



Nepal Health Sector Support Programme III (NHSSP – III)

Policy on HI land Acquisition and Relocation Final Draft



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Payment Deliverable R12: Policy on HI land Acquisition and Relocation

1. Background

Nepal has now fully adopted its federal democratic republic structure and established seven provincial governments and 753 local authorities. In line with the federal democratic republic structure, the devolution process has highlighted the nature of health infrastructure being transferred to sub-national governments. To establish a rational method and consistent criteria MoHP has adopted Categorisation of Health Facilities 2074 (2017) and standard designs for each category of health facilities with a defined land requirement for each category with support from NHSSP. The categorisation is based on accessibility (road network), linkage (market centres, settlement pattern), catchment area, service population, the GON's decision to develop a hospital in each local authority and the assigned existing level of health facilities. The analysis was done using GIS technology and captured in the Health Infrastructure Information System (HIIS). Together with the land requirement (size), the land selection guideline has also been adopted. The Land Selection Guideline addresses the method of selection of construction sites. Selection of the construction site is one of the crucial steps of building construction. The Land Selection Guideline presents criteria for determining the appropriateness of land for health infrastructure construction. These categorisations also demand the land area required for the health facilities based on the size of the construction for each type of health facilities. Each level of health facility requires a specific area of land to build health infrastructure and its supporting services as specified in compliance with the Standard Design Guidelines 2074.

2. Rationale

In the process of categorising in line with the government's decision in 2074 to construct a Hospital in each municipality, 458 Health Posts and 201 Primary Health Care Centers were upgraded to Hospitals. Many of these upgraded health facilities, especially smaller health posts, do not have their own land and are located on the property of other government institutions or in rented houses with limited spaces provided for health services limiting the scope of investing for construction or upgrading works. Besides the ownership issues many of these health facilities are on marginal land which restricts the investment in upgrading of health facilities due to sustainability issues. Some of the major issues regarding marginal land are as follows:

- Existing location of health facilities vulnerable to hazards like landslides, floods, steep slopes etc.

- Orientation of health facilities are not appropriate, for example many of the health facilities in the hills and the mountains have north orientation obstructing direct sunlight and heat gain.
- Sites are not properly linked with other settlements and have accessibility issues for ambulances and other transportation.
- Health facilities are located in places where sufficient water supply is not possible and/or there is no connection to electricity.
- Health facilities often cannot be upgraded due to insufficient land area.

The issue of marginal land has been attributed to the practice of acquiring land for the construction of health facilities from donation. This practice of acquiring land from donation has also the risk of promoting the interest of the land donor in various negative aspects.

The Detailed Engineering Assessment (DEA) carried out by the Nepal Health Sector Support Programme (NHSSP) Health Infrastructure Team found that in 31 districts over 40 percent of health facilities do not have ownership of the land on which they are located. Further, many of them which do own the land are unsuitably located; at risk from landslides, stone fall, and floods, or located away from the major settlements.

These land issues have made the upgrading and construction of new health facilities substantially slow in the past few years. In order to overcome this issue, the need has been identified by all level of governments to have land acquisition guidelines/policy for acquiring appropriate land for upgrading or new construction of health facilities. This need has been time and again expressed and discussed during different workshops, orientation programmes and similar occasions by representatives and officials from different levels.

Land acquisition issues have been categorised in two major categories. The first issue is acquiring appropriate land which is available within the same settlement or within close proximity of the same settlement where the existing health facility proposed for upgrading or new construction is located. Secondly, the relocation process of a health facility to another settlement and acquisition of appropriate land for the upgrading or construction of health facility requires a process that is agreeable to all the concerned settlements. This is also very important in the context that many of the existing health facilities were planned almost 50 years earlier and the locations then planned did not have any scientific criterion and were based mostly on ad-hoc decisions, rendering these locations obsolete in the present context. With the growth of the road network, urbanization, market centre developments, migration patterns and growth of different settlements, it is necessary to relocate existing health facilities to more appropriate locations.

A policy defining the process of acquisition of land in both cases in alignment with the Nepal Health Infrastructure Development Guidelines 2074 and its Components is very important for sustainable development of health infrastructure in Nepal.

A policy thus developed will be a federal policy which will be also be the guiding document for the provincial and local government for land acquisition and relocation.

