

# JAMAICA SOCIAL INVESTMENT FUND

## LAND ACQUISITION AND RESETTLEMENT POLICY FRAMEWORK

### I. Introduction

The Jamaica Social Investment Fund (JSIF) was established in 1996 under the Government of Jamaica's National Poverty Eradication Program as an autonomous Government sponsored institution to manage the financing of small community based development projects in urban and rural areas aimed at reducing poverty and building social capital. JSIF is a limited liability company conforming to the definition of a Government Company within the Financial Administration and Audit Act.

This Land Acquisition & Resettlement Policy Framework will apply to all JSIF funded community projects including the World Bank assisted Inner City Basic Services for the Poor Project (P091299). For JSIF funded community projects, the Policy Framework will supplement existing Jamaican law pertaining to land acquisition and resettlement by introducing additional compensation measures to achieve compensation at replacement cost together with implementation and consultation arrangements to minimize land acquisition impacts and obtain the informed consent of those affected by land acquisition. The Policy Framework will form part of JSIF's Operational Manual for community projects.

JSIF funded community projects comprise a menu of eligible infrastructure investments including:<sup>1</sup>

- Drinking water supply – public and household connections
- Sewerage or on-site sanitation, including small package treatment plants
- Sanitation (local urban sewer systems, septic tanks, pit latrines)
- Storm drainage
- Solid waste system improvements, such as collection points and pick-up service
- Small roads with structures within the participating communities
- Sidewalks
- Street lighting
- Fencing and walls
- School buildings and associated amenities
- Community and recreation facilities (e.g. community centers, sports fields)
- Agro-processing facilities
- Community markets.

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<sup>1</sup> A “negative list” of ineligible projects is included in JSIF's Environmental Management Framework.

While these infrastructure investments are not expected to involve any significant land acquisition and displacement, they may require access to limited areas of land either temporarily during construction or permanently for specific community projects. Such land may either be furnished through voluntary private land donations, transactions between willing-seller-willing-buyer, donations of vacant government land, or involuntary land acquisition based on eminent domain. Community projects that would involve resettlement of more than 10 families are not eligible for JSIF funding.

JSIF financed community projects are usually demand driven, and the need for access to land together with the means to obtain such access including land acquisition based on eminent domain can only be identified during the development of specific community project proposals. The development of a project proposal takes place through a community based participatory planning process. This process involves consideration of alternatives to avoid or minimize land acquisition and displacement. Given that the persons potentially affected by land acquisition and displacement are in most cases also project beneficiaries with a voice in decision making on both the type of investments and technical alternatives, there is a strong incentive to seek solutions that avoid or reduce adverse impacts from land acquisition.

Since the land acquisition impacts deriving from these community projects will be minor, the appropriate instrument to manage such impacts shall be an Abbreviated Resettlement Plan attached as an annex to the project proposal/plan agreed between the community and JSIF. If the land acquisition under a community project causes displacement, the Abbreviated Resettlement Plan shall include economic rehabilitation measures.

If any land required by a community project is obtained through land donations, purchase of land from a willing seller, or access to vacant government land, documentation shall be attached to the agreed community project proposal.

For World Bank assisted projects, the first five community projects with an Abbreviated Resettlement Plan and/or documentation for land obtained through donations or purchase shall be submitted to the Bank for review and approval. Based on the findings of these reviews, the Bank may agree that subsequent community project proposals with arrangements for obtaining land may be approved by JSIF without prior Bank review. All such plans approved by JSIF would still be subject to ex-post review by the Bank.

## **II. Legal Framework**

The **1962 Constitution of Jamaica** contains a chapter dealing with the Protection of the Fundamental Rights and Freedoms of the individual. Section 18 of Chapter III determines that no property shall be compulsorily taken into possession and no interest in or right over property shall be compulsorily acquired, except under a law that: (i) prescribes the principles and manner in which compensation is determined and given and (ii) provides right of access to a court to determine questions of rights, entitlement and compensation

The **Land Acquisition Act of 1947 as amended**, vests authority in the Commissioner of Lands to acquire all land required by the Government for public purposes. The term “public purpose” is not defined. The Commissioner is empowered to acquire land either by way of private treaty or compulsory acquisition following a gazetted declaration of intent. Rights of appeal relate only to the quantum and apportionment of compensation. The matrix below outlines the land acquisition procedure as defined by the Land Acquisition Act of 1947 and the measures in this Policy Framework to fill gaps in the Act:

<b>Land Acquisition Act of 1947: Summary of land acquisition procedure and principles</b>		<b>Gap-filling measures in Policy Framework</b>
Part II.3(1)	Whenever it appears to the Minister (responsible for Crown lands) that land in any locality is needed for any public purpose, a notification to that effect shall be published in the Gazette and a copy thereof served upon the owner of such land and the Commissioner of Lands shall cause public notification to be given at a convenient place in such locality.	Project preparation involves <b>consultation</b> with project beneficiaries and persons potentially affected by land acquisition on both the type of activities that may require land acquisition and on measures to avoid or limit the need for land (Section VII).
Part II.5(4)	Any such declaration shall be conclusive evidence that the land is needed for a public purpose.	
Part II.6	Whenever any land has been so declared to be needed for a public purpose, the Minister shall direct the Commissioner to take proceedings for the acquisition of the land.	
Part II.7	The Commissioner shall thereupon cause the land to be surveyed, unless such land has already been marked out.	Assessment of land acquisition impacts includes a <b>census of those affected</b> with socio-economic data (Annex 8), and an inventory of losses (Annex 9).
Part II.8	The Commissioner shall then cause the land to be valued and shall enter into negotiations for the purchase by private treaty, of the land.	An inventory of losses (Annex 9).
Part II.9(1) and (2)	Where no agreement by private treaty has been reached for the purchase of land needed, the Commissioner shall post notices at convenient places on or near the land that claims to compensation may be made to him at a specified time at least 21 days after the posting of notices.	
Part II.10(1)	The Commissioner may also require any person interested to deliver to him the name of any other person possessing any interest in the land or any part thereof as co-owner, mortgage, lessee, tenant, or otherwise, and of the rents and profits, if any, received or receivable on account thereof of three years preceding the date of the statement.	<b>Entitlement</b> to compensation and rehabilitation assistance applies not only to legal owners (or persons with a contractual relation to the owner deriving a profit from the land/asset), but also to tenants/ lease-holders who use a land/house as residence and squatters without title or lease (who were occupants at the time of the survey) (Section X).

