

10. You are an NGO or a donor looking for land for public services – your checklist of what you should do

- Don't ignore the problems. Make sure that land issues are considered fully before undertaking any activity or programme.
- Make sure that your staff know the law relating to land.
- Seek information, support and advice. You can get this from the District Land Office, from legal aid providers or private lawyers.
- If a development facility is temporary, consider leasing the land from those with land rights.
- Make sure you include the costs of the land in the budget for any development purpose. This will usually only add a very small fraction to the overall cost of the development. Most donors should accept that the cost of the land to build a school is just as valid an expense item as the cost of cement.
- If no-one wants to sell you the land you have identified, see if you can use a different piece of land instead.
- If you are looking for a willing seller of a large piece of land, speak to the clan leaders and elders. They may be able to assist in finding a seller, or they may be able to provide communal land. You may still have to pay, but this could be cheaper, simpler and less confrontational than trying to acquire a lot of land from several individual landowners through compulsory purchase.
- If people are reluctant to sell their land, try and rent the land on a long term lease instead. This will be less politically sensitive and you may get clan and family agreement more easily. There are many countries (including in Europe) where many long term developments take place on land held on lease.
- People may be more willing to rent out land on a long term lease if they are helped to get a title or CCO on the land. If the land is communal land, then you may be able to help them register as a Communal Land Association (CLA) first.
- Remember that respecting land rights is the law.
- Appreciate the challenges faced by local government and communities. They may not have land to give you, or the budget and money to buy land for you or project. Do not pressure them into giving away land that is not theirs to give.
- Do not accept any land given by anyone (individuals, communities or the District) without checking the status of the land. Ask to see proof that the land is owned by them. Explain that you are not mistrusting them, but that people do make genuine mistakes about who has the right to give or sell land.
- Remember that customary land is private land, but one person does not always have all the rights to the land. Compensation for compulsory purchase does not only go to a single owner, but to anyone with an interest in the land. The same principle should be applied if you are buying land from willing seller. Find out all the people who have rights in that land. (You may need help from someone who understands how customary rights are shared and managed.) The compensation should then be divided between all the people. You will have to negotiate this process. You will need to be clear that you are negotiating to see how the value of the land is being shared out and you are not prepared simply to add more money to anyone claiming some additional rights.

- If you are buying land which a family is living on or using, remember that the sale of land is not valid if the wife (or husband) does not sign her (or his) consent to the sale.
- If you are given land by the District, then check before starting work on the land. Place notices around the land stating that it was given by the District and requesting anyone with claims to the land to contact you.
- Make budgetary provision for purchasing or renting land. This is unlikely to add much to the cost of the development. Land could be purchased and then transferred to the District Land Board. Rights would then reside with the government forever. Or land could be leased, e.g. for as long as the public service being constructed was in operation. This would allow the Government to manage the facility as long as it wanted, but would reassure a community that the Government could not simply change the use of the land.
- To prevent future disputes, ensure that everything is written down. Make sure that everyone means the same things by the words. In most cases, the contract should be in the local language. If there is an English version, it should stipulate that the version in local language is binding. Make sure that any conditions are discussed and included in the contract, e.g. how long the agreement is for, what happens afterwards, etc. Give people plenty of time to read and discuss these agreements before signing them.
- Purchase of land does not have to be in monetary form. A landowner may agree to take compensation for the land in other forms – e.g. free education for their children at the school, a training opportunity, assistance with some other project for the community, etc.

