

Samoa Aviation and Roads Investment  
Project [P-176272]

LAND ACQUISITION AND RESETTLEMENT  
FRAMEWORK

Government of Samoa: Ministry of Finance; Samoa  
Airport Authority (SAA) and Land Transport Authority  
(LTA)

DRAFT

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# 1 INTRODUCTION

The Samoa Aviation and Roads Investment Project (SARIP) is financed by the World Bank and aims to improve the climate resilience and safety of Samoa's transport sector. The aviation and road subsectors both play a critical role in Samoa's economic development through supporting trade and promoting commercial activity through facilitating the movement of goods and services.

The Ministry of Finance is the executing agency (EA). The Samoa Airport Authority and Land Transport Authority (LTA) are the project's implementing agencies (IA). The Transport and Infrastructure Sector Coordination Division (TISCDC) of the Ministry of Works, Transport and Infrastructure (MWTI) will carry out the overall coordination role of the Project and act as the PMU.

SARIP will be implemented in accordance with relevant Samoan Laws and the World Bank's new Environment and Social Framework (ESF). The ESF's Environmental and Social Standard 5 – Land Acquisition, Restrictions on Land Use and Involuntary Resettlement applies to the project. Under ESS5, the Borrower is required to prepare a Land Acquisition and Resettlement Framework (LARF) to address all adverse impacts caused by project and sub-project activities.

This Land Acquisition and Resettlement Framework (LARF) has been developed to outline the principles and processes for managing potential impacts caused by involuntary land acquisition, including economic or physical displacement, or loss of assets or access to assets. The LARF also provides guidance for the preparation of Resettlement Plans (RP) and associated documentation.

## 1.1 Project Overview

The Project Development Objective (PDO) of SARIP is to improve the climate resilience and safety of Samoa's transport sector, and in case of an Eligible Crisis or Emergency, respond promptly and effectively to it. The SARIP aims to achieve its PDO through the implementation of proposed activities under the following components.

### **Component 1: Climate Resilience and Safety Investments in the Aviation Sector.**

Component 1 will be implemented by SAA, and will support investments to improve climate resilience, safety and sustainability of the aviation subsector. This will include: i) technical assistance for climate resilience and safety investments at Faleolo International Airport including a site-level drainage master plan (including hydrological and hydraulics assessments, integrated flood resilience and stormwater drainage strategies), prioritization of potential resilience measures (rehabilitation / upgrade of the existing seawall and improvement of airfield drainage), design of a boundary fence, and feasibility study for the extension of the runway; ii) design and construction of climate resilient physical investments including (among other agreed measures based on the drainage master plan) the rehabilitation and upgrade of the existing seawall (supplemented by mangrove planting and other nature-based solutions where feasible) and airfield drainage improvements; and new navigation systems and boundary fence to improve operational safety; and iii) a regional airport maintenance program to maintain critical mechanical and electrical assets.

### **Component 2: Climate Resilience and Safety Investments in the Road Sector.**

Component 2 will be implemented by LTA and will involve design and construction to improve the resilience of select road sections to climate-related hazards and/or events, and to improve the safety of the road network. The integration of climate change, disaster resilience, and safety considerations into infrastructure activities will help strengthen the resilience of assets, mitigate disruptions to roads access,

and improve the functionality of the transportation network. This will include: i) the detailed design and construction of localized drainage upgrades for the East Coast Road (ECR) to help quickly drain storm surge and runoff to the sea, as well as rehabilitation of the road to improve climate resilience; and, ii) the detailed design and construction of localized upgrades for Alafa'alava Road to improve climate resilience. Road safety aspects and universal accessibility will be taken into consideration in the designs prepared under SARIP.

### **Component 3: Strengthening the Enabling Environment.**

This Component will provide support to strengthen management capacity of LTA and SAA for project implementation, and will include technical assistance for project management, Occupational Health and Safety (OHS), gender, and Sexual Exploitation and Abuse / Sexual Harassment (SEA/SH) activities .

### **Component 4: Contingent Emergency Response Component (CERC)**

This component will provide swift response in an event of an Eligible Crisis or Emergency, by enabling Samoa to request the World Bank to re-allocate project funds to support emergency response and reconstruction. Given the lessons learned from the COVID-19 pandemic, the CERC under SARIP will allow flexibility to support health-related response in addition to transport-related response efforts.

## **1.2 Justification for Land Acquisition and Resettlement Framework**

The project will involve the rehabilitation and construction of aviation infrastructure at Faleolo International Airport and road infrastructure on either East Coast Road or Alafa'ava Road.

All airport works will be limited to the existing physical footprint of Faleolo Airport, which is situated on, and surrounded by a buffer of freehold land registered to SAA. No land acquisition or impacts on economic assets are expected.

All road rehabilitation and reconstruction activities will be confined to the legally established road corridors. However rehabilitation works along East Coast Road and Alafa'alava may require minor land acquisition for fixing discrepancies between the legal corridor and the existing road alignment, or to improve the road geometry for safety reasons. Fixed assets such structures, fences or driveways and economic trees and crops may be present on land required for project activities and will need to be accounted for prior to any construction activities commencing. Road rehabilitation may also require the establishment of easements for drainage outfalls. These do not require formal land acquisition (i.e. ownership transfer of land title to the government, but do require the granting of certain access rights by the incumbent property owner to the government for the purposes of installing and thereafter maintaining the outfall and associated infrastructure.

As SARIP is in the project preparation phase, the likely nature and magnitude of land acquisition requirements or potential restrictions on land use are yet to be determined. This land acquisition and resettlement framework (LARF) has been developed to establish the principles and procedures to follow in the preparation of sub-project specific action plans once project components are developed further and land acquisitions requirements are known.

The Project will not support activities involving significant land take or significant relocation of project affected people.

## 2 NATIONAL CONTEXT, LEGAL AND REGULATORY FRAMEWORK

### 2.1 National Context

Samoa comprises two large islands – i.e., Upolu and Savai'i, two smaller inhabited islands, Manono and Apolima, and a number of smaller islands. These islands cover a total area of 2,800 km<sup>2</sup>.

Samoa has an estimated population of 195,979 as of 2016<sup>1</sup>, living in about 362 villages largely found along the coast. Traditional social structures and cultural institutions are very strong in Samoan society which is based on an *aigapotopoto* (extended family) system. Every *aigapotopoto* is headed by a high chief or *sa'o* (holder of traditional title) who is responsible for family affairs, particularly in relation to land and titles. There are normally several chiefs in an extended family but live in their own house, cultivate their own crops on extended family land and operate independently on a day-to-day basis. Many extended families make up a village. Every village has a *fono* (council) that maintains law and order, provides direction for village development including land use. The *fono* meets regularly throughout the week, and consists of all the chiefs in the village. Every village has a *pulenu'u* (village mayor) who is the contact person and conduit of information between the *fono* and the Government of Samoa (GoS), and a *Sui o le Malo* (women's representative).

Of the country's total land area, 81 percent is held under customary ownership, 15 percent by government and 4 percent by freehold. While customary tenure guarantees ownership rights to all Samoans, it is often very difficult for development purposes to get agreement from all the different parties involved at any one time. Whenever customary land is affected by any form of development, disputes will invariably arise and cause delays to development projects, sometimes extended for certain periods of time. While the knowledge of customary land boundaries is handed down by word of mouth and are known to family members, the *pule* (authority) is often uncertain or disputed.

*Table 1 Land Ownership Types in Samoa*

Land Type	Description
Freehold	Privately owned. Can be transferred, leased, mortgaged or otherwise.
Government	Government owned/public lands. Can be leased and in certain circumstances transferred.
Customary	Under customary ownership. Protected by the constitution for the "customs and usages" of the people of Samoa. Customary land is owned by the community in accordance with traditional custom and usage and may be leased but may not be otherwise sold or transferred. Expropriation by the Government for projects for the public benefit is permitted by law.

The main feature of land tenure is the significant percentage of communally owned land by villages and families. These lands are awarded through historic claims and by family genealogy and connections. Village lands comprise of (i) village controlled customary land which is normally the undeveloped hinterland that is used by all members of the village for hunting, firewood collecting, etc. and (ii) extended family land or land allocated to each extended family for their houses, crops etc. village land is

<sup>1</sup> 2016 CENSUS Brief No.1. Samoa Bureau of Statistics, 2017.

governed by the village *fono*. Extended family land is allocated by the *sa'o* in consultation with members of his extended family.

## 2.2 National Legislation and Policy

Legislation and policy relevant to the requirements of ESS5 includes;

- The Constitution
- Property Law 1952
- Taking of Land Act 1964
- Lands, Survey and Environment Act 1989
- Land Titles Registration Act 2008 and regulations
- Survey Act 2010 and regulations
- Survey Act 2010 and regulations
- Alienation of Customary Land Act 2007
- Land Valuation Act 2010;
- Samoa Code of Environmental Practice.

