

**KYRGYZ REPUBLIC**  
**MINISTRY OF EMERGENCY SITUATIONS**

**PROJECT:**  
**ENHANCING RESILIENCE IN KYRGYZSTAN**  
**(ERIK PROJECT)**

**RESETTLEMENT POLICY FRAMEWORK**  
**(RPF)**

**(enlarged edition)**

Bishkek

March 2020

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## ABBREVIATIONS AND DEFINITIONS

WB	World Bank
JK	Jogorku Kenesh
KR	Kyrgyz Republic
PAP	Project Affected Person
IDA	International Development Association
GRM	Grievance Redress Mechanism
OM	Operational Manual
LSGB	Local Self-Government Body
PIU	Project Implementation Unit
IoL	Inventory of Losses
RAP	Resettlement Action Plan
DED	Design and estimate documentation
RPF	Resettlement Policy Framework
Involuntary Resettlement	<p>The involuntary taking of land resulting in direct or indirect economic and social impacts caused by:</p> <ul style="list-style-type: none"><li>a) Loss of benefits from use of such land;</li><li>b) relocation or loss of shelter;</li><li>c) loss of assets or access to assets; or</li><li>d) loss of income sources or means of livelihood, whether or not the PAP has to move to another location.</li></ul>
Cut-off date	<p>Date of commencement of registry or census that serves as the eligible cut –off date to prevent any further invaders or other persons willing to take advantage of benefits. The cut-off date will be the date of commencement of census.</p>
Compensation	<p>The payment in kind or in cash given in exchange for the assets to be acquired under the project.</p>
Census	<p>Count of the population affected by the Project including collation of demographic and property information. This will identify and determine the number of Project Affected Persons (PAPs) and the nature and levels of impact.</p>
Resettlement Action Plan( RAP)	<p>A resettlement document to be prepared when the project locations are identified. RAPs contain specific and legally binding requirements to be abided by to resettle and compensate PAPs before implementation of the Project activities.</p>

Resettlement Assistance	the measures to ensure that the Project Affected Persons who may require to be physically relocated are provided with assistance such as moving allowances, housing construction or rentals whichever is feasible and as required, for ease of resettlement during relocation.
Replacement Cost	<p>It is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. Replacement cost for land plots is equal to the market value of land with equivalent potential land capacity or use capacity located near the affected land plus the costs for registration of land ownership, use and transfer. Replacement value for buildings and structures is equal to the market value of materials to be required for construction of replacing structure equal in location and quality or better than the affected structure or repair of the partially affected structure plus costs of the delivery of construction materials to the construction site, plus the cost of contractors' work, plus the fees for registration and re-registration of ownership rights. The depreciation of facilities or the cost of usable materials is not taken into account.</p> <p>Where domestic law does not meet the standard of compensation at the full replacement cost, the compensation under the domestic law is supplemented by additional measures necessary to meet the replacement cost standard.</p> <p>All those who (as a rule, by objective reasons) are not able to earn enough to be able to provide themselves and their family with the necessary living standard. For example, under-age or old people, people with disabilities, as well as those who experience particular challenges in job-hunting. These include people with large families or lone-parent families; refugees; ex-prisoners.</p>
Vulnerable population groups	
Economic rehabilitation assistance	Provision of assistance in addition to compensation such as land preparation, training, or job placement, strengthening the PAPs' income earning capacity and production levels; or at least maintain them at pre-project levels.

## **Preamble**

One of the main goals of the National Development Strategy of the Kyrgyz Republic for 2018-2040 is to support economic prosperity, human resource development and regional development.

The Government of the Kyrgyz Republic has identified support for regional development as one of the key policy areas in the coming decades, and therefore has appealed to the World Bank to provide an opportunity to finance the Reconstruction of Schools Project.

As a result of negotiations, it was decided that the reconstruction of emergency schools will be carried out as part of additional funding for the current project “Enhancing Resilience in Kyrgyzstan” (ERIK) using the same institutional and implementation mechanisms.

Due to the fact that the main directions and activities of the ERIK project do not change and the changes concern only the number of schools covered by the project, the document on resettlement policy framework (RPF) also remains unchanged in essence and is supplemented only regarding the implementation of component 2 with the description of the scope of work foreseen in the project

## **1. INTRODUCTION**

### **1.1. BACKGROUND**

The Kyrgyz Republic is a sovereign multinational state located in the center of the Eurasian continent on the high land mountain ranges of Tien-Shan and Pamir-Altai between 39° and 43° of the northern latitude and 69° - 80° of the east longitude. The total length of the borderline of the Kyrgyz Republic is 4,508 kilometers. On the north, west and south the Kyrgyz Republic borders on the Republic of Kazakhstan (1,113 km), the Republic of Uzbekistan (1,374 km) and the Republic of Tajikistan (972 km); on the east and south-east it borders on the People’s Republic of China (1,049 km).

The Kyrgyz Republic consists of 7 oblasts, 40 raions, 31 towns, 453 Aiyi Aimaks (rural municipal areas) and 1855 villages. The population density in average is 30 people per 1 square kilometer. The area of the Kyrgyz Republic is 199.9 thousand square kilometers. Almost 90% of the territory is located over 1,500 meters above the sea level. The highest point is the Victory Peak (7,439 m). The resident population of the Kyrgyz Republic as of January 1, 2015 constituted 5 mln 895.1 thousand people, 49.5% of them being male and 50.5% - female population. Since November 26, 2015 the population of the country reached 6 mln people/ Over one third of the population (33.7%) lives in urban areas and about two thirds (66.3) lives in rural areas. The most densely populated regions are Chui Oblast and Bishkek city- the capital of the state, where almost a third of the country’s total population (973.4 thousand people; over 80 people per 1 square kilometer) is concentrated. The Kyrgyz Republic is home to representatives of over 100 nationalities. The rather harsh extreme environmental conditions and high vulnerability of mountain ecosystems are specific features of Kyrgyzstan. The predominance of heavily dissected topography creates special conditions in the foothills, plains and valleys, where settlements are concentrated. According to bioclimatic zoning, 4 million people (79%) live in the area (17%) attributed to the comfort zone for life. 1 million (19%) live in the area (19%) of relative comfort or compensated comfort at an altitude of 1,500 to 2,200 meters. The remaining 2% of the population live at altitudes above 2,200 meters in conditions

of uncompensated bioclimatic comfort. Since acquiring independence in 1991, the poverty level decreased from 64% in 2003 to 31.7% in 2008. Compared to 2011, the poverty rate decreased from 36.8% to 30.6% in 2014. Nonetheless, economic, political and climatic factors, including frequent floods, mudflows, droughts,

earthquakes impact the positive trend in poverty alleviation. The Gross Domestic Product (GDP) in 2014 constituted 400694,0 mln KGS, equaling to 71.2 thousand KGS per capita.<sup>1</sup>

## 1.2 PROJECT DESCRIPTION

The goal of the Enhancing Resilience in Kyrgyzstan Project (ERIK) is to support the Government of the Kyrgyz Republic in strengthening its capacity to manage the natural disaster risks.

The Project includes the following components: (1) Strengthening disaster preparedness and response systems; (2) Improving safety and functionality of schools and preschool education facilities as part of the State Program on Safer School and Pre-School Facilities in the Kyrgyz Republic for 2015-2024; (3) Strengthening catastrophe risk insurance and financial protection against natural hazards; (4) Project management and monitoring and evaluation; and (5) The Contingent Emergency Response Component (CERC) to provide immediate and effective response in the event of an Eligible Crisis or Emergency.

**Component 1. Strengthening Disaster Preparedness and Response Systems** The preliminary budget is 3-4 mln. USD (The Ministry of Emergency Situations of the Kyrgyz Republic (MoES)).

The objective of this component is to strengthen the disaster preparedness and response systems of the MoES. Some investment activities proposed by the MoES during the mission include:

- *Crisis Management Systems*: expansion of the existing crisis management systems to cover the whole country, including functions of unified disaster information management, warning and notification, and emergency call and dispatch services.
- *Department of Hazard Monitoring and Forecasting*: establishment of mobile monitoring units, development of the web-portal for collections of information on disaster monitoring flowing from different bodies and agencies, and etc.
- *Fire and Rescue Services*: Equipping the fire and rescue units with relevant search and rescue equipment and gears.
- *Training and Re-Training Center*: improvement of training quality and outreach by introducing new training bases and distant learning system.

**Component 2. Improving safety of school infrastructure** with the preliminary budget of 12-13 mln. USD. (Ministry of Education and Science of the Kyrgyz Republic and the State Agency for Architecture, Construction and Housing and Communal Services under the Government of the Kyrgyz Republic).

The objective of this component is to improve the safety of school infrastructure by implementing the State Program on Safer Schools. This will be achieved by: (i) reconstruction and retrofitting interventions to reduce the risk of prioritized educational facilities to earthquakes; (ii) Enhancing energy efficiency and functionality and learning environment in prioritized educational facilities; and (iii) establishing a management information system for systematic asset and infrastructure management, and monitoring of the program implementation.