Part II.11(1)	On the day specified in the notice, the Commissioner shall make an award as to the true area of the land to be acquired, the compensation amount, and the apportionment of this amount among the persons known or believed to be interested in the land.	
Part II.11(2)	If any dispute arises as to the apportionment of the compensation or any part thereof, or as to the persons to whom compensation is payable, the Commissioner may refer such dispute for the decision of the Court.	<b>Grievance redress</b> is pursued at different levels before the matter is taken to the Court (Section IX).
Part II.14 (1) 14 (1)(a) 14 (1)(c) 14 (1)(d)	In determining the amount of compensation to be awarded for land acquired under the Act, the following and no other matters shall be taken into consideration: <ul style="list-style-type: none"> <li>• The market value at the date of the service of notice,</li> <li>• The damage, if any, sustained by any person interested at the time of taking possession by the Commissioner by reason of the acquisition injuriously affecting the actual earnings of such person,</li> <li>• The reasonable expenses, if any, incidental to any change of residence or place of business of any person interested which is necessary in consequence of the acquisition.</li> </ul>	Compensation for lost assets is at <b>Replacement Costs</b> (to Parish Council standards in respect of buildings) which entails valuation of assets to determine the amounts sufficient to replace the lost assets and cover transaction costs.
Part II.15 (1) Part II.15 (2)	In case of urgency, the Commissioner may, if the Minister so directs, at such time subsequently to the publication of the notice (Part II, 9 (1)) as the Minister may specify, take possession of any land required for a public purpose. The Commissioner shall in such case offer to the persons interested compensation for the loss of standing crops and fruit.	Compensation shall be provided <b>before</b> assets acquired under eminent domain are taken into possession (Section IV). Compensation will be paid for <b>crops and trees</b> (including non-fruit trees) affected by permanent or temporary land acquisition (Section X).
Part III.36	When the amount of compensation is not paid or deposited on or before taking possession of the land, the Commissioner shall pay the amount awarded with interest thereon at the rate of 5 % per annum from the time of taking possession until it has been paid or deposited.	<b>Interest</b> will be paid at market rate on the amount awarded. (Section IV).
Part VII.44	The provisions of the Act shall not be put in force for the purpose of acquiring a part only of any building which is reasonably required for the full and unimpaired use of such building if any person interested desires that the whole of such building shall be acquired.	Applies to <b>agricultural land</b> as well if more than 50 % is acquired or the remaining land is rendered economically unviable (Section X).

In addition to the gaps described in the matrix above, this Policy Framework (Section X) also addresses the following areas not covered by the Land Acquisition Act:

- In case acquisition of either residential, business, or agricultural land causes displacement, land for land (or land of equal or similar value) compensation is the preferred option where feasible, if the affected person so desires.
- Assistance will be provided to tenants/lease holders and squatters to find alternative accommodation, if the affected person so desires.
- Income restoration assistance is provided if required.

### III. Definitions

The definitions used in this Resettlement Policy Framework are:

1. “**Census**” means the head count of the persons affected by land acquisition in terms of asset loss and/or displacement, together with an inventory of the assets lost by these persons. The census also includes basic socio-economic data, and is undertaken when the project concept for basic infrastructure investments under a project is agreed between the community and JSIF. The date of the census establishes the cut-off date to record the persons in a community project area, who can receive compensation for lost assets, and/or resettlement and rehabilitation assistance.
2. “**Compensation**” means the reparation at replacement cost as determined in Section X of this Policy Framework in exchange for assets acquired by a community project (land, buildings, or other assets).
3. “**Cut-Off Date**” means the date after which no person moving into the community project area will be eligible to receive compensation related to land acquisition and resettlement. The cut-off date is the date of the census of the persons affected by land acquisition.
4. “**Displaced Persons**” means PAPs who are forced to relocate from their previous location because (i) all of their land or buildings are acquired for a community project, or (ii) because the amount of land or buildings acquired renders the remaining portion economically unviable or uninhabitable.
5. “**Eminent Domain**” means the right of the state to acquire land for a public purpose using its sovereign power.
6. “**Inventory of Assets**” means a complete listing and description of all assets that will be acquired under a specific community project.
7. “**Land Acquisition**” means the process of acquiring land for a community project under the legally mandated procedures of eminent domain.
8. “**Project Affected Person**” (PAP) means the people directly affected by land acquisition for a community project through loss of part or all of their assets whether temporarily or permanently including land, houses, other structures, businesses, crops/trees, or other types of assets.
9. “**Rehabilitation Assistance**” means assistance comprising job placement, job training, or other forms of support to enable displaced persons, who have lost

- their source of livelihood as a result of the displacement, to improve or at least restore their income levels and standard of living to pre-project levels.
10. “**Relocation Assistance**” means the assistance provided to displaced persons/families to cover (i) the costs of moving from their previous to a new location, and (ii) an allowance equal to the local average costs of living for a two month transition period to resettle in a new location of residence or business.
  11. “**Replacement Cost**” means the method of valuation of assets to determine the amounts sufficient to replace the lost assets and cover transaction costs.
  12. “**Resettlement**” means the relocation of displaced persons into new residential locations.
  13. “**Community project**” means a specific community infrastructure investment activity, which may comprise several sub-components, carried out with funding from JSIF.

