mitigation measures will be provided in consistency with this framework.
Policy Principles

The fundamental principle incorporated in this Framework is that all necessary measures will be undertaken to improve, or at least restore, incomes and living standards of all persons adversely affected as a result of land acquisition. The Framework further incorporates the major guiding principles espoused in World Bank OD 4.30, and in relevant laws of the Kingdom of Cambodia.

Key Principles of World Bank OD 4.30:

General principles and objectives of World Bank OD 4.30 are as follows:

a. Acquisition of land and other assets should be avoided when feasible and otherwise minimized;  
b. If any persons are to be adversely affected, mitigation measures must provide them with sufficient opportunities to improve, or at least restore, incomes and living standards;  
c. Lost assets should be replaced in kind, or compensated at replacement cost;  
d. Compensation should be paid in full, net of taxes, fees or any other deductions for any purpose;  
e. If any persons are required to relocate, transfer costs and subsistence allowances will be paid in addition to compensation at replacement cost for lost structures and other assets.  
f. Absence of legal title to land or other affected assets will not be a barrier to compensation or other suitable forms of assistance;  
g. Adversely affected persons will be provided information relating to impacts and entitlements, will be consulted as to their preferences regarding implementation arrangements, and will be informed regarding methods and procedures for pursuing grievances.

Relevant Laws of the Kingdom of Cambodia

Key provisions of current legislation governing land ownership, resettlement and compensation in Cambodia are established in the national Constitution, the Land Law of 1992, and the Land Law of 2001. Key aspects are as follows:

a. All land in Cambodia is vested in the state. No land ownership prior to 1979 is acknowledged;  
b. Registration of land by private citizens has been possible since 1989. Although there is a process for obtaining formal land title, progress has been slow with very few titles being issued;  
c. There is provision for land acquisition where the public interest requires it. Where this is done, the registered owner is entitled to “fair and just” compensation.

No laws or regulations specifically relating to land acquisition or resettlement exist, however. In practice, land often is obtained without compensation or through ad-hoc local negotiations.

Resolving Inconsistencies:
In the event of conflict or inconsistency between Cambodian law and Bank principles as established in this Framework, the Kingdom of Cambodia will waive Cambodian law to the extent necessary for effective implementation of this Framework.

Avoidance and Minimization of Adverse Impacts

It is anticipated that the great majority of commune subprojects funded through RILGP will be sited on public land and/or will involve rehabilitation of existing infrastructure rather than new construction. Small amounts of land, currently in private use or ownership, may be required, for example for widening of an existing road. In these cases, and provided that the amount required from any individual does not exceed 5% of that individual’s holding, the most effective means to avoid involuntary acquisition of land is likely to be through reliance on local level participatory processes. The Commune Council, acting in cooperation with the village representatives to the Commune Planning and Budgeting Committee (CPBC) may assess the willingness of individual owners or users to voluntarily contribute land. The results of such assessments shall be publicly disclosed and validated by a public meeting of villagers.

Communes proposing to undertake involuntary land acquisition in order to construct infrastructure on private land, or land which is currently in private use, will be obliged to demonstrate that no satisfactory alternative is available and to prepare a Land Acquisition Report (LAR) for review by the provincial governor (or his designee). The review and approval of the LAR (as part of the review process for each Commune Development Plan) must take place prior to adoption by the commune of the Commune Budget which includes the proposed subproject. In other words, land acquisition issues must be resolved in the planning year before the implementation of the subproject.

Planning and Reporting Requirements

As commune investment subprojects are relatively small in scale, the number of persons to be adversely affected by land acquisition is likely to be very small. Accordingly, planning and reporting requirements are kept as simple as possible.

Confirmation That No Involuntary Land Acquisition Required:

For all Commune Fund investments for which no involuntary acquisition is necessary, the relevant commune will provide to the PRDC the following information:

EITHER a statement, signed by the Commune Chief and countersigned by the Technical Support Staff, that the subproject will be implemented entirely on public land which is not under private use;

OR a report indicating the following information:

a) an estimate of the amount of land and other assets to be utilized, and field measurement results indicating that no more than 5% of total land holdings and/or other assets of value greater than $100 are needed from any household;

b) a description of methods used to inform potentially affected individuals regarding the proposed investment, and their rights and options regarding land
or other assets required, and confirmation that individuals have been informed that they have the option of refusing land contribution;

c) signed Statements of Voluntary Contribution from each individual voluntarily contributing land (and any attached assets), indicating their informed consent; and

d) A report of the village meeting at which the voluntary land acquisition arrangements (including siting maps) have been disclosed to, and validated by, villagers.

