



**ARIS**

**Kyrgyz Republic`s  
Community Development and Investment Agency**

**Additional Financing for the Bishkek and Osh Urban  
Infrastructure Project (AF BOUIP)**

**WATER SYSTEM REHABILITATION IN NARYN**

**RESETTLEMENT ACTION PLAN**

Bishkek

December, 2012

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## Terms and definitions

RAP	Resettlement Action Plan is a document on resettlement, with specific and legally binding requirements for resettlement and compensation to the affected side before the implementation of project activities that cause a negative impact.
PAP	Project affected persons who were forced to hand over their land or other assets due to the project.
WB	World Bank
RFP	Resettlement Framework Policy is a document that sets out the objectives and principles of resettlement, organizational arrangements and funding mechanisms. RAP is designed in accordance with the provisions of RFP.
HH	Household
Right to compensation	A number of measures, including compensation, recovery of losses, support, recovery of profit to displaced affected persons, depending on the nature of their losses to restore their economic and social situation.
Resettlement	Physical resettlement of PAP from his/her place of residence or business before the project.
Recovery	Assistance provided to affected persons due to the loss of assets, incomes, source of income, which must be compensated in order to improve or achieve full restoration of the pre-project living standards. Support can be made in cash, cash equivalents or in a combination of the first and second to improve or achieve full restoration of the pre-project living standards.

## 1. Introduction

The project "Water supply system rehabilitation in Naryn" is a BOUIP A-4 subcomponent of the main A component, which will finance the improvement and/or expansion of the water supply system, roads and other basic infrastructure, and the restoration and/or improvement of access to basic services in Bishkek novostroiki and small towns.

The water supply system in Naryn shall be rehabilitated due to poor current condition, poor quality of functioning and incomplete coverage of novostroika Tosh-Bulak. Due to the unstable pressure in the internal systems and directly by customers, and because of the high losses in the networks, the drinking water is supplied to residents one hour a day.



Picture 1-2. Current condition of pumping stations at water intake "Zapadnyi"



Picture 3. One functioning standpipe for the entire novostroika Tosh-Bulak

The rehabilitation is expected to increase the quantity and improve the quality of drinking water for 4200 residents of Tosh – Bulak raion, reduce losses, provide conditions for recording supplied and produced water, increase the hydraulic pressure in the water supply network.

The design was developed and approved in 2010, as part of which following social and environmental documents had been prepared:

- Resettlement Framework Policy (RFP) BOUIP AF;
- Resettlement Action Plan (RAP);
- Section "Environment protection", meeting environmental regulatory requirements of national law and having a positive conclusion of the state ecological expertise;
- Environment management plan, environmental monitoring plan to bring this section in compliance with environmental requirements of the BOUIP Operational Manual;
- Public discussions and consultations held in full.

## 2. Project description

The project is implemented in a residential area Tosh-Bulak located in the western part of Naryn to provide water for domestic and drinking and fire protection needs of the population in the existing water supply facilities, and namely:

- At water intake "Zapadnyi" located on the left bank of Naryn river;
- At the site of pressure reservoirs located 700 meters to the south of the water intake.

The project provides for the following rehabilitation works:

- On the water intake site in 2 existing wells submersible pumps will be replaced with new ones with a high efficiency of 75%, capacity 60m<sup>3</sup>/h, power 18.5 kW;
- At the site of pressure reservoirs, reservoirs will be isolated and equipped with additional pipes for storage of fire and control supply of water. OB-50 Bactericidal unit will be mounted for water disinfection with ultraviolet rays, a lodge, outdoor toilet with a waterproof barrier and fencing will be built;
- In novostroika Tosh-Bulak water supply network will be built to the length of 3030m using pressure polyethylene pipes with diameters 200mm and 100mm. On the water supply network manholes of precast concrete elements will be installed, where 14 fire hydrants, 23 standpipes and valves will be placed;
- Repair of existing water mains from the water intake "Zapadnyi" to the pressure reservoir with replacement of damaged parts of the water main with new electric welded steel pipe to the length of 150m. and further into the circular water supply network of the novostroika Tosh-Bulak with replacement of damaged pipes with new steel pipes to the length of 50m.