As part of the main project, 10 schools were selected. Additional funding provides for the allocation of funds in the amount of 70 million US dollars under this component that will further improve the safety of infrastructure in more than 50 schools through the implementation of the State Program on Safer School and Pre-School Facilities in the Kyrgyz Republic.

State bodies responsible for the implementation of additional financing are the Ministry of Education and Science of the Kyrgyz Republic and the State Agency for Architecture, Construction and Communal Services under the Government of the Kyrgyz Republic.

This goal will be achieved through the following: (i) reconstruction and / or modernization in order to reduce the seismic risk of selected educational institutions; (ii) improving energy efficiency and functionality, and learning conditions in selected educational institutions; and (iii) creating an information system for the

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<sup>1</sup> THE NATIONAL REPORT ON THE STATE OF THE ENVIRONMENT OF THE KYRGYZ REPUBLIC FOR 2011-2014. Approved by the Decree of the Government of the Kyrgyz Republic # 549-p dated December 2016.

systematic management of assets and infrastructure, and monitoring the implementation of the program. The use of additional funds will be carried out with the preservation of goals, methods of implementation of the current project.

**Component 3. Enhancing Financial Protection** Budget - 2-3 mln USD. (State Service for Regulation and Oversight of the Financial Market under the Government of the Kyrgyz Republic)

The overall goal of Component 3 is to support the catastrophe insurance in the Kyrgyz Republic. It will be done through a two-fold objective to increase insurance penetration and improve the capacity of the State Insurance Organization to operate without reliance on government funding by means of improving its insurance operations and risk transfer to the global reinsurance markets – both will lead to reducing the fiscal burden on the government in the aftermath of natural hazards through reducing homeowners' dependence on the governmental financial aid.

**Component 4. Project Management and Monitoring & Evaluation** with 1 mln USD budget. (Ministry of Emergency Situations of the Kyrgyz Republic).

The objective of this component is to support the PIU and the respective agencies in the implementation of the project activities in efficient and transparent manner, and build the institutional capacity to sustain the implementation of the project beyond the life of the project. The component will cover technical, safeguards and fiduciary support for project implementation, and project management support, including monitoring and evaluation and reporting.

**Component 5. Contingent Emergency Response Component (CERC).** (Ministry of Finance of the Kyrgyz Republic).

This component will allow for a reallocation of credit proceeds from other components to provide emergency recovery and reconstruction support following an eligible crisis or emergency. Once triggered, the contingent funds can be mobilized following procedures of the World Bank's Policies on Rapid Response to Crises and Emergencies, which minimize upfront processing steps and the fiduciary and the safeguards requirements.

### **1.3. JUSTIFICATION FOR DEVELOPMENT OF THE RESETTLEMENT POLICY FRAMEWORK AND ITS SCOPE**

The Component 2 "Improved Safety of School Infrastructure" will support reconstruction and retrofitting of prioritized educational facilities to reduce the risk to earthquakes, to increase their energy efficiency and functionality and to improve the learning environment there. These activities will include general construction, reconstruction works on the existing buildings.

The support of the project to ensure the safety and better learning environment for children is stipulated by the Article 45 of the Constitution of the Kyrgyz Republic on the Right of every citizen to free general secondary education, which is reflected in the law "On Education", where the State guarantees this right and creates "the necessary socio-economic conditions ". This means that the State has committed itself to build and repair schools.

Therefore, every educational organization should provide for three levels of safety for children- physical safety, safety against the risks of natural and anthropogenic disasters, and safety of engineering systems. The functional safety shows how the educational organization is prepared to minimize and mitigate the impact of natural disasters.

According to the Ministry of Education and Science of the Kyrgyz Republic (Ministry of Education) there were 1296 pre-school institutions and 2236 secondary schools in the Kyrgyz Republic in 2016. Of these, 150 were located in Bishkek City, 67- in Osh City, 198- in Yssyk - Kul Oblast, 139- in Naryn Oblast, 528- in Osh Oblast, 323 - in Chui Oblast, 475- in Jalal - Abad Oblast, 240 – in Batken Oblast and 112 - in Talas Oblast.

According to the National Statistical Committee of the Kyrgyz Republic, the number of students in educational institutions has been steadily increasing over the past five years. For example, in 2012 there were 1 million 12 thousand 303 children, while in 2017 this number reached 1 million 175 thousand 780. Thus, with the current school student population equaling to 1 million 175 thousand 780 children, according to the Ministry of Education, the design capacity of all schools is to fit only 600 thousands students. This means that the general education system in the country is working with double load.

Moreover, many buildings of the educational institutions built in the Soviet times, are in emergency conditions and require reconstruction, major repairs and upgrades. The Component 2 of this project provides for these activities.

However, the precise scope of reconstruction works, as well as the list of selected schools, is not known yet. Information about the priorities and activities to be performed under this component will be known after selection and completion of design and estimate documentation (DED). That is when the impact of the project on the population or commercial entities will be known.

At this stage, we cannot exclude the possibility of land acquisition, restriction of access to the land or loss of assets by individuals or commercial entities affected by the project. These impacts are possible during reconstruction of the existing school buildings with the expansion of the buildings to build sports halls, canteens, boiler rooms, fencing around school playgrounds or other expansions.

This stipulates development of the RPF, which sets the key areas for development of relevant mitigation measures, including compensation for damages and to mitigate the impact of the land acquisition and resettlement caused by the projected activities, the exact locations of which are not known yet. RPF is applicable to the ERIK Project, which might entail such impacts as:

- (temporary or permanent) land acquisition;
- loss of assets or access to assets;
- loss of sources of income or means of livelihood, whether or not the PAP has to move to another location.

The RPF: (i) defines the scale of potential impacts (temporary or permanent) on the possible use of land by the project, access to the land, buildings / structures and sources of income; (ii) describes in detail the legal framework for land acquisition; (iii) determines the mechanisms of compensation or assistance, resettlement procedures, eligibility criteria for compensation to the resettled population, methods of assessment; (iv) specifies the compensation entitlements, describes the processes of implementation, disclosure, dissemination of information and consultation procedures; and (v) sets the grievance redress and monitoring arrangements.

The RPF will be used as a tool to determine whether there will be any impact resulting from project activities. It will be developed as a practical tool for preparation of the Resettlement Action Plans (RAPs) during implementation of the ERIK.

Key objectives of the RPF are:

- (i) to determine/identify, compensate and restore the PAPs' livelihood means;
- (ii) to serve as the basis in the process of preparation, updating, implementation and monitoring of the Project RAP.

RPF contains measures to ensure that the PAPs:

- (i) Are informed of their rights and resettlement options;
- (ii) Participate in consultations on compensation entitlements, have the right of choice and are provided with technically and economically feasible resettlement options;



- (iii) Are provided with the prompt and effective compensation at full cost of replacement <sup>2</sup> for the loss of assets related to implementation of the ERIK.

The RPF is developed on the following principles:

- To avoid or at least minimize the need for involuntary resettlement;
- PAPs, at a minimum, should be provided with adequate assistance to improve or at least to restore previous pre-project living conditions;
- PAPs should be fully informed and consulted on compensation options;
- Lack of the formal legal land title is not an obstacle to get compensation or alternative forms of assistance. PAPs without legal land title is entitled to receive compensation for the structures and other nonland assets.<sup>3</sup>
- Special attention during the resettlement process should be given to socially vulnerable groups of population, such as the ethnic minorities, female-headed households, the elderly, and so on, providing them with proper assistance to improve the standard of living;
- Compensations must be paid to PAPs at full cost of replacement<sup>4</sup>, without any deductions for other purposes.<sup>5</sup>

## 2. LEGAL FRAMEWORK

### 2.1 LAND ACQUISITION AND RESETTLEMENT IN THE KYRGYZ REPUBLIC

The main legal document regulating the citizen' rights for land is the **Constitution of the Kyrgyz Republic**. It stipulates that land can be under the state, municipal, private and other forms of ownership.

**Article 12** specifies as follows:

1. The variety of forms of ownership is recognized in the Kyrgyz Republic and equal protection thereof is guaranteed.
2. Property is inviolable. None can be arbitrarily deprived of his property. Expropriation of property against the will of the owner is possible only following a court decision.

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<sup>2</sup> WB OP 4.12, footnote 11, item 6(a) (iii); replacement cost for buildings and structures is equal to market value of materials to be required for construction of replacing structure equal in location and quality or better than the affected structure or repair of the partially affected structure plus costs of the delivery of construction materials to the construction site, plus the cost of contractors' work, plus the fees for registration and re-legalization of ownership rights. The depreciation of facilities or the cost of usable materials should not be taken into account as well as the value of benefits from the project implementation.

<sup>3</sup>OP 4.12 suggests the following three criteria for eligibility: (a) people who have formal land title, including land, traditional and religious rights recognized by the Kyrgyz legislation; (b) people who do not have formal legal rights to land at the time the project or census commences but who claim rights to such land or assets provided that such claims are recognized under the laws of Kyrgyzstan or become recognized through a process identified in the RAP; (c) people who have no recognizable legal rights or claim to the land they are occupying, using or getting their livelihood from before the cut-off date. Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF

<sup>4</sup> According to the OP 4.12 the replacement cost for land plots is equal to the market value of land with equivalent potential land capacity or use capacity located near the affected land plus the costs for land preparation to the condition similar to that of the affected land plot, plus the fees for registration and re-legalization of land ownership and use.

