

The resettlement and land acquisition policy framework for the animal husbandry project in the Yellow River flood land in Henan province

September 2009

Foreword

The animal husbandry project in the Yellow River flood land in Henan province is designed to improve the local environment and develop modern and clean animal husbandry industry with the introduction of advanced technology and management. It plans to help 614 medium-sized animal husbandry farms (plants) in 31 counties for construction (117 new plants) or expansion. It will invite the individual farmers to move their business into the plant for better operation and management. This includes the animal husbandry run by the farmer's cooperation and or associations. The project social assessment shows that there is no large amount land acquisition in the project. The new plants will be built on the state-own land, Yellow River flood land, Collective ownership land without change of the property and ownership of land. The contractors will rent the land from the villages or farmers and formal contract/agreement should be signed based on the principle of mutual benefit and understanding. It is forbidden to set up animal husbandry plant within 500meters from the residential area, hence no resettlement is expected. Certain service facilities as medical/technical service stations will be set up in the project, it may need to take some piece of land. There might be issues related to resettlement.

So far in the project preparation there is no land acquisition and resettlement issue encountered. This framework is drafted to set up the principle and procedure for the involuntary resettlement or transition of fixed asset based on the World Bank policy OP4.12 and related law/regulations in China.

General principles

It required in the World Bank financed project that the end-borrower or the implementation agency including the county PMO, local animal husbandry administration, operator, and the cooperation should make every necessary effort to minimize the negative impact brought up by the project especially to the vulnerable groups. This framework constitutes the general principles from the World Bank policy OP/BP 4.12 including:

- To minimize the land acquisition in the project;
- If in case there should be land acquisition, make sure all the project affected people should get compensation for their loss which defined in the project resettlement plan;
- The compensation should be no less than the amount for the project affected people to keep the same level of living standard as before the project and the capacity of income;
- Try to prevent to move people from the project area;

If in case there should be land acquisition and resettlement of people in the project, the project implementation agency should follow strictly the above mentioned principles and the specific

requirement listed below:

- (1) All the project affected people have the right to be compensated for the loss of their land, residence, and property due to the project implementation;
- (2) The compensation will cover: (i) full cost to rebuild the house and its attached facilities; (ii) subsidy to the villages and farmers for the land acquisition and resettlement; (iii) resettlement allowance and subsidy for transition; (iv) compensation for trees and crops, and similar articles according to the market price; (v) other assets and subsidy for resume income;
- (3) The site of resettlement should be as close as possible to the existing place and should be accepted by the people;
- (4) Land for land exchange is the priority option and it can be replaced by cash under the following preconditions: (i) there is no adequate land nearby; (ii) the people is willingly to take cash instead of land and the compensation is without any depreciation and or deduction; (iii) to provide help to the people to keep their living condition and income without down-going;
- (5) To plan the land acquisition and resettlement properly in order to accomplish the resettlement task before the construction started;
- (6) There should be consultation and negotiation with the people and the plan should be accepted by them;
- (7) The people should get at least the same community service and utility of resource after resettlement;
- (8) Certain measurements should be taken to guarantee the minimum negative impact to the people due to the loss of land, property and or resource;
- (9) The timing and amount of fund and resource should be provided in accordance to the resettlement plan;
- (10)The resettlement plan should put into consideration the institutional set up to ensure the proper implementation;
- (11)Internal and external supervision and monitoring should be arranged during the implementation;
- (12)The project implementation agency should ensure that the people are benefiting from the project in any circumstance;
- (13)The grant or donation should not be used in any case to fund the activities of involuntary resettlement;

The project affected people confirmed in the framework are:

- people that their place of business, work, farming temporarily/permanently affected by the project;

- people that their houses of residence are affected partly or entirely by the project;
- people that their crops (including annual crops or perennial crops), trees, and fixed asset, farmland and grazing land are affected by the project partly or entirely.

Legal Framework

The Land Administration Law of the People's Republic of China (Adopted at the 16th Meeting of the Standing Committee of the Sixth National People's Congress on June 25, 1986, amended in accordance with the Decision on Revising the Land Administration Law of the People's Republic of China made by the Standing Committee of the Seventh National People's Congress at its 5th Meeting held on December 29, 1998, and revised at the 4th Meeting of the Standing Committee of the Ninth National People's Congress on August 29, 1998);

State Council Decision on Deepening Reform of Land Management, no. 28, 2004;

State Council Stipulations on the Basic Farmland Protection, Oct. 1994

Henan Implementation Regulations of the National Land Administration Law;

Henan other related provincial regulations and policies on land acquisition (that are in conformity with the World Bank policy applied to the project);

The World Bank OP4.12 on Involuntary Resettlement.