## 3. Basic normative acts, principles and approaches

In the Kyrgyz Republic, despite the fairly detailed list of legal documents, there is no directly applicable law providing processes and procedures for involuntary resettlement<sup>1</sup> of citizens during seizure of lands for state or public needs in connection with placement and construction of facilities.

Requirements relating to the issues of alienation of land and property of citizens and legal persons for state and public needs are set out in the Constitution, the Civil Code, the Town Planning Code, the Housing Code, the Land Code of the Kyrgyz Republic.

Legislation of the Kyrgyz Republic provides a limited list of circumstances that allow expropriation of property of citizens/businesses. For this case the alienation of land and property is possible for state and public needs<sup>2</sup> under Art. 66 Sections 1 (2) and 4 of the Land Code of the Kyrgyz Republic.

The general approach of the national legislation and the requirements of the World Bank OP 4.12 "Involuntary Resettlement" is that alienation of property of individuals / entities for public use can be made only with the prior and fair compensation (including through provision of equivalent land or monetary compensation). If the parties do not

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<sup>1</sup> In the Kyrgyz law, the term "involuntary resettlement" has a different meaning. This term is applied only to the change of residence of the citizens as a result of violence or harassment, or threat thereof. Therefore, in the Kyrgyz Republic it is recommended to use the term "resettlement", but not "involuntary resettlement." It should be borne in mind that the term "resettlement" is not in the legislation, but is found only in individual acts of normative-technical and normative-methodical character as SanPiN, etc.

<sup>2</sup> Land Code of the Kyrgyz Republic Art. 66 "Grounds for seizure of land" - § 1 (2) " seizure (redemption) of land for state and public needs in accordance with this Chapter";  
p.4 "seizure of land for state and public needs is made after payment of the value of the right to land and compensation for damages.";

reach agreement, the issue of involuntary resettlement shall be resolved through the courts.

Requirements of the legislation of the Kyrgyz Republic taking into account the World Bank OP 4.12 "Involuntary Resettlement" is aimed to ensure that:

1. measures to minimize involuntary resettlement were taken;
2. the loss of property is compensated at the replacement value of the property;
3. affected persons whose interests are affected are timely informed and compensation options are explained. Generally, if people derive income from the use of land, the best option is to give them land at least equal in quality and area. Affected persons should also be compensated for the crops;
4. under the current law, citizens who have the right to own land can claim for compensation. Persons who illegally own land or illegally reside on them, are not entitled to compensation for expenses incurred by them during their illegal use of land.

Comparing OP 4.12 "Involuntary Resettlement" and Kyrgyz legislation, it should be noted the consistency and coherence of OP 4.12, a great opportunity for informational participation of people in the preparation and implementation of the resettlement plan, rehabilitation and adaptation to the new location, as well as better responsiveness to the interests of the relocated population. Issues of land seizure in the Kyrgyz Republic comply largely with the WB 4.12 policy requirements. However, the regulations of the Kyrgyz Republic do not provide for assistance to affected persons without a full, legally enforceable title to the lost land or other property.

In accordance with the project legal documentation, ***"in case of discrepancy between the laws of the Kyrgyz Republic and the requirements of the World Bank OP 4.12 policy on Involuntary Resettlement, the OP 4.12 principles and procedures should be applied. This priority of WB standards over state law is a requirement for projects funded by the World Bank."***<sup>3</sup>

Whereby it is necessary to be guided by:

1. Bank Procedures OP 4.12 "Involuntary Resettlement";
2. Operating policies OP 4.12 "The right to compensation and resettlement assistance";
3. Annex A of the operational policies OP 4.12 "tools for the organization of involuntary resettlement" - defining elements of the resettlement plan;
4. RFP for the BOUIP AF project and this RAP.

## **4. Impact assessment**

### **4.1 Census**

To prepare the RAP September 10-11, 2012 travel of ARIS officers was organized for screening and scaling of the project to determine the potential impact, select a tool to organize the resettlement, and research, including:

- a) PAP polling data with an inventory of tenure, affected property and land ownership;
- b) PAP socio-economic characteristics.

To determine the range of PAP, assets inventory was carried out on the projected route of water distribution network to the length of 3030 m from the water intake "Zapadnyi" in the streets of residential area "Tosh-Bulak", in the area of the water intake and pressure tanks.