The replacement cost for buildings and structures is equal to market value of materials required for construction of a replacement structure similar in location and quality or better than the affected structure or repair of the partially affected structure plus costs of the delivery of construction materials to the construction site, plus the cost of contractors' work, plus the fees for registration and re-legalization of ownership rights. The depreciation of facilities or the cost of usable materials should not be taken into account as well as the value of benefits from the project implementation.

<sup>5</sup> Pursuant to the WB OP 4.12 the RPF stipulates "timely and efficient payment of compensations for all assets affected by the Project at their full replacement cost".

3. Land, sub-soil resources, air space, waters, and forests are an exclusive property of the Kyrgyz Republic; those are used for protection of the unified environmental system being a basis of life and livelihood of people of the Kyrgyz Republic and are under the special protection of the Government.
4. The extent and procedures used by owners to exercise their rights and ensure protection of those are regulated by the Law.

The articles of the **Land Code** of the Kyrgyz Republic<sup>6</sup> containing the most relevant issues on land use and land acquisition are listed below:

#### **Article 4. Ownership of Land**

1. In accordance with the Constitution of the Kyrgyz Republic, land can be under the state, communal, private or other forms of ownership.
2. State - owned land shall include lands allocated to the state land users, forest and water funds land, specially protected natural territories, reserve stock land; border areas, land owned by the State Fund of Agricultural Land, pastures of rural settlements, pastures in areas of intensive use, as well as distant pastures, and other lands not transferred to private or municipal ownership.  
State ownership shall also include lands of state livestock breeding, seed-growing, experimental farms, testing stations and areas, bases of agricultural education and scientific research institutions founded on the lands of the State Fund of Agricultural Land, except for the lands allocated as a land plots to the citizens living and working in the respective farms.

The State ownership right of land shall be exercised by the Government of the Kyrgyz Republic on the entire territory of the Republic and by the local state administrations within the jurisdiction established by the Code.

3. Lands within the borders of Aiyl Aimaks (AA) (Local executive bodies), cities belong to the municipal property, except for the lands in private and state ownership.

Management and disposal of municipal lands are exercised :

within the borders of Aiyl Aimaks - by the executive body local self-government;

within the borders of cities - by local self-government body;

Management of lands in the state ownership within the borders of AAs and cities shall be exercised by the bodies of local self-government in cases stipulated by this Code.

4. Pastures cannot be transferred to private ownership or lease.

#### **Article 7. Terms of utilization of land plots by land users**

1. The use of a land plot may be unlimited (without indication of term) or fixed-term (temporary).
2. The use of land limited in term up to 50 years is recognized as the fixed-term (temporary) use of the land plot, including that based on a lease agreement. After expiration of this term, the period of land use may be

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<sup>6</sup> As of June 2, 1999 # 45, in edition of the Laws of the Kyrgyz Republic # 93 dated December 28, 2000; # 2 as of January 4, 2001; # 3 as of January 4, 2001; # 30 as of March 12, 2001; # 78 as of May 11, 2002; # 36 as of February 17, 2003; # 123 as of July 9, 2003; # 227 as of December 5, 2003; # 77 as of June 23, 2004; # 15 as of February 7, 2005; # 40 as of February 28, 2005; # 67 as of June 4, 2005; # 7 as of January 20, 2006; # 126 as of July 25, 2006; # 217 as of December 28, 2006; #22 as of February 26, 2007; # 23 as of February 26, 2007; # 231 as of October 17, 2008; # 23 as of January 26, 2009; # 79 as of March 11, 2009; #79 as of March 11, 2009; #171 as of May 6, 2009; # 117 as of July 22, 2011; # 213 as of November 16, 2011, # 46 as of May 7, 2012 , # 159 as of June 2, 1999 , # 65 as of May 6, 2013, # 73 as of May 16, 2013, # 120 as of July 9, 2013, # 143 as of July 15, 2013, # 201 as of November 15, 2013, # 134 as of July 14, 2014, # 144 as of July 18, 2014, # 131 as of June 17, 2015, # 132 as of June 17, 2015, # 134 as of June 17, 2015, # 142 as of July 2, 2015, # 181 as of July 20, 2015, # 198 as of July 28, 2015, # 80 as of June 14, 2016, # 84 as of June 22, 2016, # 137 as of July 25, 2016.

extended following the mutual agreement of parties.

3. Land plots shall be provided to foreign individuals for fixed-term (temporary) use only.
4. As a rule, agricultural land of the State Agricultural Land Fund shall be granted for lease for the period of not less than 5 years.

**Article 35. Transfer of a land plot. Payment for transfer of a land plot** (abstract from the Article)

1. The owner of a land plot or the land user may transfer his/her right to the land plot fully or partially to another individual or legal entity without any permission of state agencies unless otherwise provided by this Code, other legislative acts of the Kyrgyz Republic, and conditions of allocation of the land plot.
2. Upon transfer of the right to land plot by the owner or the land user to another individual or legal entity the amount of payment for land plot shall be determined by the agreement of parties.

**Article 53. Establishment of an easement**

1. An easement may be established by the agreement of parties (voluntary easement) or, if necessary, by the decision of an authorized agency (involuntary easement).
2. Encumbrance of land with an easement shall not deprive the land owner or the land user of the right to use and dispose of the land plot.

**Article 56. Purposes of establishment of an involuntary easement**

1. In cases provided by this Code and other legislation, an authorized agency may establish involuntary easement upon request of an interested party.
2. The involuntary easement shall be established to provide:
  - 1) access to a land plot if another access is impossible, extremely difficult, or requires incommensurate expenses;
  - 2) laying and operation of electric transmission lines, communications, water supply, heat supply, reclamation, and other needs that may not be provided without establishment of the involuntary easement.

**Article 57. Indemnification for losses related to establishment of the involuntary easement.** Payment for the involuntary easement **(abstract from the Article)**

1. Infliction of loss upon a land owner or land user by establishment of the involuntary easement shall be subject to indemnification by the person in whose interests the easement is established.

**Article 62. Termination of the title to a land plot**

The title to land plot shall terminate in the following cases:

- 1) alienation of the right to land plot to another person;
- 2) foreclosure of the land plot owned or used following the claims of creditors as prescribed in the legislation;
- 3) death of the land owner or the land user in the absence of heirs;
- 4) voluntary waiver of the rights to land plot by the land owner or the land user;
- 5) expiration of the term of the land use;
- 6) termination of labor relations or equivalent relations, based on which the official land plot was allocated for use;
- 7) impossibility of further use of the land plot caused by a natural disaster;

- 8) withdrawal of the land plot based on and following the procedure stipulated in [Chapter eleven](#) of this Code.
- 9) Liquidation of the state or municipal land user, public association, social fund, and of a religious organization;
- 10) withdrawal of citizenship of the Kyrgyz Republic of the owner of the agricultural land plot or land plot, except in case of mortgage housing construction.
- 11) upon termination of the concession agreement, contract on mining concessions, production sharing agreements, as well as the termination of mineral rights;
- 12) termination of the public-private partnership agreement.

**Article 66. Grounds for withdrawal of the land plot** (abstract from the Article)

1. Withdrawal of the land plot shall be allowed in the event of:
  - 1) utilization of a land plot in violation of its targeted use;
  - 2) withdrawal (redemption) of the land plot for the state and public needs in accordance with provisions of this Chapter;
  - 3) failure to use a land plot or part of the land plot allocated for agricultural production within three years;
  - 4) failure to use within the specified period a land plot allocated for non-agricultural production in accordance with the legislation of the Kyrgyz Republic;
  - 5) failure to pay land tax within the period established by the tax legislation;
  - 6) failure to pay insurance fees within the period established by the Law of the Kyrgyz Republic «On Tariffs of Insurance Fees for the State Social Insurance».
  - 7) termination (cancellation) the mineral rights by the State body on use of subsoil recourses in cases provided by the Law of the Kyrgyz Republic “On Subsoil”.
  - 8) The land plot may be withdrawn for satisfaction of the state and public needs subject to payment of the value of the right to land plot and indemnification for losses.

**Article 68. Acquisition (redemption) of the land plot for the State and Public needs** (abstract from the Article)

3. The calculation of the redemption price of the land plot accounts for the market value of the right to land and of the buildings and structures located on the land, and the damages inflicted to the land owner or land user by termination of the right to land plot, including the losses connected with early termination of his/her obligations to third parties.

## 2.2 WORLD BANK POLICIES ON INVOLUNTARY RESETTLEMENT

The WB Operational Policy 4.12 is focused on avoiding and/or minimizing the risks related to involuntary resettlement.

The overall objectives of the OP 4.12 are as follows:

- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all technically viable alternative project designs.
- (b) Where it is not feasible to avoid resettlement, sustainable development activities are to be carried out, providing sufficient investment resources to enable the PAPs to share the benefits from their implementation. People to be resettled should be meaningfully consulted and should have opportunities to participate in planning and implementation of the resettlement programs.
- (c) Resettled people 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 prior commencement of the project implementation, whichever is higher.

