

VOLUNTARY LAND DONATION FRAMEWORK

A. The Project and Context

1. Project Description

1. The proposed Community Managed Irrigated Agriculture Sector Project Additional Financing (CMIASP-AF) aims to rehabilitate 77 farmer managed irrigation systems (FMIS) in 35 districts of the eastern and central development regions of Nepal. The project is also expected to finance the rehabilitation and partial management transfer of 5 agency-managed irrigation systems (AMIS).

2. The project will respond to requests from water User Associations (WUAs) in target areas where at least 40% households have landholdings less than 0.5 ha in the hills and 1.0 ha in the terai. The project will strengthen WUAs so they represent all water users within the command area, and improve WUA capacity in system management and equitable distribution of water across different reaches of the irrigation system. The project is expected to upgrade irrigation infrastructure to (i) enhance supplementary irrigation during the monsoon season, and (ii) where possible, provide irrigation for a second and/or third crop in the summer and/or winter season. Physical improvements of the systems will be supplemented by WUA training in effective water use and system maintenance, and the provision of irrigated agriculture extension to ensure improved water use efficiency and increased irrigated agriculture productivity. Improved irrigation efficiency is expected to lead to higher crop yields, better returns to farmers and lower prices of basic commodities. Where possible and feasible, groundwater use may supplement surface water resources, especially in water-short irrigation systems.

3. This Voluntary Land Donation Framework (VLDF) has been prepared to ensure that due diligence will be conducted on each subproject to assess the social safeguards status of a proposed subproject and confirm that the selection criteria had been met without triggering ADB's IR safeguard requirements.

2. CMIASP Experience in Land Acquisition through Voluntary Donation

4. The Community Managed Irrigated Agriculture Sector Project (CMIASP 2004) aimed to improve agriculture productivity and sustainability of existing FMIS suffering from low productivity and high incidence of poverty in the rural areas of the central and eastern development regions of Nepal. Its overall goal was to reduce poverty and improve the livelihoods of poor women and men in rural Nepal.

5. Subproject selection criteria required selection of subprojects with no resettlement or involuntary land acquisition. The project conducted due diligence on each subproject to assess the social safeguards status of the proposed subproject, and confirmed that the selection criteria had been met. When there was no involuntary resettlement (IR) effect a subproject was categorized C for the IR safeguard. No further action was required.

6. Subprojects with canal extensions, or that followed existing canal alignments but which required a small slice of private land along a canal, the project prepared resettlement plans following ADB guidelines. ADB's IR policy (OM Sections BP/F2 and Operational Procedure (OP)/F2, issued in October 2003) required preparation of a resettlement plan wherever one person or more lose more than 10% of their livelihoods.

7. For the project this meant registering losses of each affected person at the level of below or beyond 10%, the degree of vulnerability, and whether this is above or below a

predetermined level. Of the 111 subproject 20 subprojects had canal extensions (18%) and 2 subprojects required shifting the headwork upstream.

8. A review of 13 batch 1 and 2 subprojects (representing hill and terai from the central and eastern development regions) with canal extensions or which required widening provide census of land donors, percent of land loss, degree of vulnerability, and evidence of landowners' (through whose land parcels the canal alignment passes) consent to donate land voluntarily for improving the canal alignment. Meaningful consultations are reported to have been undertaken with the land donors.

9. The project determined impacts on vulnerable people by assessing whether beneficiaries were above or below the project predetermined threshold of 10% land loss. However, in determining land loss, a beneficiary's total landholding within the command area was not taken into account. Farmers are reported to own several fragmented plots within a command area. Rather, land loss was calculated as *a percent of only that land parcel(s) through which the canal alignment passed*. Using this definition of land loss, the majority of beneficiaries fall in the category of losing less than 5% land. Only 5 subprojects have beneficiaries losing more than 10% land when measured only against the plot(s) through which the canal passed (Table 1). Compensatory measures provided for land donors include targeted assistance to Dalit and women headed households. Such assistance include exemption from WUA contribution, employment opportunities to at least one family member in construction activities, provision of livelihood improvement training, and priority access to water. There have not been any outstanding grievances regarding the voluntary donation of land.

