

INTERIM GUIDELINES AND PROCEDURES FOR THE SALE OF PUBLIC LAND



**Approved by the Land Commission, Republic of
Liberia on March 1, 2011**

TABLE OF CONTENTS

1.0	INTRODUCTION.....	1
2.0	SUMMARY	1
3.0	BACKGROUND AND CONTEXT	3
3.1	METHODOLOGY FOR THE VETTING OF PUBLIC LAND SALES.....	3
3.2	FINDINGS AND IMPLICATIONS	4
3.3	POLICY FRAMEWORK	5
3.4	THE PROCESS FOR DEVELOPING THE POLICY FRAMEWORK.....	5
4.0	CONSIDERATION AND THE WAY FORWARD.....	5
4.1	PUBLIC LAND SALES AND THE NEED FOR REFORM	6
4.2	INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND.....	7
4.2.1	INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN RURAL COMMUNITIES.....	8
4.2.2	INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN TOWNSHIPS	10
4.2.3	INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN CITIES ...	12
4.3	INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND	14
4.3.1	INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN RURAL COMMUNITIES.....	15
4.3.2	INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN TOWNSHIPS	17
4.3.3	INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN CITIES.....	18
4.4	ALLOTMENT OF PUBLIC LAND AS FEE SIMPLE, LEASEHOLD, OR CONCESSION.....	20
4.5	THE PRICE OF PUBLIC LAND.....	22
4.6	TRIBAL CERTIFICATES	25
4.7	IMPLEMENTATION	27
5.0	RECOMMENDATIONS.....	27
	APPENDIX A.....	28
	APPENDIX B.....	29
	APPENDIX C.....	30
	APPENDIX D.....	34

1.0 INTRODUCTION

This document lays out the Interim Guidelines and Procedures for the Sale of Public Land (IGPSPL or Interim Guidelines) that will function from the date the moratorium is lifted until the current Public Lands Law is amended or a new Public Lands Law is enacted. This document was presented to the President and cabinet and was approved.

2.0 SUMMARY

These Interim Guidelines and Procedures for the Sale of Public Land were developed by an Interim Public Land Policy Task Force established by the Land Commission. The Task Force was comprised of representatives from sector ministries and agencies including civil society as reflected in Appendix B. After extensive consultations with international and national experts, and numerous stakeholders the Public Land Policy Task Force proposed and the Land Commission approved the following:

- Definition of Public Land

Given the extensive research and debate required to address the issue of defining public land, this issue should not be addressed on an interim basis but will be covered/addressed in a new Public Land Law.

- Procedures for the Sale of Public Land

The procedures for public land sales differ slightly depending on whether the public land is located in rural communities, townships, or cities. In rural communities the ‘traditional authorities’ must issue a provisional public land certificate and public land certificate as well as convene a consultation of the affected community(ies) prior to the issuance of the provisional public land certificate and public land certificate. In the townships and cities, the ‘local authorities’ must do this.

Regardless of the location of the public land, the interim procedures center on the following phases: (1) the prospective buyer must obtain a provisional public land certificate with the permission of the traditional or local authorities and the affected community(ies), (2) the prospective buyer must obtain permission to survey from the County Land Commissioner and President, (3) the survey is conducted following a public service announcement, (4) the prospective buyer must obtain a public land certificate with the approval of the traditional or local authorities, (5) the prospective buyer must obtain a public land sale deed after paying the specified fee for the land and securing the approval of the Ministry of Lands, Mines and Energy and the President, (6) the prospective buyer must pay all applicable taxes, probate the deed, and register the deed with the Center for National Documents and Records/Archives.

- Procedures for Leasing Public Land

- Track the procedures for the sale of public land.

- Allotments of Public Land
 - Public land allotments for residential use are not to exceed 1 acre.
 - Public land allotments for commercial use are not to exceed 25 acres.
 - Public land allotments for farmland are not to exceed 150 acres.
 - Public land allotments from 151 to 1000 acres must be covered by a long-term lease agreement.
 - Public land allotments of more than 1000 acres must be as concessions.
 - Public land allotments of farmland to philanthropic or faith-based organizations are not to exceed 50 acres, while such allotments in the cities are not to exceed 5 acres.