#### **IV. Objectives and Principles**

The objective of this Resettlement Policy Framework is to ensure that where land acquisition is unavoidable, all project affected persons (PAPs) will be compensated for their lost assets at replacement costs, and in the event of resettlement be provided with assistance to help them improve, or at least restore, their livelihoods and standards of living to pre-displacement levels. To support this objective, the following principles will apply:

1. During the community based project preparation process, consideration of technical options shall involve a concurrent assessment of potential associated land acquisition impacts, so that, where feasible, design alternatives to minimize such impacts can be identified as early as possible.
2. Consultation arrangements during the community based project preparation process shall be transparent and inclusive to ensure that all persons affected by involuntary land acquisition or resettlement agree on the mitigation measures.
3. Community project proposals involving involuntary land acquisition or resettlement shall include the costs of compensation/rehabilitation.
4. Replacement housing sites or agricultural land will be located as near as possible to the land lost, and at an available site which is acceptable to the PAP.
5. Lack of formal title to assets lost (land/house/business) will not bar a PAP from being entitled to receive assistance to achieve the objective of this Policy Framework.
6. Land and other assets will only be taken into possession after compensation has been paid to the affected person, and relocation assistance shall likewise be provided before people are displaced.
7. If compensation cannot be paid or deposited before the assets acquired are taken into possession, interest will be paid at market rate on the amount awarded from the date of award till the date of payment.
8. A very large proportion of the households in the urban slum areas are female headed, and care should be taken to ensure that they receive compensation and resettlement benefits in cases where the title-holder is an absent male. However,

compensation and resettlement benefits to female-headed households would not cancel claims on a property by the title holder.

9. If community members elect to voluntarily donate land/assets without compensation, they must be fully informed about the project and its grievance redress arrangements ahead of the agreement, and it must be documented that this act is performed freely and voluntarily, without any coercion.

## **V. Abbreviated Resettlement Plan**

For community projects requiring land acquisition, an Abbreviated Resettlement Plan (ARP) shall be completed no later than four months prior to the planned date for commencement of civil works, and in the case of Bank assisted projects, the first five plans shall be submitted to the Bank for review no later than three months before the planned start of civil works. For Bank assisted projects, implementation of a specific Abbreviated Resettlement Plan will only begin after approval by JSIF and if found acceptable by the Bank. The Abbreviated Resettlement Plan will cover the following:

1. Description of the specific activities under a community project that require land, together with the different means used to obtain this land (see Section VI),
2. A census of persons affected/displaced by involuntary land acquisition including an inventory of lost assets and valuation of these, and socio-economic data (see Section XII, Annex 8 and 9),
3. Description of the compensation and other resettlement assistance to be provided (see Section X),
4. Description of the consultations with affected/displaced persons about acceptable alternatives (see Section VII),
5. Institutional responsibility for implementation and procedures for grievance redress (see Section VIII),
6. Arrangements for monitoring and implementation (see Section XII),
7. A time-bound implementation plan and budget.

The funding required to implement an Abbreviated Resettlement Plan shall be part of the overall costs of a particular community project. The sources of funding for the different activities in the Abbreviated Resettlement Plan shall be clearly specified in the budget. In the case of World Bank assisted projects, compensation for assets acquired will be from counterpart funds, while rehabilitation together with costs for developing resettlement sites can be either counterpart or Loan funds. The World Bank can not finance cash payments. The time-bound implementation plan will specify the delivery of land acquisition compensation and rehabilitation entitlements in relation to the timing of physical construction activities.

## **VI. Means of Obtaining Access to Land**

The infrastructure investments undertaken in JSIF financed community based projects are for the most part located within and identified by the beneficiary communities, and this

provides for a situation where access to land may be obtained through other means than land acquisition through eminent domain alone. Thus, land for different investment components in a community project could be obtained through one or a combination of the different means listed below. While all of these means of obtaining land would require documentation, not all would necessitate payment of compensation and/or provision of relocation and rehabilitation assistance. However, in all cases, care should be taken to ensure that the persons involved are fully informed about the project, about the avenues for grievance redress (see Section IX), and confirm that the donation or long term lease is voluntary. This information must be provided during the consultations that take place as part of the participatory community project preparation process (see Section VII).

<b>Means of obtaining land</b>	<b>Requirements</b>
Voluntary donation or long term lease of private land	Attached to the community project proposal/plan must be Proof of Ownership (Annex 2) and Documentation of Donation of Assets (Annex 3) or Documentation of Long Term Lease (Annex 4).
Donation of community land	Attached to the community project proposal/plan must be Proof of Ownership (Annex 2) and Documentation of Donation of Assets (Annex 3).
Willing-seller-willing-buyer transaction	Attached to the community project proposal/plan must be Proof of Ownership (Annex 2) and Documentation of Sale of Assets (Annex 5).
Transfer of public land without squatters or other encumbrances	Attached to the community project proposal/plan must be permission from the Government Agency holding the land or from the Commissioner of Lands.
Transfer of public land with squatters or other encumbrances	Attached to the community project proposal/plan must be permission from the Government Agency holding the land or from the Commissioner of Lands together with a mitigation plan based on this Policy Framework to provide rehabilitation and relocation assistance for squatters.
Involuntary land acquisition based on eminent domain with or without associated displacement	Abbreviated Resettlement Plan attached as an annex to the community project proposal/plan

If a community chooses to obtain the land required for a particular infrastructure investment through purchase from a willing seller, the funds for this purchase must be provided by the community as part of its contribution towards the capital costs of the project. This must be included in the community project budget.

