

Resettlement Framework

**Supplementary Appendix To The
Report And Recommendation Of The President
to the Board of Directors**

on the

Community Managed Irrigated Agriculture Sector Project

in

NEPAL

Ministry of Water Resources

**This report was prepared by the Borrower
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ACRONYMS

ADB	Asian Development Bank
AO	Association Organizer
BS	Bikram Sambat (Nepali Calendar)
CBO	Community Based Organization
CDO	Chief District Officer
CMIASP	Community Managed Irrigated Agriculture Sector Project
CPMO	Central Project Management Office
DADO	District Agriculture Development Office
DDC	District Development Committee
DOA	Department of Agriculture
DOI	Department of Irrigation
EA	Executing Agency
FMIS	Farmer Managed Irrigation Systems
ha	Hectare
HH	Households
HMGN	His Majesty's Government of Nepal
IDD/IDSD	Irrigation Development Division/ Irrigation Development Subdivision
IPP	Indigenous Peoples Plan
ISP	Irrigation Sector Project
M&E	Monitoring and Evaluation
MIS	Management Information System
MOA	Memorandum of Agreement
MPMU	Mobile /Local Project Management Units
NGO	Non-government Organization
O&M	Operation and Maintenance
PAP	Project Affected Person/People
RPSU	Regional Project Support Unit
SMU	Subproject Management Unit
SPAP	Significantly Project Affected Person
RF	Resettlement Framework
RP	Resettlement Plan
Rs	Rupees
VDC	Village Development Committee
WUA	Water User's Association

Community Managed Irrigated Agriculture Sector Project

Resettlement Framework

A. Introduction

1. This Resettlement Framework (RF) has been prepared for the Community Managed Irrigated Agriculture Sector Project (CMIASP) as required under ADB policy for sector lending. The RF outlines the policy and procedures for preparation of the subprojects under the Project. The EA will be responsible for undertaking social analysis, and preparing a resettlement plan for each subproject in line with this RF and submit to ADB for review and approval prior to award of the civil works contract for the respective subprojects.

B. Definitions

2. The definitions of the key terminologies or concepts used in the RF are as follows:

- a) Land Acquisition means the process whereby land and properties are acquired for the purpose of the project construction.
- b) Compensation means payment in cash or in kind of the replacement value of the acquired property.
- c) Grievances Resolution Committee means the committee established under each sub-project to resolve the local grievances.
- e) Project Affected Person (PAP) the affected person includes any people including encroachers/ squatters, households, or firms who, on account of changes that result from the project will have their (i) standard of living adversely affected; and/or (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adverse affected, in full or in part, permanently or temporarily.
- f) Significantly Project Affected Person (SPAP) means those PAPs who lose 10 percent or more of their total land or income.
- g) Replacement Cost means the method of valuing assets to replace the loss at market value before the project or dispossession, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs.
- h) Resettlement means all the measures taken to mitigate all or any adverse impacts of the project on the PAPs property and/or livelihoods including compensation, relocation (where relevant), and rehabilitation.
- i) Relocation means the physical relocation of PAPs from their pre-project place of residence.
- j) Rehabilitation means the measures provided under the resettlement plan other than payment of the compensation of acquired property.
- k) Baseline Surveys mean two types of surveys that are conducted early in the resettlement planning process: (a) a census of all affected persons and assets, and (b) a survey of the socio-economic conditions of the affected persons.

C. Project Description

3. The proposed Project under the Department of Irrigation of His Majesty's Government of Nepal aims to reduce poverty through water resources development interventions and sustainable socio-economic growth for small-scale marginal farmers and disadvantaged groups (women, ethnic minorities, castes and other underprivileged people) by means of improved irrigated agriculture performance, focusing on the farmer-managed irrigation systems (FMIS), which have been traditionally developed, operated and maintained by farmers. Specific project objectives are (i) improved agriculture production performance for FMIS, (ii) improved efficiencies in capital investments in irrigated agriculture, (iii) improved efficiencies in the delivery and quality of irrigation development and agriculture services to small-scale farmers and disadvantaged groups through improved institutional interactions, (iv) improved incomes for small-scale farmers and disadvantaged groups, and (v) establishment of sustainable land-use technologies through improved extension and project designs. The project will be focused in the central and eastern regions of Nepal (which includes 35 districts) and in the unique geographical regions of the Tarai, Hills, Churia and the Mountains. The total population of the Central and Eastern Regions is 10.66 million, of which 8.9 million are rural inhabitants. The project will generate positive impact on the farming activities and agricultural livelihoods of 46,000 households, representing a total population of 300,000.