- Price of Public Land
 - Communities buying land which they and their ancestors have traditionally used in accordance with longstanding customary rules or practice are to pay US\$0.50 per acre. Such land may not be resold.
 - Buyers purchasing land in fee simple when the buyer is a subsistence farmer and the land is that which the buyer and their ancestors have traditionally used in accordance with longstanding customary rules and practice are to pay US\$0.50. Such land may be resold.
 - Buyers purchasing in fee simple land within a city's limits are to pay between US\$150 to US\$500 per lot.
 - Buyers purchasing in fee simple land in townships and large towns are to pay between US\$75 to US\$150 per lot.
 - Buyers purchasing in fee simple farmland in clans, towns, and villages are to pay US\$100 per acre.

- Tribal Certificates
 - All tribal certificates the holders of which have not completed the process for obtaining a public land sale deed as of the date the moratorium is lifted shall be submitted to a task force, which shall be established by the National Screening Committee. The task force shall collect all existing tribal certificates within 12 months and analyze/vet all collected tribal certificates within another 12 month period.
 - Any tribal certificates in existence after a given date shall be void.

3.0 BACKGROUND AND CONTEXT

On February 22, 2010 the President of Liberia, acting on the recommendation of the Land Commission, constituted a ten-member National Screening Committee¹ to vet all public land sale deeds awaiting her signature. The President further placed a three month moratorium on all public land sales effective February 22, 2010. After the elapse of the initial three months of the moratorium, the Screening Committee requested and was granted approval for the extension of the moratorium to the end of October 2010 to allow the “Commission the time needed to develop policies, propose legal reforms, and establish guidelines and procedures for effecting Public Land Sales.”² Then in October 2010 the moratorium was extended until such time as the IGPSPL are approved by the President.

On further advice of the Land Commission, the Screening Committee established an inter-ministerial Technical Sub-Committee³ which in turn formed a Vetting Team to amongst other activities: (a) physically inspect the land included on the deeds, (b) pay particular attention to the procedures involved in obtaining tribal and township land certificates to ensure the authenticity of certificates issued, and (c) ensure that relevant agency/ministry regulatory concerns contained on a questionnaire⁴ prepared by the Land Commission are addressed.⁵

The vetting exercise commenced in May 2010, with a total of 27 public land sale deeds from the Office of the President. In the ensuing months, an additional 25 public land sale deeds were submitted for a total of 52 deeds as of November 2010.

3.1 METHODOLOGY FOR THE VETTING OF PUBLIC LAND SALES

The work of the Vetting Team⁶ was subsumed under the following categories:

- **Mobilization-** Involved the selection of team members from sector agencies, logistics and administrative arrangements by the Land Commission. The Land Commission’s information, education and outreach team aired public service announcements and published newspaper advertisements to inform citizens of the scheduled investigation as well as encourage their participation.
- **Investigation-** Involved working with the Vetting Team led by the Land Commission for fact finding and information gathering on the deeds to be vetted, location of the deed owners and, where feasible, verification that the following documents are attached to the deeds:
 - Public land sale certificate from the community, city or township authorities;
 - Flag receipt issued by the Ministry of Finance acknowledging payment for the land;
 - Letter from the Office of the Superintendent submitting the deed to the Office of the President for the issuance of an executive order for a survey;
 - Survey authorization letter from the Land Commissioner to the Resident Surveyor; and
 - Copy of the survey report.

- **Briefings/Debriefings-** Members of the investigation team met to compare notes and review documents. The team leader explained the overall objective of the exercise, the proper mode of conduct during the exercise, (i.e. what to say and what not to say) and expected outputs including the use of the field questionnaire.
- **Field Verification-** This exercise was conducted at the site of the properties using a mixture of: focus group discussions; in-depth interviews; and consultations with relevant stakeholders, community members, and government officials. Questionnaires were completed on-site to ensure that the properties being vetted are in compliance with regulations set by various government ministries and agencies. The GPS⁷/ etrex vista HCX garmin was used to validate the location of properties and their consistency with the deed information on location.