To address the impacts of involuntary resettlement, and when the extent of direct impact is known, this policy calls for preparation of a RAP to guide the resettlement process. The RAP includes: (i) information of the findings of socioeconomic census to describe the extent of resettlement, (ii) information about proposed alternatives and provision of technically and economically feasible alternatives of resettlement, (iii) measures to ensure awareness about proposed options, entitlements to the PAPs and their rights concerning the resettlement; and (iv) budget for the resettlement related expenses.

Where the impacts on total resettled population are small (less than 200 people)<sup>7</sup>, an abbreviated RAP can be prepared. For projects that have a significant impact on resettlement (more than 200 people), a complete RAP is to be prepared. The policy requires that the following issues need to be taken into account when planning resettlement:

1. Displaced persons as well as the residents of the host settlements should be provided with timely and relevant information, participate in consultations on resettlement options, and have opportunities to participate in planning, implementing, and monitoring of the resettlement activities. Appropriate and accessible mechanisms for administration and redress of grievances should be established for these groups.
2. In new resettlement sites or in host communities, the necessary infrastructure and public services should be provided to improve, restore, or maintain accessibility and quality of service for the displaced persons and local residents. Alternative or similar resources are to be provided to compensate the loss of access to common utility resources.

To achieve the policy objectives, the WB requires that particular attention is paid to the needs of vulnerable groups among the resettled population, especially those below the poverty line, the landless, the elderly, women and children, and ethnic minorities.

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<sup>7</sup> Item 25 OP 4.12. Item 22 Annex A, OP 4.12 "Impacts will be insignificant if the PAPs will not be relocated and will use less than 10% of their productive assets".

## 2.3 COMPARISON OF PROVISIONS OF OP 4.12 WITH THE KYRGYZ LEGISLATION ON RESETTLEMENT POLICY

The main differences between the Land-Laws of the Kyrgyz Republic and WB Operational Policy 4.12 Involuntary Resettlement are outlined in the table 2.3.1 below:

### MAJOR DIFFERENCES

#### BETWEEN LAND LEGISLATION OF THE KYRGYZ REPUBLIC AND OP 4.12 “INVOLUNTARY RESETTLEMENT”

Table 2.3.1

Provisions of the Land Code of the Kyrgyz Republic	Requirements of 4.12 Involuntary Resettlement	Implementation actions <sup>8</sup>
Compensation for acquired land only for titled landowners, i.e. for those PAPs who have formal document for the right to land use, or who are holders of customary rights.	Lack of formal title to land will not prevent PAPs from entitlements, i.e. those people without legal title to land and/or facilities/structures occupied or used by them, are entitled to compensation for structures and various options of resettlement assistance according to the Entitlements Matrix provided they cultivated/occupied the land before the eligibility cut-off date.	Under the ERIK, regardless of the availability or lack of legal rights to the land PAPs are entitled to compensation for structures, crops and trees, and rehabilitation measures.
Consultations with PAPs or communities in respect of land or asset confiscation are not required.	PAPs are to be fully informed and consulted on compensation, entitlements and resettlement options including location of new settlements. This includes consultations with participation of PAPs, information dissemination campaigns, and opportunities to participate in monitoring depending on the nature and scale of impacts. Resettlement plans to be developed and prepared in consultation with PAPs and other stakeholders.  Gender issues are covered during the consultations to provide women with information and sufficient opportunities to give their feedback.	During implementation of the ERIK Project, there will be obligatory consultations on resettlement options for PAPs at a time and format convenient to PAPs.
There is no separate grievance mechanism on resettlement.	It is a good practice to foresee a Grievance Redress Mechanism to provide a venue for PAPs to submit their grievances and receive answers.	RAP provides for procedures for management of grievances.
The lack of information disclosure procedures.	The disclosure of the RPF and RAP on the WB website and on the website of the respective Executive Agency is required. Copies of these documents need to be provided to local self-governments and households directly affected by the project.	The procedure for information disclosure is specified in the RAP.

<sup>8</sup> Compliance of the Project with the International Legal Norms.

Provisions of the Land Code of the Kyrgyz Republic	Requirements of 4.12 Involuntary Resettlement	Implementation actions <sup>8</sup>
<p>The land is to be compensated at the redemption price of the land plot including the market value of the right to land and of the buildings and structures located on the land, and the damages inflicted to the land owner or land user by termination of the right to land plot, including the losses connected with early termination of his obligations to third parties.</p>	<p>Replacement by another piece of land is a preferred option. The proposed land plot should be acceptable for the PAP and should match the lost land in size and yield capacity.</p> <p>If it is impossible to find a suitable land, then compensation is to be made in cash or allocation of another plot with a surcharge based on the replacement cost. <b>The replacement cost for land plots</b> is equal to the market value of land with equivalent potential land capacity or use capacity located near the affected land plus the costs for land preparation to the condition similar to that of the affected land plot, plus the fees for registration and re-legalization of land ownership and use.</p>	<p>The compensation for land with replacement land is a preferred option. If replacement of land for land is not possible, compensation will be made in cash at the full cost of replacement.</p>
<p>The compensation for other assets (buildings, crops, trees, and the business income) is made to formal users at the market value.</p>	<p><b>The replacement value for buildings and structures</b><sup>9</sup> is equal to the market value of materials to be required for construction of replacing structure equal in location and quality or better than the affected structure or repair of the partially affected structure plus costs of the delivery of construction materials to the construction site, plus the cost of contractors' work, plus the fees for registration and re-registration of ownership rights. The depreciation of facilities or the cost of usable materials should not be taken into account as well as the value of benefits from the project implementation.</p>	<p>Compensation for any other assets that fall under the impact of the project (structures, crops and trees, as well as commercial losses / loss of income) will be made in cash or in kind, at the full cost of replacement both to the formal and informal users.</p>
<p>No provisions on support to vulnerable PAPs</p>	<p>Vulnerable groups will be provided assistance.</p> <ol style="list-style-type: none"> <li>1. Besides compensation for lost assets, additional social allowance should be paid over one year period.</li> <li>2. Relocation assistance is provided, including assistance in transportation of materials, if necessary.</li> <li>3. Special attention should be given to income recovery.</li> </ol>	<p>Vulnerable and poor PAPs have the right to relevant additional measures to help prevent further negative impacts during implementation of the RAP. Additional assistance can be provided in the form of allocation of land and other property, cash</p>

<sup>9</sup> Replacement cost for buildings and structures is equal to market value of materials to be required for construction of replacing structure equal in location and quality or better than the affected structure or partially affected structure. The cost also includes the costs of the delivery of construction materials to the construction site, plus the cost of labor, plus the fees for registration and re-legalization of ownership rights. The depreciation of facilities or the cost of usable materials should not be taken into account as well as the value of benefits from the project implementation.

Provisions of the Land Code of the Kyrgyz Republic	Requirements of 4.12 Involuntary Resettlement	Implementation actions <sup>8</sup>
		allowances and compensations, employment and so on - as required in every individual case. Gender will be also taken into account.
Payment for transportation costs in case of involuntary resettlement is not specified.	The replacement cost includes the cost of delivery of construction materials.	If relevant, transportation costs will be included in the resettlement budgets.
At the design and estimate development stage, the proposals for acquisition of agricultural, high-yielding land are excluded if other land is available.	Any land acquisition and resettlement is to be avoided, or if it cannot be avoided, it should be minimized by exploring all possible options.	Consideration of alternatives, both placements and technical capabilities of project, to avoid or minimize, as far as possible, the need for land acquisition and resettlement.
No provisions for assistance for temporary or permanent loss of income/livelihood are provided.	Requires compensation for loss of livelihoods and income as a result of temporary or permanent land acquisition.	Compensation for loss of land or assets, or for the temporary cessation of income generating activity. <sup>10</sup>

In case of differences between the Laws of the Kyrgyz Republic and the requirements of OP 4.12 “Involuntary Resettlement”, the principles and procedures of OP 4.12 should be applied. The prevalence of the WB standards over the National legislation is a requirement for projects funded by the World Bank.

<sup>10</sup> The formula for calculation of compensations will be developed and included in relevant RAPs in line with the Entitlements Matrix and the Compensation Guidelines.



### **3. ELIGIBILITY CRITERIA AND PROCEDURES FOR VARIOUS CATEGORIES OF AFFECTED PEOPLE**

#### **3.1 PRINCIPLES OF ELIGIBILITY**

The involuntary withdrawal of land results in relocation or loss of assets, property access to assets or loss of income sources or means of livelihood, whether or not the PAPs must move to another location or not. The OP 4.12 suggests the following three criteria for eligibility<sup>11</sup>:

- (a) people who have formal rights to land including customary/communal land, traditional and religious rights recognized under Kyrgyz Law.
- (b) people who do not have formal legal rights to land at the time the project or census commences but have a claim to such land or assets provided that such claims are recognized under the laws of Kyrgyzstan or become recognized through a process specified in the RAP.
- (c) people who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from before the cut-off date.

Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF.

People covered under (c) above, if they occupy the project area prior to a cut-off date established by the project authorities in close consultation with the potential PAPs, local community leaders and the respective local authorities, are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this RPF.

Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance.

All persons included in (a), (b) or (c) above are to be provided with compensation for loss of assets other than land.

It is therefore clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land or used it, before the entitlement cut-off date.

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<sup>11</sup> Item 15 OP 4.12.

### 3.2 ELIGIBILITY CRITERIA AND COMPENSATION ENTITLEMENTS

Compensation Entitlements Matrix  
Eligible PAPs  
Assets and compensation guidelines

Table 3.2.1

Project impact	PAP Category	Asset Affected	Compensation Guidelines
Temporary acquisition of land for works or construction	Land owner	Land	Rental for land based on market tariffs taking into account the current rates and land restoration and all assets located on the land to the previous condition, including: Compensation for relocation and transportation of: <ul style="list-style-type: none"> <li>a) movable assets, usable materials;</li> <li>b) state and municipal assets;</li> <li>c) recovery of income sources for a period used;</li> <li>d) any potential restriction on certain types of economic activity due to works carried out under the project.</li> </ul>
	Informal user	Land	Restoration, replacement or compensation at the replacement cost for all assets damaged or removed. In case of loss of income, disturbance allowance set on the basis of minimum wage for each week (7 days) of disturbance calculated on a pro rata basis
Permanent acquisition of land for works, construction or as part	Land owner	Land	Replacement by another piece of land is a preferred option. The proposed land plot should be acceptable for the PAP and should match the lost land in size and fertility level. If such land is not available, cash compensation will be paid at replacement cost, including fees for registration and re-registration of rights and the costs for land preparation to the condition similar to that of the affected land plot.  If the remainder of the land plot is not economically viable the entire plot will be acquired.

Project impact	PAP Category	Asset Affected	Compensation Guidelines
of first sanitary protection area. <sup>12</sup>			
	Informal user	Land	Land compensation is not envisaged. Instead of compensation for land plots withdrawn from them, assistance rendered in resettlement to new residential area as required in every individual case.
		Assets	Compensation in cash for associated assets at replacement cost. In case of income loss, compensation equal to 6-month worth minimal wage along with granting the right for usable materials.
Permanent acquisition of a legal structure.	Owner of the structure/building	Any structure including fence and etc.	Replacement structure or cash compensation at replacement cost and the right for usable materials.
Permanent acquisition of illegal structure	Owner of the structure	Any structure including house, fence etc.	Replacement structure or cash compensation at replacement cost and the right for usable materials.
Restriction of access to houses	Tenant or House owner	Section of residential compound temporarily affected or access to house affected by works	Recovery of land up to its initial condition. In kind compensation for affected needs such as alternative car parking facility. Disturbance allowance set on the basis of minimum wage for each week (7 days) of disturbance calculated on a pro rata basis (a specific formulation of the allowance would be specified in the relevant RAP).

<sup>12</sup> The term “sanitary protection zone” means the area where works are carried out under the project. The radius of the area is determined during the construction works.

Project impact	PAP Category	Asset Affected	Compensation Guidelines
Vendors or entrepreneur	Owner of business	Temporary loss of business or employment due to project activities	Cash compensation for estimated business loss assessed from records for the last 3 months of this or equivalent business. Disturbance allowance equivalent to 7 days (week) of business profit.
	Hired workers or business employees	Permanent loss of business or employment due to project activities	Compensation for the transition period, resettlement assistance to relocate business and economic rehabilitation assistance (as required in every individual case).
Owner of a tree	Owner	Fruit tree	The cost of a sapling and cash compensation for the value of the harvest multiplied by the number of years it will take for the sapling to reach maturity.
		Non-fruit trees	Timber or cash equal to timber value.
Permanent acquisition	Public assets	Buildings/ Structures	Compensation will be provided in kind: new structures/buildings will be built or the partially affected structures/buildings will be repaired.
Livelihood loss	All categories of PAPs identified as having lost livelihood	All types of assets	In case of loss of livelihood, PAPs will receive additional training, assistance in job search and in applying for unemployment status, and other type of assistance as required in every individual case.

### **3.3 METHODS TO DETERMINE THE CUT-OFF DATE**

Setting a cut-off date is a tool to prevent claims for compensations after that date. The cut-off date is the day then the census is launched or the date of demarcation of project boundaries.<sup>13</sup> Following finalization of the design and estimate documentation, the Consultant for development of the detailed design is to carry out the census of PAPs and stocktaking of their property. Consultations will be carried out with project affected people to inform those about the project, and its impact. Measures will be taken to inform PAPs and to collect their feedback; this might result in revision of design solutions to minimize the necessity of resettlement.

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<sup>13</sup> OP 4.12, footnote 22.

## **4. RPF AND RAP IMPLEMENTATION ARRANGEMENTS AND PROCEDURES**

### **4.1 OVERVIEW**

The PIU will perform the overall coordination of the project, and will oversee all resettlement planning and coordinate all compensation related issues. These activities include:

- a) development, disclosure and timely implementation of resettlement instruments (RPF and RAP);
- b) overall coordination and management of activities to assess the resettlement scale;
- c) hiring and guiding the work of the Consultant for development of RPF and RAP;
- d) holding public consultation;
- e) payment of compensations to PAPs;
- f) monitoring over implementation of all activities related to resettlement.

The responsibility for implementation of resettlement and compensation activities under the project is assigned to the PIU. The Consultant for development of the RAP will render support in implementation of resettlement activities.

### **4.2 SCREENING OF PROJECT ACTIVITIES**

The first step in development of RAP is the screening process to identify the land and assets that may be affected by the resettlement. This screening will be carried out by the PIU specialists to identify the types and nature of potential impacts related to the activities proposed under this project, and to provide adequate measures to address them.

It also ensures that the avoidance or minimization of resettlement is a key criterion when designing RAP before the commencement of implementation of the ERIK project.

Screening will be undertaken against the established screening criteria and documented as a report on screening of potential social impacts.

No design will be finalized unless it is clearly determined that every effort has been made to minimize resettlement impacts. If the screening will show the need in resettlement, the next step will be social and economic profiling and inventory of land reserves and assets to define the extent of required resettlement. Once these are complete, a Project RAP will be developed.

### **4.3 SOCIAL-ECONOMIC PROFILING AND INVENTORY OF LOSSES**

Should the screening process show that land acquisition will be required, the next step will be the socio-economic profiling and census of PAPs to establish their age, asset dependence, income, family status and to stocktake and assess assets of each PAP located on the area to be acquired. This activity shall be carried out by the PIU with engagement of the Consultant for development of RAP.

During the census, it is necessary to set a cut-off date as specified in par. 3.3. A RAP will be developed based on the data collected.

The screening process will involve direct consultation with the PAP(s) who will work with a consultant for social issues and representatives of the PIU in simple language and convenient communication to identify the affected assets and discuss their socio-economic situation. Throughout the consultation process, the PAP(s) will be advised of their resettlement related entitlements both in writing and verbally via information booklets, presentations and announcements posted in public places. This will include dissemination of description of grievance redress procedures and the compensation entitlements matrix. Verbal information will be provided to illiterate people. PAPs will be provided with the opportunity to express their feedback and concerns.

When carrying out the socio-economic profiling, it is necessary to take into account gender issues and pay attention to vulnerable groups, as the level of poverty in the mountainous regions of the country is higher

than in valleys (51% versus 37.4%).<sup>14</sup> Poor people suffer most from the impacts and lose their livelihoods. This group of the population has very limited financial and physical capabilities, or do not have such opportunities altogether. This is why after the loss of their assets, they have to literally fight for the rehabilitation of their way of life, livelihood and property.

It is crucial to ensure equal participation, registry and incorporation of interests and opinions of women throughout the life of the project. The lack of equal access to resources, knowledge and power authorities deprives women of the resources and opportunities they need to protect themselves, their children and property. When carrying out the socio-economic research and compensatory rehabilitation in case of involuntary resettlement, the gender aspects of vulnerability and risk are often neglected, despite the fact that in developing countries women are mostly responsible for disposal of resources of the household.

In cases when it is not possible to conduct direct consultations with the PAPs because they are not available (are in other cities or countries), the Consultant for the development of the RAP, together with the PIU, will take measures to deliver resettlement related information to the absent PAPs through relatives or neighbors.

#### **4.4 DEVELOPMENT OF THE RAP**

Following the socio-economic profiling and census of PAPs, a RAP will be developed by the PIU.

The RAP will be prepared in consultation with affected parties, particularly in relation to, disturbances to livelihoods and income-generating activities, methods of valuation, compensation payments, potential assistance and timeframes. The basic elements of a RAP, as outlined in OP 4.12 are provided below. More detailed guidelines for preparing a RAP are available on the World Bank's website<sup>15</sup> or in the World Bank's Resettlement and Rehabilitation Guidebook<sup>16</sup>.

It is expected that the Project will have minor impact on the displaced population and is possible only in cases of expansion of training facilities or construction of new ones (PAPs will probably not be physically displaced and will not lose their production assets; less than 200 people will be affected. Therefore, an abbreviated RAP can be drawn. It is proposed that the RAPs will contain a number of standardized sections, such as: project description, legal and institutional framework, eligibility and entitlement matrix etc. These will be followed by a section specific to the PAP(s) along with their assets (inventory of losses, compensation and resettlement costs and budget, socio-economic profile etc.). While household-level data is essential to the RAP, respecting the immunity of privacy, information related to individuals or households is not to be disclosed to the public.