### 2.2.1 Involuntary resettlement and compulsory land acquisition

The GoS has limited power of renowned domain, which is the power of the government to take private property and convert it public purpose. The Samoan Constitution states that “no property shall be taken possession of compulsorily and no right over interest in any property shall be acquired compulsorily” (clause 14). Article 13 and 14 acknowledge the right to reside, and to provide protection from compulsory acquisition, while Articles 101 and 102 state that customary land cannot be alienated.

However, the Constitution does allow for compulsory acquisition for public purposes and the following provision applies;

- Payment within the reasonable time and with adequate compensation;
- Right of access to the Supreme Court regarding the amount of compensation and;
- Right of appeal to the Supreme Court.

The key legislations in Samoa relevant to involuntary resettlement and compulsory land acquisition includes the Taking of Land Act 1964, Alienation of Customary Land Act 1965 and the Lands, Surveys and Environment Act 1989 (LSE Act), as well as the Codes of Environmental Practice (COEP).

The *Taking of Land Act 1964* establishes the taking of lands for "public purposes". The Act applies to the alienation of freehold and customary land, including land of this type that is currently under leasehold, and provides for the taking of land for public purposes. The Act provides the procedures for land acquisition, sets out the circumstances in which compensation is payable, methods for assessing such compensation and dispute resolution procedures. Section 7 empowers the state to take customary land or freehold land required for any public purpose. Furthermore, Section 3 provides that the state may declare any purpose to be a public purpose within the meaning of this Act. Once land is identified for acquisition reasonable notice is required to be given to the owner or occupier of freehold land or the *matai* who has the *pule* or jurisdiction over the customary land. Public notice of 28 days is allowed for any objections. If no written objection is received, the Minister may then proceed to take the land by Proclamation. It also provides for compensation entitlements (s11, 25, 37). Land processes associated with this Act or with the acquisition of required lands, despite its land type will be administered and implemented by the Ministry of Natural Resources and Environment.

The Land Registration Titles Act 2008 (LTRA) regulates the property title registration system and rules for land transactions. Part 9 of this Act details easements and deed of restriction due to easements, and Part 13 outlines compensation by government. The terms in the LTRA provide for the rights and responsibilities of the dominant and tenements. This Act does not apply to customary land and only deals with private easements on freehold land (and easements in gross<sup>2</sup> are excluded). These involve what type of water is allowed to flow across or under the land, how the infrastructure (such as pits, storm water pits, open channel drains) can be maintained and accessed, and what responsibility the dominant tenement has to restore the land to its original condition after any service or maintenance (Schedule 1). The terms also describe the responsibility of the landowner (grantee) to minimize disturbance over the land and to restore the land, as nearly as practicable to its original condition. Section 67 (3) allows a deed of restriction to be registered. Section 68-69 details rules for the release, modification and extinguishment of easements. Easements must be registered to be considered legally valid. The terms and conditions associated to constructing easements are formalized over an agreement letter that is often made between the client and the land owner. Terms and conditions are communicated to the land owner on a transparent level and is ensured that the land owner understand their role.

Part IX of the Property Law Act 1952 deals with easements and provides for easements in gross (s122)<sup>3</sup>; power of the courts to modify or extinguish easements (s127); and permission for the court to impose easement for encroachment (s129).

The Survey Act 2010 (and regulations) requires existing and proposed easements (either easements in gross, or dominant or servient tenement) to be clearly shown on a survey plan (s19, 24).

### *Customary Land*

Most of the land in Samoa is held under customary ownership and protected by the Constitution for the "customs and usages" of the people of Samoa. Customary land is held in the name of the matai or head of the family, who has the authority (*pule*) over the family land that is similar to a trustee. The matai determines the distribution of family land among members of the family for their use. It is believed that every Samoan has rights to land that will provide him with a means to earn a living and support his family. It is uncommon for a Samoan to be without rights to some land as a descendant of Samoan parents. It is also uncommon for a Samoan not to have access to alternative areas of land on which to relocate or to cultivate. However, these rights to customary land are dictated by one's blood connections. Consequently, one does not have a choice about the location of customary land to which one is entitled. Alienation of customary land is possible by only two methods:

1. By lease of the land to a person determined by the *matai* of the family. The Minister of Lands is appointed by the *Alienation of Customary Land Act 1965* to act for and on behalf of all beneficial owners in signing a lease for registration. The Minister may grant a lease or license of customary

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<sup>2</sup> An Easement in Gross allows the dominant tenement of the easement to be an entity independent of land ownership. Section 65 of the LTRA does not specifically provide for the creation of Easements in Gross, although the rights implied for Easement in Gross are detailed in Schedule One of the Act.

<sup>3</sup> s122 Easement in gross permitted – an easement over land may be created without being attached or made appurtenant to other land, and such as easement shall run with and bind the land over which it is created, and all persons claiming title to that land by, through or under the person creating the easement; and the easement so created shall be to all intents and purposes an incorporeal hereditament, and shall be assignable accordingly.

land for authorized purposes (which are defined). The maximum lease in aggregate for a public, commercial, business or religious purpose is 40 years.

2. By the *Taking of Lands Act 1964* for a "public purpose." The Lands and Titles Court is an independent Court specifically established to deal with customary lands and titles. Lawyers are not permitted to appear before this Court unless they are representing their personal interest in any customary land or title. The records of the Lands and Titles Court are accessible exclusively to the members and descendants or their heirs to the land or title. One can only access the records by providing proof to the Registrar of Lands and Titles that one is an "heir" to the land or a descendant of the family to which the land or title belongs. The register of customary land is not a public record.

There are many instances where the authority or ownership of customary land is uncertain or disputed. Such disputes are referred to the Lands and Titles Court for decision about the *pule* over the land or title in dispute.

The Minister of Lands is appointed by the *Alienation of Customary Land Act 1965* to act for and on behalf of all beneficial owners in signing a lease for registration. The Minister may grant a lease or license of customary land for authorized purposes (which are defined). The *Alienation of Customary Lands Act 1965* does not permit the creation of easements over customary land, but provides provisions for the granting of leases and licenses.

Section 9 of the *Land Titles Registration Act 2008* is very clear that no provision of that Act is to be seen as disposing of any customary land. Under this Act, the Registrar has a duty to include land in the Register that becomes public land or freehold land or customary land leased or licensed under the provisions of the *Alienation of Customary Land Act 1965*. The Land Registrar is empowered by s15 of the *Land Titles Registration Act 2008* to register all public land, freehold land or customary land that is leased or alienated. There is also provision for the Registrar to record and register any customary land where the *pule* or authority over it has been established.

### ***Freehold Land***

Freehold land is registered under a deeds registration system established prior to Independence in 1962. The Register of freehold lands is a public record which can be accessed by the payment of a search fee. Freehold land is situated mainly within the Apia urban area and the outskirts of Apia. Freehold land is highly valued and the current market value of the land is determined by the price a willing buyer will pay for it and factors such as comparable land sales and the services and amenities accessible to the area in which the land is located. Residence on freehold land is not subject to the authority of the chiefs and orators of a village, even if it is located in a village.

### ***Government Land***

The Land Board established by the *Lands Surveys and Environment Act 1989* administers government land. Records of Government land estimated that the total area of Samoa comprised 725,000 acres with Government land at 85,630 acres. Land within three meters of a natural watercourse is public land over whose property it flows and maintenance of the watercourse is therefore the responsibility of the government.

The LSE Act provides a process for the alienation of Government land, land administration and other matters such as environmental protection, wildlife conservation and coastal zones. Government land is a subclass of public land, which is not set aside for any public purpose and includes land which has become the property of the Government as ownerless property. There are a variety of controls under this Act on both leases and sales of Government land. Applications from the public are called for

leases and tenders may be called for sales. The Minister may approve purchase of any land for public purpose (s23) or lease of government land for up to 20 years (s37). Leases have to be in the approved form and subject to the covenants and conditions imposed by the Land Board.

### 2.3 World Bank Environmental and Social Framework

The World Bank's Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement (ESS5) outlines mandatory objectives for land acquisition and resettlement activities. These objectives have been adopted in the LARF and will govern project implementation. A gap analysis between national laws covering involuntary resettlement and the Bank's ESS5, and the measures to bridge such gaps is detailed in Table 2.