The following property markers were used:

- Concrete monument/corner stone
- Spot pointing of soap tree

For distances and bearings, the following were used:

- Measurement in feet
- UTM⁸ coordinates specifying position
- **Review, Evaluation, and Recommendations-** This process involved the actual writing and production of the report. To arrive at the findings contained in the report, the Vetting Team and the Technical Sub-Committee operated on the basis of consensus after an extensive debate and exchange of ideas. In determining the land area, GPS technology with a threshold of plus or minus 18% was used.

3.2 FINDINGS AND IMPLICATIONS

The inspection found that the tribal certificate issued by chiefs and elders is the single most important instrument used for acquiring public land in the local communities. However, the team discovered that some of these certificates were back dated and had been tampered with. Further, as the certificates do not reflect survey diagrams and other technical information, high incidences of boundary disputes and conflicts were discovered coupled with resentment from certain local community elements who felt that they had been left out of the process leading to the sale of public land in their areas.

The findings above suggest: (a) the need to inventory the number of tribal land certificates issued for public land sales, (b) the need for a fundamental re-thinking of the existing guidelines and procedures to allow for changes that address technical irregularities and regulatory concerns, and (c) the creation of a space for entertaining the views of all community stakeholders on public land sales. These findings also have a direct impact on the development of the larger policy framework as explained below.

3.3 POLICY FRAMEWORK

The development of guidelines and procedures for effecting public land sales as a condition precedent to the lifting of the moratorium on the sale of public land is addressed within the wider framework of the Public Land Policy (PLP) drafting process. The PLP has been drafted by an inter-agency/ministerial task force under the chairmanship of the Land Commission and is in the final stage of revision, to be followed by public consultation and validation. In general, the PLP seeks to:

- Provide a framework and recommend policy measures required to address some of the critical issues (e.g. the definition of public land) regarding public lands;
- Clarify the definition of public land, community (communal) land, and their relationship to one another;
- Set clear rules for the alienation (sales, leases, or concessions) and use of public land, and
- Provide a roadmap for the participatory development of a comprehensive land policy for Liberia with the objective of reforming the land sector and ensuring access to land for all Liberians, especially small holders.

3.4 THE PROCESS FOR DEVELOPING THE POLICY FRAMEWORK

The process began with nationwide consultative meetings on land matters held between March and April 2010. Then in June 2010 an inter-disciplinary and sectoral Public Land Policy Task Force (Task Force) was established by the Technical Sub-Committee. The Task Force was charged with formulating the PLP. After seminar presentations by national and international experts⁹ on topics relevant to public land such as pricing, procedures, and allotment under the 1973 Public Lands Law, the Task Force prioritized the formulation of the Interim Guidelines. The Interim Guidelines were given priority because of the urgent need to lift the moratorium on public land sales. However, the Task Force continued to work on the PLP with the aim of replacing the Interim Guidelines with a new public lands law as soon as it is feasible to do so. The Task Force's work on the PLP has been informed by, not only the above mentioned presentations, but also the outcome of the vetting of public land sale deeds conducted between May and November 2010.

Additionally, since September 2010 the Commission's efforts to formulate both the Interim Guidelines and the PLP have been greatly helped by two World Bank consultants and a national consultant thoroughly reviewing the 1973 Public Lands Law, as well as legal research and drafting provided by a lawyer through the Carter Center Liberia Law Fellowship program.

4.0 CONSIDERATION AND THE WAY FORWARD

This section will expand on the issues created by the 1973 Public Lands Law, and propose interim solutions to those issues, specifically: procedures, allotments, and price. In addition, this section will address the issue of what to do with existing tribal certificates the holders of which have not completed the process for obtaining a public land sale deed.

4.1 PUBLIC LAND SALES AND THE NEED FOR REFORM

The legal basis for the sale of public land is contained in the 1973 Public Lands Law. Chapter 3, section 30 of the law prescribes the procedures, price structure, allotment, and surveyor fees. The law has resulted in a complex public land management system that is characterized by numerous problems. These problems are delineated under the broad categories below, with specific policy recommendations contained in the PLP.