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<sup>3</sup> page 11 RFP



Picture 4. The projected route of water distribution network (left shoulder of the road)

During examination the following potential impacts were identified:

In the residential area Tosh-Bulak part of the water distribution network, about 50 meters, will run through private land located in Asko-Too street, № 172. Scheme of the section with the placed water distribution network is presented in **Annex 1**.

It is established that the land is registered in the Unified Register of Naryn state register under number 172 as of May 28, 1986 and is owned by a resident #1 of Naryn town. At the time of the inventory, he was selling the land to a resident #2, documents were in the state registration service of Naryn under registration of rights to real estate. The deal was documented on November 28, 2012 and registered by Naryn notary office under No. 20121098.

Naryn Vodokanal employees interviewed the resident #2. The resident was notified in writing of the census and the date of termination. The resident obtained the status of an affected person, the actual condition of the land where the water distribution route is planned was determined, and issues were clarified relating to the irreversible land withdrawal for construction of the water supply system and establishment of the sanitary protection zone, as well as to compensation thereof.

There is an unfinished house on the territory of the plot. The land is not fenced, there are no agricultural crops.



Pictures 5-6. Land plot with unfinished house, where the water distribution route is planned (1 picture – east-to-west view; 2 picture – west-to-east view)

During the census and following transfer of land plot to the municipality the following documents were submitted:

1. copy of the authorization No. 5222 as of 26/11/2012, according to which the resident #1 entrusts selling of the plot at the above address, which belonged to him by right of private property, to a resident #3 of Naryn town;

2. copy of the application from the resident #2, who has acquired this land, with the consent to an equal exchange of the plot and compensation in the amount of 25,000 som for buildings on this plot;
3. copy of the act of acceptance of the land of the resident #2 to the Department of municipal property of Naryn dated December 17, 2012;
4. copy of the order of the Naryn Mayor № 542-p dated December 13, 2012 on the transfer of land to the municipality, allocation to the resident #2 of an equivalent land and payment by Naryn financial management of compensation for the building;
5. receipt of the resident #2 about receiving 25,000 som as compensation for buildings and for the land allocated to her in the Botanicheski street.

#### **4.2 Residents entitled for compensation during resettlement**

The category of persons who are entitled to compensation and assistance includes resettled persons who may be included in one of the following three categories:<sup>4</sup>

- a) persons who have formal legal rights to land in accordance with the legislation of the Kyrgyz Republic;
- b) persons who have no formal legal rights to land at the start of the census, but claimed rights to such land or assets - provided that such claims are recognized by the national legislation or in an order stipulated in the resettlement plan;
- c) persons who have no formal rights to land or property affected, or running on this plot business or other activities that provide means of living illegally or informally. This includes those involved in informal small business, and business or persons occupying the area without any permit, persons who have farm household for sale or for their own needs, etc.

In this case, the persons assigned to the categories under subparagraphs (a) and (b) receive compensation for their withdrawn land, as well as other support. And persons falling within the categories specified in subparagraph (c), instead of compensation for their withdrawn land, shall receive assistance during moving to a new location, and if necessary, other forms of assistance, such as to restore livelihoods.

In this case the resident #2 was classified as (a) persons who are entitled to compensation. Her right to a land plot at the address № 172, Askoo-Too str., quarter "Tosh-Bulak", Naryn, is confirmed by the agreement on the purchase and sale made between the resident #3, authorized person of the resident #1, and affected person the resident #2. (**Annex 4**). This document is applicable within the territory of the Kyrgyz Republic, as prepared in accordance with the law.

It should be noted that the Kyrgyz legislation does not oblige to pay compensation and render assistance to persons identified in subparagraphs (b) and (c). However, in order to achieve the objectives of OP 4.12, such compensation under this RAP is defined by the matrix of rights in RFP<sup>5</sup>.

