

# Resettlement Policy Framework For Kiribati: Health Service Strengthening Project

7<sup>th</sup> December 2021

## 1. INTRODUCTION

The Government of Kiribati is preparing a project entitled Health System Strengthening Project (KHSSP) which is being considered for World Bank financing. Initial assessment of the project concept indicates that some of the project's proposed activities may involve acquisition of new lands for the expansion, rehabilitation, or construction of additional health care infrastructure such as hospital and health care centers. This Resettlement Policy Framework is prepared to fulfill the appraisal requirements under the World Bank ESF, particularly ES Standard 5 (Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement). This Resettlement Policy Framework is part of the Environmental and Social Management Framework (ESMF) of KHSSP.

## 2. PROJECT DESCRIPTION

KHSSP aims to improve equity and quality of health care in Kiribati and to provide immediate and effective response in case of an eligible crisis or emergency. It will have four components, namely: (Component 1) Improving equitable access to health services in outer islands; (Component 2) Strengthening quality and range of services provided through hospitals; (Component 3) Project management enhancement, and (Component 4) a contingent emergency response component (CERC). These components, and the activities which are described below are preliminary, and will be refined as project preparation proceeds. Project financing for all goods and services will take into consideration existing, current, and planned investments by other external partners; any health infrastructure development will be carried out considering environmental and social risks assessments, as well as climate change considerations.

Component 1: Improving equitable access to health services in outer islands. The scattered geographical distribution of Kiribati poses major challenges to accessing health services and distribution of medical supplies to outer islands. The physical layout of the country, and its current health service provision, often results in a need to conduct medevac missions (dispatched from Tungaru Central Hospital (TCH) located in Tarawa), which are affected due to unreliable air and sea transport. This often leads to delays in access to timely emergency and essential life-saving services which result in poor health outcomes. An identified need is for better, more regular, and timely health support to address known communicable diseases and NCDs prevalent on the outer islands, and expand prevention efforts, both of which are almost entirely dependent on the public sector. Financing under this component would be aimed at: (a) improving referral services through provision of two sea ambulances with appropriate critical medical and communications equipment to provide integrated medical outreach programs to outer islands; (b) expanding outer island focused preventive programs designed to improve the nutritional status of mothers, newborns, children during the first 1,000 days, and for children under 5 years of age, building on existing government and external partner programs, including supplies of key micronutrients, and expanding information education and communications; (c) improving outer island health providers skills through in-service training, particularly for the nurses and midwives in a range of MNCH high priority issues; and (d) conducting operational research to inform policies towards innovative outreach and referral systems that fit Kiribati's geographical and infrastructure context.

Component 2: Strengthening quality and range of services provided through hospitals. The MHMS recognizes that, to provide satisfactory health care for all of Kiribati, it requires more effective public sector health facilities, in particular hospitals and allied services capabilities, and other elements in their health

pyramid. MHMS identified the following core needs for support under the proposed project: (a) enhancement of health infrastructure, including (i) rebuilding and equipping the Kiritimati district hospital with climate resilient design; (ii) equipping the new District Betio Hospital; equipping, improving, and modernizing pharmaceutical, laboratory and radiology diagnostic services; (iii) providing essential equipment for health centers and health clinics and refurbishing, based on a survey of their needs; (iv) supporting improved and well-equipped hazardous waste management, along with bolstering MHMS' efforts related to IPC implementation;

(v) emergency ambulance; and (vi) establishing a mobile blood donor unit; (b) enhancement of the health information system (i.e., collection, storage, and connectivity) building on ongoing efforts; (c) provision of training to technical specialists (i.e., laboratory, radiology, biomedical, pharmacy and information technology), and allied health workers to better utilize aspects supported under the proposed project, based on a training needs assessment; (d) introduction of Geographical Information System to map out and support a syndromic surveillance system for early detection of outbreaks and early public health response which will assist in strengthening core elements of MHMS (i.e., human resource management as well as monitoring).

Component 3: Project management enhancement. This component will, based on an assessment of MHMS' list of priorities, provide support to project management. It will finance additional requirements (i.e., in aspects of environment and social risk management, monitoring and evaluation-M&E, operational costs and others based on the activities which will ultimately be supported) for the World Bank supported COVID-19 project management unit (PMU) in MHMS, which will support this project's management.

Component 4: Contingent emergency response component (CERC). The objective of this component is to improve the GOK's response capacity in the event of an emergency, following the procedures governed by OP/BP 8.00 (rapid response to crisis and emergencies). The component would support a rapid response to a request for urgent assistance in respect of an event that has caused, or is likely to imminently cause, a major adverse economic and/or social impact to Kiribati associated with a natural or man-made crisis or disaster. In the event of an emergency, financial support could be mobilized by reallocation of funds from other Components to support expenditures on a positive list of goods and/or specific works and services required for emergency recovery. A CERC operational manual, governing implementation arrangements for this component, will be prepared with support under the project.

### **3. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS**

The RPF aims to serve as a practical guideline to prepare and implement the process for securing of land access requirements and compensation planning, and implementation processes with sound planning principles and requirements of the prevailing legal norms and practices of Kiribati and in compliance with WB ESS5. This RPF particularly applies to the works related to construction and refurbishment of health care infrastructure.

Consistent with the WB ESS5, the resettlement policy framework recognizes that involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. Therefore, the following objectives and principles will guide the development of this Resettlement Framework:

- (i) avoid resettlement impacts wherever possible;
- (ii) minimize impacts by exploring project design alternatives;
- (iii) enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and
- (iv) improve the standards of living of the affected and displaced poor and other vulnerable groups.

The policy covers both economic and physical displacement.

This RPF is built on the laws and regulations of the Government of Kiribati and the objectives and requirements WB ESS5. Where gaps exist, the RPF sets out gap filling measures which are presented below in this chapter.

### **3.1 Relevant Laws and Regulations of the Government of Kiribati**

*Land ownership in Kiribati.* Under the Kiribati constitution (1979) all land in the Gilbert Islands belongs to the I- Kiribati people and may be leased for a period of up to 99 years. Government has leased land to establish Island Council offices and residences on the project islands, namely: Abaiang, Nonouti, Beru and Tabiteuea South. There are also lands that have been gifted to the Church on each island.

Lands are owned by families through customary means, usually inheritance. There are some situations in which title to land is transferred as a gift. There are also situations where land is ‘swapped’ or traded, though the owners may not register these titles the families understand and respect the arrangement. The various customs governing the acquisition of interests and rights to land are defined in the Gilbert and Phoenix Islands Lands Code (1956). The Code documents customs and practices as of 1956 and, despite changes to a market economy, these customs and practices continue to be highly relevant in Kiribati society today.

Kiribati land legislation states that land cannot be alienated by sale, gift, lease or otherwise to a person who is not a native. The Native Lands Ordinance (1956) in no way prohibits or restricts the alienation of native land to the Crown, Island Council, the Housing Corporation, a society registered under the Co-operative Societies Ordinance or the National Loans Board. The State can acquire any land, by agreement or compulsorily, for any public purpose.