D. Scope of Land Acquisition and Resettlement

4. The Project's infrastructure component primarily includes improvements to existing FMIS. The scope of land acquisition is very limited. A minimal strip of land acquisition is envisaged for widening and/or extending existing canals. The construction activities may involve use of some land for temporary purposes, such as quarry sites, storage of construction material, and housing for laborers. The construction activities may also cause unexpected damages to the local properties, if they are not properly implemented.

5. The PPTA study, which was carried out in accordance with ADB's procedures for sector lending, shows that in the 3 sample subprojects having a total proposed command area of 569ha only, 0.77ha of land is needed to expand the command area, which represent 2.5% of the farm plot area pass through by new canals.

Table 1: River Basins and Core Sub-Projects Selected for the PPTA Study

District	Name of Sub-Project	Command Area (ha)	River Basin
Mahottari (Terai)	1. Harinmari	255	Bighi Khola
Ilam (Hills)	1. Talkharka	210	Mai Khola
	2. Ingla Khola	104	Mai Khola
		569	

6. Based on the PPTA study, it is not expected that there would be any significant resettlement impact in the CMIASP subprojects. The farmers whose land will be lost due to the widening of the canal will also obtain substantial benefits from the subproject due to more stable water supply and reduced O&M burden. However, adequate safeguards are required under the project so that the affected farmers are not adversely affected, rather get benefits from the Project.

E. Existing Policy and Legal Frameworks

7. When there is land needed for any public purposes¹, the HMGN acquires land and other property based on the current legislation, namely, Land Acquisition Act of 1977 (2034 B.S.), subject to compensation to the affected persons. The compensation rate is determined by a Committee formed under the chairmanship of Chief District Officer of the respective district where project is located. However, FMIS have been historically developed by farmers' own efforts and land has been generally voluntarily contributed by the concerned beneficiary landowners because of the economic benefits of irrigation and increased value of land property from irrigation systems. Building on this practice, Nepal's Irrigation Policy of 2003 requires that it is WUA's responsibility to acquire the land required for the construction of canal and drainage network system; the value of the land is adjusted to their contribution amount required as per the Government's subsidy policy FMIS.² Therefore, the Land Acquisition Act 1977 does not apply for the CMIASP; the WUA should get such land from the concerned landowners on a "voluntary" basis, and provide compensation to the concerned landowner, if one declines to donate his/her land.

8. The existing policy/legal provisions are inadequate to meet the ADB's resettlement policy requirements. ADB's Policy requires to (i) make payment of compensation for acquired assets at the market/replacement value; and (iv) provide resettlement/rehabilitation assistance to affected people, including non-titled persons. Hence, this RF has tried to fill-in this gap by developing Project-specific resettlement principles and entitlement policies for the CMIASP.

F. Resettlement Policy and Strategies for CMIASP

9. The general resettlement objective are based on the ADB's resettlement policy, which are (i) to avoid resettlement impacts, where feasible; (ii) to minimize resettlement impacts by choosing alternative project options; and (iii) where resettlement impacts are unavoidable, to ensure that affected people receive assistance, under the project or otherwise, so that they will be at least as well off as they would have been in the absence of the project. In order to achieve these policy objectives, the sub-projects under the CMIASP will follow the following policies or strategies:

- a. Resettlement and land loss will be avoided or minimized by identifying possible alternative project designs, and appropriate social, economic, operational and engineering solutions opting for one that have the least impact to the people in the sub-project including encroachers/ squatters if any.
- b. All Project Affected Persons (PAPs) are entitled for compensation for their lost land and income generating assets. If affected property is under tenancy, both the landowners and tenants will be entitled for compensation and rehabilitation measures.
- c. The compensation rate is based on replacement cost determined through negotiations between the PAPs and the WUA, witnessed by third party NGO or VDC Chairperson.