Table 2 Gaps between national laws and the Bank's ESS5

WB ESS5 Requirements	Samoa Legislation	Gap filling measures
Avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives.	In Part IIA of the Taking of Land Act 1964, Section 24F states that: "In the exercise of the powers conferred by this Part of the Act the Minister or his officers, workmen or others by his discretion shall do as little damage as may be..."	The project design will seek to avoid physical and economic displacement. Where such impacts cannot be avoided, best efforts will be made to minimize impacts through design review. Acquisition of land will only be pursued once all viable alternatives have been considered.
Eligibility classification for compensation and assistance include: (a) persons who have formal legal rights to land or assets; (b) persons who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or (c) persons who have no recognizable legal right or claim to the land or assets they occupy or use.	TLA Part III Section 25: Compensation eligibility includes only those with the <i>pule</i> (authority) or legal rights to land.	Persons without recognized legal entitlement to affected land will be compensated and assisted with respect to non-land assets and will be entitled to resettlement and/or livelihood restoration assistance if they are severely affected.
The Borrower will engage with affected communities, including host communities, through the project's 'stakeholder engagement' process. Affected persons will have meaningful participation during consideration of alternative project designs, and thereafter throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood restoration activities, and relocation process.	TLA Part II Section 6: A notice of intention to take land will be published which allows for objections to be lodged.	Affected persons will be meaningfully consulted throughout all project phases and possible mitigation measures should be considered.
Particular attention will be paid to gender aspects and the needs of the poor and the vulnerable in all stages of the project including the compensation process.	TLA Section 28 stipulates those compensations can only be made by trustees, guardians or committees on behalf of beneficiaries, infants or mentally defective persons	The census and baseline socioeconomic studies will identify information on vulnerable groups or persons for whom special provisions may have to be made to ensure their needs are considered and additional measures are in place to cater for these vulnerable groups.

<p>The Borrower will provide relocation assistance suited to the needs of each group of displaced persons. Based on consultation with the displaced persons, the Borrower will provide relocation assistance in lieu of compensation for land sufficient for them to restore their standards of living at an adequate alternative site.</p>	<p>TLA only has provisions for compensation of affected land without any other type of assistance offered.</p>	<p>Severely affected persons will be provided with transitional assistance to enable them to restore their living standards. Assistance provided to persons required to relocate, will be aimed at ensuring security of tenure for their replacement housing in a location of at least equivalent characteristics and advantages of location.</p>
<p>The Borrower will ensure that a grievance mechanism for the project is in place as early as possible in project development to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion.</p>	<p>People are given the opportunity to lodge grievances within 28 days from the publication of the notice claiming to be affected, objecting to the taking of the land.</p>	<p>A functioning Grievance Redress Mechanism (GRM) that is accessible and responsive will be established for the duration of the project.</p>
<p>Affected land and non-land property is required to be compensated at full replacement cost.</p>	<p>TLA Part III Section 25 refers to the right for 'full and just compensation for all affected people as the basis for determining the offered value of the affected land</p>	<p>Compensation will be provided at full replacement cost. For land, compensation will be based on market value plus transaction costs. For structures, compensation will be sufficient to replace the affected structure without depreciation plus the cost of any transaction costs such as registration fees. For non-land property that can be feasibly moved, assistance will be provided to restore the affected property.</p>

### 3 OBJECTIVES, KEY DEFINITIONS AND REQUIREMENTS

The Samoa Airport Authority (SAA) and the Land Transport Authority (LTA) will be the implementing agencies for each of their respective components. Both agencies have agreed to carry out their projects in accordance with the LARF and ESS5 and waive any national legal, regulatory provisions in the contradictions to the requirements established in this LARF, and to take actions necessary to ensure full and effective implementation of the RPs prepared in accordance with the LARF.

The objectives are as follows:

- To avoid involuntary resettlement, or when unavoidable, minimize involuntary resettlement by exploring project design alternatives;
- To avoid forced eviction;
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by (a) providing timely compensation for loss of assets at replacement cost (b) assisting displaced persons in their efforts to improve, or at least restore their livelihoods and living standards, in real terms, to pre displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher;
- To improve living conditions of poor or vulnerable persons who are physically displaced, through the provision of adequate housing, access to services and facilities, and security of tenure;
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant;
- To ensure resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation and the informed participation of those affected.

Where Samoan law does not align with these objectives, domestic law is supplemented by the additional measures set out in this LARF.

#### 3.1 Key Definitions

For the purpose of this LARF, resettlement is considered involuntary when affected persons (AP) or communities do not have the right to refuse land acquisition or restrictions on land use.

“Involuntary Resettlement” may cause physical displacement (relocation, loss of residential land, or loss of shelter), economic displacement (loss of land assets or access to land assets, leading to loss of income sources or means of livelihood), or both.

The definitions of other key terms used in this LARF are provided below:

- "Replacement cost" is defined as a method of valuation yielding compensation sufficient to replace assets plus necessary transaction costs associated with asset replacement.
- “Land acquisition” refers to all methods for obtaining land for the project purpose, which may include outright purchase, expropriation of property, and acquisition of access rights, such as easements
- “Restriction of land use” refers to limitations or prohibitions on the use of agricultural, residential or commercial land that are directly introduced and put into effect as part of the project

- “Livelihood” refers to the full range of means that individuals, families or communities use to make a living such as wage-based income, agriculture, fishing, foraging, trading or bartering.

### 3.2 Key requirements

ESS5 establishes the key requirements to be followed in resettlement planning and implementation. Of particular relevance for this LARF are the following:

- Land acquisition or restrictions on land use should be limited to direct project requirements for clearly specified project purposes;
- Feasible alternative project designs should be considered to avoid or minimize land acquisition or restrictions on land use;
- When land acquisition or restrictions on land use cannot be avoided, compensation should be offered at replacement cost;
- Compensation standards for categories of land and fixed assets should be disclosed and applied consistently;
- Possession of acquired land or related assets will only occur after compensation in accordance with this LARF;
- Affected communities will be engaged with throughout the decision-making process;
- A grievance mechanism must be established to address concerns relating to land acquisition and compensation.

Where land acquisitions or access restriction cannot be avoided, an environmental and social assessment must be undertaken. The assessment must include a census to identify persons who will be affected, to establish an inventory of land and assets affected and to determine who will be eligible for compensation. A plan must also be prepared in accordance with Annex 1 of ESS5.

## 4 Process for Preparing and Implementing Resettlement Plans

### 4.1 Screening of Land Acquisition and Resettlement Impacts

The Projects ESMF outlines the safeguards decision and implementation process, outlining steps for eligibility screening, technical screening, instrument preparation, procurement, and monitoring and reporting.

Screening involves the completion of the E&S screening form (refer ESMF Annex II) to determine the risk profile for the sub-project, identify the relevant ESS and the type of E&S assessment required, including specific instruments/plans.

The purpose of the screening is to:

- Determine whether activities are likely to have potential negative E&S risks and impacts.
- identify the relevant Environmental and Social Standards (ESS) and legislation requirements; and
- Identify the relevant documentation and tools that require preparation, disclosure, implementation and monitoring.

Sub-projects will be deemed ineligible for project funding if they are:

- Activities that may cause long term, permanent and/or irreversible (e.g. loss of major natural habitat) adverse impacts;
- Activities with substantial or high levels of environmental risk;
- Activities that have high probability of causing serious adverse effects to human health and/or the environment
- Activities with substantial or high levels of social risk;
- Activities that involve significant land acquisition and resettlement impacts; and
- Activities that involve significant adverse impacts on cultural heritage;

E&S instruments will include an assessment and validation of impacts of land acquisition, in coordination and full consultation with all stakeholders. Draft E&S instruments will be provided to the Bank as a condition of subproject approval.

Preparation of land acquisition and resettlement instruments will commence as soon as the specific location of facilities and infrastructure is known and shall be finalized prior to implementation or commencement of any works.

Table 3 below lists the resettlement instruments / documentation required for sub-projects that may involve land acquisition, involuntary resettlement, voluntary land access or donation. Compulsory acquisition of land will only be pursued once all viable alternatives have been considered and no other suitable sites exist.

*Table 3 Resettlement instruments required under project scenarios*

Impacts	Instrument requirements
Involuntary land acquisition, physical displacement, and/or economic displacement	Resettlement Plan

Significant land acquisition and involuntary resettlement – i.e. severe physical displacement; severe loss of productive land holdings / livelihoods	<u>Not</u> eligible for funding under SARIP
Land Voluntary Donated for the establishment of drainage easements on customary or private land)	Voluntary Land Donation Report and Easement Agreement

## 4.2 Voluntary Land Donation Report

Should drainage easements be established using VLD, a Voluntary Land Donation Report is to be prepared which complies with the VLD protocol for the Project (Appendix 1). The VLD Report will be prepared by the LTA with support by the E&S Design and Supervision Consultants (as required). If the subproject also involves involuntary resettlement, the VLD report will be incorporated into the Resettlement Plan (refer below).