The legal and policy framework for the acquisition of land, land access and user rights, are defined in the following legislation:

1. The Constitution of Kiribati
2. Foreshore and Land Reclamation Act 2005 (rev 1977)
3. State Acquisition of Lands Ordinance 1954 (rev 1979)
4. Native Lands Ordinance 1956 (rev edition 1977)
5. Magistrate’s Courts Ordinance 1977
6. State Lands Act 2001
7. The Land Registration Grievance Tribunal Act 2002
8. Native Lands Amendment Act 2011
9. Government Approved Compensation Rate for Trees, Crops and Buildings (2011 Cabinet

minutes 45/11)

#### **1.1 The Constitution of Kiribati**

The Constitution of Kiribati declares that all natural resources of Kiribati are vested in the people and their government. Chapter 2, Section 8; Protection from deprivation of property states that “no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied: (a) the taking of possession or acquisition is necessary or expedient in the interests of defense, public safety, public order, public morality, public health, town or country planning or the development or utilization of any property for a public purpose. (b) there is reasonable justification for the causing of hardship that may result to any person having an interest in or right over the property; and (c) provision is made by a law applicable to that taking of possession or acquisition (i) for the payment of adequate compensation within a reasonable time; and (ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for determination of his interest or right

and the amount of any compensation to which he is entitled, and for the purpose of obtaining that compensation”.

### **1.2 Foreshore and Land Reclamation Act 2005 (rev 1977)**

This legislation seeks to strengthen the customary rights over the foreshore and Section 4 emphasizes the right of landowners to be compensated for the gravel or sand removed from their land, except in the case of construction of causeways and land-places. Foreshore is defined as the shore of the sea or of channels that is alternately covered and uncovered by the sea at the highest and lowest tides. Section 3 declares ownership of the foreshore and seabed as vested with the State. The ordinance provides for ‘reclamation of land’ for construction of causeways, wharves, landing-places, and other structures.

The Foreshore and Land Reclamation Act gives the Minister authority to authorize the reclamation of land and sets out the environment and social risk processes for objections. However, Section 5 states that “nothing in section 4 (environment and social risk) ) shall apply to the construction of causeways and of landing-places by, or on behalf of, the Government or by local government councils. Section 7 sets out limitations of claims and states “any person whose private right may have been extinguished by the construction of a causeway or landing- place may within 3 months of the completion of such causeway or landing-place, submit a claim for compensation, in respect of the extinguishment of that right, to the public body responsible for the construction of the causeway or landing-place”.

### **1.3 State Acquisition of Lands Ordinance 1954 (rev 1979)**

Section 5 empowers the Minister to acquire “...on behalf of the Republic, any lands required for any public purpose, paying such consideration or compensation as may be agreed upon or determined under the provisions of this Ordinance. Acquisition of land under subsection (1) of this section includes: (a) the acquisition of the freehold; (b) the surrender of a lease, sublease, or license; and (c) the acquisition for a term of years as the Minister may think proper. Definitions of ‘public purpose’ include (f) obtaining of control over land contiguous to a port; and (g) the purposes connected with the construction, maintenance, or improvement of a highway; and (h) and other purpose declared to be a public purpose.

In determining the amount of compensation to be awarded for land acquired under this Ordinance; (a) the High Court shall take into consideration; (i) the market value of the land at the date of the notice of intention to take such land; and (ii) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of taking possession thereof; and (iii) the damage, if any, sustained by the person interested, at the time of taking possession of the and, by reason of severing such land from his other land; and (iv) the damage, if any, sustained by the person interested, at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings; (v) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

### **1.4 Native Lands Ordinance Cap 61 (1956)**

Part VI of the Native Lands Ordinance provides for leases. It defines ‘native land’ as land owned by any aboriginal inhabitant or their descendant. The ordinance reaffirms the inalienability of native land to a person who is not a native but grants exemptions for alienation of land to the State for public purposes (Section 5(2)). The Native Lands Ordinance states that “no lease or sub-lease shall be granted for a longer period than 99 years”.

About compensation, the Native Lands Ordinance states “Whenever it appears that any trees, crops or other growth or any fence or other property will require to be removed, damaged or destroyed, a surveyor shall first assess the amount of compensation to be paid and shall give to the owner thereof notice in writing of that amount”.

The Native Lands Ordinance covers transfer of lease and sub-letting (the lessee will not sub-let the land comprised in the lease or sub-lease without the consent of the lessor) but it does not cover changes to the purpose or usage of the leased land. It can be assumed that where an Island Council has leased land for Council purposes, they are free to establish a maritime facility on that land.

### **1.5 Magistrate’s Courts Ordinance 1977**

The Magistrate's Courts Ordinance 1977 gives the Magistrate’s Court the power to hear and adjudicate in all cases concerning land matters in accordance with the provisions of the Lands Code, and where the Lands Code is not applicable, in accordance with customary law. Land matters concerning land boundaries, transfers, registration of native lands and any disputes concerning the possession and utilization of native land are dealt with by the Magistrate’s Court.

### **1.6 The State Lands Act 2001**

The State Lands Act 2001 empowers the State, as the owner of land, to make land available for development purposes including for the permanent settlement of citizens and their families. The State is equally empowered to reverse the transfer of land back to the State, or to another party.

### **1.7 The Land Registration Grievance Tribunal Act 2002.**

The Tribunal was established to hear outstanding complaints by direct descendants of persons who were by mistake or fraud deleted from or denied entry on a land registry in the Gilbert Group. For some time, citizens have complained that in the period 1940 to 1980 persons who should have been registered with an interest in land were overlooked. The descendants of these persons, who might have inherited the interest in land have complained that this injustice should be investigated. The Tribunal does not have the independent power to make awards to a successful griever without written consent, (S.4(3)). Instead, it is for the Government to consider what should be done in the circumstances of each case. The Act recognizes the legal concepts of grievance in the functions of the Tribunal.

### **1.8 Native Lands Amendment Act 2011**

Native Lands Amendment Act 2011 amends Section 4 of the Native Lands Ordinance to address the concerns of I-Kiribati who feel they have lost their lands because of fraud committed by those who are currently registered over the disputed lands or by their predecessors. The amendment seeks to give aggrieved people the opportunity to challenge those titles in Lands Court.

### **1.9 Government Approved Compensation Rate for Trees, Crops and Buildings**

The Government Approved Compensation Rate for Trees, Crops and Buildings sets out the current compensation rates for all trees, crops and building structures approved by Cabinet. These 2011 rates will apply in settings where coconut tree(s) need to be removed. No other trees of values were sighted at any of the proposed sites. The compensation rates provide three different values for coconut trees; AUD \$80 for fruit bearing, \$40 for non-fruit bearing with trunk and \$2 for non-fruit bearing without trunk top, however,

local norms suggest that all coconut trees (copra being the main source of income on OIs) be compensated at the rate of \$80.

### **3.2 Current Practices in Resettlement and Land Acquisition for Government Purposes in Kiribati**

The government of Kiribati has acquired lands on the outer islands for the establishment of Island Council offices and residences, health facilities and schools, airports, and roads. Environment and Social Risk Management due diligence processes have cited Island Council leases dated from the 1970' and 1980's with terms back-dated as far back as 1959 and for a period of 99 years. On some islands, landowners agreed to share the wealth of the Island Council lease income and divided up the land into narrow plots, some as small as 0.085 acre. Initially the Island Councils were responsible for direct payment of rent to landowners, however the Ministry of Lands and Agricultural Development (MELAD) assumed the responsibility of rent payments around 2014/15. Rent payments are made on a quarterly basis at a current rate of AUD 1400.00 per acre.