¹ As per the Land Acquisition Act 1977, the term includes (i) projects approved by HMG; and (ii) projects undertaken by VDC, DDC and municipalities.

² As per the Irrigation Policy of 2003, the users have to contribute 3 to 15% of the cost according to average size of irrigated area and types of irrigation canal.

- d. Resettlement process will be conceived and executed as part of the Project; and, the full resettlement costs are included in the presentation of project costs and benefits at sub-project level. The cost of land compensation will be included under the WUA contribution; the costs for rehabilitation measures, and RP implementation and monitoring will be included under the HMG contribution or ADB loan, as appropriate.
- e. The PAPs who lose 10 percent or more of their total land or income will be classified as Significantly Project Affected Persons (SPAPs), and due attention will be given to restore the livelihood of the SPAPs through implementation of rehabilitation measures.
- f. Appropriate resettlement plan for each sub-project will be prepared by NGOs in conjunction with the project feasibility studies and detailed designs under the supervision and guidance of Mobile/Local Project Management Units (MPMUs). All affected landowners' agreement with WUA, witnessed by a third party NGO or VDC chairperson, will be attached to the RPs. Such RPs should be submitted to ADB for its concurrence before the sub-project is approved and/or Memorandum of Agreement is signed between the WUA and the Government.
- g. Those SPAPs and PAPs who provide land will also be given priority support under the project in terms of employment in construction works, and agricultural extension and social development programs.
- h. Consultation with the PAPs and concerned agencies will be done during preparation of the Resettlement Plan (RP). It is a part of the sub-project preparation, and its implementation is to be carried out with the participation and consultation of the PAPs. Construction activities will not be commenced until the required compensation to the PAPs by the concerned WUA has been fully completed.
- i. If the land is contributed voluntarily or rented to the WUA for use throughout the life of the Sub-project, then the PAPs will sign an agreement including "no coercion" clause witnessed by a neutral third-party NGO or VDC Chairperson.
- j. The Project's Resettlement Framework and any detailed Resettlement Plan for each Sub-project will be translated into Nepali and placed with the WUA and the local Project Office for the reference of all WUA members, and will be given to NGOs for discussion with participating farmers.

G. Entitlement and Compensation

10. For the CMISP, the resettlement and rehabilitation policy and entitlements are designed to cover compensation, resettlement, and rehabilitation for the lost assets in order to retain their pre-project living standards within a shortest possible time. A Compensation Entitlement Matrix, presented in Table 2, summarizes the typical types of loss that can be expected over a range of projects and the support entitled to a PAP for each type of loss.

Table 2: Compensation Entitlement Matrix

Type of Loss	Identification of Affected HHs	Entitlement	Results of Action
Loss of land and assets for the irrigation canals	Landowners and tenants	a) Owners of land and assets will get compensation at replacement cost determined through agreement between PAP and the WUA.	Owner gets cash compensation at replacement cost through agreement between the concerned PAP and the

Type of Loss	Identification of Affected HHs	Entitlement	Results of Action
		c) If there is tenant, he/she will get 50 % of the compensation and the other 50 % will go to the absentee landowner.	WUA.
Voluntary contribution of land by owner to WUA (with 'no coercion clause')	Landowners	Internal agreement between the landowner and the WUA with 'no coercion' clause witnessed by a neutral party i.e. NGO or VDC chairperson acceptable to the Project and the participating parties.	Compensation agreement such as a reduction in the PAP's contribution in the canal construction, and/or water fees to the PAPs for a stipulated time.
Loss of standing crops, trees, and perennial crops on the land acquired for the canal construction	Crop owners and others	a) Legal owners will get compensation at replacement cost/value as determined through agreement between PAP and the WUA. b) If there is tenant, he/she will get 50 percent of the compensation and the other 50 percent to the absentee landowner.	Cash compensation for lost assets.
Loss of community or common property	Structure owners or users	If such structures are identified during feasibility studies, resettlement plan shall include measures to avoid, mitigate or compensate impacts. If identified only during construction, compensation should be provided at replacement cost as determined by Grievances Resolution Committee.	Cash compensation provided for lost properties; and/or impacts are duly mitigated to such structures.
Temporary impact or damages during construction	Property owners and others	Extreme care will be taken by the EA or the contractor to avoid damaging property. If damage will occur, the EA or the contractor will be required to pay compensation to the PAPs or communities as determined by Grievances Resolution Committee	Owner(s) compensated if necessary for damage incurred.
Loss of land and income generating assets by non-titled persons	Users/owners of the property identified during the baseline survey	Those non-titled persons who have been using/owning the affected property will get compensation/assistance at replacement cost determined through agreement between the PAP and the WUA.	The affected non-titled affected persons get compensation at replacement cost.