## 4.3 Developing a Resettlement Plan

Responsibility for preparation, implementation and monitoring of RPs (including responsibility for meeting all associated costs with their implementation), in accordance with this LARF, rests with the GoS through the SAA and LTA as the implementing agencies. Overall responsibility for managing the involuntary land acquisition process rests with MNRE. As necessary, these government agencies will exercise authority to coordinate actions with any other agencies and contractors involved to ensure timely and effective RP implementation.

The scope of requirements and the level of detail of the resettlement plan will be commensurate with the magnitude and complexity of resettlement impacts.

### *Preliminary Assessment and/or Detailed Measurement Survey*

The IAs will carry, or cause to be carried out a preliminary assessment for any/all affected land and assets within the limit of works or road reserve is to be conducted to provide an initial and general baseline to help inform the RP regarding the estimated and possible affected assets. The surveys must cover 100 percent of the affected persons, landholdings and include an inventory of assets. The survey should also establish whether any commercial enterprises are affected.

A detailed measurement survey (DMS) for all affected assets will be conducted at a later date once work boundaries is pegged and marked. However, a DMS may be conducted rather than a preliminary assessment if the boundary markings are able to be conducted at an earlier period.

### *Census Survey and Baseline Socio-economic Study*

A census and socio-economic baseline study should be conducted alongside the preliminary assessment or DMS to identify and enumerate affected persons, and with the involvement of affected persons, survey land, structures and other fixed assets to be affected by the project. The census survey should also:

- Identify characteristics of displaced households;
- Provide Information on vulnerable groups or persons for whom special provisions have been made; and
- Identify public or community infrastructure, property, or services that may be affected.

The Preliminary Assessment / DMS and Census establish the 'cut-off date' to avoid ongoing compensation claims and encroachment issues from outsiders. The cut-off date will be the date the census begins unless otherwise notified by the IA. Under ESS5, any persons encroaching on the area after the cut-off date are not entitled to compensation or assistance as long as adequate information on the cut-off date has been disseminated throughout the project area at regular intervals in written and (as appropriate) non written forms and in relevant local languages.

#### *Financing Request*

Using these preliminary assessments or DMS, the IA will determine how extensive the value of asset-loss will be, subsequently depicting an estimated funds to be allocated i.e., counterpart funds. The responsible IAs will put in a formal request to the Ministry of Finances to set aside an amount to compensate for all affected lands, assets and livelihood impacts. Following the consultation with the affected persons on a fair and agreeable amount, agreements are thereafter prepared and maintained by the IAs for record prior to the disbursement of any payment.

#### *Land*

Consultation and negotiation of affected lands will be conducted by MNRE. Negotiation agreements for lands are thereafter sent to the IAs for certification prior to it being sent to MoF for disbursement. In the event that a dispute arises and land issues are unresolved in a timely manner, funds are set aside into an *escrow* account to avoid delays.

#### *4.3.4 RP Contents*

An RP will be prepared in accordance with the policy, principles, planning and implementation arrangements set forth in this LARF. The RP is based on accurate baseline information and establishes appropriate mitigation measures (e.g., compensation at full replacement cost for loss assets, transitional assistance for relocation/livelihood restoration/commercial enterprises) for all relevant categories of adverse impacts.

#### *Minimum requirements of the RP*

- *Description of the project:* Description of the project activity causing involuntary resettlement and explanation of efforts to avoid or minimize involuntary resettlement associated with the project (alternative project designs considered);
- *Potential impacts:* Range and scope of potential adverse resettlement impacts;
- *Objectives:* The main objectives of the resettlement program;
- *Census survey and baseline socioeconomic studies:* Socioeconomic survey and baseline census survey information of households;
- *Legal Framework:* Analysis and review of relevant laws and regulations relating to land acquisition and involuntary resettlement;
- *Institutional Framework:* Analysis of relevant agencies responsible for the implementation of resettlement activities and NGOs/CSOs that may have a role in project implementation;
- *Eligibility:* Eligibility criteria for compensation and all other forms of assistance;
- *Valuation of and compensation for losses:* Description of asset valuation procedures and specific compensation rates (or alternative measures) for all categories of affected assets;
- Other assistance measures, if any, necessary to provide opportunities for livelihood restoration for displaced persons;
- Land donation arrangements and documentation requirements, if relevant;

- Organizational arrangements for implementation;
- *Consultation and disclosure requirements and arrangements;*
- *Implementation schedule:* A schedule providing anticipated initiation and completion dates for resettlement activities;
- *Costs and budget:* Categorized cost estimates for all resettlement activities;
- *Monitoring and evaluation:* Monitoring of displacement and resettlement activities by the IA, supplemented by TISCD;
- *Grievance procedures; and*
- Summary entitlements matrix.

Based on the baseline surveys and in consultation with affected persons and *matai*, a time-bound action plan with budget shall be prepared. All compensation and assistance, must be provided to affected persons *before* construction commences. All recipients have the right to be informed of the method of valuation of their assets.

## 5 Eligibility, Entitlements and Valuation

### 5.1 Eligibility

“Affected persons” are eligible to receive compensation or assistance under the SARIP. The social assessment (SA) will identify affected persons entitled to compensation whom are categorized according to land ownership and magnitude of impact as outlined in Table 4.

*Table 4 Categories of Affected Persons*

Category of Affected Person	Eligibility for Compensation or Assistance
I. Those who have <b>formal legal rights</b> to land, building or fixed assets on the land and buildings taken by the Project ( <b>including customary</b> and traditional rights recognized under the laws of the Borrower)	Eligible for compensation for land or assets they lose, and other assistance at full replacement cost <sup>4</sup> . Where persons are identified as losing more than 10 percent of their productive land area or assets, they receive additional assistance for livelihood restoration.
II. Those who <b>do not have formal legal rights</b> to land, building or fixed assets on the land and buildings taken by the Project at the time the census begins <b>but have a claim</b> to such land, building or fixed asset on the land and buildings taken by the Project (provided that such claims are recognized under the laws of the Borrower or become recognized through a process identified in the RP)	Eligible for compensation for land or assets they lose, and other assistance at full replacement cost. Where persons are identified as losing more than 10 percent of their productive land area (e.g., land used for cultivation or grazing), they receive additional assistance for livelihood restoration
III. Those who have no recognizable legal right or claim to the land, building or fixed assets they are occupying	Shall be provided assistance (in lieu of compensation for the land, buildings or other fixed assets being taken by the Project) sufficient to achieve the objectives set forth in this Framework, if they occupy the Project area prior to the census cut-off date.
IV. Those who are subject to temporary closure of business	Where a commercial enterprise (e.g., shop or vendor) is required to close temporarily, the owner or operator is compensated for temporary loss of profits.
V. Persons who voluntarily consent to gifting land as donation for easement or Project purpose provided that it benefits their community	Compensation at replacement value for any asset lost by virtue of donated land (but compensation for loss of land does not apply).

### 5.2 Entitlements

The payment of compensation should be negotiated and determined using the following matrix:

<sup>4</sup> The amount sufficient to replace lost assets and cover transaction costs. Depreciation costs are not taken into account. Agricultural, urban land, houses and structures are eligible for full replacement cost under ESS5. Ministry of Works may be engaged to assist in the determination of cost of lost assets or structures if damaged or removed by the Project.

Table 4 Payment of compensation matrix

Type of Loss/impacts	Eligibility	Entitlement
Permanent loss of land	Legally recognized freehold or customary land owner.	Compensation based on replacement cost (market value plus transaction costs)
Loss of residential structures	Owner of asset regardless as to whether or not they have legally recognizable rights to the land on which the house is located.	<p>Reinstatement of residential structure loss or compensation based on replacement cost (market value plus transaction costs)</p> <p>Includes compensation, if applicable, for entire structure if remaining structure is no longer viable</p> <p>Includes right to salvage materials from structure without any deduction from compensation.</p> <p>Provision of rental allowance for alternative accommodation/moving costs until residential structure is re-constructed (if required) or when safe to relocate back</p>
Loss of minor structures such as fences, sheds	Owner of asset regardless as to whether or not they have legally recognizable rights to the land on which the house is located.	Reinstatement to former condition or better; or compensation based on replacement cost.
Loss of economic trees, crops, etc.		Compensation for lost assets based on Ministry of Agriculture Schedule of Payments and rates for crop damage.
Loss of commercial structures (i.e. shops, stores, stalls)	Owner of structure regardless as to whether or not they have legally recognizable rights to the land on which the house is located.	<p>Permanent structure: Cash compensation at replacement costs (market value). If partial structure impact, option to reinstate damaged section or entire structure. (if required); or compensation based on replacement cost Includes right to salvage materials from structure without any deduction from compensation.</p> <p>Temporary structures: Reinstatement to former condition or better; or compensation based on replacement cost.</p>
	Tenant	If partial loss of structure, option to stay with the owners agreement or if AP chooses to move out, financial assistance for 3 months rental allowance and assistance in finding new affordable rented premises.
Disruption to business (loss of net income/profit)	Operators of registered businesses and non-registered businesses	Compensation for period of disruption based on loss of income/profit (net average) up to a maximum of 3 months OR assistance to find and move to alternative sites to operate to avoid/minimize disruption.
Loss of income of employees	All affected employees and daily workers in private business	Payment for lost salary/wages up to a maximum of 3 months; and assistance in securing new employment including relevant