Island Council lease agreements stipulate that any damage to land, trees plants or other fixtures will be compensated at the termination of the lease, through agreement between the landowner and the tenant. However, in most cases the usufruct has been retained by the landowners, in which case the trees and plants are excluded from this condition. In the case where the Island Council, as tenant, wish to remove a tree or plant, law requires that they compensate the landowner at the Government approved rate.

### **3.3 World Bank ES Standard on Land Acquisition, Land Use Restriction, and Involuntary Resettlement (ESS5)**

The following are the key elements of the WB ESS5:

- i. Screen early the projects resettlement impacts and risks. Determine the scope of the resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to settlement impacts and risks;
- ii. Carry out meaningful consultations with affected persons, host communities, and other stakeholders in the design, planning, implementation and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups and ensure that free, prior and informed consultation is carried out throughout project design and implementation;
- iii. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase;
- iv. Improve, or at least restore, the livelihoods of displaced persons, to at least pre- displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher, through (i) land-based resettlement or cash compensation at replacement value as relevant, (ii) prompt replacement of assets, (iii) Prompt compensation at full replacement cost, and (iv) additional revenues and services through benefit sharing schemes where possible;
- v. Provide physically and economically displaced persons with needed assistance including i) if there is relocation, secure tenure to relocated land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities and extension of project benefits to host communities ii) transitional support and development assistance; and iii) civic infrastructure and community services as required;
- vi. Improve, or at least restore, the standard of living of the displaced poor and other vulnerable groups, including women, to at least pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher. In rural areas, provide them with legal

- and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing;
- vii. Develop procedures in a transparent, consistent and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status;
  - viii. Ensure that displaced persons without titles to land are eligible for resettlement assistance and compensation for loss of land and non-land assets;
  - ix. Prepare a resettlement plan elaborating on displaced persons entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget and time-bound implementation schedule.;
  - x. Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language understandable to the affected persons, displaced persons and other stakeholders. Disclose the final resettlement plan and its updates to affected and displaced persons and other stakeholders;
  - xi. Conceive and execute resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand- alone operation;
  - xii. Pay compensation and provide other entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout the project implementation; and
  - xiii. Monitor and assess resettlement outcomes and their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by considering the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

### 3.4 Comparison of Land Acquisition and Resettlement Policies in Kiribati and the WB ESS5

Table 2 provides a comparison between WB policy requirements and applicable laws of Kiribati:

Table 2: Comparison of Policy Requirements and Applicable Laws of Kiribati

Kiribati's Land Acquisition Policy	WB ESS 5	Consistencies and Gaps
<p>1. The Constitution of Kiribati generally guarantees against deprivation of property without adequate compensation.</p> <p>In situations where property is compulsorily taken possession of or an interest or right over property is compulsorily acquired, compensation must be paid within a reasonable time.</p> <p>The Native Lands Ordinance 1956 makes clear that native land cannot be alienated to a non-native, and the Non- Native Lands Ordinance 1974 restricts the alienation of non-native land except to the State.</p> <p>The State Acquisition of Lands Ordinance 1954 empowers the Minister to acquire land compulsorily on behalf of the Republic, or with the agreement of landowners, any land which is required for the construction, maintenance or improvement of any road designated as a highway (S.10(1)). The Ordinance prohibits the Minister from acquiring land on either side of a public highway, except by agreement with landowners.</p>	<p>Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</p>	<p>Both the Constitution and the State Acquisition of Lands Act 1954 safeguards against the deprivation of property without compensation.</p> <p>There are no explicit provisions preventing involuntary resettlement but the restrictions on the alienation of native lands to non-natives, and the mechanism for reacquiring non-native lands by the State potentially provide for the State the opportunity to intervene in these situations to prevent involuntary resettlement. The provision for prior agreement of landowners is important in this regard.</p>
<p>The Constitution and State Acquisition of Lands Ordinance guarantee compensation for land, crops and other assets vital to livelihoods that are damaged.</p>	<p>Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs,</p>	<p>prepared and orderly manner, with compensation. Likewise, the restraints on the Minister's agents from entering homes without prior notice during</p>

Kiribati's Land Acquisition Policy	WB ESS 5	Consistencies and Gaps
<p>The 1954 Ordinance also provides for prior notice to all affected people of no less than 6 months to give up possession of such lands, unless the Minister considers it urgently required.</p> <p>In the conduct of preliminary investigation preceding the acquisition of any land for public purpose, agents of the Minister are authorized to enter the land, take measurements, soil samples, etc., to ascertain if land under consideration is 'adapted for such purpose but shall not enter into any building or upon any enclosed land attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least 7 days' notice of the Minister's intention to do so.</p>	<p>providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p>	<p>preliminary investigations are to minimize disturbance and adverse impacts.</p> <p>There is no explicit statement requiring the provision of viable livelihood options, but the intent of the legislation to minimize hardship on affected people is clear. In this regard, Kiribati and WB policies are partly consistent and there is a need for GOK to put in place additional measures to ensure full compliance.</p>
<p>The State Acquisition of Lands Ordinance 1954 (S.5) empowers the Minister to acquire lands for any public purpose, "...paying such consideration or compensation as may be agreed upon or determined under the provisions of this Ordinance."</p> <p>S. 16 (a) lists all matters to be considered in determining compensation which covers the market value of land at the date of notice of intention to take such land.</p> <p>S.17 also provides for compensation to affected people for loss of rents and profits.</p>	<p>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre- displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The Ordinance is consistent on the principle of replacement cost based on market value. The Ordinance is also cognizant of the secondary impacts of any land acquisition on the affected persons' livelihood and source of income, which is an important aspect of both WB policy.</p>
	<p>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre- displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The government has no written policy consistent with or equivalent to that of WB. In the event of displacement, vulnerable DPs will be provided with support to ensure that living standards are restored or where possible improved from pre- project levels.</p>
<p>State Acquisition of Lands Ordinance 1954 provides for prior notification of no less than 6 months during which time, the affected people may seek compensation or otherwise lodge a complaint with the High Court should there be disagreements over the amount</p>		<p>Close consultation regarding compensation is implied in the Acquisition of Lands Ordinance as part of the process of reaching agreement or otherwise, in which case the matter is referred to the High Court for resolution.</p>
<p>of compensation or disputes over evidence supporting the claim.</p> <p>Foreshore and Land Reclamation Act 2005 (S.4) Notification of proposed reclamation shall be published in 2 successive issues of a GoK publication, broadcast on 2 successive days over the radio and posted at each police station on the island where the land is to be reclaimed. (S.7.) states "any person whose private right may have been extinguished by the construction of a causeway or landing-place may within 3 months of the completion of such causeway or landing-place, submit a claim for compensation in respect of the extinguishment to the public body responsible for the construction of the causeway or landing-place".</p>	<p>Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p> <p>Displaced persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted, offered choices and provided with technically and economically feasible resettlement alternatives.</p>	<p>The Foreshore and Land Reclamation Act sets out the process for information sharing and compensation.</p> <p>While less explicit, GoK policy is consistent with that of WB. The difference is that GoK puts the onus on the affected people to seek compensation, WB policies ensure that the project is proactive in paying due compensation to people.</p>
<p>S.13 of the State Acquisition of Lands Ordinance 1954 – Dispute as to compensation and title to be settled by High Court.</p> <p>S.8 of the Foreshore and Land Reclamation Act states claims of less than \$3000 will be settled at the Magistrates Court and in other cases at the High Court.</p>	<p>Appropriate and accessible grievance mechanisms are established for displaced persons and their communities.</p>	<p>The 1954 Ordinance and Foreshore and Land Reclamation Act 2005 clearly establish the mechanism for resolving disputes and grievances. But there is no explicit provision for safeguarding the interests of affected people that are particularly vulnerable.</p>