H. Income Restoration and Rehabilitation Measures

11. Apart from the provision of compensation as outlined in the previous paragraph, the rehabilitation of SPAPs and vulnerable groups will be supported through the following measures:

- a) Counseling regarding project impact, compensation alternatives and risks and resettlement options (where required);
- b) Counseling on saving/credit schemes and management of compensation money;
- c) The Project will coordinate with the Department of Agriculture for agricultural extension services to the agricultural PAPs in order to increase production on their remaining

agricultural land. The PAPs will be among the first beneficiaries of the income generation program to be implemented under the CMIASP.

- d) PAPs and vulnerable groups, such as female headed households, poor people below the poverty line³, *Dalits* and ethnic minorities, will be given preferential access to project construction employment opportunities to the extent possible.
- e) Two members (1 male and 1 female) from each SPAP household will be provided with skills training so that they are employed in the construction-related jobs or self-employed. The PAPs will also given priority in skills development training conducted in the respective CMIASP sub-project.
- f) General information dissemination and counseling will be provided to all persons within the project areas to inform on project impacts, construction schedules and acquisition dates, valuation, compensation and grievance resolution mechanisms, and procedures for employment in the project construction works.

I. Preparation of Resettlement Plan at Sub-project Level

12. During the feasibility of each CMIASP sub-project, a screening will be done through social assessments to determine the category of the likely resettlement impact. The sub-project categories will be as follows.

- a. sub-project with “significant” resettlement impact⁴ will be Category A and require full resettlement plan;
- b. sub-project with “insignificant” resettlement impact will be Category B and require short RP; and
- c. sub-project with no resettlement effects will be Category C and will not require any resettlement plan.

13. During the detailed design study of the sub projects, the WUA and NGOs under supervision and guidance of Subproject Management Unit (SMU) will prepare appropriate short or full resettlement plans based on social assessments and other social mobilization activities, technical surveys and designs and a review of land cadastral maps.

14. Prior to preparation of the RPs, a baseline survey will be carried out in the sub-projects. For land inventory surveys, a 100 percent sample of PAPs will be undertaken to prepare a profile by identifying the extent and effects of land loss; assess entitlements; and to prepare compensation packages. Similarly, a socio-economic survey of at least 20 percent sample PAPs will be conducted in order to identify the status and key issues of land use; type of losses; PAPs preference for compensation, and livelihood restoration; and so on.

15. SMU through local firms engaged for the feasibility studies, will undertake land survey and social impact assessment of the land to be arranged for each subproject. Sample formats in Nepali and /or other local languages can be provided to the WUAs by CMIASP that include all necessary clauses as well as space for the specifics of individual negotiations between individual PAPs and the WUA. SMU will be assisted by the NGO to prepare RP by facilitating

³ Nepal (the Government) has officially adopted a definition of poverty expressed in terms of consumption expenditure. The poverty line is defined in terms of the value of an annual per capita consumption level considered just sufficient to assure 2,124 calories per person/day, plus non-essential non-food items. This is equivalent to Rs 6,100.

⁴ “Significant” impacts means 200 or more people (**Not households**) experience major impacts, which are defined as (i) physically displaced from housing, or (i) losing 10% or more of their productive assets.

the discussion between WUA and the affected persons to reach agreements on the land arrangements with presence of the third party witness.