Type of Loss/impacts	Eligibility	Entitlement
		skills training (if required)
Restriction of land use for drainage easements	Legally recognized freehold or customary land owner.	Land access voluntarily donated [Reinstatement for any structures lost; Compensation for economic asset lost by virtue of donated land]
Government or Community structures (schools, clinics, religious buildings, utilities, etc)	All affected communities	Restored at no cost to the community in negotiation with the community and/or relevant government agency.
Disproportionate impacts on vulnerable groups	Affected households who are single female head or classified as poor (i.e. below national poverty line)	Additional livelihood restoration support in the form of once-off transitional payment (equivalent to 1 month income/livelihood generation)

## 5.3 Valuation

### 5.3.1 Land valuation/compensation

The *Land Valuation Act 2010* deals with the practice of land valuations and licensing of valuers. Valuations for the same area of freehold or customary land tend to be guided by market value overall. Valuation methodology for compensation packages will be determined in accordance with national legislation and regulations and approved by the Bank. Valuation for compensation will be based on the principle of full replacement cost.

#### Freehold

The GoS does not undertake valuations of freehold land on an annual basis. Determination of compensation to be paid for freehold land is easily valued because it is regularly sold and conveyed, mortgaged as collateral for loans and its value is determined by the fluctuation of the open market of "willing buyer and seller". Land is valued according to the availability of amenities such as water, electricity and telephones, its proximity to amenities such as schools and hospitals and the comparable sales of land in the same area of similar size.

#### Customary

Customary land presents many difficulties for valuation because it cannot be sold, mortgaged or alienated other than by lease. Such land has never been subject to any rates or land tax payments (nor has freehold land); therefore, it is difficult to ascertain the "market value" of customary land other than by using the market value of freehold land as a basis. The *Taking of Lands Act 1964* states that compensation should be paid at the "market value" and in practice customary land value has been measured in comparison to the market value of freehold land in the same area.

#### Easements

The Principal Valuer in MNRE has the task, on a case-by-case basis, to assess the value of the proposed easements based on freehold sales with full use land rights and then making appropriate

adjustments (if any) for the restrictions that the landowner will have over the narrow strips required for the drainage.

### 5.3.2 Asset Valuation/compensation

The SAA and LTA (IAs) will be responsible for determining the replacement cost or market cost of structures, assets and items damaged or removed for the Project, and these will be detailed with justification in the Resettlement Plan (RP). In the case the affected person desires to relocate the affected structure instead, the IA will or may employ the contractor to reinstate the affected structure at an equal or better condition compared to its original state.

## 5.4 Compensation Process

The GoS bears responsibility for meeting all costs associated with involuntary resettlement. Any RPs prepared in accordance with this LARF require a budget with estimated costs for all aspects of their implementation. All Affected Persons are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of resettlement planning, and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the RP budget shall include contingency funds, i.e., at least 10 percent of estimated total costs.

**Compensation must be paid promptly and in full to Affected Person** identified as eligible under the criteria presented above. No deductions from compensation will occur for any reason. The RP should describe the procedures by which compensation funds will flow from GoS to the displaced persons. The process for the payment of compensation will be as follows:

- Step 1 - Establish a 'cut-off date' for the census and land and asset survey to identify and enumerate affected persons and inventory residential or productive land and other assets to be affected. Compile a list of affected persons and associated assets.
- Step 2- SAA, LTA and MNRE-LMD to assess the list of affected persons and property in the RP and agree on compensation arrangements based on the extent to which the assets, crops and land affected.
- Step 3 - Affected person/s, landowners or *matai* are offered compensation negotiated by MNRE LMD and subsequently disbursed by MoF.
- Step 4 - If the affected person(s) agree, compensation payment is made in the timeframe agreed to. If the affected person(s) disagrees with the amount of compensation or conditions, the outcome will be determined by the Land and Titles Court.

## 5.5 Voluntary Land Donation

Refer to the Bank's Voluntary Land Donation Protocol (VLDP) in Annex 1. This is only to be applied to drainage easements that are of direct benefit to the landowner and community.

## 6 Consultation and Disclosure Arrangements

### 6.1 Consultations

Public consultation and disclosure are tools for managing two-way communication between the Project and the public with the goal of improving decision making and building understanding by actively involving stakeholders affected by the Project. Early initiation of meaningful community engagement enables affected individuals, households, communities, and other stakeholders to understand the implications of resettlement and to actively participate in the planning process. It is a core requirement of the World Bank's ESS5 *Land Acquisition, Restrictions on Land Use and Involuntary Resettlement*

A Stakeholder Engagement Plan (SEP) has been prepared, drawing on the experience of LTA with previous World Bank-financed projects

A process of meaningful and inclusive consultation will be followed including:

- Identification and involvement of the representative leaders and bodies from traditional communities/customary land holders such as matai, village mayors/sui tamaitai and representative bodies
- Provision of sufficient time for local decision-making processes to engage in the sub-project planning process; and
- Effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively.

This process will ensure the participation of the affected people in the development of the plan and through all stages of the project primarily focus on land acquisition and resettlement aspects of the plan. These opportunities will provide the affected person and communities to understand and consult about the potential impacts of the project and the planning activities developed under the project to manage these impacts. In addition, these public consultations will provide the opportunity to implementing agencies to demonstrate the requirements and instruments activated by the donor and government legislations for the project.

### 6.2 Stakeholder Engagement During Project Preparation

During project preparation, consultations were undertaken to inform development of the ESMF, LARF and SEP. Consultation involved meetings with stakeholders as well as community. Table 5-1 below provides a list of meetings and consultations held during the preparation stage. Consultation records are provided in the SEP.

*Table 5-1 Consultations/Meetings held during the preparation stage of the project*

*Table 5 Consultations/Meetings held during the preparation stage of the project*

Date	Type of meeting/consultation	Purpose/Message	Stakeholders	# of Participants	# of Males	# of Females
12 October 2021	Stakeholder consultation	Consultation with key project stakeholders to inform them about the project scope, implementation requirements as well as their roles and responsibilities in the overall implementation of the project	WB, CTSSU, TISCD, SAA, LTA, STEC, MNRE, MWTI, PUMA, DAS, NOLA, MCIT, MWCS D	30	16	14

Date	Type of meeting/consultation	Purpose/Message	Stakeholders	# of Participants	# of Males	# of Females
		to improve coordination. Information on the importance of developing an ESMF and other safeguards instruments was also shared.				
14 October 2021	Community consultation	This community consultation was for the Aviation component. It was held at the SAA Main Conference Room. Information on the project scope was also shared. Emphasis was placed on community health and safety, SEA/SH and gender aspects, and involvement of communities in the overall implementation of the project.	TISCD, SAA, 4 villages around the airport	36	20	16
19 October 2021	Community consultation	Community consultation for the Road Component. It was held at the Elisa Hotel in Apia.	TISCD, LTA, 10 villages along ECR	32	24	8

A number of issues regarding resettlement impacts were raised during these consultations and are summarized below

Concerns raised during the SAA community consultation:

- A participant questioned whether the project would be able to extend the airport seawall to neighboring villages.
- A participant whose land is in close proximity of the project site had questioned whether the project will affect his land and if there is any land taking process to be followed in the event his land is required for the project.

Concerns raised during the LTA community consultation:

- There were a few questions about how the project will improve drainage systems along ECR whether easements and road drainage systems will be reconstructed under SARIP. The client responded that easements and drainages will be included under this project. Easement agreement for affected families will also be prepared for signing before works commence.
- A participant questioned if the road will be moved and constructed away from the current road alignment. He also asked whether there was a study conducted to construct an inland road as an emergency route instead of reconstructing the ECR. The client responded that the reconstruction of the road will be aligned within the Government reserve and may be realigned with the existing road depending on the survey plan and later on design. Acquiring additional land outside of the existing road alignment or road reserve to cater for sensitive areas, if required, can also be done. Funding for the construction for an inland route was not available as the client proposed the ECR given its many hazards and setbacks to the community. The client will also note this down and discuss with the responsible stakeholder.

### 6.3 Summary of Consultation approaches During Project implementation

#### *Public consultation*

These consultations will involve formal presentation by the IAs and relevant stakeholders with communities. These will be conducted on the early stages of the design and survey works of the project to include all the proposed activities, social impacts, environmental impacts and relevant institution arrangements. Comment and feedback from this consultation will be recorded and attached to the prepare resettlement plan for records. Prior to consultations, the following activities will be implemented to ensure a full participation by the communities:

- Meeting date and venue will be advertised on LTA Facebook page and newspaper; and,
- Letters will be circulated to all affected village mayors and sui tamaitai for notification to the communities.