- Legal- In a broader context, the current 1973 Public Lands Law ‘raises constitutional issues concerning lack of equal treatment under the law. The absence of any provision for recognition of any pre-existing customary rights and the fact that public land sales are the only route to acquire public land means that most Liberians in the interior do not have legally protected rights to the land they use.’¹⁰ Further, the current law contains procedures, prices and allotments that are cumbersome, unrealistic and unclear;
- Administration, management, and institutions- Public land management system is bedeviled by corruption, unclear institutional responsibility and very poor performance in service delivery. There is no inventory of public land. As performance standards have eroded, the public has lost confidence in the entire public land management system (surveying profession, land commissioners, and land records system) with operational activities uncoordinated and increasingly dysfunctional;
- Definition- The absence of a clear definition of public land is a key defect in the 1973 Public Lands Law. There is no distinction between public land dedicated to a public purpose and public land available to be assigned to private users, as well as confusion regarding the legal relationship between public land and community (communal) land. A definition of community (communal) land will also have to be provided in any future legislation recommended by the Land Commission. These definitional problems cannot be solved on an interim basis but only after thorough research and analysis. A clear definition of public land will be provided in the Land Commission’s proposed amendments to the existing law or new public lands law;
- Inventory and registration- There are no data on the total stock of public land and no system for registration of public parcels; and
- Inventory of tribal land and town lot certificates-The tribal and town lot certificate is the single most important instrument used in acquiring public land in the local communities. Some of these certificates are back dated and tampered with and do not reflect survey diagrams and other technical information. Furthermore, issues ranging from perceptions of tribal certificates as deeds and their legal duration remain unresolved.

The Land Commission's effort at reforming the public land sector is facilitated by: (a) the ongoing work of formulating an interim public land policy, (b) current studies by World Bank consultants on the land laws of Liberia, and (c) engagement with the Law Reform Commission. The cumulative outcome of these processes and engagements is the development of a public land policy that will inform changes in regulations and laws. This requires time for careful review and public consultation. Given this, the Commission considers it expedient to put in place interim measures and procedures to guide the sale of public land based on lessons already learned from the vetting of public land sale deeds as mandated by government. These interim guidelines and procedures seek to compliment procedures under the 1973 Public Lands Law, and do not contradict the provisions of that law.

Accordingly, the Commission hereby recommends for government's review and approval, the following IGPSPL during the intervening period prior to the completion of a public land policy and the enactment of a revised or a new public lands law. The IGPSPL seeks to clarify and improve upon the following areas of the 1973 Public Lands Law:

- Procedures,
- Allotment, and
- Price

4.2 INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND

This section concerns the interim guidelines and procedures for the sale of public land, with the exception that swamps or wetlands, lakes, rivers, ocean shore lines, riverbanks and the sub-soil shall not be sold. The following types of public land are addressed: (1) Public land in rural communities, (2) Public land in townships, and (3) Public land in cities.

For the purposes of the Interim Guidelines and Procedures for the Sale of Public Land, the term 'public land certificate' shall replace the terms 'tribal certificate' or 'tribal land certificate' and be used for all public land sales, regardless of the location of the public land. There are two reasons for this. First, current law does not require the use of the terms 'tribal certificate' or 'tribal land certificate' because these terms do not appear anywhere in the 1973 Public Lands Law. The Law refers only to "certificate" without modification. The term 'tribal certificate' likely developed as a result of the 1956 and 1973 Public Lands Laws creating different procedures depending on whether the public land was located in the "Hinterland" or the "County Area." Certificates issued for public lands in the "Hinterland" became known as 'tribal certificates.'

This leads to the second and most important reason for not using the terms 'tribal certificate' and 'tribal land certificate'—it is offensive and contrary to the overriding public policy of today's Liberia. The Commission discussed this issue in-depth and concluded that fostering an inclusive, prosperous, and just society demands regulating all of Liberia equally. No longer should Liberia be divided between "Hinterland" and "County Area." Rather, there is only one Liberia.