The RAP will include the information on baseline census and social and economic profiling, the eligibility matrix and compensation entitlements, compensation amounts, entitlements related to additional impacts identified during census or profiling, description of the resettlement areas, and the programs for improvement and rehabilitation of income sources and livelihood, schedule for implementation of resettlement activities, detailed cost estimates and grievance redress mechanisms.

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<sup>14</sup> National Statistics Committee of the Kyrgyz Republic

<sup>15</sup> Annex A, OP 4.12: <https://policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f8a4f.pdf>.

<sup>16</sup> Resettlement Guidebook is available at:

<http://documents.worldbank.org/curated/en/206671468782373680/pdf/301180v110PAPE1ettlement0sourcebook.pdf>.

#### **4.5 DISCLOSURE AND APPROVAL OF RAP**

Following development of the RAP, a number of steps must be followed:

1. Draft RAP is subject to discussion with the PAPs who will receive a copy of RAP a week before discussion.
2. Following discussion, feedback and proposals are reflected in the RAP.
3. The RAP will include a section on consultation process with a table with feedback and proposals on its implementation.
4. The Consultant for the development of RAP will submit the RAP for the PIU Manager for endorsement.
5. Following incorporation of the feedback from public consultations, and its approval by the PIU, the RAP must also be officially submitted to the World Bank for review to confirm the compliance with the OP 4.12 and any other relevant policies/ procedures.
6. Following confirmation that the RAP is of acceptable quality, it will be disclosed on the World Bank's website, re-disclosed on the PIU website and disseminated again to all stakeholders. Personal information about the PAPs will not be disclosed.

No changes can be made to the RPF entitlement matrix, eligibility criteria, compensation rates or other assistance entitlements without prior agreement with the World Bank.

#### **4.6 ESTIMATES OF AFFECTED POPULATION AND ASSETS IN THE PROJECT AFFECTED AREAS**

It is impossible to completely exclude the temporary or permanent use of private land during execution of school reconstruction/upgrading works.

It is still uncertain, whether permanent land acquisition or temporary use of it will be needed.

The Project does not envisage demolition of any capital structures during implementation, though, at this stage, it is impossible to exclude the possibility of demolition of small structures (fencing, plantations etc.). Taking into account that affected people/assets are not defined, impact assessment will be carried out after the Project commencement.

The preliminary assessment shows that assets of individuals or commercial entities may be subject to potential impact if they are located in the areas for school extensions to build sports halls, labs and other premises, and on the land for new construction, such as school boiler-houses, canteens and etc.

#### **5. METHODS OF VALUATION OF AFFECTED ASSETS**

This section sets out the guidelines for determining the value of affected assets.

##### **5.1. TYPES OF COMPENSATIONS**

Compensations will be paid as per the Entitlements Matrix and Compensation Guidelines for the following assets:

- Compensation for Land;
- Compensation for Buildings and Structures;
- Compensation for Trees;
- Compensation for Loss of Business;
- Compensation for Other Impacts Listed in the Eligibility Matrix.

All listed types of compensations are preliminary ones that might be included in development of the detailed RAP.

If necessary, assistance will be provided to vulnerable households.<sup>17</sup> Calculation of compensations will be made with participation of a certified appraisers following the provisions of the WB OP 4.12.

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<sup>17</sup> OP 4.12. Item 32.



If the project implementation or resettlement activities will be delayed, certified appraisers will be engaged to determine the market value of assets to reflect them in the RAP. After 2.5 years from the RAP development date, the document will be reviewed to confirm relevance of compensations.

## **5.2 PREPARATION OF ASSET INVENTORY**

During the census each asset will be enumerated and inscribed on an inventory and evaluated following the RPF principles and guidance. Copy of the inventory of assets will be sent to PAPs. The total list of affected assets and their assigned value including any additional compensation measures will be recorded in a register and agreed with the PAP. The PAPs shall be informed that they will be provided with a copy of the RAP, with description of the grievance redress procedure once it is approved by the WB and the ERIK PIU.

## **5.3 METHODS OF VALUATION OF AFFECTED ASSETS**

### **5.3.1 Replacement cost approach**

The replacement cost approach is based on the premise that the costs of replacing productive assets is based on damages caused by project operations. This approach involves direct replacement of the expropriated property and provides for sufficient amount to replace the assets, cover the relocation costs and other transaction costs.

**The replacement cost for land plots** equals to the market value of land with equivalent potential land capacity, if possible, located near the affected land, plus the costs for land preparation to the condition similar to that of the affected land plot, plus the fees for registration and re-legalization of land ownership and use.

**The replacement value for buildings and structures** is equal to the market value of materials to be required for construction of replacing structure or repair of the partially affected structure plus costs of the delivery of construction materials to the construction site, plus the cost of contractors' work, plus the fees for registration and re-registration of ownership rights. The depreciation of facilities or the cost of usable materials are not taken into account.

### **5.3.2 Schedule of Rates from Appropriate Ministries**

The Ministry of Agriculture and Melioration of the Kyrgyz Republic has a Entitlements Matrix to compensate for damages incurred following the land acquisition, crop loss, and cutting of fruit trees. When applied, the market rates valid at the time of actual replacement must be used.

The State Agency for Construction and Architecture under the Government of the Kyrgyz Republic has a Table of rates for preparing estimates for construction projects to assess costs for construction materials and labor. The market rates valid at the time of actual replacement must be used for calculation of the replacement cost.

## **5.4 COMPENSATION FOR VARIOUS ASSETS**

### **5.4.1 Compensation for Land**

In the event of permanent acquisition of titled land, provision of a replacement land should be considered as the first option. If no alternative land is available within a reasonable distance, cash compensation at full replacement value should be provided.

In addition, the PAP will be compensated for any improvements made to the land, for instance, irrigation structures, based on the current market rates for labor, equipment and materials.

Where only a part of the land plot is acquired, but this renders the remaining land as unusable, the compensation provided should be calculated based on value of the whole land plot, i.e., the actual land lost plus the remaining unusable land.

Where land is temporarily acquired, standing crop will be compensated at full market price for the harvest, or based on the rates established by the Ministry of Agriculture, whichever is higher. The compensation will be paid to the crop-grower rather than the owner, where the crop-grower (tenant) is not the owner. Compensation will be also paid for lost horticultural crops.

Besides the compensation for harvest, restoration of land to its original condition will be ensured so that it can be further used for agricultural needs.

#### **5.4.2 Calculation of Rates for Compensation for Crops and Fruit Trees**

The current prices for the crops will be determined taking into account the rate recommended by the Ministry of Agriculture and the highest market price, whichever is higher. The type of crop grown on the land that year or the last year is taken for calculation.

When rented land is acquired, compensation is paid for the harvest for the entire agricultural season.

Where private land is acquired, the owner is provided with not only a replacement land or cash compensation land, but also with a compensation for the harvest of the entire agricultural season.

In addition, PAPs will be encouraged to harvest their produce before the land acquisition. In order to facilitate early harvesting and generation of adequate income as per the market prices, consultations need to be carried out in advance with the population so that harvesting can be properly planned.

The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time. The rate used for land compensation should be updated to reflect values at the time compensation is paid.

Fruit trees will be compensated based on the estimated value of a seedling of a fruit tree, plus the cost of fruit crop produced by this tree multiplied by the number of years needed to grow the young plant to full maturity.

#### **5.4.3 Compensation for Structures**

The preferred option for this type of compensation is provision of a replacement structure (storehouses, fences and etc.) of a better quality, if possible.

The second option is provision of cash compensation at full replacement value. Replacement cost will be calculated based on:

1. Parameters of structures and of materials used;
2. Prices of these items set a local market rates;
3. Costs for transportation and delivery of these items to acquired/ replacement land or construction site;
4. Estimates of construction of new buildings including cost of the required labor;
5. Any associated taxes, registration fees;

Compensation will also be made for structures that are (i) abandoned because of relocation or resettlement, or (ii) directly damaged by subproject activities.

#### **5.4.4 COMPENSATION FOR COMMUNITY ASSETS**

Compensation will also be provided for community assets identified following the socio-economic survey. In all cases compensation will be provided in kind: new structures/buildings will be built or the partially affected structures/buildings will be repaired.

#### **5.4.5 Compensation for Loss of Business**

Compensation will be paid for the income lost over construction period (time lag between losing income and re-establishment of the business activity). This will be estimated based on the daily or monthly income of the affected parties.

### **6. IMPLEMENTATION SCHEDULE**

The activities involving land acquisition or loss, denial or restriction to access will include compensations and other assistance required for relocation and preparation of land where the PAPs will be relocated to, creating proper conditions for them, if needed. Acquisition of land and associated assets can be performed only following full payment of the compensations, and where applicable, provision of displaced people with land and resettlement assistance. In case of physical relocation, new housing will be constructed/ provided, or temporary housing will be provided.