During the consultations, a registry will be signed by all participants with the agenda and flier prepared by the IA summarizing the key elements to be distributed to the participants.

In addition, the plan needs to ensure that all the traditional and cultural values are respected and addressed. These include traditional activities such as the ava ceremony and 'feiloaiga'.

#### **Focus group discussion**

These discussions will be held for specific communities, village or family within the affected project area with purpose to ensure the project is well understand and more importantly for vulnerable groups affect by the project.

#### **Individual consultation**

Land Taking Acquisition and Compensation - Consultation and negation for land owners affected by the project will be conducted by MNRE for land taking purposes.

Social surveys - Families and households affected by the project will have the chance to discuss the project impacts individually with IA's. These individual consultations will provide a brief summary of the project and project impacts. IA's will provide a contact list for any follow up comments.

### 6.4 Approval Disclosure

The LARF and subsequent RPs will be cleared by the government of Samoa and the World Bank prior to disclosure. Any changes made to these instruments will follow the same approval and disclosure protocols

The final resettlement plan will be made available on LTA website. Significant features and summary of the plan particularly compensation packages, institutional arrangements for GRM and contract information of implementing agencies will be summarized and distributed among the affected communities and relevant stakeholders. Translation of the plan key sections will be translated and distributed to affected people.

## 7 Grievance Procedures

The Grievance Redress Mechanism (GRM) is a platform created under the projects to receive and address complaints issued by affected persons or community members who have been impacted by any specific project activities whether it is social or environmental related. This includes grievances relating to resettlement impacts.

SARIP's GRM has been established in accordance with the World Bank requirement and acts as a transparent mechanism that aims to record, manage and resolve any complaints, concerns and grievances in a timely, effective and efficient manner and ensure that a satisfactory resolution is reported back to the complainant. Furthermore, the GRM also builds trust and cooperation as an integral component of broader community consultation that facilitates correct action.

LTA's Principal Safeguards Officer is the focal point for receiving and managing complaints concerning resettlement impacts. A Safeguard Coordination Complaints Compliance Committee (SCCCC) has been established by the LTA comprising of representatives from all relevant and involved ministries including LTA, MWTI-TISCD, MWTI-Planning Urban Management Agency, Ministry of Women, Community and Social Development, Ministry of Natural Resources and Environment, and Ministry of Finance

The SCCCC will discuss, address, monitor and resolve any issues related to all donor projects under LTA. The LTA as the IA for Component 2 will use this committee to effectively address and resolve any issues related to their activities under SARIP. Similarly, SAA as IA will be the complaints administrator for Component 1; however, in the absence of a committee, SAA's designated SARIP team will manage and monitor any received complaints.

### 7.1 GRM Procedure

Complaints and grievances can be submitted in the form of a phone call, a formal letter explaining the issue in clear details, or in person. All complaints and grievances will be recorded on complaint forms by the IA and entered into a GRM logging system which is also monitored by the IA. These records will be compiled into quarterly progress reports and submitted to TISCD for the compilation of the semiannual reports.

The 30 Day – GRM Process includes the following steps:

#### 1. Issue raised and received - Submission/Lodging of Complaint. (2 Business Days)

The issue is raised by an affected person or the affected community member. Submission can be done orally, in writing, through social media (LTA Facebook page) or in person. The issue is then registered on the standard form by the receiver.

#### 2. Issued Processed (5 Business Days)

Recipient (either contractor or IA) records the complaints in the GRM spreadsheet for record keeping. Responsible party is then informed and assigned the responsibility and issuance of the acknowledge letter to the complainant.

#### 3. Issue is assessed (10 Business Days)

The recorded issue then under goes the grievance assessment process. This step requires the contractor and/or the IA also with the assistance from the safeguards committee (if required) to address and resolve the issue that has been lodged within the allocated time. The committee is able to intervene should the issue be severe, serious or one that may cause any delayed.

**4. Complainant Resolution Process (10 Business Days)**

Once the issue is met with a resolution, the grievance data base is then required to be updated.

**5. Complainant Notified (3 Business Days)**

After appropriate actions executed by the contractor and/or the IA the complainant is then informed of the proposed resolution including actions taken or actions that will be undertaken. The grievance register is updated regarding any progress made.

**Escalation:** Complainants can request the grievance be escalated if they are not satisfied with the process or the proposed resolution. This would involve escalation from contractor to IA or from IA to committee.

**Legal Recourse**

This course of action is not considered part of the 30 days process given it is solely reliant on the complainant if they are displeased with the outcome or resolution. The complainant is informed that a legal avenue can be taken to obtain a more satisfactory outcome and resolution. However, the Safeguards committee along with the IAs will work assiduously to resolve these issues to prevent matters from escalating to such a level.

*Figure 1 GRM Flow Chart*

## 8 Implementation Arrangements

Overall responsibility for the implementation of this LARF and subsequent RPs will reside with the two implementing agencies – the LTA and SAA. These implementing agencies will be responsible for the day-to-day implementation of SARIP and will be assisted by two tiers of centralized implementation support, namely the Centralized Technical Services and Support Unit (CTSSU) within MOF and the Transport Infrastructure Sector Coordination Division (TISCD) within the Ministry of Works, Transport and Infrastructure (MWTI).

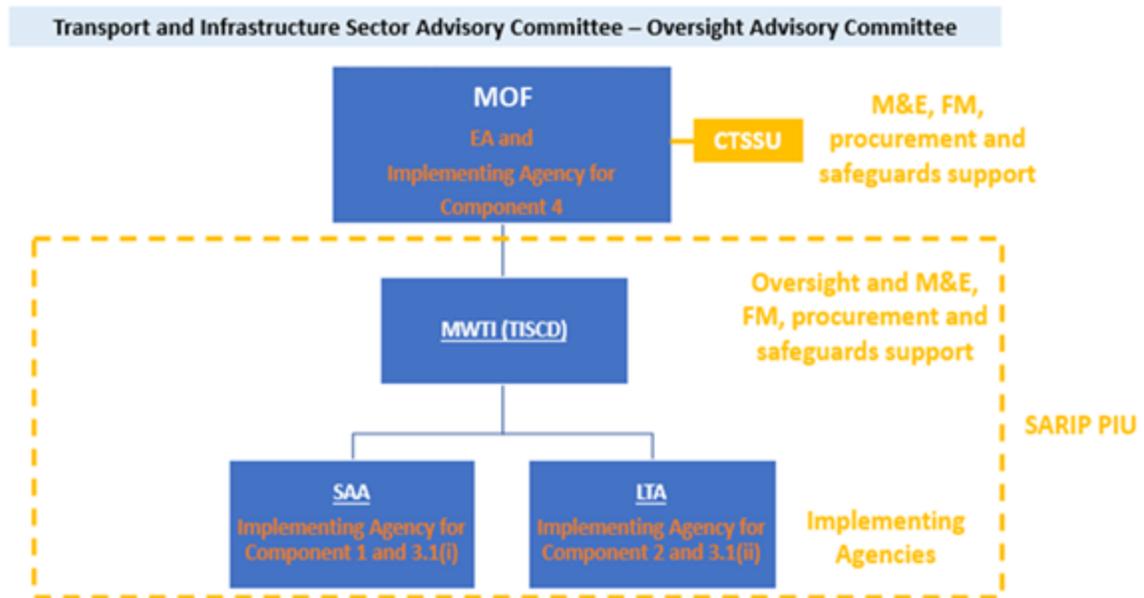


Figure 6-1 – Project Implementing Arrangements

### 8.1 Roles and Responsibilities for LARF implementation

#### 8.1.1 MOF - CTSSU

The CTSSU includes an International Safeguards Specialist based in Samoa and employed by MOF. The CTSSU safeguards specialist provides high level support and guidance on LARF implementation to the TISCD and IAs

#### 8.1.2 MWTI - TISCD

The TISCD safeguards specialist provides next level support to the IAs. The TISCD safeguards will assist the IAs with the preparation and review of any safeguards documentation (including RPs), consultations and coordinate safeguards update meetings with main project stakeholders including MNRE and MWCSD. The TISCD will also assist during E&S safeguards audits, site visits and other onsite activities to ensure that the Bank safeguards policies and national safeguards standards are adhered to by the Contractors. Similar to other ongoing WB projects, the TISCD will be responsible for compiling safeguards semiannual reports for all safeguards activities occurring throughout every 6 months.