Kiribati's Land Acquisition Policy	WB ESS 5	Consistencies and Gaps
		GoK needs to put in place specific strategies for ensuring the timely redress of all grievances as part of the project design, as well as provisions for safeguarding the interests of affected people who are particularly vulnerable.
Under S.28 of the Native Land Ordinance 1956, the Gilbert and Phoenix Islands Lands Code was declared to be the code of laws governing native land rights from 1 March 1963 in each of the 18 populated islands of Kiribati. The Code, codifying custom, describes the system of native land tenure and regulates the distribution or transfer of native lands, fishponds and fish traps to the owner's spouse and children (legitimate, illegitimate and adopted). The Code also regulates gifts of land for nursing a landowner who is incapacitated by illness; gifts for wet nursing babies (that is where a child is cared for and raised by persons other than the child's natural parents), and gifts of land by a husband to his wife or a wife to her husband during marriage. Customs pertaining to land have changed and cognizant of this, the Minister (under S.8 of the Native Lands Ordinance) is obliged to lay before	Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.	The Land Code is consistent with WB policies
Kiribati has no ethnic minorities. In the State Lands Act 2001, the transfer of rights to land via leases distinguishes between natives and non-natives. Unlawful occupation of native lands is an offense under S.35 of the Native Lands Ordinance. The unlawful occupant may be ordered by the Court to pay to the proprietor compensation for the period of the unlawful occupation (S.35 (2)). In terms of State-owned lands, the Minister under S.13 may allow a third party with close family connections to the lessee to occupy the land or part of it. This family member or owner may receive financial compensation, at the sole discretion of the Minister, up to no more than the current value of improvements on the plot, when the plot is transferred and registered under a new owner (S.16).	DPs may be those who do not have formal legal rights to land but have a claim to such land or assets--provided that such claims are recognized under GoK laws or become recognized through a process identified in the resettlement plan.	For leased State-owned land, affected people permitted to occupy land under S.13 of the State Lands Act 2001 are entitled to compensation for any improvements on the land. For native lands, occupants without title have no such rights. There is inconsistency between ADB/WB policy and those of the Government of Kiribati with respect to occupants without titles on native lands. To comply with WB Policy, the GoK will ensure that affected people who have legitimate claims to crops, trees and/or land are compensated regardless of whether or not they have formal legal title
All lands (native, state-owned) are registered in the register of native lands (S.2 Native Lands Ordinance) and State-owned lands respectively (S.4 (1) State Lands Act 2001). The Leases Register and Sub-Leases Register are also maintained for native lands (S.2 Native Lands Ordinance).	Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project	Existing registers allow for the early identification of affected people and facilitate the establishment of their eligibility. There are also unsurveyed plots with titles unconfirmed, which need boundary surveys before inventory of assets and census of affected people can be finalized. GoK policies and WB requirements are consistent.
Under S.28 of the Native Land Ordinance 1956, the Gilbert and Phoenix Islands Lands Code was declared to be the code of laws governing native land rights from 1 March 1963 in each of the 18 populated islands of Kiribati. The Code, codifying custom, describes the system of native land tenure and regulates the distribution or transfer of native lands, fishponds and fish traps to the owners spouse and children (legitimate, illegitimate and adopted). The Code also regulates gifts of land for nursing a landowner who is incapacitated by illness; gifts for wet nursing babies (that is where a child is cared for and raised by persons other than the child's natural parents),and gifts of land by a husband to his wife or a wife to her husband during marriage. Customs pertaining to land have changed and cognizant of this, the Minister	Particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.	The Gilbert and Phoenix's Land Code under the Native Land Ordinance 1956 provides for vulnerable groups including women, children, and the elderly. It is consistent with WB policies.

Kiribati's Land Acquisition Policy	WB ESS 5	Consistencies and Gaps
(under S.8 of the Native Lands Ordinance) is obliged to lay before		
Kiribati legislation (State Acquisition of Lands Ordinance) provides for compensation of land based on market value at the date of notification of intent to take such land. Government lease rates for Government leased lands are determined at market rates and reviewed every three years, the most recent in 2009. Compensation for crops is similarly valued and the last update for Government Approved Compensation Rates for Trees, Crops and Building Structures was passed by Cabinet in 2011.	WB; provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.	Kiribati policy for calculation of compensation for land, crops and other assets is based on current market value, i.e., consistent with the WB replacement value policy. The existing legislation is silent with regards to social preparation and livelihoods programs as part of compensation and resettlement assistance. On the other hand, recent practice wherein Government lending institutions provide preferential terms for housing loans for people affected by Government projects point to compliance in practice with WB policy. GoK updated its schedule of rates for valuing crops and trees to reflect current market value for compensating calculations, in 2011 as part of the Kiribati Road Improvement Project. In 2020 the Compensation Rate for Trees, Crops and Building Structures will be well overdue for review. The project will ensure the appraisal of compensation rates to ensure that compensation is at replacement cost.
	WB; The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, that conform to the policy.	The Government of Kiribati has budgetary provisions for lease payments on existing lands leased by the State for public purposes. For all compensation arising out of the project, the Government will be requested to include eligible costs of compensation, relocation and rehabilitation in the WB loan financing for the project.

#### 4. RESETTLEMENT POLICY AND PRINCIPLES FOR KHSSP

In bridging gaps between the GoK and WB ESS5 on land acquisition, the following principles and policies will govern the project, with due consideration for the customs and traditions of local communities:

1. Acquisition of freehold native lands will be minimized, and resettlement of people avoided. The preferred mode of securing access to lands will be through negotiated long-term lease;
2. Where population displacement is unavoidable, it will be minimized by providing viable livelihood options;
3. All outstanding rent payments will be paid against leases held by Island Councils, at sites proposed for marine facilities, prior to the commencement of project implementation;
4. All APs will be systematically informed and consulted on the acquisition and compensation of affected land, other affected assets (including crops, trees), the rights, and options available to them on the proposed mitigating measures, and to the extent possible, APs will be involved in the decisions to avoid any delay in RP implementation;
5. In the consultation process, MISE will include leaders of AP communities, and will encourage and facilitate the participation of women, the elderly and vulnerable people. Local NGOs and CSOs will also be invited to participate;
6. The customs and traditions as well as the religious practices and observances of the local communities will be respected, and historical or cultural landmarks, spiritual sites and reservation areas will be preserved and protected;
7. Compensation will be at replacement value at time of payment of compensation. Government schedule rates maintained by MELAD will be reviewed at time of valuation with assistance from