3. Objectives of the Policy

The objective of the policy is to provide guidelines to federal, provincial and local governments regarding health facility-related land acquisition and relocation, based on the multi-hazard resilient health infrastructure development approach in alignment with Nepal Health Infrastructure Development Standards and its Components.

The policy will be useful for the government to acquire appropriate land that is effectively accessible in terms of travel time, cost and transportation services to the large population (catchment area), and which is suitable for construction of multi-hazard resilient health infrastructure built as per the existing standards and codes to be able to provide quality and equitable health care services.

4. Scope of the Work

The policy defines the process of acquiring suitable land for health infrastructure construction in line with prevailing acts and regulations in a sequential manner and develops criterion for relocation of health facilities to a different settlement within a local government's catchment area.

5. Process of Acquisition of Land for Health infrastructure Construction

In order to acquire land for the construction or upgrading of health facilities, the acquiring agency shall follow the following land acquisition process in prioritization supported by the concerned government entities based on the ownership of health facilities as outlined by NHIDS.

5.1 Land acquisition through donation: This process of acquisition is the easiest approach to land acquisition. Land donated voluntarily from individuals or organizations can be acquired. A circular from the Ministry of Federal Affairs and General Administration (MoFAGA) in BS 2075 states that voluntary donation should be sought before opting for the process of lease or purchase.

Process of acquiring:

- The donated land should comply with the criteria provisioned by the framework for Land Acquisition and Resettlement, MOHP, 2009, and the Policy for Acquiring Land and Resettlement for an Infrastructure Project, NPC, 2071.
- Land donated for HF construction or relocation should be assessed to determine the suitability as per the guidelines on land selection criteria for HF construction BS 2074 (2017) in Annex 1
- The concerned government should organise a public hearing on voluntary land donation. The public hearing shall be held as per the framework for Land Acquisition and Resettlement, MOHP, BS 2066 (2009), and Policy for Acquiring Land and Resettlement for an Infrastructure Project, NPC, BS 2071 (2014).

5.2 Public land Acquisition: This type of acquisition is the second priority if the donated land is not suitable for health facility construction or relocation, or donated land is not available. As per the **National Land Policy, 2075 B.S**, the 5th objective urges for easing of the process of acquiring land required for public infrastructure development projects and discourages incremental increase of project cost due to land acquisition.

Process of acquiring:

- Public land can be acquired by the concerned government health institution using the provision in the **Public Land Registration and Lease Provision Plan of Action 2071, published by the Ministry of Land Reforms and Management** in Paragraph three, under the title, 'Public land registration, update, and management,' which spells out the

provision for transferring the land registration from one public entity to another. For this the highest government entity of the government institution owning the land at the local level should provide consensus for the transfer of the land. The recommendation for the land transfer in this regard must be forwarded to the highest entity by the concerned recommendation committee at the district level chaired by the Chief District Officer.

- **Land Act, 2021 B.S (8th amendment 2076)** Paragraph 59 (a) '*use of the public land*' of the act has provision for use of public land for public health facilities/hospitals if the government land in the proposed location is unavailable or available but unsuitable for the construction of health facilities, after approval from the Government of Nepal (Council of Ministers).
- **National Land Policy, 2075 B.S** 5th objective of national land policy urges for easing the process of acquiring land required for public infrastructure development projects and discourages incremental increase of project cost due to land acquisition.

5.3 Land acquisition from Lease process: This is the third priority option for acquiring land required for health facilities relocation or upgrading/construction using the provisions as mentioned by the public land registration and lease provision plan of action, 2071. Priority for leasing shall be given to any land under the ownership of former local governments (such as Village Development Committees, District Development Committees, Municipalities) or any other existing public entity.

Process of acquiring under lease:

The Public Land Registration and Lease Provision Plan of Action 2071, Ministry of Land Reforms and Management in its paragraph thirteen under the provision of the lease to public entity specifies that land can be leased by one public entity to another. There will be no monetary transaction and no amount needs to be paid by the tenant entity to the leasing entity in this process. The lease period can be categorically divided into short term, medium-term and long-term with 5 years, 20 years, and 30 years of leasing period respectively.