The measures to ensure compliance with this RPF will be included in the RAPs that will be prepared for the project involving land acquisition. The RAP will include schedule for implementation of resettlement related activities, reflecting all stages: starting from preparation to completion of works with indication of specific timeframe for achievement of intended benefits both for PAPs and the local population and cessation of various assistance modalities. Both the draft and the final versions of the RAP will be disclosed on the website of the MoES. Stakeholders of the Project (PIU, participating municipalities and PAPs) also agree how these activities will be linked to the implementation of the overall project.

Planning of these measures is meant to ensure that no individual or affected household would be displaced (economically or physically) due to school reconstruction/upgrading works before compensation is paid and resettlement sites with adequate facilities are prepared and provided to the individual or the household affected.

Compensation will be paid to PAP after his or her written consent.

## **7. GRIEVANCES REDRESS MECHANISMS**

As stipulated by the Law of the Kyrgyz Republic # 67 dated May 4, 2017 (in the editions of the Laws of the Kyrgyz Republic # 16 dated February 26, 2008 and # 214 dated July 15, 2009) ) “On Management of Citizens’ Appeals” and the corporate regulations of the MoES on management of complaints and feedback, citizens can submit requests and appeals on issues related to the project activity.

Appeals can be submitted to the MoES via the following channels: phone, MoES website at <http://mes.kg/ru/contacts/>, PIU staff, email and postal service. Appeals can also be expressed during reception of citizens by the management of the MoES as per the reception schedule of authorized officials

The schedule of reception of citizens by the Minister, Stats-Secretary and the Deputy Minister is provided below:

*Minister* Tuesday and Friday, from 14.00 to 16.00 (Bishkek)

*Stats-Secretary* Monday, from 14.00 to 17.00

*Deputy Minister* -Tuesday, from 9.00 to 12.00

*Deputy Minister* - Thursday, from 9.00 to 12.00

*Deputy Minister* Tuesday, from 9.00 to 12.00

The GRM on resettlement is a part of a broader mechanism at the project level that will be described in detail in the Project Operational Manual. The PIU will assign a specialist who will be in charge of the GRM and provide regular updates on the GRM, number of appeals received from the population and answers provided to them.

### **7.1 GRIEVANCES REDRESS PROCESS** is built as follows:

1. During the valuation process, the affected persons will be provided with description of the grievance procedures;
2. The first step in the grievance process will be to contact the PIU by any means. The phone number, e-mail address, postal address will be displayed on the information board located near the LSG office and in public places. If the problem cannot be resolved within 15 days, the complaint is to be considered at the next, MoES level. The complainants is to notified of the fact that their complaint is transferred to the next instance and that redress will take 30 days.
3. As the next step, the affected person should file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing to the MoES. The complaint should be signed and dated by the aggrieved person. The complainant can also submit a grievance without indication of his/her name and signature, if s/he so wishes. The PIU Consultant hired for development of the RAP will maintain direct liaison with the PAPs and establish validity of the complaint and will notify the aggrieved person on the eligible assistance. The answer will be provided within 15 working days. Meetings and discussions with the aggrieved person will be held within this period. If the grievance relates to asset valuation, the project will carry out repeated asset valuation unless and until a consensus is reached between the parties. Subsequent valuations can be carried out by independent appraisers at the expense of the dissenting party. The PIU will assist to the aggrieved person throughout all stages of grievance redress to ensure that the grievance is being redressed properly;
4. Should there be an objection regarding the decision of MoES, within 30 working days, the PAP can take the case to court.

## 7.2 MANAGEMENT OF REGISTERED GRIEVANCES

The procedure for managing grievances should be as follows:

The PIU employee is responsible for providing the PIU management with a weekly report detailing complaints of PAPs and status of grievance redress at the first instance level. Grievances redress procedures in the PIU are carried out in compliance with the existing system and are registered in a Grievance Log.

The PIU will ensure that each complaint has an individual reference number and status of grievance redress is reflected in the matrix developed in the RAP and in the Operational Document that records dates for the following events:

- date the complaint was submitted;
- date the Grievance Log was uploaded onto the project database;
- date response was sent to the complainant.

General information on received grievances, their status and evolving problems will be included in regular Project progress reports submitted to the World Bank.

Communities and individuals who feel that were affected by the project, implemented with the support of the World Bank (WB) may file a complaint at the level of the existing project level structures, responsible for grievance redress or to the WB Grievance Redress System (GRS). The GRS guarantees prompt consideration of the complaints received to resolve problems associated with the project. The project affected communities and individuals can submit their complaints to the Independent Inspection Panel of the World Bank, which establishes the fact, or the likelihood of harm as a result of non-compliance with corporate rules and procedures by the World Bank. The complaint may be submitted at any time after the concern was brought directly to the attention of the World Bank, and the WB management was given the opportunity to respond to it. For more information on how to file a complaint to the Grievance Redress System (GRS) of the World Bank, please visit the website: <http://www.worldbank.org/GRS>. For information on how to file a complaint to the Inspection Panel of the World Bank, please visit the website: [www.inspectionpanel.org](http://www.inspectionpanel.org).

## 8. RESETTLEMENT BUDGET

At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs and details have not yet been developed; it is also not certain that the project design will definitively require temporary or permanent land acquisition. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with implementation of the ERIK.

Detailed and accurate budget will be drawn up in the RAP and financed through the administrative and financial management rules and manuals like any other activity eligible for payment.

The following items will be included in budget:

1. Compensation expenses, in line with the RAP;
2. Payment for services of the Consultant for development of the RAP;
3. Costs for information campaign, including costs for communication, organization and holding of consultations (rent of premises, printing of informational materials, etc.);
4. Costs for information disclosure;
5. Costs for monitoring;
6. Costs for implementation of grievance redress procedures.
7. 10% of the compensation amount for contingencies

Local Self-Government Bodies are responsible for all expenses related to compensation payments as per the RAP.

Expenses listed from 2 to 7 are covered by the ERIK project.

## **9. MECHANISM FOR PAP CONSULTATIONS**

Public consultations to discuss the RPF were held on March 14, 2018 at the same time as the consultations to discuss the ESMF following the approval of the RPF by the World Bank. Minutes of the public consultation are enclosed as Annex №1.

Representatives of LSGs those territories are to be covered by the project activities, representatives of relevant ministries and agencies, architectural services, environmental, sanitary inspection and others, as well as representatives of non-governmental organizations have been invited to attend the consultations.

When holding the consultations in project areas some socio-cultural factors, as the literacy rate, cultural obstacles to participation of certain groups of population and ways of mitigate those need to be taken into account. These could include timing to consultations to ensure maximum participation taking into account the responsibility of households, geographic distribution. Special attention should be given to participation of women and vulnerable groups.

Minutes will be taken during the consultations, with indication of participants, issues considered, information provided, and questions received and answers given to them.

## **10. ARRANGEMENTS FOR MONITORING AND EVALUATION**

### **10.1 OVERVIEW**

The arrangements for monitoring will fit the overall monitoring plan of the entire project which will be implemented by the PIU. All RAPs will set goals by which the success will be measured, including:

- i. affected individuals, households, and communities being able to maintain their pre-project standard of living or better one;
- ii. the local communities remaining supportive of the project;
- iii. number of complaints and appeals, upon which the decision was taken.

In order to assess whether these tasks were achieved, the RAP will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. All collected data will be disaggregated by gender. The PIU specialist will maintain administrative reporting system that will:

- Provide timely information about all resettlement arising as a result of project activities;
- Identify any grievances that have not been resolved and require resolution;
- Document the timely completion of project resettlement obligations;
- Evaluate whether all PAPs have been compensated following the requirements of the RPF;

Indicators will be set within each RAP. Data will be gathered by a project engineer at regular intervals (e.g., quarterly or half yearly depending on circumstances) and compared over time.

### **10.2 MONITORING RAP IMPLEMENTATION**

The PIU consultant for development of the RAP will:

- I. be responsible for compilation of basic information on all physical or economic displacement arising from the project, including the data on:
  - a) Number of households and individuals physically or economically displaced by each activity and number of RAPs to be developed;
  - b) Length of time from design finalization to payment of compensation to PAPs;
  - c) Timing of compensation, starting from payment of compensations and commencement of construction works;
  - d) The amount of compensation paid to each affected household (in cash), or the nature of compensation (in kind);
  - e) Number of people who submitted complaints under the Project;
  - f) Number of resolved and unresolved grievances.
- II. Ensure timely payment of compensations to each PAP or household.

III. Maintain a complete database on resettlement activities, which will be included in official documents under the ERIK.

## 11. INSTITUTIONAL ARRANGEMENTS

The Ministry of Emergency Situations of the Kyrgyz Republic is engaged in preparation and implementation of the Project. The MoES will coordinate and supervise the overall implementation of the project and ensure sustainable impact of the project following implementation of the disaster risk management program.

The Ministry of Education and Science of the Kyrgyz Republic and the State Agency for Architecture, Construction, Housing and Communal Services under the Government of the Kyrgyz Republic will be responsible for technical aspects and quality control under the Component 2.