## **VII. Community Project Preparation, Consultation, and Land Acquisition Planning**

Since the infrastructure investments undertaken in JSIF financed community based projects are for the most part located within the beneficiary communities, any land

acquisition impacts caused by such investments would therefore primarily affect people who are at the same time project beneficiaries. During the community based participatory project preparation process, consideration of technical options must involve a concurrent assessment of potential associated land acquisition impacts as described in the table below. This will facilitate an early and ongoing identification of feasible technical design alternatives to minimize such impacts, and will also enable consultation with persons affected by land acquisition to obtain their consent regarding mitigation measures.

To ensure that all persons potentially affected by involuntary land acquisition have a voice in the consultations, and that they agree on the mitigation measures if land acquisition is found to be unavoidable, it is important that the consultation arrangements during the community based project preparation process are:

- transparent and inclusive, so that people are made aware of their options, and that those potentially affected by land acquisition are included in the consultations,
- held in a location accessible to all interested community members, and
- that community members and particularly those potentially affected by land acquisition are informed of the purpose, time and venue well in advance.

Consultations and planning regarding land acquisition shall be embedded in the JSIF community project preparation process as follows:<sup>2</sup>

Community Project Preparation	Actions on Land Acquisition	Responsible
<b>1. Promotion</b> (information dissemination on JSIF funding of community projects and rules of the game)	Information dissemination on: <ul style="list-style-type: none"> <li>• project eligibility (&lt; 10 families to be resettled),</li> <li>• need to avoid or minimize land acquisition in project planning,</li> <li>• acceptable means of obtaining land, and</li> <li>• compensation options for PAPs.</li> </ul>	JSIF Environment & Resettlement Officer and Community Liaison Officers
<b>2. Project Application</b>	Indicate: <ul style="list-style-type: none"> <li>• expected need for land for specific investment components,</li> <li>• means of obtaining such land,</li> </ul>	Community/CBO

<sup>2</sup> The 12 communities/neighborhoods covered by the Bank assisted *Jamaica: Inner City Basic Services for the Poor Project* were selected based on a pre-defined set of criteria, and have therefore not gone through the entire community project preparation process outlined in the matrix. During the preparation of these projects consultations were held with the population of the target communities on technical solutions to avoid land acquisition. As a result, none of the community project plans involve land acquisition, but land for specific project components is obtained through other means (see Annex 1). However, during a Bank team field visit on January 15, 2006, to the Flankers' neighborhood, it was found that the planned rehabilitation and extension of a storm drain from Providence Heights would require at least temporary relocation of 3 squatter houses built over the drain.

	<ul style="list-style-type: none"> <li>• need for land acquisition and assessment of impacts.</li> </ul>	
<b>3. Review of Application</b>	<ul style="list-style-type: none"> <li>• Reject application and return for revision if 10 or more families are planned to be resettled as a result of envisaged land acquisition,</li> <li>• Include preparation of Abbreviated Resettlement Plan in TOR for design consultant if required.</li> </ul>	JSIF Environment & Resettlement Officer
<b>4. Project Concept Development</b>	<p>Preliminary Site Screening and Community Consultations to:</p> <ul style="list-style-type: none"> <li>• verify need for land for specific investment components,</li> <li>• confirm information on voluntary land donations and availability of unused government land,</li> <li>• assess options for avoiding or minimizing land acquisition,</li> <li>• ensure that potentially affected persons and land donors are involved in the consultation and informed of options,</li> <li>• if squatters have to be resettled, attempt to find secure alternative accommodation for these in the community.</li> <li>• Conduct census of PAPs.</li> </ul>	JSIF Environment & Resettlement Officer and Technical Appraisal Officers
<b>5. JSIF Technical &amp; Social Review</b>	<ul style="list-style-type: none"> <li>• Assist community in obtaining permission to use available government land from the Agency holding the land or from the Commissioner of Lands,</li> <li>• Obtain documentation on land donations from community and private donors,</li> <li>• Review technical options to avoid or minimize land acquisition,</li> <li>• Compile inventory of assets lost by PAPs,</li> <li>• Draft Abbreviated Resettlement Plan,</li> <li>• Review/approve Abbreviated Resettlement Plan.</li> </ul>	<p>JSIF Environment &amp; Resettlement Officer and Technical Appraisal Officers</p> <p>Design Consultant</p> <p>JSIF Resettlement Officer</p>
<b>6. Project Design</b>	Present Abbreviated Resettlement Plan in a community consultation to obtain endorsement from PAPs and community.	JSIF Environment & Resettlement Officer and Community Liaison Officers
<b>7. Project Approval</b>	For World Bank assisted projects:	JSIF

	<ul style="list-style-type: none"> <li>• Submit Abbreviated Resettlement Plan for review and approval.</li> <li>• Disclosure of the Abbreviated Resettlement Plan at a place accessible to PAPs and NGOs.</li> </ul>	
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Particularly in urban communities, there could be two different contexts for possible land acquisition impacts:

- Community infrastructure improvement activities, and
- Off-site infrastructure improvements to link community infrastructure to existing trunk infrastructure.

People affected by land acquisition caused by off-site infrastructure improvements financed as part of a particular community project would not as a matter of course be involved in the community consultations on the project activities and design. A special effort therefore needs to be made by both the beneficiary community and JSIF to assess options for avoiding or minimizing land acquisition caused by off-site infrastructure improvements throughout the project preparation process. Where it is not possible to avoid such land acquisition, consultations should be held with those affected at the same stages of project preparation where members of the beneficiary community are consulted. Non-community members affected by land acquisition for off-site infrastructure improvements are entitled to the same compensation and rehabilitation measures as affected members of the community benefiting from the infrastructure improvements.

### **VIII. Institutional Arrangements**

The overall responsibility for the implementation and enforcement of the Land Acquisition & Resettlement Policy Framework rests with JSIF.