**Land Acquisition Report Required:**

In cases where land or other assets will be acquired involuntarily, a Land Acquisition Report must be prepared, including the following elements:

a) description of the subproject necessitating land acquisition;
b) basic data identifying impacts and persons to be affected by them;
c) arrangements for in-kind replacement of land, or for compensation at replacement cost, including signed statements by all affected landowners confirming that these arrangements are satisfactory;
d) arrangements to ensure adequate performance by contractors relating to compensation for temporary impacts;
e) a schedule of assets (other than land), which will require to be replaced as part of the construction contract, and signed statements by the affected owners confirming that these arrangements are satisfactory;
f) an implementation schedule indicating that replacement land will have been provided before implementation of the subproject begins;
g) a siting map and field measurements validated by villagers, showing land to be acquired and replacement land to be provided, sufficiently detailed to allow verification;
h) arrangements for disclosure of information, consultations, and procedures for pursuing grievances.

The planning report is to be prepared as part of feasibility studies and will be reviewed as part of the technical assessment process prior to provincial approval of commune plans. Following provincial approval, provision of in-kind asset replacement, other than that to be included in the subproject implementation contract, will be completed before the contract for subproject implementation is signed.

**Entitlements Relating to Specific Categories of Impact**

If substantial acquisition of land or other assets is necessary, the following provisions will be followed in development of mitigation measures:

**Loss of agricultural land:** Any persons losing a significant proportion (i.e., more than 5%) of their agricultural land must be provided an opportunity for in-kind replacement, obtaining access to land of equal productive value. Such persons also may be offered optional cash compensation at full replacement cost. Those whose land holdings are not significantly affected can be compensated at full replacement cost.
**Loss of productive assets:** Landowners contributing land upon which seasonal crops are standing have the right to insist that subproject implementation is delayed until the crops are harvested, or to be compensated at the market value of the crop. Those losing perennial fruit or pulp trees should be compensated in cash at net present value, where it is possible to do this from local cash contributions to the subproject.

**Temporary loss of land:** No land may be taken temporarily during construction except by voluntary arrangement between the landowner and the contractor. Contractors should be informed before bidding of any case where use of private land or damage to private property, including crops, is likely to be necessary, in order that compensation or restoration costs can be included in the bid price.

**Loss of structures:** Project funds may not be used to fund activities which will require demolition or relocation of permanent dwelling or private business premises. For ancillary structures that may be affected, compensation will be paid at replacement cost.

**Loss of other assets:** Where fixed assets other than land (such as fencing) will be lost, replacement of these should be negotiated with the owner and should then form part of the contract for construction of the subproject.

### Consultations and Information Disclosure

As stated above, obtaining land or other assets through voluntary contribution and negotiated agreement requires that individuals potentially involved are informed about their rights and options. Prior to such negotiations, and prior to any land acquisition proceedings, the Commune Council must provide information about key provisions of this Framework. Potentially affected individuals must be informed that they are not obligated to voluntarily contribute land for subproject purposes, that involuntary acquisition of land without appropriate compensation is not permitted, and that lodging of a valid objection by an affected landowner will be sufficient cause for subproject approval to be delayed or withheld. Additional information to be disclosed will include: entitlement to replacement in kind or compensation at replacement cost; methods to be used in establishing compensation rates; and procedures for pursuing grievances, including contact information. Information should be presented in a language and medium accessible to those potentially involved or affected.

### Grievance Procedures

Each village will have an opportunity to comment on annual commune reviews of subproject implementation performance. Any grievances may be addressed as part of the review process. If project-affected persons are not satisfied with proposed entitlements or implementation arrangements, or are dissatisfied with actual implementation, they also can seek satisfaction through the Commune Council or its designated officials. If this does not result in resolution of issues, project-affected persons can also make grievance verbally or in written form to district-level and/or provincial-level officials responsible for project facilitation and information dissemination. If this does not result in resolution of issues, project-affected persons can make grievance verbally or in written form to the provincial governor and ultimately to the national-level Sella Program Task Force. At each level, specified authorities should record receipt of grievances and reply to the project-affected person or persons within ten days after receiving the grievances. Project-affected persons will be exempted from any administrative or legal charges associated with pursuing grievances.
Organization Roles and Financial Responsibilities