The State Service for Regulation and Oversight of the Financial Market under the Government of the Kyrgyz Republic will be responsible for technical aspects and quality control under the Component 3.

Taking into account the multi-sectoral nature of the project and the growing necessity to improve the disaster risk management in key sectors of the Kyrgyz Republic, the PIU will be responsible for the overall coordination and supervision over implementation of the whole program, fiduciary aspects and social and environmental safeguards under all components, as well as for the technical aspects and the quality control under the Component 1. The PIU maintains an office in the Ministry of Emergency Situations of the Kyrgyz Republic. The PIU is fully responsible for development and timely implementation of all resettlement related activities, including development, disclosure and timely implementation of resettlement instruments (RPF and RAP); overall coordination and management of activities to assess the resettlement scale; hiring and guiding the work of the Consultant for development of RPF and RAP; holding public consultations; overall management and coordination of the GRM; monitoring over implementation of activities.

Below is the table describing the PIU's responsibilities for implementation of the RPF and the RAP.

Table 11.1

#	Party involved in development, implementation and supervision of land acquisition and resettlement activities.	Responsible
1	PIU	Keeps the stakeholders informed; Assists in holding public hearings Solicits the LSGs to allocate land plots for replacement of land as compensation for PAPs' land; Manages grievances in the course of implementation of the RPF and the RAP;
2	Consultation for development of the RAP under the ERIK project	Facilities consultations with the PAPs Identifies PAPs, studies title documents, compiles list of affected assets Develops the RAP for the Project, taking into account that all expenses for acquisition of land and resettlement will be included from the municipal budget. Discloses information about the RPF and the RAP. Prepares compensation agreements with the PAPs. Carries out monitoring activities Furnishes the World Bank with the information about the RPF and the RAP. Manages the Grievance Redress Mechanism.



## **Annex 1 . Minutes of Public consultations on the ESMF discussion**

### **MINUTES**

#### **on Public discussions on activities under the project “Enhancing Resilience in Kyrgyzstan” (ERIK) regarding Additional Financing and the Framework Documents on environmental and social management and resettlement**

*March 5, 2020*

*MoES KR, Bishkek*

#### **Participants:**

The list of participants is attached.

#### **AGENDA:**

Discussion of the activities under ERIK project on Additional Financing and the following documents:

- Framework document on environmental and social management and safety measures (revised);
- Relocation framework document (revised).

#### **Speakers:**

1. Azamat Mambetov - State Secretary of the Ministry of Emergency Situations of the Kyrgyz Republic (MoES KR) opened a public discussion and made a welcoming speech.
2. Zhyldyz Toktorbaeva – PIU Director of PIU under the MoES KR made presentation on the ERIK project and Additional Financing regarding components 1,2 and 4 of the project.
3. Nazira Abdylasova – PIU Safeguard Specialist made presentation on the Framework documents on safety measures for ERIK project.

#### **Discussions:**

There was an active discussion of the information presented on the ERIK project and documents, questions were asked and answers were received (attached).

Following the discussions, it was decided:

1. To take into account information provided.
2. Consider presented Framework Document on environmental and social management and Resettlement Framework Document as acceptable for Additional Financing of the ERIK project.

**Chairman of public discussions**

**A. Mambetov**

**Secretary**

**E. Biyaliev**

**List of participants**  
**of Public discussions on activities under the project “Enhancing Resilience in Kyrgyzstan” (ERIK)**  
**regarding Additional Financing and the Framework Documents on environmental and social management**  
**and resettlement**

*March 5, 2020*

*MoES KR, Bishkek*

<b>No.</b>	<b>Organization/ independent experts</b>	<b>Name</b>	<b>Position</b>
1.	Ministry of Emergency Situations of the KR	Mambetov A.M.	State Secretary
2.		Otorbekov B.D.	Head of International Cooperation Department
3.		Akmatov J.A.	Chairman of Public Council
4.	Ministry of Labor and Social Protection of the KR	Turgunbaeva M.E.	Senior Specialist of Social Services Development Division
5.	Ministry of Education and Science of the KR	Subakeeva J.B.	Senior Specialist of Public Procurement and Infrastructure Division
6.	State Agency for Architecture, Construction and Communal Services under the Government of the KR	Sagynova Ch.Kh.	Head of Monitoring Evaluation
7.	Accounts Chamber of the KR	Sulaimanov T.M.	Chief State Inspector
8.	State Agency for Environmental Protection and Forestry under the Government of the KR	Skakov M.Sh.	Head of State Environment Expertise Division
9.		Aidaraliev N.E.	Specialist of the Center for State Regulation of Environmental Protection and Ecological Safety
10.	State Inspectorate for Environmental Technical Safety under the Government of the KR	Omurov M.B.	Head of Ecological Safety Department
11.	Community Development and Investment Agency of the KR	Mambetkulova A.J.	Deputy Executive Director
12.		Chonoev U.K.	Safeguard Specialist
13.		Niyazbekov N.	Urban engineer
14.	PIU under MoES KR	Toktorbaeva Zh.A.	PIU Director
15.	PIU under MoES KR	Biyaliev E.B.	Coordinator of Component 2
16.	PIU under MoES KR	Sheraliev T.D.	Civil engineer
17.	PIU under MoES KR	Abdylasova N.K.	Safeguard Specialist
18.	Independent experts	Kutmanova E.V.	Environment specialist
19.		Abdykalykov N.D.	Environment specialist

20.		Asanalieva N.A.	Environment specialist
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*Annex*

**to the Minutes on on Public discussions on activities under the project “Enhancing Resilience in Kyrgyzstan” (ERIK) regarding Additional Financing and the Framework Documents on environmental and social management and resettlement**

*March 5, 2020*

*MoES KR, Bishkek*

**FAQ**

**Question 1.** Has funding of \$ 20 million been approved? What conditions are provided? If out of \$ 20 million 50% is a grant and 50% is a loan, then what amount will Kyrgyzstan extra pay?

**Answer:** The financing agreement was ratified by the Law of the Kyrgyz Republic No. 20 of January 29, 2019. Out of \$ 20 million, \$10 million are grant and \$10 million are loan. The loan will be paid starting from 2024 during 38 years and about \$1.5 million will be additionally paid back with \$10 million. Additional funds of \$ 70 million will be provided on the same basis.

**Question 2.** I wanted to know if schools will be built in new areas or there will be reconstruction or construction of new buildings carried out on existing school territories?

**Answer:** There two main direction are provided within the project: reconstruction of existing school buildings or replacement with new buildings. Work will be carried out in existing school areas.

**Question 3.** What are the criteria for selecting schools for Additional Financing?

**Answer:** For Additional Financing, the selection criteria for schools will be developed and approved by an interagency working group created by an order of the Government of the Kyrgyz Republic.

**Question 4.** How is the functional responsibility of the ministries and departments carried out?

**Answer:** For each component of the project there are responsible government bodies, for Component 1 - Ministry of Emergency Situations of the Kyrgyz Republic, for Component 2 - Ministry of Education and Science of the Kyrgyz Republic and State Agency for Architecture, Construction and Communal Services under the Government of the KR, for Component 3 - State Service for Financial Market Regulation and Supervision and OJSC “State Insurance Organization”. The Project Operational Manual states responsibilities and functions of the ministries responsible for the project implementation. For additional financing, appropriate changes will be made to this Project Operational Manual.

**Question 5.** Who will be responsible for the construction of schools?

**Answer:** PIU will conducted a tender for construction services and technical supervision, following which a suitable construction company will be selected. The construction company in conjunction with technical supervision will be responsible for the construction and commissioning of the facility.

**Question 6.** How will sanitation be carried out in schools, because there is such a problem in many rural schools? If you plan to improve water supply and sanitation, then I recommend installing local treatment facilities in schools in order to eliminate groundwater pollution. Wastewater treatment plants are available only in large cities and even not in all cities. Today, good and not so expensive local treatment facilities are available. In large schools, it is recommended to install local treatment facilities for the treatment of domestic wastewater.

**Answer:** All issues related to water supply, sanitation and heating will be taken into account in the Terms of Reference. The project will involve consultants on the development of a feasibility study and project documentation, within which alternative options will be considered and a suitable and acceptable option will be selected including sewage treatment, issues of water supply and heating, etc. All documents will pass relevant examinations in state bodies in the prescribed manner.

**Question 7.** Does the Public Council of the Ministry of Education and Science of the Kyrgyz Republic participate in the selection of schools? It is necessary to participate in this issue.

**Answer:** The public council did not participate in the current project, the list of schools was approved by the interdepartmental selection committee including Head of State Agency for Architecture, Construction and Communal Services under the Government of the KR, Ministry of Emergency Situations of the Kyrgyz Republic, Ministry of Education and Science of the Kyrgyz Republic, as well as deputies of the Jogorku Kenesh of the Kyrgyz Republic. Within the framework of additional financing, we will take this issue into account.

**Question 8.** It was announced that new schools will be equipped with furniture and equipment. Will the schools be equipped with furniture during the reconstruction of existing schools?

**Answer:** Additional financing for the new construction of the school envisages equipping with furniture and equipment, as well as during the reconstruction each school will be considered individually, if necessary, the issue of updating existing furniture and equipment will be considered.