5.4 Land acquisition through purchase: This priority option four "Purchasing the required land" for the health facility is complicated and requires monetary transactions. Complexities associated with this approach are unexpected speculation in the price of land, and difficulties in the negotiation of the price. The 30th meeting of Rastriya Bikash Samasya Samadhan Samiti (National Development Problem Resolving Committee) under the Chairmanship of the then Honourable President of Council of Minister Mr. Khila Raj Regmi on 17th Bhadra 2070 made the decision to look at the situation of many of the health facilities located in inappropriate locations. Owing to the donated land policy they made the decision to mandate the health sector to purchase land if required through allocation of budget in the Annual Workplan and Budget of MoHP.

Process of acquiring:

The common practice of buying land is through negotiations and usually the price fixed by the concerned Land Revenue Office as the base price.

The Land Acquisition Act, BS 2034 (1977) (with latest amendments in 2066) under its clause 27- Acquisition of Land Through Negotiations provides authority to Government of Nepal for the acquisition of land through appropriate compensation to the landowner.

6 Relocation of Health facilities

Relocation of health facilities can be categorised in two levels:

1. Relocation within the settlement or ward level to an appropriate location
2. Relocation of the Health Facility to a different ward within the Municipality

The first type is simple and the relocation within the settlement or wards can be managed by the Ward Chair with proper rationale for relocation in agreement with all the stakeholders and the general population. The second case usually involves the relocation of hospital level facilities to a more appropriate location in another ward within the Municipality for which appropriate rationalisation is very important. In the second case the relocation of facility can be because:

- The existing location of health facilities is vulnerable to hazards like landslides, floods, steep slopes etc. and appropriate land is not available for acquisition in the same ward through any of the methods described under the land acquisition process above for relocation.
- Orientation of health facilities are not appropriate, for example many of the health facilities in the hills and the mountains have north orientation obstructing direct sunlight and heat gain, and appropriate land is not available in the same ward through any of the methods described under the land acquisition process above for relocation.
- The facility cannot be upgraded due to insufficient land area and appropriate land is not available in the same ward through any of the methods described under the land acquisition process above for relocation
- The facility is located in an area where sufficient water supply is not possible or connection to electricity three phase line is not possible and appropriate land is not available for acquisition through any of the methods described under the land acquisition process above in the same ward.
- The existing proposed hospital site is not appropriately located and not central to all the settlements and wards in the Municipality or all the population do not have equitable access to the facility.

6.2 Factors to be considered for relocation

6.2.1 Accessibility

The location selected must be the most central with links to all the settlements served. A road network analysis can be done for this purpose, with the assumption that the roads are of similar condition or will be in the same condition in the future. For example, the figure 6.2.1 below shows the locations of settlements with names A, B, C, D and E and the distance to each other by road. The shortest route between each of them is put in a matrix and the addition of the distances between the shortest routes from each settlement to the other is completed. The lowest value is the most central for travel from all the surrounding settlements. If there is no appropriate land as outlined in the guidelines for land selection criterion in the settlement with the lowest value the second lowest can be selected and so on for the proposed health facility relocation. Settlement C has the lowest value in total in the Distance Matrix as analysed in table 6.2.1 below and A and B as the second lowest. Here, C gets the priority for relocation.

Figure 6.1 Settlements and distances by road in Km

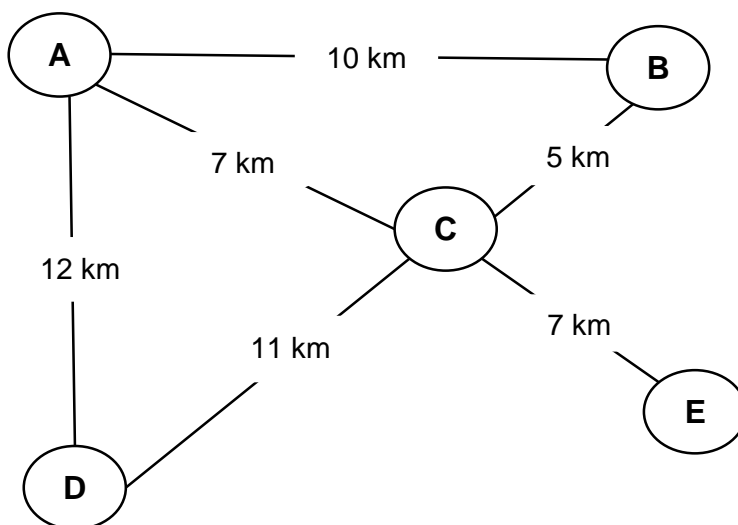


Table 6.2.1 Distance Matrix between the settlements

Settlement Name and Distance in KM	A	B	C	D	E	Total	Priority
A	0	10	7	12	14	43	2
B	10	0	5	16	12	43	2
C	7	5	0	11	7	30	1
D	12	16	11	0	18	57	4
E	14	12	7	18	0	51	3