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<sup>4</sup> RFP chapter 6.1 page 11

<sup>5</sup> RFP page 13-14



Project impact	PAP category	Asset Affected	Compensation guide
Permanent acquisition of land for works construction works and as a part of main sanitary protection zone	Land owner	land	Replacement land of equivalent market value as priority option within 3 km radius. Failing availability of land, cash compensation at market rate. If over 10% of land is acquired, an additional 5% of replacement value will be paid (increasing to 10% if over 20%) as a severe impact subsidy. If the remainder of the plot is not economically viable the entire plot will be purchased.
Permanent acquisition of legal structure.	Owner of structure	Any structure including house, fence, or sanitation structure etc..	Replacement of structure or compensation in cash equal to the amount of a new structure

Therefore, the WB policy falls on compensation for the PAP category in question, though the person is protected by the acting legislation of the Kyrgyz Republic.

### **4.3. Assessment of compensation measures**

#### **4.3.1. Land compensation**

Based on the fact that the impacted plot No. 172, located in Aska-Too str., Tosh-Bulak residential area, is subject to withdrawal for state and public needs, the Naryn Municipality allocated other plot equal to the market price and located within the radius of 3 km. The exchange of plots is caused by the violation of the requirements, stipulated for the sanitary protection zone of the distribution network, set by SanPiN (No.10) 2.1.4.015-03 under the Ministry of Public Health of KR d.d. February 20, 2004.

The option to allocate the other plot to the resident #2 is the priority. She approved it through the statement of consent dd. November 30, 2012 (**Annex 4**).

To implement the procedure of land exchange, the following arrangements were carried out:

- a) A statement of consent on land exchange was received from the resident #2;

- b) A few options of land within the radius Of 3 km were chosen and suggested to her;
- c) Following a choice of a plot in Botanicheskaya str. by her, the procedures on registration of the rights on immovable property in Naryn were carried out (**Annex 4**).

#### **4.3.2. Compensation for structures**

In capacity of compensation for the existing structures located on the plot, viz a foundation with partially constructed house walls, the Naryn Municipality paid KGS 25, 000 to the resident #2.



Picture 7. Partially constructed structure on the area of the plot No. 172 in Asko-Too str.

The amount of compensation was calculated based on the expenditures incurred by the resident #2 for procurement of the structure from the resident #1, which was affirmed by the agreement on the purchase and sale and the statement provided by the resident #2 as the consent to exchange land and receive KGS 25, 000 as compensation for the building.

## **5. Mechanisms and procedures of compliance with OP 4.12**

### **5.1. Grievance redress**

The mechanism of grievance consideration and redress has been developed so as to eliminate occurred risks or negative effects in relation to PAP. The mechanisms use the following principles:

- a) grievance redress mechanism should comply with the scale of project impact;
- b) mechanism should be efficient; use clear and open redress process; culturally acceptable for all the segments of PAPs; be free;
- c) mechanism should envisage the access to judicial and administrative measures, i.e. consider the right on judicial appeal;
- d) community should be properly informed on the mechanism.

Procedure of grievance redress

Table 2

Claim procedure	Who receive grievance from PAP	Form of complaint	Procedure of grievance redress	Time to consider grievance
Instance I	Project plenipotentiary, Head of Naryn Company "Vodokanal", Ibraev T. ( <b>0770 33 57 61</b> ; <b>(03522) 5 08 23</b>	Verbal	1) Project plenipotentiary registers a complaint in the Grievance Log under sequence number; 2) Supervises the process of grievance redress; 3) Provides monthly reports on grievance redress performance to Municipality management and ARIS	5 days
Instance II	ARIS Executive Director Address: 102, Bokonbaev str., ARIS HO, 720040, Bishkek, Kyrgyz Republic tel.: + 996(312) 30-18-05, 30-17-53, 30-17-54, 62-07-52 fax: + 996(312) 62-47-48, e-mail: <a href="mailto:office@aris.kg">office@aris.kg</a>	In writing, with signature and date	ARIS Safeguards specialist-Kutmanova E. (tel.: <b>0772 573930</b> ): 1) Maintains direct contact with PAP; 2) Cooperates with ARIS Executive Director so as to report on grievance justification to the Supervisory Board; 3) In case the claim is justified, organizes, consults with the complainant and develops corrective action	14 days
Instance III	Grievance consideration Committee established by the Order No. 459-6 of the Mayor of Naryn d.d. September 28, 2012 <b>(Annex 3)</b>	In writing. In case of grievance denial by Authority II; it is forwarded to the Committee	1) agreement with all the involved sides; 2) solution of the Naryn Municipality	30 days
Instance IV	Court of first instance	Grievance is forwarded to the court in case of its denial in the Naryn Municipality	Following court procedures	Following court procedures

## 5.2 Consulting and information

Following preparation, the RAP will be submitted to ARIS Executive Director for approval and further circulation among the interested NGOs, PAPs and Naryn Municipality.