Table1. Land Voluntarily Donated by Beneficiaries

No.	ISP	District	Total # of APs	# of APs losing > 10% land*	# of APs losing 5-10% land*	# of APs losing <5% land*
1.	Akuwa Asine	Bhojpur	25	5	7	12
2.	Ghatte Khola	Bhojpur	21	0	4	17
3.	Kewa Khola	Dhankuta	36	0	1	35
4.	Talkhark	Ilam	43	0	2	41
5.	Inгла Khola	Ilam	33	4	1	28
6.	Sisneri-Chhahare	Nuwakot	39	0	2	37
7.	Tadi Khola	Nuwakot	46	0	0	46
8.	Shikhar Kateri	Kavre	46	0	0	46
9.	Terso kulo	Kavre	33	0	0	33
10.	Parwanipur Kalinjor	Sarlahi	20	1	10	9
11.	Balan	Saptari	26	0	1	25
12.	Shahutar	Sankhuwasabha	10	1	2	7
13.	Chharchhare	Solukhumbu	19	1	5	13

Source: CMIASP consultants. List of Resettlement Plans. 2013.

* calculated as a percent of only that land parcel(s) through which the canal alignment passes.

10. While the quantum of land donated is measured against the total landholding size of a donor household, the ground reality is that no farmer would be so transparent to declare his/her total landholdings in the country, and provide evidence of his/her landownership certificates for verification. Hence, upon consultation with project staff and consultants it was agreed that land donated would be measured as a percent of the donor household's total landholding in the command area.

11. To determine land loss against the *total landholding in the command area* three subprojects for which data were available was reviewed. The quantum of land donated by two marginal farmers was measured against their total landholdings in the command area. The percentage of land donated by a *Dalit* and a *Brahmin* beneficiary each was 3.2% and 3.9% respectively, less than the threshold of 10% land loss (Table 2).

12. Compensatory measures provided for land donors include targeted assistance to *Dalits* and women-headed households. These include exemption from WUA contribution, employment opportunities to at least one family member in construction activities, provision of training, and priority access to water. To date, no issues related to resettlement operations have been reported.

Table 2. Voluntary Donation of Land as a % of Total Landholding in the Command Area

No	Name of Subproject	No & name of beneficiary donating >10% land*	Category		Total land in CA (ha)	Remarks
			IP/Janajati**	Caste		
1	Akhuwa Asine Bhojpur	1. Ramesh K Pradhan	Advanced		2.85	Less than 10%
		2. Lila Bd. Pradhan	Advanced		2.34	Less than 10%
		3. Tek Bd. Pradhan	Advanced		0.97	Less than 10%
		4. Min Bd. Pradhan	Advanced		1.02	Less than 10%
		5. Bishnu Sarki		<i>Dalit</i>	0.97	donated 3.2% of total land in command area
2	Shahutar, Sankhuwashabha	1. Devi Maya Adhakari		<i>Brahmin</i>	0.97	donated 3.9% of total land in command area
3	Chharchhare Sarlahi	1. Kamal Rai	Disadvantaged		--	Used HDPE during detail design, and hence donation of land was not required

*calculated as a percent of only that land parcel(s) through which the canal alignment passes.

** NFIN defined categories. 2002

Source. NGO reports and ISPMC.

13. The project expected WUA members and beneficiaries to form a Grievance Redress Committee (GRC) in each subproject under the chairmanship of VDC Secretary. However, in lieu of a GRC the WUA and IDD have taken on the responsibility to resolve conflict, if any.

14. The CMIASP experience evidences landowners voluntarily contributing the canal land in rehabilitation construction in recognition of benefits, such as priority access to irrigation water and increased land price.

15. Field visits by CMIASP-AF Project Preparation team to CMIASP sites, and discussions with WUA, IDD, DADO and men and women farmers demonstrate that voluntary contribution is an acceptable option when agreed to by the concerned persons and confirmed by a third party. Since all required land acquisition will be strictly under voluntary land donation there is no issue of triggering the IR policy, and no need for preparing any resettlement plans. There is also no need to separately categorize each subproject for the IR safeguard. Due diligence will be conducted in line with the following voluntary land donation framework (VLDF) for the CMIASP-AF.

B. Voluntary Land Donation Framework

1. Scope

16. The project will undertake medium farmer managed irrigation systems with no resettlement or involuntary land acquisition. It is categorized as C for the IR safeguard. The proposed subprojects will be screened for the IR impacts and only those that qualify to be

category C will be shortlisted. The subproject selection criteria require that the subproject is demanded by a community. Communities must submit applications for project benefits and indicate in their applications that they will voluntarily donate any necessary small parcels of land for rehabilitating irrigation infrastructure. By doing so, they become primary beneficiaries of enhanced water availability.