Within JSIF, there shall be an Environment & Resettlement Officer and a Legal Officer. Their principal tasks under this Policy Framework are to:

- Provide training on the Policy Framework to JSIF project staff and field staff from the Social Development Commission (SDC) involved in JSIF funded community projects,
- Ensure that the identification and planning of land acquisition and resettlement are integrated into the community project preparation process as described in Section VI,
- Draft TORs for preparation and implementation of Abbreviated Resettlement Plans, and review draft plans for compliance with this Policy Framework.
- Supervise implementation of Abbreviated Resettlement Plans, and compliance with documentation requirements for land obtained through donations, purchase, or transfer of available government land,
- Facilitate and monitor resolution of grievances related to land acquisition,

- Liaise with other government agencies such as the Land Valuation Division in the National Land Agency, and the Commissioner of Land.

Acquisition of the land required for a particular community project will be undertaken by the Commissioner of Land based on information and documentation provided by JSIF, and valuation of the assets to be acquired will be conducted by the Land Valuation Division in the National Land Agency.

The preparation of an Abbreviated Resettlement Plan for a particular community project will be incorporated in the TOR for the design consultant involved in the project in question, and implementation of the Resettlement Plan will be part of the assignment of the contractor.

## **IX. Grievance Redress Arrangements**

Resolution of different types of grievances regarding land acquisition and or resettlement will be attempted at different levels:

- Solutions to grievances related to land acquisition impacts should be pursued at the community level with facilitation by JSIF and SDC staff together with design consultants in order to find technical solutions that avoid or further minimize the need for land acquisition.
- Solutions to grievances related to voluntary land donations (e.g. pressure on individuals to donate land) or sale of private land for project use should likewise be attempted at the community level with facilitation by JSIF and SDC staff.
- Solutions to grievances related to compensation amounts, delays in compensation payments or provision of different types of resettlement assistance should be pursued directly by the designated land acquisition and resettlement staff in JSIF through liaison with the relevant actors.
- Arbitration by appropriate local institutions such as the Dispute Resolution Foundation (which is a Government supported NGO with links to the courts. The courts do refer cases to the Foundation for arbitration as a measure to seek a faster resolution to disputes. This would not prevent the parties to the dispute from taking the matter to the court if a compromise cannot be reached).
- Where satisfactory solutions to grievances cannot be achieved, the aggrieved party may take the matter before the courts.

JSIF's land acquisition and resettlement staff will ensure that community members and in particular PAPs are informed about the avenues for grievance redress, and will maintain a record of grievances received, and the result of attempts to resolve these (Annex 6). This information will be entered into the JSIF Management Information System (MIS) and be included in the regular progress reporting.

## **X. Eligibility and Entitlements**

The matrix below defines the eligibility for compensation and/or rehabilitation assistance for impacts/losses for different types of assets for different categories of project affected persons.

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
AGRICULTURAL LAND	<b>No displacement:</b> <ul style="list-style-type: none"> <li>Less than 50% of land holding affected,</li> <li>The remaining land remains economically viable</li> </ul>	Farmer/title holder	Cash compensation for affected land equivalent to market value
		Tenant/lease holder	Cash compensation for the harvest of the affected land equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/lease agreement, whichever is greater.
	<b>Displacement:</b> <ul style="list-style-type: none"> <li>More than 50% of land holding lost</li> </ul> <b>OR</b> <ul style="list-style-type: none"> <li>Less than 50% of land holding lost but remaining land not economically viable</li> </ul>	Farmer/title holder	<ul style="list-style-type: none"> <li>Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice. Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration &amp; other costs.</li> <li>Relocation assistance (costs of shifting + assistance in re-establishing economic trees + allowance up to a maximum of 12 months while short-term crops mature)</li> </ul>
		Tenant/lease holder	<ul style="list-style-type: none"> <li>Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/lease agreement, whichever is greater.</li> <li>Relocation assistance (costs of shifting + allowance).</li> <li>Assistance in getting alternative land lease, if required.</li> </ul>
		Agricultural worker	<ul style="list-style-type: none"> <li>Cash compensation equivalent to local average of 6 months salary</li> <li>Relocation assistance (costs of shifting + allowance)</li> <li>Assistance in getting alternative employment.</li> </ul>
COMMERCIAL LAND	<b>No displacement:</b> Land used for business partially affected, limited loss	Title holder/business owner	<ul style="list-style-type: none"> <li>Cash compensation for affected land</li> <li>Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)<sup>3</sup>.</li> </ul>
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
	<b>Displacement:</b>  Premise used for business severely affected, remaining area insufficient for continued use	Title holder/business owner	<ul style="list-style-type: none"> <li>Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration &amp; other costs.</li> <li>Relocation assistance (costs of shifting + allowance)</li> <li>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates).</li> </ul>
		Business person is lease holder	<ul style="list-style-type: none"> <li>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</li> <li>Relocation assistance (costs of shifting)</li> <li>Assistance in rental/lease of alternative land/property (for a maximum of 6 months) to re-establish the business.</li> </ul>

<sup>3</sup> Street vendors and/or operators of makeshift stalls/shops would normally not have tax records, and the opportunity cost compensation will be based on an assessment informed by data from comparable businesses of turn-over and net profits.