Following 2-week collection of comments and proposals, their justification assessment so as to introduce the comments to the RAP and second approval by ARIS Management, the RAP will be submitted to the World Bank for consideration and No Objection with the view of compliance with OP 4.12.

Afterwards, using the principles of public information i.e. promulgation of information according to established procedures, the RAP will be published on ARIS web-site, and forwarded to the Naryn Municipality and PAPs.

Information procedures are shown in the table below:

Table 3

No.	Sequence of information	Who receives RAP	Information outcomes
1	Following RAP preparation	ARIS Executive Director for approval	1. Circulation among NGO, PAP and Naryn Municipality
2	Following 14 days after consideration, the team collects comments, proposals and assess their justification so as to introduce the comments to RAP	ARIS Executive Director for second approval and further submission to the WB for review and No Objection	1. Publishing on WB web-site in info-shop and on ARIS web-site 2. Repeated submission to the Naryn Municipality and circulation among PAPs

ARIS web-site will provide the RAP in both, English and Russian. RAP will be translated to the Kyrgyz language and circulated among stakeholders.

## 5.3. Monitoring and evaluation

ARIS Safeguards Specialist will supervise the progress of RAP implementation through the entire construction period. The monitoring mechanism will be included in the monthly general report on project implementation in general including indicators and records of the following information:

RAP implementation mechanism

Table 4

No.	Monitoring indicators	Information on volume and records
1	Grievance and proposals received from PAPs	
2	Denied complaints	

3	Allocation of land to the resident #2 as a prioritized option; exchange of land prior to project implementation	
4	Compensation payments for structures located on withdrawn plot	

The RAP will be kept in a separate file containing the following documents:

1. RAP including:
  - a. Minutes and lists of participants of all the meetings with PAPs;
  - b. PAP's census;
  - c. Social and economic characteristics of PAPs;
  - d. Copy of the Order on establishment of the Committee for consideration and redressing grievance and proposals from PAPs;
2. Grievance Log (Tables 5,6);
3. Copies of documents on allocation land plot to the resident #2.

Grievance Log. Instance I (Project Plenipotentiary) of claim procedure

Table 5

No.	PAP contact information (address, telephone number)	Subject of complaint	Date of receipt of complaint by the Project Plenipotentiary	Date of forwarding complaint to ARIS	Date of response to the received complaint	Is PAP satisfied with the results of consideration by the instance (yes/no) denote reason
1	2	3	4	5	6	7

Grievance Log. Instance III of claim procedure <sup>6</sup> and judicial resolutions

Table 6

No.	Subject of repeated complaint	Date of receipt of complaint by the Committee	Resolution of the Committee	Date of receipt of response by PAP	Is PAP satisfied with the results of consideration by the instance (yes/no) denote reason	Date of applying to court and court decision
1	2	3	4	5	6	7

<sup>6</sup> Log is filled in case of denial of complaint in instances I and II

Grievance Log will be filled along with receipt of complaints and proposals from PAPs. Grievance redress will be carried out in line with the procedure of submission, consideration and redress of complaints (Table 2).

The abovementioned documents will be saved in the storage file through the entire construction period. Following project completion, verification will be carried out so as to ensure compliance with OP requirements.

## **6. Organizational functions**

ARIS is responsible for the following items:

- a) Preparation of RAP in cooperation with the Naryn Municipality with participation of PAPs;
- b) Implementation of the plan
- c) Proper conduction of census of PAPs and their assets.

RAP will be implemented following the WB No Objection. Afterwards, PAPs will be informed and provided with the final RAP.

The Naryn Municipality is responsible for provision PAP with a land plot equal to the withdrawn one in 172, Asko-Too str., and compensation to be paid to the resident #2 for the structures located on the plot.

## **Annex 1**

Scheme of a part of water supply network  
running through the plot No. 172  
in Asko-Too str., Residential are Tosh-Bulak