- OIIU and where needed supplementary compensation (either in cash or in kind) will be provided for affected assets such as trees, crops, and structures to ensure compensation at replacement cost;
8. Lack of formal legal rights to land will not deprive APs from receiving compensation and other entitlements for lost assets on the affected land. The census of APs will be appropriately designed to ensure APs without title to land are clearly identified;
  9. Particular attention will be given to socially and economically vulnerable groups like female-headed households, children, the landless, elderly people without support structures and people living in extreme hardships during the resettlement plan implementation process;
  10. The titleholders will be involved in decision making related to land acquisition and resettlement and they will be assisted by the IA to mitigate the adverse impacts of resettlement;
  11. The full cost of land acquisition and resettlement must be incorporated into MFED budget planning and approved by the Council of Ministers with a clear and agreed implementation period;
  12. Appropriate internal reporting (including auditing and redress functions), monitoring and evaluation mechanisms will be established by the IA as part of the resettlement management system;
  13. Land acquisition, compensation, resettlement, and rehabilitation activities will be satisfactorily completed, and the project areas cleared of all obstructions before civil works begin;
  14. Affected populations that stand to lose only part of their physical assets will not be left with a proportion that will be inadequate to sustain their current standard and convenience of living, such a minimum size being identified and agreed upon during the resettlement planning process;
  15. Community facilities and infrastructure damaged due to the project will be restored or repaired at no cost to the community;
  16. APs whose land or assets are temporarily taken by the works under the project will be fully compensated for their net loss of income, damaged assets, crops, and trees. The contractor will negotiate with landowners for fair and documented compensation for temporary use of lands. The contractor will also ensure that all temporarily acquired land and structures are returned in their pre-project state; and,
  17. Where local communities or individuals elect to make voluntary contributions of affected land without compensation, or in accordance with traditional practices, this will be acceptable only if the following environment and social risks are in place: (i) Full consultation with landowners and any non-titled affected people on site selection; (ii) Voluntary donations should not severely affect the living standards of affected people; (iii) Any voluntary donation will be confirmed through written record and verified by an independent third party such as a nongovernment organization (NGO) or legal authority; and, (iv) Adequate grievance redress mechanism should be in place.

#### **4.1 Avoidance/minimization of involuntary resettlement impacts**

The project will seek to avoid involuntary resettlement through the following processes: (i) by using government leased land where feasible; (ii) by choosing sites that will avoid resettlement impacts; (iii) by consulting with landowners and non-titled affected people to seek voluntary negotiation of long-term agreements for lease of native lands; (iv) by utilizing, wherever possible, existing rights of way for access during construction and by consulting and negotiating with landowners for access where there are no existing rights of way.

#### **4.2 Full replacement cost**

The project will require that valuation of assets and compensation paid for acquired land, housing, and other assets, be at full replacement cost. Full replacement cost is the cost of replacing an expropriated asset of the same or better quality in the current land and/or housing market. Full replacement cost will include the following components.

- a) *Fair market value.* The fair market value of an asset is the price of the same type and quality of asset in the market. Theoretically, the fair market value is sufficient to buy/acquire a replacement of the asset. However, in reality, there are other costs which the AP would incur in acquiring the same type of asset.
- b) *Transaction costs.* Replacing an asset would incur additional expenses in terms of time, the transport cost in the search of the equivalent asset, the cost of legal documentation, and fees and taxes. Hence, the replacement value of an asset should be fair market value plus transaction costs.
- c) *Transitional and restoration costs.* Transitional cost involves a short-term subsistence allowance to support the displaced persons through a period of income loss due to a project. It may also include agricultural extension, training and other poverty reduction or capacity building programs. Restoration cost refers to necessary improvements on land or to housing to achieve the objectives of enhancing or at least restoring, livelihoods, compared with pre-project levels.

When a fair market price for a particular asset does not exist as in the case of buildings and structures such as fences and animal sheds, full replacement cost can be calculated in terms of the cost of constructing new asset based on the current cost of materials and labor. Usually, official government valuation, will deduct from the materials and labor, annual depreciation cost since the year the original structure was built. The full replacement cost under this Resettlement Policy Framework will be based on a new replacement of the asset and hence depreciation cost will not be deducted from the materials and labor cost of the structure.

MELAD maintains a schedule of government rates for various types of affected assets requiring compensation. If the latest updated government rates at the time of preparation of the RP do not reflect the full replacement value (including transaction costs), additional compensation, such as top-up compensation (whether in cash or in kind) will be provided under the RP to meet the requirements of compensation at replacement value.

Owners and occupants of land will be compensated for fruit trees and standing crops at official government rates (See Attachment 4 for the latest government schedule of rates), provided they reflect the current market prices of the crop. Otherwise, the project will top up the prices to cover the difference between government rates and apparent market prices.

#### **4.3 Disruption of livelihood or restriction of access to livelihood sources**

The project will also compensate for other loss in income due to disruption of businesses and livelihood activities, or due to temporary or permanent loss of access to livelihood sources. Temporary disruption of livelihood could be compensated in the form of a disturbance allowances, based on daily wage rates and the length of time of the disruption. Permanent loss of access to livelihood sources be provided with disturbance allowance and livelihood restoration assistance or alternative livelihood development program based on consultation with the APs.

#### **4.3 Participatory approach**

The preparation and implementation of the Resettlement Plan shall be participatory. The APs shall be constantly throughout the preparation and implementation of the Resettlement Plan. Their participation will be sought during the conduct of survey, the inventory and valuation of assets, the choice of the mode of acquisition (whether long-term lease, or outright transfer to government of native lands), the choice of compensation options, and types of livelihood assistance to be provided.

#### 4.4 Sacred and cultural heritage sites

Cultural heritage sites, graves and other sacred sites are expected to be avoided by the project design. Where there is potential for graves to be removed and with the full prior agreement of the affected household, graves may be considered for removal. Compensation will be paid for all associated costs for affected graves to be relocated in a better site to the satisfaction of the affected household.

#### 4.5 Timing and Coordination of Land Acquisition Activities with Civil Works

If payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates to ensure that APs receive compensation at full replacement cost at the time of compensation payment. Changes to government compensation schedule amounts will be verified and approved by the office of the Valuer General. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until the conditions set in the land acquisition agreement/contract for the project's possession of land has been fulfilled.

#### 4.6 Eligibility and Entitlements

**Eligibility.** All affected persons (APs) will be eligible for compensation under this RPF. Affected persons (APs) will include: (a) those who have formal legal rights to land or assets;(b) those who do not have formal legal rights to land or assets but have a claim to land or assets that is recognized or recognizable under national law, local customs, and traditions. This would include current occupants who do not have formal title to the land but have been informally given usufruct or ownership rights by the owners in the past and are already recognized by the members of the local communities as the owner of the land; and (c) those who have no recognizable legal right or claim to the land or assets they occupy or use, also commonly known as informal settlers. Table 1 shows generic entitlements of various APs based on their losses.

**Table 1. Generic Entitlement Matrix**

<b>Loss</b>	<b>Entitled Person</b>	<b>Entitlement Options</b>
Land	Owner of Land	Option 1: Replacement land and cash compensation for land improvements Option 2: Cash compensation for the value of land and improvements*
	Tenant/Lessee	Option 1: Reimbursement of unused paid lease period and cash compensation for any land improvements; or Option 2: Replacement with new leasehold and cash compensation for any land improvements.
	Informal occupants	Cash compensation of all land improvements built by the occupants
Home	Owner of Home	Option 1: Replacement house and resettlement program, including temporary housing and allowance Option 2: Cash compensation and resettlement assistance, including disturbance allowance
	Tenant/Lessee	Reimbursement of unused paid lease period; and, relocation assistance/allowance equivalent to 2 months of rental
	Informal settlers	Cash compensation of the replacement costs of the structure of the house and relocation assistance, including possible participation in a government housing program
Other Structures (parts of house, animal shed, wall, fence, etc.)	Owner of Structures	Cash compensation equivalent to the replacement cost value of the structure (i.e., cost of materials and labor, without depreciation)