4.2.1 INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN RURAL COMMUNITIES

The following procedures shall govern the sale of public land in rural communities:

1. The prospective buyer must obtain the signatures of at least four traditional authorities on the provisional public land certificate. The four traditional authorities shall include the “owner of the land”/elder, clan chief, a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies). Prior to obtaining the signatures of the four traditional authorities, the prospective buyer shall pay to the affected community(ies) a sum of money as token, to be determined by the affected community(ies), as an expression of his or her good intention to live peacefully with the affected community(ies).
2. No provisional public land certificate shall be issued without prior consultation with the community(ies) affected by the prospective land sale. The four traditional authorities who signed the provisional public land certificate shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective public land sale, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the provisional public land certificate and, if issued, the public land certificate. The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).
3. The prospective buyer must submit the provisional public land certificate to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the provisional public land certificate is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, or encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the purchaser and which encumbrance is not disclosed in the deed, he or she shall so certify.

The provisional public land certificate shall be void if the prospective buyer has not been issued a public land certificate within one (1) year of the date the provisional public land certificate was issued.

4. The County Land Commissioner, through the Superintendent, shall forward the provisional public land certificate to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the provisional public land certificate.

5. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a public service announcement. The public service announcement shall be in the form of: a conspicuous posting in the local market for thirty (30) days prior to conducting the survey; daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey; and weekly announcements by the town crier on the local market day up to the week of the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective buyer must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
6. If the four traditional authorities who signed the provisional public land certificate are satisfied with the results of the survey, they may sign and issue a public land certificate. The prospective buyer must also obtain the signature of the County Land Commissioner on the public land certificate. The public land certificate shall supersede the provisional public land certificate. The public land certificate shall be void if the prospective buyer has not been issued a deed within one (1) year of the date the public land certificate was issued.
7. The prospective buyer must deliver the public land certificate to the Bureau of Revenues at the Ministry of Finance, pay the specified fee for the land, and obtain a revenue receipt.
8. If the County Land Surveyor receives confirmation that the prospective buyer fulfilled the requirements in Procedure 7, he or she shall prepare a public land sale deed signed by the County Land Surveyor and the County Land Commissioner.
9. The County Land Surveyor shall then deliver the public land sale deed, public land certificate, and revenue receipt to the Office of the Superintendent, who shall then deliver these documents to the Office of the President.
10. Upon receipt of the public land sale deed, public land certificate, and revenue receipt, the Office of the President shall deliver these documents to the Ministry of Lands, Mines and Energy for review and technical validation.
11. If the Ministry of Lands, Mines and Energy is satisfied with the public land sale deed, public land certificate, and revenue receipt it shall deliver the public land sale deed to the Office of the President for his or her signature and issuance to the prospective buyer.
12. The prospective buyer shall deliver the public land sale deed to the Ministry of Finance for payment of all applicable taxes.

13. The prospective buyer shall deliver the public land sale deed and revenue receipt to the probate court with jurisdiction over the prospective land sale.
14. If approved by the probate court, the public land sale deed shall be registered at the Center for National Documents and Records/Archives to form part of the national record.

4.2.2 INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN TOWNSHIPS

The following procedures shall govern the sale of public land in townships:

1. The prospective buyer must obtain the signatures of the Township Commissioner, the Chairperson of the Township Council, a traditional elder, a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies) (Local Authorities) on the provisional public land certificate. Prior to obtaining the signatures of the Local Authorities, the prospective buyer shall pay to the Local Authorities a sum of money as token, to be determined by the Local Authorities.
2. No provisional public land certificate shall be issued without prior consultation with the community(ies) affected by the prospective land sale. The Local Authorities who signed the provisional public land certificate shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective public land sale, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the provisional public land certificate and, if issued, the public land certificate. The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).
3. The prospective buyer must submit the provisional public land certificate to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the provisional public land certificate is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the purchaser and which encumbrance is not disclosed in the deed, he or she shall so certify. The provisional public land certificate shall be void if the prospective buyer has not been issued a public land certificate within one (1) year of the date the provisional public land certificate was issued.