Preparing of the resettlement plan

Social and economic assessment should be carried out for all the subprojects with involuntary resettlement. This assessment will decide whether the implementation agency should prepare a resettlement plan (detailed or brief) in order to minimize the negative impact and benefit the people involved. The main procedure for the review and approve of resettlement including:

- a) The project implementation agency should report to the local PMOs and government the principle information of the project which should include: (i)the location of project site; (ii) the amount of land needed, land property, current status of land, possible impact of change of land use, and proposed land acquisition; (iii) the project affected people includes the ones who lost their houses, land, or business, and the ones that benefit from the project(with employment or service);
- b) With the review of the information and discussion with the local government , the local PMO should ask the project implementation agency to prepare the document for project resettlement based on the policy framework;
- c) The World Bank requires that every subproject with the issue of resettlement should submit a satisfactory resettlement plan based on the policy framework for review and approval prior to the granting of fund. If the number of the project affected people exceeds 200, the detailed resettlement plan is mandatory. In the case that there are less than 200 people affected by the project, and or there is minor influence from the project (meaning that there is no movement of people from their current residence and the loss of

their production and income is less than 10%), a brief resettlement plan is required with the agreement of the affected people. In this case, the World Bank will review and approve the designated first batch of subprojects (pilot) on their resettlement plan to ensure that they are in compliance with the bank's policy OP4.12 and let the PMO to review the rest.

- d) The resettlement plan (detailed or brief) should be submitted to the local government administration, PMO, and the bank office for review and or approval;
- e) The review should be based on the general principle of the framework and the implementation agency should be noticed with the review result;
- f) With the grant of the bank, the implementation agency should carry out the plan and follow the necessary procedures;

Based on the policy framework, the brief resettlement plan should state the following:

- a) The data collected on the people of resettlement and asset assessment;
- b) Description on resettlement compensation and subsidy;
- c) Discussion with the resettlement people on optional plans;
- d) The responsibility of the resettlement implementation agency and procedure for complaint and grievance;
- e) Plan for supervision and monitoring;
- f) Time table and budget plan.

Following the first batch of subprojects (pilots), the brief resettlement plan should focus on the bench mark survey on the local social economic development, compensation standard and subsidy, plan to resume living standard and income, time table and budget:

- a) Description of the subproject;
- b) Potential impact of the project;
- c) Social-economic analysis and bench mark survey;
- d) Other rights defined by the policy;
- e) Ration of compensation for the loss;
- f) Plan for the resettlement;
- g) Location and preparation;
- h) Housing, infrastructure utility and social service;
- i) Time table;
- j) Cost and budget;

Confirming the potential impact and mitigation measurement

It has to be put into consideration the impact brought up by the affiliate project facilities as technical/medical service station/center, the people should be compensated for the loss of (a) farm land; (b) site for animal husbandry; (c) others as business. The compensation should be made

before the date of land acquisition;

Starting from the first year of project implementation, the provincial PMO will ask the local PMOs and local animal husbandry administrations to submit annual project progress report and plan for the next few years regarding the construction of buildings and roads. The detailed information for land acquisition and compensation in each village should be documented for record and review as part of the project documentary (Excel format).

In the first year of project implementation, the PMO should make assessment for the villages that not suitable for land-for-land exchange to determine the standard for compensation, the figure is subject to be updated once a year.

In case it is planned to have construction and up-grade or expansion in the N year of project implementation, the resettlement plan should be prepared in the previous year including:

- a) Define the project affected people and with the status of land use and amount;
- b) Constitute the data into the consolidated PAP (e.g. Excel format);
- c) Confirm the way of compensation as land-for-land or cash and the agreement therefore;
- d) Talk with the villager's committee for the land could be used for compensation and cash, the compensation should be made before the starting of the construction in both way;
- e) Put the data into the PAP document and collect the information regarding the progress including the construction and compensation;

Make full use of the computerized documentation and keep the data in the provincial PMO. Submit the annual summary to the bank during the supervision mission. The provincial PMO and the bank would make sampled check on specific cases.