### 8.1.3 SAA

SAA's Project Implementing Unit will manage day-to-day implementation of component 1 and 3.1 activities. The PIU Project Manager is the focal point within the PIU and responsible for the implementation of E&S requirements. The safeguards specialists in CTSSU and TISCD will provide support to SAA regarding project-related E&S safeguards matters. No resettlement impacts are expected for component 1. If resettlement impacts are identified, SAA will draw on LTA's safeguards resources.

### 8.1.4 LTA

The LTA's existing Project Management Division (PMD) will be responsible for day-to-day implementation of components 2 and 3.2. The LTA has a team of safeguards specialists housed under the LTA's PMD. This includes a Principal Safeguards Officer and a Safeguards Officer who are experienced in the development and implementation of resettlement plans. The LTA safeguards team will be responsible for the implementation of this LARF for Component 2.

### 8.1.5 Design and Supervision Consultants

Design and Supervision consultants will be hired to assist with the development and implementation of resettlement plans where necessary.

*Table 6 Responsibilities for involuntary land acquisition*

<b>Task</b>	<b>Stakeholder Responsible</b>
<b>RP development</b>	
Development of the draft RP	LTA, SAA, Consultant, MNRE and MWTI
Subproject design	LTA, SAA, Consultant
Public consultation of the preliminary design of the project	LTA, SAA, MWCS
Survey and marking of site/s	LTA and SAA surveyors
Land acquisition	MNRE LMD
Inventory of losses	LTA, SAA, Consultant
Establish compensation rate prices	MNRE
Consultation and agreement on compensation	LTA, SAA, MNRE, affected persons
Prepare RP and land acquisition documentation	LTA, SAA, Consultant
Review and approve draft RP	WB
Finalise RP and RP disclosure	LTA, SAA, Consultant, Donor
<b>RP implementation</b>	
Approval and release of funds for compensation	Ministry of Finance, SAA, LTA
Verify affected persons	LTA, SAA, <i>Pulenu'u</i>
Civil works and construction	Contractor
Grievance redress awareness	LTA, SAA, MWTI
Monitoring and compliance	LTA, SAA, PMD, PMU, WB

Restoration of lands (post-construction)	Contractor and IA
Compliance report	SAA, LTA, MWTI, Consultant

## 8.2 Implementation schedule

A time-bound implementation schedule of all activities relating to involuntary resettlement shall be included in RPs. This will include anticipated dates for displacement, and estimated initiation and completion dates for all resettlement plan activities. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

## 8.3 Budget and Costs

Compensation will be paid to persons who have suffered temporary or permanent involuntary loss as a result of project activities. The LTA, SAA and MNRE bear responsibility for meeting all costs associated with the implementation of this LARF and associated RPs.

Any RPs prepared in accordance with this LARF require a budget with estimated costs for all aspects of their implementation. Tables showing categorized cost estimates for all resettlement activities including allowances for inflation, population growth and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

All affected persons are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of resettlement planning, and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the RP budget shall include contingency funds; i.e., at least 10 percent of estimated total costs.

Compensation must be paid promptly one month prior to the commencement of works, in full to the affected person/s. No deductions from compensation will occur for any reason. The RP should describe the fiscal procedures by which compensation funds will flow from the IA to the displaced persons.

## 8.4 Monitoring Arrangements

Monitoring arrangements will be established in the RP to assess the effectiveness of RP implementation in a timely manner. Monitoring includes review of progress in land acquisition, payment of compensation, provision of transitional assistance, and functioning of project grievance procedures. The RP should establish the frequency of monitoring activities. Monitoring should be conducted by an individual, firm, or community organization not directly affiliated with the IA or PMU. Any issues or problems associated with RP implementation that are observed in the monitoring process will be reported to the IA and the World Bank project team.

Prior to project completion, the monitoring process will assess whether livelihoods and living standards of displaced persons have been improved, or at least restored. If these objectives have not been achieved, the IA identifies, plans and implements supplemental measures necessary to achieve satisfactory outcomes.

## Annex 1 Voluntary Land Donation Protocol

### Background

This Voluntary Land Donation Protocol (VLDP) has been prepared by the World Bank for the purpose of due diligence. This annex includes a Land Commitment Letter to be used by the implementing agency in cases where land is being donated.

For cases where communities and/or individual landholders have offered to donate their land for the project because it is of benefit to themselves and the broader community, the World Bank's Voluntary Land Donation Protocol (VLDP) should be followed. The project team is to exercise their best judgment where voluntary land is offered, and conduct due diligence to avoid adverse impacts and reputational risks. Donations are usually based on the premise that the project benefit will offset or outweigh the loss of the land donated.

Voluntary donation of land by beneficiary households is acceptable where:

- It has been verified the donation did not result from any form of coercion or manipulation and is offered in good faith;
- The donation does not severely affect the living standards of the community and/or individual landholder responsible for the donation (i.e., impacts are marginal based on percentage of loss and minimum size of remaining assets);
- Alternatives and the viability of other locations or sites have been considered;
- The donation does not result in the displacement of households or cause loss of income or livelihood;
- The landholder/s making the donation will directly benefit from the project;
- Consultation has been conducted in an open and transparent manner and to a degree that the landholder/s can make an informed choice;
- The land is free from disputes regarding ownership; and
- Full and proper documentation of all consultations, meetings, grievances and actions taken to address grievances has been reviewed and made available.
- Where impacts are minor and other alternative sites are not viable

When VLD is NOT Applicable:

- Medium/large-scale infrastructure particularly in cases where a government agency or entity that has a statutory obligation to provide the infrastructure and/or services for which the land is required
- Where inadequate consultation with donors results in lack of understanding about the terms and conditions of the donation;
- In lieu of formal procedures for land acquisition where these do not exist;
- Where donor property owners, landowners or customary rights holders do not support, or will not directly benefit from, the Project;
- Where conflicts over land exist, including customary collective ownership;
- Conflicting land titling that make it difficult to establish with certainty who has a right to own, donate and use a specific parcel of land;
- Where donors did not provide their informed consent and were subject to political or social pressure and coerced into making the donation.

### **Process for Voluntary Donation**

This section provides guidance on the process for VLD, namely on how to:

- Determine and document the appropriateness of VLD in the project context;
- Verify the requirements of the donation and formalization of the donation;
- Carry out due diligence on the owners and users of land donated;
- Ensure appropriate consultation and disclosure;
- Establish informed consent of the person donating the land;
- Document the legal transfer of land donated; and
- Establish grievance redress mechanism.

This section outlines the process that should be followed once the threshold considerations set out in Section 1 have been considered, and it has been determined that it is appropriate for the land to be provided to the project by voluntary donation.

It is necessary to follow a clear process for the donation, and to prepare and maintain documents that demonstrate such process. Each step set out below should be addressed in the context of the specific project, and fully documented.

#### **(i) Determine and document that VLD is appropriate in the circumstances of the project**

The team should record the reasons why it thinks that the donation of land is appropriate for the project. In certain cases, only some of the land the project requires will be donated or alternatives to land donation exist. The project team should identify (in as much detail as possible):

- What the land will be used for;
- How much land the project will require on both a permanent and temporary basis;
- How much of the land will be donated;
- What alternatives to donation exist (e.g., right of use, right of way);
- The terms of the donation;
- The identities of the parties who intend to donate;
- The beneficiary of the donation; and
- Any details that are relevant to why donation may be appropriate.

#### **(ii) Verify the requirements to transfer, and formalize the transfer of, the land**

It is important to understand the process that should be followed to transfer the land, and appropriate ways to formalize the transfer so as to achieve certainty for both the transferee of the land and the project. In many countries this will require consideration of the legal and administrative requirements but also, SCRTP (P165782) Environmental and Social Management Framework (ESMF) DRAFT V2 72 particularly in the case of customary land, local and community processes. In some cases, these will constitute two different but parallel (and overlapping) systems and a process will have to be established to ensure that the requirements of each system are satisfied. An important consideration will be how transparent the process and the decision-making process actually is, and what can be done to enhance the process.

#### **(iii) Conduct due diligence on who owns and uses the land**

Given the specific issues surrounding land ownership and use in the PICs, it is important that the project team carries out careful due diligence to understand the type of land rights that exist in the project area,

and to identify any particular issues relating to land ownership and use. Thereafter, a more specific due diligence must be conducted on each parcel of land proposed for donation to identify:

- The owner (s) of the land;
- The users of the land, or any parties that occupy the land (either physically or through ownership of an asset or conduct of livelihood or business activities on the land);
- Any competing claims of ownership or use;
- Structures and assets on the land; and
- Any encumbrances on the land.

It is important to: (a) identify the right that is being transferred (an ownership right, a use right, a right of way, etc.); and (ii) check whether the transferee actually has the right s/he claims to have. In many circumstances where careful due diligence has not been carried out, significant conflict has arisen at a later stage when another party claims that they have the same or a competing right. In some circumstances – but not all – the transferee will have documentary evidence of such right. Where no such evidence exists, the due diligence can establish rights by speaking with local community officials and neighbors.