4. The County Land Commissioner, through the Superintendent, shall forward the provisional public land certificate to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the provisional public land certificate.
5. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a daily public service announcement. The public service announcement shall be in the form of: daily publication in a newspaper, if one is locally circulated, for thirty (30) days prior to conducting the survey; daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey; and, if the local township uses a town crier, weekly announcements by the town crier on the local market day up to the week of the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective buyer must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
6. If the Local Authorities who signed the provisional public land certificate are satisfied with the results of the survey, they may sign and issue a public land certificate. The prospective buyer must also obtain the signature of the County Land Commissioner on the public land certificate. The public land certificate shall supersede the provisional public land certificate. The public land certificate shall be void if the prospective buyer has not been issued a deed within one (1) year of the date the public land certificate was issued.
7. The prospective buyer must deliver the public land certificate to the Bureau of Revenues at the Ministry of Finance, pay the specified fee for the land, and obtain a revenue receipt.
8. If the County Land Surveyor receives confirmation that the prospective buyer fulfilled the requirements in Procedure 7, he or she shall prepare a public land sale deed signed by the County Land Surveyor and the County Land Commissioner.
9. The County Land Surveyor shall then deliver the public land sale deed, public land certificate, and revenue receipt to the Office of the Superintendent, who shall then deliver these documents to the Office of the President.
10. Upon receipt of the public land sale deed, public land certificate, and revenue receipt the Office of the President shall deliver these documents to the Ministry of Lands, Mines and Energy for review and technical validation.

11. If the Ministry of Lands, Mines and Energy is satisfied with the public land sale deed, public land certificate, and revenue receipt it shall deliver the public land sale deed to the Office of the President for his or her signature and issuance to the prospective buyer.
12. The prospective buyer shall deliver the public land sale deed to the Ministry of Finance for payment of all applicable taxes.
13. The prospective buyer shall deliver the public land sale deed and revenue receipt to the probate court with jurisdiction over the prospective land sale.
14. If approved by the probate court, the public land sale deed shall be registered at the Center for National Documents and Records/Archives to form part of the national record.

4.2.3 INTERIM PROCEDURES FOR THE SALE OF PUBLIC LAND IN CITIES

The following procedures shall govern the sale of public land in cities:

1. The prospective buyer must obtain the signatures of the City Mayor, the Chairperson of the City Council, an elder designated by the affected community(ies), a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies) (Local Authorities) on the provisional public land certificate.
2. No provisional public land certificate shall be issued without prior consultation with the community(ies) affected by the prospective land sale. The Local Authorities who signed the provisional public land certificate shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective public land sale, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the provisional public land certificate and, if issued, the public land certificate.

The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).

3. The prospective buyer must submit the provisional public land certificate to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the provisional public land certificate is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the purchaser and which encumbrance is not disclosed in the deed, he or she shall so certify. The provisional public land certificate shall be void if the prospective buyer has not been issued a public land certificate within one (1) year of the date the provisional public land certificate was issued.
4. The County Land Commissioner, through the Superintendent, shall forward the provisional public land certificate to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the provisional public land certificate.
5. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a daily public service announcement. The public service announcement shall be in the form of: a conspicuous posting in the local market for thirty (30) days prior to conducting the survey; daily publication in a newspaper, if one is locally circulated, for thirty (30) days prior to conducting the survey; and daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective buyer must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
6. If the Local Authorities who signed the provisional public land certificate are satisfied with the results of the survey, they may sign and issue a public land certificate. The prospective buyer must also obtain the signature of the County Land Commissioner on the public land certificate. The public land certificate shall supersede the provisional public land certificate. The public land certificate shall be void if the prospective buyer has not been issued a deed within one (1) year of the date the public land certificate was issued.
7. The prospective buyer must deliver the public land certificate to the Bureau of Revenues at the Ministry of Finance, pay the specified fee for the land, and obtain a revenue receipt.
8. If the County Land Surveyor receives confirmation that the prospective buyer fulfilled the requirements in Procedure 7, he or she shall prepare a public land sale deed signed by the County Land Surveyor and the County Land Commissioner.