Trees	Owner of Trees	Cash compensation based on government issued schedule of prices
Crops	Owner of Crops	Cash compensation based on government issued schedule of prices
Temporary loss of access of properties	Owner of Properties	<p>Cash compensation of losses, including disturbance.</p> <p>Note: Lands or easement rights acquired by contractors e.g., sites for worker's camp; equipment yard and temporary easements that are contractor's responsibilities as per contract and hence negotiated and secured by the contractors themselves, shall not be subject to this RPF. The transaction between private owners and contractors are private transactions and are not involuntary, as contractors do not have power of eminent domain.</p> <p>However, temporary easements that are acquired with the assistance of the GoK through MHMS or MFED or negotiated by GoK on behalf of the contractors shall be subject to this RPF.</p> <p>All areas temporarily used during construction shall be restored to their former state or better at the end of the construction period, subject to the agreement of their owners.</p>
Permanent loss/restriction of access to open-access resources, e.g., land, mangrove forest, beach, fishing grounds, reefs, etc.	Traditional users of resources	The government shall undertake consultations with the affected people for alternative arrangements/access to other areas, including development of alternative livelihood system
Temporary loss/restriction of access to open-access resources, e.g., land, mangrove forest, beach, fishing grounds, reefs, etc.	Traditional users of resources	The government shall undertake consultations with the affected people for any arrangements including possible compensation and assistance during the temporary loss/restriction of access.
Displacement of Business	Owners of business	Cash compensation for reestablishment of business elsewhere
	Employees	Cash compensation equivalent to two months of wages and assistance to find alternative employment including possible rehiring in the reestablished business
Disruption of businesses	Owners of business	<p>Option 1: Cash compensation for lost profit during the disruption</p> <p>Option 2: Assistance in relocating the business plus disruption allowance during transfer</p>
	Employees	<p>Option 1: Cash compensation for employees that are temporarily laid off due to business disruptions</p> <p>Option 2: Disruption allowance</p>

\*Land improvements are structures, terraces, dikes, irrigation ditches, perennial crops on land that were built by the owners, lessee, or by its current occupants, regardless of their tenurial status.

**Generic Entitlement Matrix.** The Entitlement Matrix above (Table 1) shall guide the drafting of Entitlement Matrix of subproject's Resettlement Plans. It is important that APs are presented with feasible compensation options during consultations. The draft matrix should be the focus of the consultation with the AP and shall be refined and finalized based on the feedbacks and inputs of the APs.

***Differentiated treatment and additional assistance to vulnerable APs.*** The vulnerable APs (persons and households) will be identified during the detailed census of AP and their assets, through detailed socioeconomic analysis of the AP population. They will treat differently depending upon their individual circumstances. They will be given priority for any land-for-land compensation options, or housing at the resettlement sites, and they will also be given priority for any employment in construction and maintenance works in the subproject. They will also receive additional assistance based on their special needs. For example, PWDs will be given transport assistance during relocation.

The project will assist the following vulnerable households: (i) APs with monthly income of less than AUD 64.36 (Kiribati Basic Needs Poverty Line, which includes an allowance for essential non-food expenditure is estimated at AUD \$16.09 per capital adult equivalent); (ii) AP household heads whose age is 65 or older; (iii) female-headed household heads; and (iv) household heads who are physically and/or mentally incapacitated (disabled). Female-headed households, in particular widows, face disadvantages. Initial social impact assessment encountered female headed households, where the widow was originally from another island, but continued to live on the outer island of her deceased husband, long after his death. It is particularly difficult for these women to claim rights to their husband's lands. The project must ensure that their livelihoods, resources, and indeed, lives are not jeopardized or put at further risk through project activities.

***Unanticipated Loss and Damage to Properties.*** Unanticipated damages or involuntary impacts shall be documented and mitigated based on the principles under this RPF. Damages to private properties incurred by the contractors during the construction activities that are not anticipated in the design and are not part of the contract, shall be the responsibility of the contractor. Damages to private properties or impacts on private assets resulting from a change in the project design sanctioned by the PMU shall be documented and compensated in accordance with the entitlements in this RPF.

***Maintenance of public facilities used during construction.*** Damages to public facilities (i.e., roads, ports, bridges, etc.) used by the contractors during the construction activities shall be the responsibility of the contractor. The contractor's contract shall include a clause requiring the contractors to undertake regular maintenance and conduct repair works on public facilities during the construction period. Any damage or wear and tear on the facilities should be repaired by the contractor.

## **4.5 Grievance Redress Mechanism**

The grievance mechanism established at the subproject level (see ESMF) shall accommodate grievances related to the implementation of the RPF and the preparation and implementation of the Resettlement Plan. A Special Grievance Committee on resettlement-related issues will be appointed at the village level as well as at the project level to resolve grievances pertaining to the land acquisition and compensation and the implementation of the RP. For very small communities the grievance committee could be composed of three people, one from the project and two from the local councils.

## **5. PROCEDURES**

### **5.1 ES Screening**

Each subproject under KHSSP will undergo ES screening using the ES Screening Form in Annex II of the ESMF. The screening will determine whether the subprojects would require a Resettlement Plan. The screening will be undertaken by Environment and Social (E&S) Officer/Coordinator of the KHSSP PMU and will be validated by the E&S Specialist of the KFSU at MFED. It is expected that there will be discussions and deliberations between E&S Specialist of KFSU and the E&S Officer at PMU and the KHSSP Project management team as to the final design and configuration of the subproject. The objective

of this discussion is to find ways to avoid, if no minimize the impacts of involuntary land acquisition. The outcome of the screening will then specify whether a full Resettlement Plan or abbreviated Resettlement Plan will be prepared.

## **5.2 Preparation of Resettlement Plan (RP)**

Any civil works undertaken for the project that will result in involuntary resettlement impacts will require the preparation and implementation of a resettlement plan (RP). It is expected that only subprojects under KHSSP would only require an Abbreviated Resettlement Plan considering the scale and potential footprints of health care facilities. An outline of the abbreviated RP is provided in Attachment 2.

### **5.2.1 Socioeconomic survey of the affected area/neighborhood**

The RP preparation will first include a cursory socioeconomic survey will be conducted in areas/neighborhoods of the proposed subproject. If the subproject is required to undergo an ESIA, the baseline socioeconomic study of the ESIA could be used to for this purpose. Otherwise, a rapid socioeconomic survey will be conducted. The purpose of the survey is to provide the context and the basis for coming up of an initial draft of the RP. As such, a rapid or cursory survey of the neighborhood using secondary information, ocular observation and key informant interviews would suffice for this purpose. The rapid survey should be able to gauge the settlements in and around the proposed site, the presence of community facilities, business establishments, the people's livelihood, the presence of vulnerable groups, and local civic organizations.

### **5.2.2 Preparation of a draft RP**

A draft RP shall be prepared based on the general entitlement matrix and the socioeconomic survey above.

### **5.2.2 Detailed land survey and inventory of affected properties**

As soon as the engineering design of the Subproject becomes available, a detailed land survey of the affected areas shall be conducted. The survey will delineate the areas to be acquired and will identify and map out the land parcels to be affected. The survey will also determine the current land ownership/tenure status of the affected land parcels and identify their owners, their current occupants, and other assets on the affected portions of the lands. An inventory of the lands, homes, structures, crops and other land improvements to be affected by the land acquisition and their owners and current occupants will be prepared. Attachment 1 provides a sample of inventory of assets form. A complete list (registry) of APs and their losses will be prepared.