16. WUA will deposit sufficient upfront cash required for land compensation prior to the Government approval of the detailed design so that affected people are compensated before awarding of civil works contract(s) for the sub-project. The slip of the bank deposit of such upfront cash will also be attached in the resettlement plan.

17. Completed resettlement plans will also include signed agreements by all PAPs. The signed copies of the agreement will also be entered into the WUA minute book, another copy will be given to the concerned PAP; the NGO will report to the Mobile Project Management Unit (MPMU) in Regional Project Support Unit (RPSU) who will maintain records of these transaction in their management information system (MIS).

18. The final draft resettlement plans will be submitted along with detailed designs for final review and approval by Central Project Management Office (CPMO). All agreements will be reviewed by CMIASP at the district level. Copies of all agreements will be retained by CMIASP at the district level and general data about the number and types of agreements will be tracked and recorded under project level MIS.

19. The final RP will be submitted to ADB for approval, based on which the RP will be implemented by WUA with the facilitation by the NGO. PIC will supervise and monitor the activities undertaken by WUA, NGO, SMU, and RPSU with necessary capacity development support.

J. Institutional Responsibilities

20. The Project Director (PD) of CMISP, placed in the Central Project Management Office (CPMO) in DOI, has overall institutional responsibility for coordination, planning, implementation and financial responsibilities. The PD will guide, supervise and report on the progress in the project and will handle land acquisition issues requiring and coordination at the Central level. Under the guidance of CPMO, Regional Project Support Unit (RPSU) will be placed in each development region, with the head of the Regional Irrigation Directorate as Project Manager (PM), who will supervise the activities undertaken at the level of the Irrigation Development Division/ Irrigation Development Subdivision (IDD/IDSD). A Resettlement Specialist (with prior experience in resettlement planning and management) will be hired for each region under the team of consultants working for institutional strengthening and project management, and work under the PM to supervise the process of social assessment, and preparation of resettlement plan for each sub-project to be done by firms engaged in feasibility study.

21. At each sub-project level, a multi-disciplinary Sub-project Management Unit (SMU) will be assigned for the concerned district, which will identify, plan, design, and implement the subproject under supervision of the head of Irrigation Development Division who will work as Sub-project Manager (SM). A NGO in each SMU will be assigned for that task of resettlement-related activities, with the supervision of Resettlement Specialist.

22. NGOs will involve in resettlement planning and implementation at sub-project level, particularly to inform affected people about likely resettlement impacts and solicit views of the affected people regarding compensation options. NGOs will also facilitate compensation and rehabilitation process/programs to make sure that the affected people are not adversely impacted, and their well-being is maintained or developed with the sub-project implementation as without it.

K. Disclosure of Documents, Consultation and Grievance

23. Resettlement Framework and resettlement plans for core sub-projects will be cleared by the EA and disclosed to the public before submitting them to ADB. ADB will post these documents in the ADB's resettlement web site. The RF and RPs will also be publicly available in Project Information Center, which will be set up at both central and regional/district level project offices. Further, summary resettlement plan in Nepali language will be made available in the WUA office in the sub-project site. Copies of these documents will be provided to any requester, including PAPs and NGOs, with charging them with minimum photocopying cost.

24. Resettlement plan for each sub-project will be prepared in close consultation with PAPs and designated WUA members, along with an acceptable third-party/witness such as VDC Chairperson or a separate NGO. The agreement of all PAPs on the RP will be assured through written agreement before the RPs are finalized. Construction activities will not be commenced until agreements have been made, finalized and required compensation have been paid to the concerned PAPs.

25. The resettlement plan to be developed in each sub-project will identify primary and secondary stakeholders. The primary stakeholders include the project affected, the beneficiaries, and stakeholders directly involved in the resettlement planning and implementation. The secondary stakeholders include other individuals or groups with interest in the project, such as local or national government, policy makers, advocacy groups, elected officials and NGOs. Various mechanisms will be adopted to increase the process of consultation and participation by the PAPs and SPAPs, such as information campaigns, meetings, and focused group discussions.