9. The County Land Surveyor shall then deliver the public land sale deed, public land certificate, and revenue receipt to the Office of the Superintendent, who shall then deliver these documents to the Office of the President.
10. Upon receipt of the public land sale deed, public land certificate, and revenue receipt the Office of the President shall deliver these documents to the Ministry of Lands, Mines and Energy for review and technical validation.
11. If the Ministry of Lands, Mines and Energy is satisfied with the public land sale deed, public land certificate, and revenue receipt it shall deliver the public land sale deed to the Office of the President for his or her signature and issuance to the prospective buyer.
12. The prospective buyer shall deliver the public land sale deed to the Ministry of Finance for payment of all applicable taxes.
13. The prospective buyer shall deliver the public land sale deed and revenue receipt to the probate court with jurisdiction over the prospective land sale.
14. If approved by the probate court, the public land sale deed shall be registered at the Center for National Documents and Records/Archives to form part of the national record.

Upon approval of the IGPSPL, the Land Commission will design and implement a training program for officials and other local authorities involved in the public land sale process, to ensure their understanding of and compliance with these procedures. Periodically, the Land Commission may audit the process for selected deeds to ensure compliance.

4.3 INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND

During consultations with government ministers the issue was raised: what procedures should the Government of Liberia follow when leasing public land? The 1973 Public Lands Law is largely silent on this issue. Section 70 states that the President may lease public land “not appropriated for other purposes to any foreign individual, corporation, or company for engaging in agricultural, mercantile, or mining operations in Liberia.” Furthermore, Section 71 authorizes the President to lease “any part of the public domain” to “foreign governments for their use as legation sites.”

There are five important points here. First, other than vesting ultimate decision-making authority with the President current law does not specify the procedures for leasing public land, which thereby grants the Land Commission considerable discretion in drafting interim leasing procedures. Because the interim leasing procedures should reflect the same policy considerations found in the interim sale procedures, the Land Commission concludes that the interim procedures for the leasing of public land should track as closely as possible the interim procedures for the sale of public land. This is especially important given that Section 70 of the 1973 Public Lands Law permits lease agreements for 50 years with the possibility of renewal for another 50 years. A 100-year leasehold could have significant economic, political, and social impacts on local communities. Therefore, as with the interim sale procedures, the following procedures differ slightly depending on whether the public land to be leased is located in rural communities, townships, or cities. Second, consistent with modern business practices, the Land Commission interprets “agricultural, mercantile, or mining operations in Liberia” to mean ‘any lawful purpose in Liberia.’ Third, the phrase “any part of the public domain” is interpreted to mean ‘public lands.’ Fourth, the interim procedures are intended to cover leases of public land to foreigner individuals, corporations, or companies as well as Liberian individuals, corporations, or companies. Finally, the interim leasing procedures do not cover leases of public lands to foreign legations. Given the importance of diplomatic relations and the limited nature of such leases, decision-making authority in this area should remain exclusively with the President pursuant to Section 71 of the current Public Lands Law, at least on an interim basis.

4.3.1 INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN RURAL COMMUNITIES

The following procedures shall govern the leasing of public land in rural communities:

1. A prospective lease agreement shall be drawn up after negotiations between the prospective lessor, the President and relevant government agencies.
2. The prospective lessor must obtain the provisional written consent of at least four traditional authorities to the prospective lease agreement. The four traditional authorities shall include the “owner of the land”/elder, clan chief, a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies). Prior to obtaining the provisional written consent of the four traditional authorities, the prospective lessor shall pay to the affected community(ies) a sum of money as token, to be determined by the affected community(ies), as an expression of his or her good intention to live peacefully with the affected community(ies).