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
RESIDENTIAL LAND	<b>No displacement:</b> Land used for residence partially affected, limited loss, and the remaining land remains viable for present use	Title holder	Cash compensation for affected land
		Rental/lease holder	Cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement (written or verbal)
	<b>Displacement:</b> Premise used for residence severely affected, remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning law/s	Title holder	<ul style="list-style-type: none"> <li>Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement shall be of minimum plot of acceptable size under the zoning law/s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value. Transfer of the land to the PAP shall be free of taxes, registration &amp; other costs.</li> <li>Relocation assistance (costs of shifting + allowance)</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>Cash compensation equivalent to 3 months of lease/rental fee</li> <li>Assistance in rental/lease of alternative land/property</li> <li>Relocation assistance (costs of shifting + allowance)</li> </ul>
BUILDINGS & STRUCTURES	<b>No displacement:</b> Structure partially affected but the remaining structure remains viable for continued use	Owner	<ul style="list-style-type: none"> <li>Cash compensation for affected building and other fixed assets</li> <li>Cash assistance to cover costs of restoration of the remaining structure</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>Cash compensation for affected assets (verifiable improvements to the property by the tenant – e.g. a fence)</li> <li>Disturbance compensation equivalent to two months rental costs</li> </ul>
	<b>Displacement:</b> <ul style="list-style-type: none"> <li>Entire structure affected</li> <li>OR</li> <li>structure partially affected but the remaining structure is not suitable for continued use</li> </ul>	Owner	<ul style="list-style-type: none"> <li>Cash compensation for entire structure and other fixed assets without depreciation, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.</li> <li>Right to salvage materials without deduction from compensation</li> <li>Relocation assistance (costs of shifting + allowance)</li> <li>Rehabilitation assistance if required (assistance with job placement, skills training)</li> </ul>
		Rental/lease holder	<ul style="list-style-type: none"> <li>Cash compensation for affected assets (verifiable improvements to the property by the tenant – e.g. a fence)</li> <li>Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)</li> <li>Assistance to help find alternative rental arrangements</li> <li>Rehabilitation assistance if required (assistance with job placement, skills training)</li> </ul>
		Squatter/ Informal dwellers	<ul style="list-style-type: none"> <li>Cash compensation for affected structure without depreciation</li> <li>Right to salvage materials without deduction from compensation</li> <li>Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project CBO. Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</li> <li>Rehabilitation assistance if required (assistance with job placement, skills training)</li> </ul>
		Street vendor (informal without title or lease to the stall or shop)	<ul style="list-style-type: none"> <li>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</li> <li>Relocation assistance (costs of shifting)</li> <li>Assistance to obtain alternative site to re-establish the business</li> </ul>
STANDING CROPS	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop
TREES	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees PLUS 10% premium
TEMPORARY ACQUISITION	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)

## **XI. Asset Valuation**

The valuation of the assets to be acquired will be conducted independently from JSIF and community project proponents by the Land Valuation Division in the National Land Agency. Based on a list of land acquired and its ownership status from the Commissioner of Land, the Land Valuation Division will value the assets to be acquired.

Acquired assets will be compensated at replacement costs, and in calculating replacement cost, depreciation of structures and assets is not taken into account, nor is the value of materials salvaged by the PAP from an asset (e.g. building materials, the pump from a well etc) acquired under a community project. For houses and other structures, the replacement value, if provided as cash compensation, is the market costs of materials to build a similar or better structure than the one affected, plus costs of labor/contractors, and the cost of any registration and transfer taxes. For urban and agricultural land, the replacement cost is the pre-project or pre-displacement (whichever is higher) market value of land of equal size or use plus the cost of any registration and transfer taxes.

Displaced persons/families will receive relocation assistance to cover (i) the costs of moving from their previous to their new location, and (ii) an allowance equal to the local average costs of living during a two month transition period to resettle in their new location of residence or business.

## **XII. Monitoring Arrangements**

For each community project, information on land requirements and the means of obtaining any land required by a particular project component will be recorded in the MIS for different stages of the project cycle:

<b>Community Project Cycle</b>	<b>Data for MIS</b>
<b>Project Application</b>	<ul style="list-style-type: none"> <li>• Estimated need for land for specific investment components,</li> <li>• means of obtaining such land (donation, govt. land, purchase, land acquisition),</li> <li>• scale of resettlement, if any.</li> </ul>
<b>Review of Application</b>	<ul style="list-style-type: none"> <li>• Approval,</li> <li>• Rejection (&gt; 10 families to be resettled)</li> </ul>
<b>Project Concept Development and JSIF Technical &amp; Social Review</b>	<ul style="list-style-type: none"> <li>• Community consultations (date, # of participants including potential PAPs, issues),</li> <li>• Documentation provided on voluntary land donations and transfer of unused government land.</li> </ul>
<b>Abbreviated Resettlement Plan</b>	<ul style="list-style-type: none"> <li>• Data from census with inventory of assets lost by PAPs, entitlements, and socio-economic data,</li> <li>• Dates of receipt, review, and approval by JSIF of ARP,</li> <li>• Dates of submission and approval by Bank of</li> </ul>

	ARP (for Bank assisted projects), <ul style="list-style-type: none"> <li>• Date of disclosure of ARP.</li> </ul>
<b>Implementation</b>	<ul style="list-style-type: none"> <li>• Delivery of compensation and rehabilitation entitlements as per ARP,</li> <li>• Data on grievance redress</li> </ul>
<b>Post-implementation</b>	<ul style="list-style-type: none"> <li>• Evaluation including assessment of economic rehabilitation/income restoration.</li> </ul>

Each Abbreviated Resettlement Plan will establish a baseline through the census of PAPs which will comprise socio-economic data (Annex 8), the inventory of assets lost, and the compensation and resettlement benefits awarded to the PAPs (Annex 9). Progress monitoring by JSIF will record the timely provision of compensation to PAPs (whether provided before or after possession was taken of the asset), and the timely provision of resettlement assistance (Annex 9). The data will be entered into JSIF's MIS together with information on land provided through voluntary donations, nominal long term leases, and vacant government land (Annex 7). An evaluation will be undertaken to establish whether the objective of the measures to mitigate the land acquisition and resettlement impacts have been achieved, namely, whether PAPs affected by land acquisition and resettlement have been able to improve, or at least restore, their livelihoods and standards of living to pre-displacement levels. Data on grievance redress will also be entered in the MIS and summarized in status reports (Annex 6).

For projects assisted by the World Bank, periodic supervision will assess whether the implementation is in compliance with the provisions in approved Abbreviated Resettlement Plans.