2. Due Diligence

17. The voluntary land donation due diligence will be documented in the subproject preparation report (SPPR) and will incorporate at a minimum the following:

- (i) Verification and documentation that land required for the project is given voluntarily and the land to be donated is free from any dispute on ownership or any other encumbrances;
- (i) Verification that if more than 10% of agricultural land holding within the command area is donated the WUAs have negotiated livelihood restitution measures with the beneficiary land donors;
- (ii) Verification that land donation will not displace tenants or bonded labor, if any, from the land;
- (iii) Verification that land donated is not land used by indigenous peoples either traditionally or customarily;
- (iv) Meaningful consultation has been conducted with all potential landowners who may have to donate their land for irrigation subproject improvement. Documented verification that landowners donating land are in agreement with the subproject benefits. Separate discussions to be held with women and minority ethnic groups as required to facilitate meaningful participation; and
- (v) Assurance that a fair system of grievance redress, as well as a system for project monitoring and reporting is operational.

3. Documentation

18. The Irrigation Development Division or Irrigation Development Subdivision (IDD) will screen for the IR safeguard during Scheme Verification by completing the land acquisition and resettlement (LAR) screening checklist (Annex1). Where subproject improvement requires canal extension or widening, IDD will document the voluntary land donation due diligence in each subproject preparation report (SPPR) that requires donation of private land. They will ensure completion of the written consent form for land donation (Annex 2). The donation will be verified by a representative of the ward or village development committee (VDC) and IDD to ensure that the land was voluntarily donated without any form of duress. The voluntary land donation due diligence information will be verified during scheme detailed design and updated as necessary.

4. Voluntary Land Donation Monitoring

19. Voluntary land donation issues will be monitored by the VDC, Department of Irrigation (through the Project Director and with support of the project implementation and management support consultants) and the Asian Development Bank (ADB) periodically through reviewing the land donation agreement forms and randomly interviewing the landowners who have donated land. During review missions, ADB will verify that land donation due diligence has been conducted in accordance with the above procedures.

5. Grievance Redress Mechanism

20. Anticipated grievances may relate to coercion for land donation or donation of more than 10% of one's agricultural land holding within the command area, leading to

impoverishment. A Grievance Redress Mechanism (GRC) will be established in each subproject area to receive, evaluate, and facilitate resolution of affected people's concerns, complaints, and grievances about the social and environmental performance of the project. Each GRC will be chaired by the relevant IDD chief. Members comprise two WUA representatives (a male and a female), the assigned IDD engineer, a member of the ward citizen's advisory group, and an elderly person from the subproject area (as independent member). The GRC can invite others to participate in its discussions as appropriate to the case.

21. The social mobilizer (consultant) assigned to the subproject will be responsible to form the GRC and advise subproject residents of its existence. A complainant can register grievances in the "grievance register book" kept in the WUA office. The register will document (i) date of grievance registered, (ii) name/address of complainant, and (iii) nature of grievance. The GRC will prepare a written assessment that describes the complaint and confirms whether the grievance is genuine. A response on the matter will be provided to the complainant within 7 days by the GRC. In case the GRC is unable to resolve the issue in 7 days, the matter will be forwarded to the office of chief district officer (CDO), who will investigate, assess and resolve the issue within 30 days of receiving the grievance. The corrective action will be carried out as agreed and documented in the grievance register book. The outcome shall also form part of the progress reports to ADB. During the entire process, the alternative to appeal at court will remain open if the complainant wishes. The details and information on use of this grievance redress mechanism will be communicated to the local stakeholders by social mobilizers and community organizers working in the subproject area.

ANNEX 1. VOLUNTARY LAND DONATION SCREENING CHECKLIST

Name of Subproject	Region		
District			
Brief description of the proposed subproject			
1. Screening questions			
Likely Effects	Yes	No	Remarks
Will the subproject require widening or extension of the existing farmer managed irrigation system?			
Is the ownership status of land known?			
Is the current usage of land to be acquired known?			
Will there be loss of crops and/or trees?			If yes, how much loss (%)?
Will there be loss of incomes and livelihoods?			If yes, how much loss (%)?
2. Information on the Beneficiary Households			
What is the estimated number of households likely to voluntarily donate land?			
What is the estimated number of households who may be required to donate more than 10% of agricultural landholding within the command area?			
What is the estimated number of female headed households who may donate land?			
What is the estimated number of <i>Dalit</i> households who may donate land?			
3. Assessment based on the foregoing identification of impacts	Yes	No	IR Category
Are the beneficiaries willing to donate land voluntarily? (If YES conduct due diligence as per the Voluntary Land Donation Framework)	X		C: Due diligence required.
Will the subproject involve involuntary land acquisition (If YES the subproject is dropped)	X		A or B : Selection criteria not met.

*No involuntary resettlement (IR) impacts