26. For grievance redress, a Grievance Resolution Committee will be established in each sub-project under the chairmanship of VDC Chairperson; other members of the committee will be two representatives of PAPs (one men and one women), WUA chairperson, NGO representative, and representative from the Project. The PAPs may submit their concerns or grievances verbally or in writing to this Committee. All complaints/grievances will be documented properly by the Committee. The Committee shall make field-based assessment to verify/examine the grievances, if necessary. After proper examination/verification of the grievances the Committee shall facilitate the Project/IDD, WUA, PAPs and other concerned parties to agree on a time-bound action plan to resolve the grievance that found to be genuine. Attempts will be made to settle the issues at the sub-project level through involvement of social and resettlement experts, NGOs, mediators and facilitators as required.

L. Implementation Schedule

27. The schedule for RP preparation and implementation is shown in the table below. Civil works contract will not be awarded unless required compensation payment has been completed substantially. However, income rehabilitation measures may continue and be completed even after civil works has begun. Upon the final selection of the sub-projects and completion of detailed design, the following activities will be followed for the revision of RP:

Table 3. Schedule for RP Preparation/Implementation

SN	Activities	Time/Period
1	Appoint resettlement specialist and NGOs	First month of project implementation.
2	Undertake consultation and participation programs and grievance redresses	To be carried out through the duration of the Project.
3	Carry out baseline surveys, including census, asset inventory and detailed measurement survey	Immediate after the detailed design.

SN	Activities	Time/Period
	Disclose RF and RPs	Before submitting to ADB.
5	Finalize RP and obtain ADB concurrence	Before approval of the civil works contract.
6	Compensation payment to PAPs	After ADB approval; before award of construction contracts.
7	Submit RP implementation report confirming completion of land acquisition and resettlement activities in order to approve issuance of notice to proceed for civil works from ADB	Before issuance of notice to proceed.
8	Implement monitoring and post-evaluation programs	Internal monitoring to be carried out throughout the duration of the Project. External monitoring will be engaged as early as resettlement implementation.

M. Monitoring and Evaluation

28. As a part of the resettlement management system, CPMO will set up appropriate reporting, monitoring and evaluation system disaggregated by gender and ethnicity/caste. The AO in SMU, with the assistance of the NGO and support by Resettlement Specialist in RPSU will report every month on resettlement transactions to the CPMO. SMU will maintain a record of all transactions in their MIS. Internal monitoring will be carried out every month to: (i) verify that there are no outstanding or unresolved land acquisition issues with the project and that property valuation and economic rehabilitation has been carried out in accordance with the provisions of the plan; (ii) oversee that all economic rehabilitation measures are implemented, as approved; and (iii) verify that funds for implementing land acquisition and economic rehabilitation activities are available in a timely manner, are sufficient for the purposes, and are spent in accordance with the plan. The Project will prepare quarterly and annual reports on resettlement and submit to ADB. At the end of the Project, a final inspection report will be prepared and submitted to ADB. The scope and format of such inspection report will be agreed between the Government and ADB.

29. In addition to verifying the reports generated by internal monitoring, an external monitoring and evaluation agency, preferably NGO, having sufficient skills and capacity in monitoring resettlement and social development activities will also be assigned to carry out external monitoring and evaluation works as: (i) evaluating the social and economic impact of land acquisition and economic rehabilitation of the PAPs; (ii) verifying that the objective of enhancement or at least restoration of income levels and standard of living of the PAPs have been met; and (iii) suggesting modifications to the land acquisition and economic rehabilitation, where necessary, to achieve the principles and objectives as set before. Such external monitoring will be carried out on an annual basis throughout the Project period, and the external agency will directly report their findings both to the DOI and the ADB.

N. Resettlement Cost

30. The cost of land compensation will be borne by the WUA as a part of agreement between the PAPs and the WUA. If WUA has no initial funding to bear the compensation cost, then the Executing Agency or HMG will bear the compensation and will be deducted from the contribution to be made by the HMG as irrigation subsidy to the WUA later on.

31. Cost for following activities will be provided by the Project (HMG fund or ADB loan, as appropriate):

- a. Cost for staff and NGOs assigned for preparation, implementation and monitoring of resettlement plans (to be included in the consultancy services)
- b. Skills training and income generation activities (it may come out of agriculture extension budget).