**Jamaica: Inner City Basic Services for the Poor Project (P091299)**  
**Land requirements under Community Projects**

For the 12 community projects under the Inner City Basic Services for the Poor Project, consultations during project preparation have eliminated the need for land acquisition based on eminent domain.<sup>4</sup> Land required for specific project components will be obtained through other means as listed in the table below. The table was updated in a consultation on JSIF's Policy Framework with representatives of all the 12 target communities on January 13, 2006. Documentation as required by this Policy Framework will be attached to the agreed community project plan.

Project Communities	Parish	Community Project Component requiring land	Method of obtaining land		
			Vacant Govt land	Private donation	Purchase: Willing-Seller-Willing-Buyer
Whitfield Town	Kingston-St.Andrew	None			
Federal Gardens	Kingston-St.Andrew	Community Centre	Yes		
Dunkirk <sup>5</sup>	Kingston-St.Andrew	None			
Jones Town	Kingston-St.Andrew	None			
Tawes Pen	St. Catherine	Community Centre <sup>6</sup>	Yes		
Africa	St. Catherine	None			
Central Village	St. Catherine	- Community Centre - New drain from Central Road to river			To be decided To be decided
Shelter Rock	St. Catherine	- Community Centre <sup>7</sup> - Off-site drain extensions	Yes		
Lauriston	St. Catherine	Community Centre			Yes <sup>8</sup>
Bog Walk	St. Catherine	- Community Centre <sup>9</sup> - Drainage	Yes Yes		

<sup>4</sup> Final Neighbourhood Basic Infrastructure & Public Buildings Safety Plans – Community Specific Plans, JSIF, December 2005.

<sup>5</sup> The project will refurbish the existing sewer network, which will be connected to a sewage treatment facility to be funded from other sources. Since the two activities are linked, the access to land for the treatment facility needs to be clarified.

<sup>6</sup> Upgrading of existing structure.

<sup>7</sup> Upgrading of existing structure.

<sup>8</sup> The land was previously bought by a neighborhood CBO with its own funds.

<sup>9</sup> The Community Centre will be located on a piece of land presently used in part as a community sports/play-ground, and in part as residential area by squatters. At the consultation on JSIF's Policy Framework on January 13, 2006, community members were of the opinion that the Community Centre could be constructed on the site without disturbing the squatter settlement or the sports/play-ground.

Bucknor	Clarendon	- Community Centre	Yes		
Flankers	St.James	- Community Centre <sup>10</sup> - Drainage <sup>11</sup> - Road (Hog City) <sup>12</sup>	Yes		To be decided

<sup>10</sup> Upgrading of existing structure.

<sup>11</sup> During a Bank team field visit , to the Flankers' neighborhood on January 12, 2006, it was found that the planned rehabilitation and extension of a storm drain from Providence Heights in Hog City would require at least temporary relocation of 3 squatter houses built on the bank and partly over the gully. An assessment of the the need for temporary or permanent relocation needs to be made as part of the finalization of the community plan for Flankers, and if required, the plan needs to be amended with resettlement mitigation measures.

<sup>12</sup> Road rehabilitation will require minor realignment and shifting of a fence.

### **What information on land ownership is needed?**

**The landowner must in all cases produce satisfactory documentary proof of ownership or permission to use the land before an application will be processed.**

**Satisfactory proof of ownership includes the following:**

- Duplicate Certificate of Title or Common Law Conveyance in favour of the owner.

If the owner is unable to send either of these documents, JSIF will accept Voluntary Declaration forms (available upon request) completed by the owner and **two (2)** independent persons who have knowledge of the history of the land for at least **thirty (30)** years. Additionally, a survey of the land prepared by a commissioned land surveyor should be obtained, if none exists. A Common Law Conveyance can then be done (with the survey attached) transferring the land to the Commissioner of Lands, or an incorporated community based entity. An application can also be made to the Registrar of Titles to have a registered title issued to the Commissioner of Lands or an incorporated community based entity.

If the owner inherited the land JSIF requires the following:

- Copy of Will (where applicable)
- Copy Probate/Letters of Administration
- Registration on Transmission **and**
- Assent to Devise

Note that JSIF will accept copies of documents but originals must be available upon demand.

If the required documentation is in place, the landowner must then:

- Agree to immediately transfer the land to the Commissioner of Lands (the Commissioner) or an incorporated community based organisation (CBO) **or**
- Enter into a written agreement to transfer the land by way of gift **or**,
- Be prepared to provide either the Commissioner, other relevant government agency, or CBO with a lease of at least forty-nine (49) years duration at a nominal rent.

**Documentation of Donation of Assets**

The following agreement has been made on \_\_\_\_\_ between the parties below:

1. That the Owner holds the transferable right of the land/structure/asset described in the table below, as documented in the attached proof of ownership.
2. That the Owner testifies that the land/structure described in the table below is free of squatters or encroachers and not subject to other claims.
3. That the Owner agrees to transfer through donation to the recipient Community of \_\_\_\_\_ for the benefit of the community and the public at large this asset for the construction of \_\_\_\_\_ funded by a JSIF grant.

Type of Asset transferred to the Community	Description of Asset
Residential or Agricultural land	Area in m <sup>2</sup> :
House/structure to be demolished	Type and Area in m <sup>2</sup> :
Trees or crops affected	
Other assets	

4. That the Owner donates the asset described in the table above voluntarily, and will not claim any compensation against the grant of the asset.
5. That the Recipient shall construct and develop the \_\_\_\_\_ and take all possible precautions to avoid damage to adjacent land/structure/other assets.
6. That both the parties agree that the \_\_\_\_\_ so constructed/developed shall be public premises.
7. That the provisions of this agreement will come into force from the date of signing of this deed.