### **5.2.3 Census of Affected Population**

A census of the (i.e., 100% enumeration) of APs will be undertaken to establish the baseline socioeconomic conditions of the APs and their households. The census will also identify vulnerable APs and their circumstances to determine the appropriate assistance to be provided. A database of the APs, their losses in terms of assets, livelihood, socioeconomic conditions will be created. This database will be the basis for the monitoring and evaluation of progress of the implementation and the attainment of the resettlement policy objectives.

### **5.2.4 Consultation on the Entitlements and Compensation**



The draft RP will be updated and presented to the APs through several consultation sessions and group or individual negotiations. During the consultations, the APs will decide on the compensation package options as well as mode of land acquisition (i.e., whether long term lease or outright transfer of ownership to the government) and other assistance needed, including livelihood development. The local community leaders will also be consulted as well as other government agencies over the feasibility of some of the compensation schemes and assistance.

#### 5.2.5 Quality Assurance and Disclosure of RP

The final RP will be reviewed and improved by the KFSU Social Risk Specialist. After being cleared by KFSU, the RP will be submitted to the World Bank for review and issuance of "No Objection" and clearance for Disclosure. The final RP as cleared by the World Bank shall be disclosed at the NHMS Website and provided to the Island Councils. If there are major changes in the RP, additional consultations will be undertaken with the affected people, local community leaders, and government agencies.

### **5.4 Implementation of the Resettlement Plan**

#### 5.4.1 Valuation of Losses

A team of surveyors and valuers will be organized by MHMS composed of MHMS representative, MELAD, valuation experts, and representatives of the island council. As discussed above, the valuation of assets should be at replacement costs. In the case of land, the value should be equal to amount that would be needed to acquire the same size and type of land including taxes and transaction costs. In the case of structures, the value should be equal to the estimated value of materials and labor without depreciation. Valuations of crops and trees shall be based on government issued rates.

#### 5.4.2 Preparation and Signing of Land/Rights Acquisition Instruments/Contracts

Lands required for the subproject shall be officially transferred to the government by converting them as public land or leased by the Government from the legal landowners. After valuation and affected person's concurrence with the types and amount of compensation and other benefits. The project should hire a lawyer to prepare the appropriate land/rights acquisition instruments (e.g., contract of sale, expropriation, or long-term lease agreement, quit claim, etc.). The instruments should indicate the terms, nature and amount of compensation and other entitlements to be received by the affected persons. The instrument will clearly set the conditions to be fulfilled before affected person vacates the land and allow MHMS to take possession of the land and other assets in them and begin construction activities. The signing of the instruments by the concerned affected persons and MHMS formalizes the agreement between MHMS and the affected person.

Where land is already leased by GoK the MHMS will ensure that lease payments are up-to-date and rectify any outstanding payments prior to project implementation.

#### 5.4.3 Moving out of the affected area and/or transfer/relocation to temporary or chosen permanent relocation site/new homes

Affected persons shall not be required to vacate the land unless he/she had signed the land acquisition contract/agreement and all initial payments due to him/her as per conditions of the contract have been fulfilled. The receipt of the initial payments shall be documented and attached to the land acquisition contract/agreement.

In case of expropriation, the MHMS should fulfill all the legal requirements for possession of land before requiring the affected person to vacate the affected area. APs who are subject to expropriation shall be entitled to no less than amount of compensation and non-cash benefits received by APs who signed contracts/agreements with MHMS APs. If the court-mandated compensation is lower than those received by APs in the same tenurial situations, MHMS will top up the court-mandated compensation with the difference.

#### 5.4.4 Development of permanent relocation sites for some APs (if required as per entitlements)

The other entitlements and assistance to the APs shall fulfilled according to the terms of the contract and agreements. The development of permanent relocation sites and the construction of new homes for some APs who have opted for a replacement house, shall begin immediately upon signing of the instrument of land acquisition.

#### 5.4.7 Livelihood development or income restoration for some APs (if any would be required)

For APs whose livelihood have been affected, the livelihood assistance and/or development program will commence immediately after signing of the instrument of land acquisition and compensation scheme.

## 6. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

The institutional arrangements for RPF will use the same set up as the one proposed for ESMF. The PMU ES coordinator will be responsible for the initial screening of the Subprojects which will be validated and finalized by the KFSU Social Safeguards Specialist, including the determination of whether a Resettlement Plan would be required. If the Subproject is required to prepare an RP, the PMU ES Coordinator may hire a Social Safeguards Consultant to prepare the RP. The PMU ES Coordinator, the Consultant and the Subproject ES Focal Person will then constitute a team to implement the RP on the ground. The KFSU Social Safeguards Specialist will provide oversight by reviewing and validating progress/monitoring reports on the implementation of the RP from the PMU.

In the implementation of the RP, the PMU team will coordinate and request the help of MELAD for the conduct of land survey and the determination of ownership status. The PMU team may hire the services of the lawyer to prepare appropriate land acquisition documents/contracts.

## 7. COST ESTIMATE AND SOURCE OF FUNDS

**Table 2. Cost Estimate of RPF Implementation**

<b>Item</b>	<b>Assumptions</b>	<b>Cost (USD)</b>
Coordination meetings	At least two coordination meetings per year for two years @ 1000 per meeting	4,000
Hiring of Consultant to Prepare and implement the RP	At most three Subprojects would require an RP @ 15,000 per Subproject	45,000
Review of RP by KFSU Social Safeguard Specialist	At least one site visit per Subproject -travel and accommodation costs @ 1,000/visit	3,000
Monitoring and Evaluation	At least one M&E validation visit by KFSU Social safeguard specialist @ 1,000 per visit	3,000
Cost of Compensation	Will be included in the Subproject's Cost	-
<b>Total</b>		<b>55,000</b>

MHMS, as the implementing agency, will be responsible for obtaining financing for all costs related to implementation of this Resettlement Policy Framework. This includes the compensation for lost assets, new long-term leases, relocation assistance, and other entitlements.

## **8. MONITORING AND EVALUATION**

The project anticipates only a few land acquisition and minimal resettlement impacts. Therefore, internal monitoring will be sufficient. Should land acquisition and resettlement impacts become significant, an external monitor would be engaged to conduct an independent monitoring and evaluation of the implementation of this RPF and the Resettlement Plans.

The PMU ES Coordinator and will be responsible for the preparation of semi-annual progress reports regarding the implementation of this RPF based on the results of the ES Screening of Subprojects and the validated reports from the ES focal persons of subprojects that are required to prepare and implement a Resettlement Plan. The semi-annual reports shall be reviewed and validated by the KFSU Social Safeguards Specialist. The scope of the report will include the following:

- Number of subprojects that are required to prepare RP and status of RP implementation
- Number of APs per subproject, total area of land acquired, area of lands acquired, loss of homes, loss of structures, loss of trees, crops, and displaced/restricted livelihood and businesses
- Grievances received and resolved and those that are still under process of being resolved
- Issues and constraints encountered, and corrective actions.

A database of APs, their tenure categories (i.e., owners, tenant, informal occupant), their losses, and the status of compensation payments and other entitlements will be maintained throughout the project implementation period. Attachment 3 provides the structure of the database of APs to be maintained. At the end of the project, the KFSU ES Safeguard Specialist shall undertake an evaluation of the implementation of the RPF and the Resettlement Plans, focusing on the socioeconomic status of the APs.