6.2.2 Market Centre Analysis

Another way of identifying the central place can be the settlement with the maximum number of market centre functions, such as retail and wholesale shops, agrovet shops, service-oriented infrastructure like public schools, government offices, hotels, restaurants are located and majority of the population travel to this location for services from all the settlements. If there are two or more settlements with these kinds of services, the accessibility analysis as in the Distance Matrix can be adopted for relocation.

Annex 1:

GUIDELINES FOR THE SELECTION OF LAND FOR THE CONSTRUCTION OF HEALTH FACILITIES (Un-Official translation of Endorsed Nepali Version)

5.1 Background

Selection of construction site is one of the crucial steps of building construction. The inconsistencies present in the process of site selection have resulted in delays and over expenditure when viewed in the context of current construction practices and also in the past. Such a situation is caused by the lack of any concrete policy or criteria for selecting appropriate land for construction. This guideline presents criteria for determining the appropriateness of land obtained through donation from individual or institution or through the handover of user right of public land. Henceforth the appropriateness of the site should be assessed as per the criteria presented in this guideline.

5.2 Minimum area required for the construction of health care building

If the land provided by the concerned health care institution for the construction of new health care building is basically flat, the various types of health care buildings should have following minimum area depending on the geographic region where they are going to be built. While determining the minimum area, aspects like the area required for support services apart from the main building, possibility of future expansion and upgrading have been considered.

Table 14: Minimum area requirement for different health care buildings

Type of health care building	Design type	Bed capacity	Population to be served	Minimum land area	
				sq.m.	ropani
Primary hospital Class 'A'	Type - 1	51-99	1,00,001-3,00,000	18,000	35
	Type - 2	26-50	50,001-1,00,000	7,700	15
	Type - 3	15-25	up to 50,000	6,100	12
Primary hospital Class 'B'	Type - 1	15	more than 20,001	4,600	9
	Type - 2	10	15,001-20,000	4,600	9
	Type - 3	5	15,000 or less	3,600	7
Health post	Type - A		more than 12,000	2,100	4
	Type - B		7,001-12,000	1,100	2

	Type - C		3,001-7,000	800	1.5
	Type - D		3,000 or less	500	1

The bed capacity of hospitals beyond primary level should match the standards of local body and those stipulated in Annex-2 of Guideline related to the standards for establishment, operation and upgrading of health care institutions, 2070 (updated 2074) under Health Building Infrastructure Design and Construction Guideline 2074. If the land provided by the concerned health care institution fails to meet this requirement, the implementing agency must inform the concerned health authority in writing for the provision of alternative land.

- 2.1.** The site that is located in the middle of a settlement or market centre (place with public services such as schools, administrative bodies, police, market and easy access to transportation) and attached to the main road, can be recommended as proposed site for construction even if the land area is up to 20% less than what is mentioned in Table 14, provided it does not adversely affect the size of standard design.

5.3 Other special criteria

- 5.3.1. Land gradient:** Land with gradient of 5 degrees or 1:12 (1 unit of vertical height for every 12 units of horizontal length) is fundamentally considered flat.

If tentative flat land is obtained, the design and cost estimate can be prepared after carrying out the site analysis. If land with a gradient more than indicated is found, the approval for the appropriateness of land should be sought from DoHS. In this situation, the DoHS may grant permission after conducting a consultation with related technical experts, local bodies and related departments/ministries.

5.3.2. Construction on steep sites

If the land is not flat or if there are contours on the site, type design with isolated blocks might have to be used. In this situation, the pathways connecting those blocks should have the provision of steps as well as ramps with cover for rain protection. A land area twice the size mentioned in point no. 2 might be required in this situation.

In the case of steeper land, if the land development cost (e.g. construction of retaining wall, land cutting and filling etc.) exceeds 15% of the total construction cost in hilly areas and 10% of that in Terai, such land is considered inappropriate for construction. In this situation, the technical person preparing cost estimate should inform the concerned health care institution about the inappropriateness of the site.