Name of Owner:
Signature of Owner:
Name of Witness:
Signature of Witness:

Name of CBO Chairperson:
Signature of CBO Chairperson:
Name of CBO Treasurer:
Signature of CBO Treasurer:

**Documentation of Long Term Lease**

The following agreement has been made on \_\_\_\_\_ between the parties below:

1. That the Owner holds the transferable right of the land/structure/asset described in the table below, as documented in the attached proof of ownership.
2. That the Owner testifies that the land/structure described in the table below is free of squatters or encroachers and not subject to other claims.
3. That the Owner agrees to transfer through long term lease for forty-nine (49) years this asset to the recipient Community of \_\_\_\_\_ for the benefit of the community and the public at large for the construction of \_\_\_\_\_ funded by a JSIF grant.

Type of Asset transferred to the Community	Description of Asset
Residential or Agricultural land	Area in m <sup>2</sup> :
House/structure to be demolished	Type and Area in m <sup>2</sup> :
Trees or crops affected	
Other assets	

4. That the Owner voluntarily provides asset described in the table above on long-term lease, and will only claim Jamaican Dollars \_\_\_\_\_ as compensation against the long term lease for forty-nine (49) years of the.
5. That the Recipient shall construct and develop the \_\_\_\_\_ and take all possible precautions to avoid damage to adjacent land/structure/other assets.
6. That both the parties agree that the \_\_\_\_\_ so constructed/developed shall be public premises.
7. That the provisions of this agreement will come into force from the date of signing of this deed.

Name of Owner:
Signature of Owner:
Name of Witness:
Signature of Witness:

Name of CBO Chairperson:
Signature of CBO Chairperson:
Name of CBO Treasurer:
Signature of CBO Treasurer:

**Documentation of Sale of Assets**

The following agreement has been made on \_\_\_\_\_ between the parties below:

1. That the Owner holds the transferable right of the land/structure/asset described in the table below, as documented in the attached proof of ownership.
2. That the Owner testifies that the land/structure described in the table below is free of squatters or encroachers and not subject to other claims.
3. That the Owner agrees to transfer through sale to the Recipient Community of \_\_\_\_\_ for the benefit of the community and the public at large this asset for the construction of \_\_\_\_\_ funded by a JSIF grant.

Type of Asset transferred to the Community	Description of Asset	Agreed sale price in Jamaican Dollars
Residential or Agricultural land	Area in m <sup>2</sup> :	
House/structure to be demolished	Type and Area in m <sup>2</sup> :	
Trees or crops affected		
Other asset		

4. That the Owner has received compensation against the transfer of this asset as per the table above.
5. That the Recipient shall construct and develop the \_\_\_\_\_ and take all possible precautions to avoid damage to adjacent land/structure/other assets.
6. That both the parties agree that the \_\_\_\_\_ so constructed/developed shall be public premises.
7. That the provisions of this agreement will come into force from the date of signing of this deed.

Name of Owner:
Signature of Owner:
Name of Witness:
Signature of Witness:

Name of CBO Chairperson:
Signature of CBO Chairperson:
Name of CBO Treasurer:
Signature of CBO Treasurer:

**Reporting Format  
for  
Grievance Redress**

Community Project & Name of Complainant	Type of Grievance					Grievance resolution			
	Affected, but not informed about impacts and options	Compensation awarded is inadequate	Compensation not paid before asset acquisition	Resettlement benefits awarded are not provided	Other	Date of complaint	Date resolved	Pending	Case referred to the Court
<b>Community Project 1</b>									
Complainant A									
Complainant B									
Complainant C									
<b>Community Project 2</b>									
Complainant D									
Complainant E									
<b>TOTAL</b>									

**Reporting Format for Land Acquisition & Resettlement (Means of Obtaining Land)**

Project name and location: \_\_\_\_\_

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

Name of Person	In case of Land Acquisition: Status of PAP <sup>13</sup>	Purpose for which the land is obtained	Means of obtaining land for an activity under a community project					
			Donation (area in sq.m)	Long-Tem Lease (area in sq.m)	Purchase (area in sq.m)	Vacant Govt. land (area in sq.m)	Land Acquisition	
							Area in sq.m	Displacement?

<sup>13</sup> Status should be listed as either Owner (O), Tenant/Lease Holder (T); or Squatter (S)



**Reporting Format for Land Acquisition & Resettlement (Inventory of Assets Lost, & Delivery of Compensation)**

**Project name and location:** \_\_\_\_\_

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

Name of PAPs	Inventory of Assets acquired through land acquisition and value of compensation awarded												Resettlement and Rehabilitation			Compensation		
	Agricultural Land			Residential or Commercial Land <sup>15</sup>			Buildings (Residences, Shops)			Other Assets						Total value of Comp <sup>16</sup>	Date Of Com <sup>17</sup>	Date of Poss <sup>18</sup>
	<50%	>50%	CV <sup>19</sup>	Partly	Fully	CV	Partly	Fully	CV	Trees /crops	Temp.	CV	RA <sup>20</sup>	Plot, or Res <sup>21</sup>	SK Or JB <sup>22</sup>			

<sup>15</sup> **Partly** = No resettlement since the land is partially affected, and the remaining land remains viable for present use. **Fully** = Resettlement since the land is severely affected, and the remaining area insufficient for continued use.

<sup>16</sup> **Total value of Com**(pensation) = The total monetary value of compensation for different types of lost assets.

<sup>17</sup> **Date of Com**(pensation) = The date on which the compensation payment was made to the PAP.

<sup>18</sup> **Date of Poss**(ession) = The date on which the assets acquired were physically taken into possession for the community project.

<sup>19</sup> **CV** = Compensation Value at replacement costs assessed in Jamaican Dollars

<sup>20</sup> **RA** = Relocation Assistance provided only to displaced persons/families. This comprises costs of shifting to a new residence, plus an allowance of local average cost of living over a two month period.

<sup>21</sup> **Res**(idence) means alternative dwelling provided to squatters

<sup>22</sup> **SK** = Skills training, and **JB** = Job placement for displaced PAPs who have experienced a decline in income as a result of the relocation, and who need assistance regarding income restoration.