**ATTACHMENT 1: INVENTORY OF AFFECTED LANDS, THEIR OWNERS, CURRENT OCCUPANTS**

Name of Subproject: \_\_\_\_\_

Date of Inventory: \_\_\_\_\_

Owner of record of the affected Land Parcel: \_\_\_\_\_

Identifying number of the parcel in the map. \_\_\_\_\_

(Attach a sketch of the proposed Subproject site showing the relative location of the affected land parcels)

**Land:**

Current land use of the affected portion: \_\_\_\_\_

Total area of the entire parcel: \_\_\_\_\_ sq m

Area of the affected portion: \_\_\_\_\_ sq m

Estimated market value of the affected portion: \_\_\_\_\_

Name of the current occupant (could be different from the owner): \_\_\_\_\_

Tenure status of the current occupant: \_\_\_\_\_

**Building:**

Estimated total ground floor area \_\_\_\_\_ sq m

Number of levels/stories: \_\_\_\_\_

Wall materials: \_\_\_concrete/bricks \_\_\_wood \_\_\_others

Roof materials: \_\_\_tin roof \_\_\_grass \_\_\_others

Floor and foundation: \_\_\_concrete \_\_\_wood \_\_\_others

Estimated Replacement Cost Value: \_\_\_\_\_

(Attached details of the calculation of the value)

Current use of the building (residential, business, others specify): \_\_\_\_\_

Occupant: \_\_\_\_\_ Tenure Status: \_\_\_\_\_

**Other Structures:**

Kind	Size/Length	Replacement Cost Value	Owner/Claimant
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**Trees:**

Kind	Number	Official Value	Owner/Claimant
_____	_____	_____	_____
_____	_____	_____	_____

**Crops:**

Kind	Area	Official Value	Owner/Claimant
_____	_____	_____	_____
_____	_____	_____	_____

Summary of affected persons (List down the affected persons currently associated with the land, starting with the landowner, tenants, and other rights holders, claimants and indicate their tenure status)

Name	Tenure Status	Affected Assets					Loss of or disruption of livelihood
		Land	Home	Other buildings	Other Structures	Crops	
1.							
2.							

3.							
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Inventory by: \_\_\_\_\_ Survey Team Member (MHMS)  
\_\_\_\_\_ Survey Team Member (MELAD)  
\_\_\_\_\_ Survey Team Member (Island Council)

Concurrence: \_\_\_\_\_ Affected Person:  
\_\_\_\_\_ Village Representative

## **ATTACHMENT 2: CONTENTS OF LAND ACQUISITION AND RESETTLEMENT PLAN**

**1. Executive Summary** -This section provides a concise summary of the Resettlement Plan, focusing on the key parameters such as the number of people affected, the total area of land to be acquired, the types of assets to be displaced, the agreed compensation schemes, the overall cost of the resettlement, the implementation arrangements and timeline and, the provisions for monitoring and evaluation.

**2. Introduction** - A brief one-paragraph description of the KHSSP and the subproject being part of the KHSSP. Also, about a brief description of the ES Screening results which have determined that the subproject would require a Resettlement Plan and that the Resettlement Plan being prepared is in accordance with the KHSSP Resettlement Policy Framework.

**3. Subproject Description** -This section provides sufficiently detailed description of the project, particularly in terms of its footprints and land acquisition requirements, the location, the construction timeline and the alternative sites and designs. Close up maps of the proposed site and its alternatives, if there are any, should be provided.

**4. Socioeconomic profile of the affected population/neighborhoods** - This section describes the socioeconomic characteristics of the affected areas/neighborhoods of the proposed subproject. The information could come from the socioeconomic baseline study in the ESIA, if the subproject is required to undergo an ESIA. Otherwise, the socioeconomic profile should be conducted as part of the RP preparation. In which case it does not necessarily have to be a detailed survey. A rapid or cursory survey of the neighborhood using existing village profile and key informant interviews would suffice. The purpose of this section is to provide a basis for a draft RP. The rapid survey should take note about the settlements in and around the settlement sites, community facilities, business establishments, the people's livelihood, the presence of vulnerable groups, and local civic organizations.

**6. Analysis of alternative sites.** This section analyzes the pros and cons of the alternative sites based on the socioeconomic profile of the proposed alternative sites and alternative subproject configurations (if any). The section also describes any discussions with the subproject feasibility team over which of the alternatives is more feasible and have minimum involuntary resettlement impacts. A final site and project configuration would have to be identified.

**7. Delineation of the areas to be acquired for the subproject.** This section will map out the areas to be acquired based on the final site and the engineering design. The section will discuss the results of the land survey, identifying the land parcels and properties that would be affected. An inventory of the affected properties and assets will be provided.

**8. Census and consultation of the affected population.** This section will discuss the results of the census of the affected population, i.e., the owners and occupants of the affected lands, their socioeconomic status, housing conditions and vulnerabilities (presence of vulnerable person in the household or the socioeconomic conditions of the entire household). The section also discusses the consultation with the affected population regarding the compensation options based on the Entitlement Matrix in the RPF.

**9. Entitlements.** This section will discuss the final entitlements of the APs based on their losses and the results of the consultation with the affected population. It will also discuss additional benefits/assistance to vulnerable households based on their needs.

**10. Resettlement Budget and Financing Plan** - This section provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation. Describes the flow of funds (the annual resettlement budget should show the budget- scheduled expenditure for key items). Includes a justification for all assumptions made in calculating compensation rates and other cost estimates (considering both physical and cost contingencies), plus replacement costs. Includes information about the source of funding for the resettlement plan budget.

**11. Institutional Arrangements** - This section describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan; includes institutional capacity building program, including technical assistance, if required; describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and describes how women's groups will be involved in resettlement planning and management.

**12. Implementation Schedule** - This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction and provide land acquisition process and timeline.

- (1) Valuation of losses
- (2) Signing of land acquisition instruments and compensation schemes (lease or deed of sale/purchase)
- (3) Payments of compensation and provision of agreed assistance
- (4) Moving out of the affected area and/or transfer/relocation to temporary or chosen permanent relocation site/new homes
- (5) Construction begins
- (6) Development of permanent relocation sites for some APs (if required as per entitlements)
- (7) Livelihood development or income restoration for some APs (if any would be required)
- (8) Monitoring and Evaluation

**13. Monitoring and Evaluation** - This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

**14. Grievance Redress Mechanisms** -This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

### **ATTACHMENT 3. DATABASE OF AFFECTED PERSONS**

#### Data Fields:

1. Name
2. Subproject
3. Location
4. Land tenure status
5. Estimated annual income before resettlement
6. Main livelihood source before resettlement
7. Home ownership before resettlement
8. Access to water and sanitation before resettlement
9. Access to electricity before resettlement
10. Number of HH Members
11. Vulnerability category
12. Area of land lost
13. Estimated value of home displaced
14. Estimated value of structures lost, other than home
15. Estimated value of crops and trees lost
16. Other cash entitlements
17. Total cash compensation due
18. Total cash compensation received so far
19. Type of livelihood restoration assistance
20. Status of replacement house
21. Status of replacement land
22. Status livelihood restoration assistance
23. Current estimated annual income
24. Current main livelihood source
25. Current home ownership
26. Current access to water and sanitation
27. Current access to electricity
28. Date of last update

### **ATTACHMENT 4 - LATEST GOVERNMENT RATES**

(attach latest rates)