#### **(iv) Disclosure and Consultation**

The decision to donate must be taken on the basis of a full understanding of the project and the consequences of agreeing to donate the land. Accordingly, the parties that will be affected by the donation (the owners and users of the land) must be provided with accurate and accessible information regarding what the land will be used for, for how long, and the impact the donation will have on them and their families. It is important that prior written notification indicating the location and amount of land that is sought be provided and that its intended use for the project is disclosed.

Where the intention is to deprive the parties affected by the donation of the land permanently, or for a significant length of time, this must be made clear. It should be noted that in many communities the concept of alienation of land is uncommon and difficult to understand, and care needs to be taken to ensure that the implications of this are fully understood. It is also important to decide who else should be consulted about the proposed donation; for example, spouses and older children.

There should be a clear agreement as to which party will pay the costs associated with the donated land. This could include measurement costs, documentation and notarial fees, transfer taxes, registration fees. It should also include the costs of re-measuring/re-titling the transferee's remaining land and any new documentation relating to it.

#### **(v) Establishing informed consent**

It is crucial that the project team is confident that the decision to donate was taken in circumstances of informed consent or power of choice. As discussed earlier, this means being confident that the owner(s) or user(s) of the land understand:

- What the land is going to be used for, by whom and for how long;
- That they will be deprived of the ownership or right to use the land, and what this really means;
- That they have a right to refuse to donate the land;
- Whether there are alternatives to using this land;
- What they will need to do to donate the land (e.g., execute documents, get spousal consents, pay taxes); and

- The effect of the donation on their family, and what they can do if they (or their family or heirs) want the land back.

The right to refuse must be a legitimate right, unconditional, and the potential transferee must be capable of exercising it in the local community and political context. For this reason, it is important to be sure that the decision to donate is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities. For collective or communal land, donation must be based upon the informed consent of all individuals using or occupying the land.

#### **(vi) Documentation**

It is necessary to distinguish between: (a) the agreement to donate the land; and (b) the document that carries out and evidences the legal transfer of the land. While it is important to have evidence of an intention and agreement to donate the land, it is equally important to ensure, where required and appropriate, that the land is legally transferred. While the process relating to the legal transfer of the land is frequently complicated and time consuming, it must be addressed. [In specific circumstances, for example where the land is being transferred to the community, it may not be necessary to legally transfer the land. However, experience indicates that lack of formal transfer can create significant uncertainty in the future, which impacts on the sustainability of the infrastructure and services, and can have a negative effect on community relations.]

The project team should:

- Identify the appropriate documentation, including the agreement to make the transfer and any legal documentation that may be required;
- Ensure that the agreement:
  - Refers to the consultation has taken place;
  - Sets out the terms of the transfer;
  - Confirms that the decision to transfer was freely made, and was not subject to coercion, manipulation, or any form of pressure;
  - Attaches an accurate map of the land being transferred (boundaries, coordinates); and
  - Sets out who will bear the costs of the transfer (e.g., notarial fees, taxes, title issues) and documenting the residual land rights.
- Ensure that all necessary parties sign the documents, including obtaining consent from spouses and children over a certain age;
- Ensure that the transfer and title is registered or recorded; and
- Ensure that the land remaining after the donated land is excised is properly titled, registered or recorded.

It is also important to maintain a record of the process that has been followed. Such documents could include the following:

- The notification indicating the location and amount of land that is sought and its intended use for the project, with a record of when and where this was made public;
- Records of the consultations that were held and what was discussed;
- A copy of the due diligence that was conducted;
- Copies of each of the formal statements of donation, establishing informed consent as described above, and signed by each owner or user involved;

- Copies of all documents, registrations or records evidencing the legal transfer of the land; and
- A map, showing each parcel of land.

The project implementing agency should maintain a record with documentation for each parcel of land donated. Such documentation must be available for World Bank review, and for review in relation to any grievances that may arise.

**(vii) Grievance Arrangements**

Grievances may be referred to customary conflict mediation arrangements where they are not directly affiliated with traditional leaders who are a party to the donation process.

Refer to ESMF Section 6 for detailed procedures.

## Annex 2: Easement Agreement

<p><b>LAND TRANSPORT AUTHORITY</b>  <b>PULEGA O FELA'UAIGA I LE LAUELEELE</b>  <b>GOVERNMENT OF SAMOA</b></p> <p>Vaitele Office  Phone: (685) 26740/41  Savali Office  Phone: (685) 51508</p>	<p>Private Mail Bag, Vaitele, Apia  Email: info@lta.gov.ws  Web: www.lta.gov.ws  Facebook: Land Transport Authority – Samoa</p>	
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**EASEMENTS AGREEMENT**

This agreement is made on the \_\_\_\_\_ day of \_\_\_\_\_.

**Parties**

**Between:** Land Transport Authority established under Section 4 of Land Transport Authority Act 2007 "The Client"

**And:** \_\_\_\_\_ "Landowner" for the piece of land for the construction of drainage easement.

**1. LAND DETAILS:**

<b>Lot Number on Plan:</b>	
<b>Land Type (Customary/Freehold)</b>	
<b>Legal Landholder/Matai Holder</b>	
<b>Occupier (if different from Landholder)/Landowner:</b>	
<b>Village:</b>	

**1. AGREEMENT DETAIL:**

Following the consultation, both parties have agreed to be bound by this agreement and have agreed to be following conditions:

- The Landowner will utilize a portion of their land of approximately \_\_\_\_\_ to be utilized for installation of drainages as part of the Central Cross Island Road Upgrade Projects Design.
- Any structure within the proposed easement will be reinstated in a location specified/agreed by the Land Owner in pre-project condition or better, in lieu of cash compensation.
- Any Trees or Fruit bearing crops within the proposed easement will be cleared and will be compensated for by the client.
- Building of any permanent structures along the easement area will not be permitted.
- The landowner agrees to not plant any vegetation that will disrupt the functioning of the drainage installation.
- The landowner agrees to all reasonable access to the LTA for maintenance purposes.
- The landowner will be given a notice in advance prior to accessing the easement except in emergency situations or as requested by the Claimant.

Please address all correspondence to the: Chief Executive Officer, Land Transport Authority

LAND TRANSPORT AUTHORITY  
PULEGA O FELA'UAIGA I LE LAUELEELE  
GOVERNMENT OF SAMOA

Vaitele Office  
Phone: (685) 26740/41  
Savali Office  
Phone: (685) 51508

Private Mail Bag, Vaitele, Apia  
Email: [info@lta.gov.ws](mailto:info@lta.gov.ws)  
Web: [www.lta.gov.ws](http://www.lta.gov.ws)  
Facebook: Land Transport Authority - Samoa



**3. SIGNATORY DETAILS:**

Sign:  
Print Name:  
Landowner/Matai Holder/Occupant:  
Date:

Sign:  
Print Name:  
LTA representative:  
Date

Sign:  
Print Name:  
Consultant Representative:  
Date:

Please address all correspondence to the: Chief Executive Officer, Land Transport Authority

## Annex 3: Complaint/Grievance Form

### GRIEVANCE REDRESS REGISTERING AND MONITORING FORM

Project: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

#### Complainant Information (Person Reporting)

1. Name (or anonymous): \_\_\_\_\_

2. Village/Location: \_\_\_\_\_

3. Gender: **Male**  **Female**

4. Age: \_\_\_\_\_

5. Telephone: \_\_\_\_\_

6. Email: \_\_\_\_\_

7. Type of complainant:

- Affected person/s**
- Intermediary (on behalf of the AP)**
- Civil organization (NGO, Church, etc.)**
- Government organization**
- Others (specify) \_\_\_\_\_**

8. Mode of receiving the grievance:

- Letter**
- Phone call**
- Email**
- Verbal**
- Others (specify) \_\_\_\_\_**

9. Location of the problem/issue specified in the complaint: \_\_\_\_\_

10. Short description of the problem: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Short description of the factors causing the problem: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. Person/agency responsible for causing the problem: \_\_\_\_\_

\_\_\_\_\_

13. Past action/s taken by the complainant (if any): \_\_\_\_\_

\_\_\_\_\_

14. Details of the focal point that received the complaint:

Name of the person who received the complaint: \_\_\_\_\_

Position: \_\_\_\_\_

Name of the receiving office: \_\_\_\_\_

15. Actions taken by the Receiving Office

<b>Action 1</b>	<b>Action 2</b>	<b>Action 3</b>	<b>Action 4</b>
Short Description	Short Description	Short Description	Short Description
Name of Action Officer and those involved			
Office	Office	Office	Office
Date and time	Date and time	Date and time	Date and time

\*add more fields/pages if needed

16. Final Resolution: \_\_\_\_\_

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Name of the person completing the form: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_