Administrative institution and responsibility

The provincial PMO should notice the project counties regarding the land acquisition and resettlement policy including the roads, small scale infrastructure and affiliated facilities which stated in the framework. The counties should consult the project affected people and work out the draft compensation and resettlement plan.

The PMOs and local government administrations should take responsibility in the following: (i) provide guidance to the project implementation agency to work out the land acquisition and resettlement plan based on the policy framework; (ii) assist the implementation agency to raise the fund for compensation; (iii) assist the land administrative office to coordinate between the implementation agency and the project affected people; (iv) supervise and monitor the process of resettlement, and (v) prepare the project implementation progress report.

The PMO should delegate representatives to supervise and review the plan and process of land acquisition and resettlement compensation, of the land acquisition. They should visit certain number of project affected people to collect feedback and listen to their complaint and grievance.

Periodical inspection and review should be carried out by the PMO in accordance to the World

Bank policy to ensure the policy framework (PF) is strictly followed. Certain workshops and training should be conducted to the staff on the policy framework and resettlement implementation.

The local government land administrative should review the entire process of land acquisition including the scope, amount, registration, and compensation. The PMO should bear the cost of mitigation of the impact including: (a) prepare the plan; (b) maintenance of the computing and documentary device; (c) assistance to resettlement implementation and others.

Fund arrangement and the Principle Compensation Criteria

According to the Land Law, the amount for the land compensation is calculated as 10 times of the average annual yield value in the previous three years before the acquisition, and that for labor resettlement of the land acquisition is 15 times of the average annual yield value in the previous three years. The compensation for the green crops will be calculated in accordance to the compensation rates set in the policies of the provincial subordinate cities' "Announcement on Readjustment and Increasing Compensation Rates for Land Acquisition for State's Construction."

The compensation for the fixed asset is calculated as the cost of replacement. The estimation for the loss of production and operation due to the movement is stated in the resettlement plan prior to the project appraisal.

The land acquisition and resettlement compensation is funded by the counterpart and all the compensation should be completed before the land acquisition and movement of residence for the PAPs. For the expansion of roads, the compensation is made by the contractor to the local land administrative with confirmation of the county land administrative and project management office. The land administrative should distribute the compensation to the owner of the land with the coordination of the project management office. For small scale cases in the village, the work should be carried out with the cooperation of the villager's committee and project management office.

Complaint and grievance

In order to ensure the full participation of the PAPs and the channel for complaint and grievance, certain procedure is defined in the policy framework (PF). Its objective is to make quick and transparent response to the complaints. The process is specified as following:

- Step one: any one could make complaint (oral or written) to the villager's committee, town and village government, district or sub-district authority regarding the content of the land acquisition and resettlement plan;
- Step two: any one could make complaint to the higher level administration if they are not satisfied with the answer from the current level;
- Step three: any one could seek for legal solution if they are not satisfied with the local administrations;

The PMOs should play its role for project coordination and assist the local administrative to settle the dispute in accordance to the policy framework.

Participation and consultation

The PMO and project implementation agency should conduct consultation to the local population to collect feedback from the PAPs regarding the land acquisition and resettlement plan, policy for compensation, resume of income, etc.

The PAPs should be invited to participate in the whole process of the project implementation. Discussions should be made with the PAPs before any movement regarding the amount of land, location, compensation, and measurement to resume income. The fixed plan should be sent to the PAPs including: (i) compensation standard and way of calculation; (ii) assistance for resume income; (iii) process of complaint and grievance (with the contact information).

Monitoring

As an important part of the resettlement plan, the supervision and monitoring should be carried out by the project management office during and after the project implementation. The resettlement should be assessed based on the project objective and purpose. Modifications on the plan can be made in case of necessary. The land acquisition and resettlement as well as compensation and monitoring should be part of the project report and MIS.

An independent third party should be invited to carry out the external monitoring and it should cover all the elements of resettlement.

Main monitoring indicators are:

- The effective term of the land acquisition agreement;
- The term for the compensation;
- The timing for compensation fund raising and disbursement;
- The change of economic state of the project affected people;
- The use of land;
- Timing to resume farming for the temporary land use.