To achieve the objectives of this Framework, Seila Program manuals and procedures will establish the following roles and responsibilities:

Commune Council: As the local authority and as the subproject planning and implementing body, the Commune Council has the primary responsibility to ensure that the rules and procedures set out under this Framework are adhered to. Specifically, the Commune Council or its designated officials will:

a. Ensure that potentially involved village residents are informed regarding proposed investments, and their rights and options relating to land or other assets that may be involved;
b. Ensure that CPBC village representatives are informed about their responsibilities under this Framework;
c. Closely monitor and assist the CPBC village representatives in all matters relating to land acquisition, and attend and monitor public meetings to discuss land acquisition issues with villagers;
d. Review and approve village-level reports (as outlined above) as part of subproject feasibility study, prior to PMP appraisal for any investment activities requiring access to privately owned or utilised land or other assets;
e. Ensure timely provision of compensation in cash or in kind, as required;
f. Review contractor performance to ensure that any required payments to individuals for materials or temporary use of land are made, and to ensure that any temporarily utilised land is adequately restored, and;
g. Respond to any grievances submitted by adversely affected persons.

CPBC Village Representatives: At the village level, CPBC village representatives will assist the Commune Council in all matters concerning information, communication, discussion and negotiation with landowners, or with the villagers collectively, about land acquisition matters. Specifically, village representatives will assist the Commune Council in:

a. Scheduling open meetings to ensure that potentially involved village residents are informed regarding proposed investments, and their rights and options relating to land or other assets that may be involved;
b. Identification of impacts on land and assets, individuals potentially involved, and the amounts and types of land and other assets sought from each individual;
c. Scheduling open meetings for public validation of field measurements and maps relating to siting of proposed activities, and public disclosure and validation of any land-related agreements;
d. Seeking voluntary contributions or negotiated agreements;
e. Preparing required reports on matters relating to land acquisition;
f. Facilitating compensation in kind and exemptions from local contributions in relation to land acquisition.

g. Conducting public meetings to review commune-level annual reviews of implementation performance, to solicit villagers' views on the adequacy of implementation, and to address any grievances, if possible.

District and Provincial Facilitation Teams: In line with their broader facilitation roles, the DFT and the PFT will:
a. provide advice and facilitation to Commune Councils and Planning and Budgeting Committees with their roles and responsibilities listed above;
b. supervising and ensuring effective implementation of this framework; and
c. respond to extent possible to grievances submitted by affected persons.

Provincial Governor: At the provincial level, the governor (or designated officials acting on behalf of the governor) will be responsible for:

a. Ensuring that all Commune Councils participating in Commune Fund activities are informed about their responsibilities under this Framework;
b. Approving or rejecting any LARs submitted in support of proposed commune-level Commune Fund investments;
c. Verifying that the Commune Council has sufficient funds or other resources to pay necessary compensation or meet other obligations associated with acquisition of land or other assets;
d. Monitoring implementation of any approved LARs and ensuring that any inadequate implementation is corrected; and
e. Responding to any grievances submitted by adversely-affected persons.

Sources of Funding for Land Acquisition-Related Activities

As the borrower, the Kingdom of Cambodia carries official responsibility for meeting terms of this Framework, including financial obligations associated with land acquisition. In practice, Royal Government funds will not be regularly available to Commune Councils for this purpose. Therefore, where a subproject is proposed that would require land acquisition, and where no sufficient source of necessary compensation funds can be identified, the proposal will be disqualified. Intermediate sources of support for land acquisition may include:

a. For very minor land acquisition, where the value of the land taken from a person is approximately equal to the share of the cash contribution for which the person is responsible, exemption of individuals from contributing cash for necessary village Commune Fund contributions may be sufficient compensation; and/or

b. With the approval of the relevant commune officials, village cash contributions (at least 3% of estimated subproject costs) collected from unaffected villagers may be used for payment of compensation to affected villagers.

World Bank Supervision Arrangements

The World Bank will undertake periodic project supervision in RILGP provinces to assess compliance with Framework requirements, and to recommend any corrective measures that may be necessary to resolve implementation problems or inadequacies. To facilitate Bank supervision, all approved LARs will be available for Bank review at the Provincial Rural Development Committee office. And all village-level land use reports, including Statements of Voluntary Contribution and Statements of Negotiated Agreement, will be available for Bank review at the commune level.