- 5.3.3. Site orientation:** Site with low sun exposure and located on northern slope should not be chosen for the construction of health care buildings. Since rays of the sun play a vital role in natural heating and bacterial disinfection of the rooms, this aspect has to be considered while choosing the site for construction.

- 5.3.4. Site location:** Site that is located on the hilltop or in the midst of the forest excessively far away from human settlement should not be chosen. However, for the settlement

on the hilltop, if the proposed site is located within the settlement and is fundamentally flat, such a site can be chosen for construction.

- 5.3.5. Ponds or other waterlogged area:** Ponds or water logged areas should not be chosen for the construction site. Instead of the main building, other ancillary structure such as water tank, septic tank can be constructed in such areas if found technically feasible. After carrying out the soil test, if the underlying cost of measures for increasing the load bearing capacity of the soil does not exceed the limits mentioned in point 3.2, this can be included in the cost estimate.
- 5.3.6. Site with low risk of natural disasters:** The site chosen for construction should have low risk of natural disasters such as flood and landslide.
- 5.3.7. Access to road:** The chosen site should have access to a motorable road. The road should be wide enough for ambulance and fire brigade to pass. In terms of health posts, if the area is distantly remote, the proposed site should be chosen in area planned to have motorable road in the future.
- 5.3.8. Road construction cost:** The budget allocated for the construction of the health care building should not be used for the construction of access road. The construction of the access road falls under the jurisdiction of the related local body and specific institution/ministry.

If the cost of construction of the road from the compound gate up to the blocks inside the premise does not exceed the limits mentioned in point 3.2, this can be included in the cost estimate.

- 5.3.9. Water source:** The proposed site for the construction of health care building should have a reliable source of water available or water supply line connected. In either condition, the supply of water should be adequate enough for the services to be provided by the proposed facility. If there are no water supply lines connected to the site, the local health management committee is liable to proceed for such connection or to manage the supply of water up to the site from other sources. If the water supply to the site can be managed by minimum cost and it does not exceed the limits mentioned in point 3.2, this can be included in the cost estimate.
- 5.3.10. Cost estimate for the construction of building and that for land development:** Cost estimate for the construction of building and that for land development should be prepared with clear differentiation and with summary.
- 5.3.11. Compound wall:** The cost of compound wall construction should not be included in the cost estimate for the construction of the main building. If putting up a compound wall is felt necessary for a site, the design and cost estimate should be prepared and sent to MD, DoHS with proper technical justification. Management division can include the work in the next program and allocate the budget after reviewing the priority and justification of the work. If the cost of the compound wall construction does not exceed the limits mentioned in point 3.2, this can be included in the cost estimate.

5.4. Voluntary land contribution

For promoting public access to health care facilities, the custom of voluntary land contribution is encouraged in these projects as well. The land thus obtained should be assessed against all criteria of appropriateness mentioned above. The land that fails to meet the minimum requirements mentioned above should be rejected.

5.4.1. Criteria for voluntary land contribution

To establish the notion that the land is obtained from voluntary contribution and not by acquiring land from poor people, rehabilitation plan should be prepared for the group affected by the implementation of the project. Following are some criteria for voluntary land contribution:

- Adequate discussion should be carried out with project affected group/persons (PAPs).
- Voluntary land contribution should not have any adverse effect on project affected group/persons (PAPs) e.g. those people should not belong to impoverished class and the affected group/person should not lose more than 20% of the land they were occupying previously. The land should be rejected if it begets negative impact while obtaining it.
- The proposed land should be free from disputes of ownership, free from slum and squatter settlements and free from being encroached.
- A public hearing should be organized to ensure if the proposed land is donated voluntarily.
- The fact that the proposed land is donated voluntarily should be documented in writing and the fact that the land has not been obtained by compelling anyone should be certified by a third-party NGO.
- The land handover is complete only after formal registration.
- The user right of the land should be clearly mentioned while donating or transferring the ownership.
- Mechanism for resolving land related complaints should be in place.

5.5. Public hearing

For the construction of a building on new land, the DUDBC should organize a public hearing program. The information mentioned in the datasheet of the field survey should be ratified during the hearing program. These programs should be clearly mentioned in the work plan for the construction.

The tender notice should not be released until the land that meets all criteria mentioned in this guideline is obtained. The public body announcing the tender should be held responsible for any problem created by not adhering to the guideline.