3. No lease agreement shall be entered into without prior consultation with the community(ies) affected by the prospective lease agreement. The four traditional authorities who gave their written consent to the prospective lease agreement shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective lease agreement, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the prospective lease agreement. The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).
4. The prospective leasor must submit the prospective lease agreement to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the prospective lease agreement is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, or encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the prospective leasor and which encumbrance is not disclosed in the lease agreement, he or she shall so certify.
5. The County Land Commissioner, through the Superintendent, shall forward the prospective lease agreement to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the prospective lease agreement.
6. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a public service announcement. The public service announcement shall be in the form of: a conspicuous posting in the local market for thirty (30) days prior to conducting the survey; daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey; and weekly announcements by the town crier on the local market day up to the week of the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective leasor must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
7. If the four traditional authorities who gave their provisional written consent to the prospective lease agreement are satisfied with the results of the survey, they may give their final written consent to the prospective lease agreement.
8. The prospective leasor shall then deliver the prospective lease agreement along with the final written consent of the four traditional authorities to the President.
9. If the President approves, he or she shall sign the prospective lease agreement.

10. The prospective leasor shall deliver the prospective lease agreement to the probate court with jurisdiction over the prospective lease agreement.

4.3.2 INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN TOWNSHIPS

The following procedures shall govern the leasing of public land in townships:

1. A prospective lease agreement shall be drawn up after negotiations between the prospective leasor, the President and relevant government agencies.
2. The prospective leasor must obtain the provisional written consent of the Township Commissioner, the Chairperson of the Township Council, a traditional elder, a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies) (Local Authorities) to the prospective lease agreement. Prior to obtaining the provisional written consent of the Local Authorities, the prospective leasor shall pay to the affected community(ies) a sum of money as token, to be determined by the affected community(ies), as an expression of his or her good intention to live peacefully with the affected community(ies).
3. No lease agreement shall be entered into without prior consultation with the community(ies) affected by the prospective lease agreement. The Local Authorities who gave their written consent to the prospective lease agreement shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective lease agreement, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the prospective lease agreement. The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).
4. The prospective leasor must submit the prospective lease agreement to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the prospective lease agreement is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, or encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the prospective leasor and which encumbrance is not disclosed in the lease agreement, he or she shall so certify.

5. The County Land Commissioner, through the Superintendent, shall forward the prospective lease agreement to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the prospective lease agreement.
6. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a public service announcement. The public service announcement shall be in the form of: a conspicuous posting in the local market for thirty (30) days prior to conducting the survey; daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey; and weekly announcements by the town crier on the local market day up to the week of the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective leasor must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
7. If the Local Authorities who gave their provisional written consent to the prospective lease agreement are satisfied with the results of the survey, they may give their final written consent to the prospective lease agreement.
8. The prospective leasor shall then deliver the prospective lease agreement along with the final written consent of the four traditional authorities to the President.
9. If the President approves, he or she shall sign the prospective lease agreement.
10. The prospective leasor shall deliver the prospective lease agreement to the probate court with jurisdiction over the prospective lease agreement.

4.3.3 INTERIM PROCEDURES FOR THE LEASING OF PUBLIC LAND IN CITIES

The following procedures shall govern the leasing of public land in cities:

1. A prospective lease agreement shall be drawn up after negotiations between the prospective leasor, the President and relevant government agencies.
2. The prospective leasor must obtain the provisional written consent of the City Mayor, the Chairperson of the City Council, an elder designated by the affected community(ies), a female representative designated by the women in the affected community(ies), and a youth representative designated by the youth in the affected community(ies) (Local Authorities) to the prospective lease agreement.

3. No lease agreement shall be entered into without prior consultation with the community(ies) affected by the prospective lease agreement. The Local Authorities who gave their written consent to the prospective lease agreement shall determine the best means for consulting the affected community(ies), provided the means selected adhere to the following minimum standards: (1) the consultation must be transparent, (2) the affected community(ies) must be notified of the prospective lease agreement, (3) the County Land Commissioner, with the assistance of the County Land Surveyor, must convene the consultation, and (4) the members of the affected community(ies) must attest to having been consulted, and such attestations must be attached to the prospective lease agreement. The attestation shall clearly describe the parcel of land that was the subject-matter of the consultation with the affected community(ies).
4. The prospective leasor must submit the prospective lease agreement to the County Land Commissioner. If, after a thorough review, the County Land Commissioner is satisfied that the land described in the prospective lease agreement is not part of a Tribal Reserve, disputed land, privately owned, used or needed for a public purpose, or encumbered in a fashion that would substantially interfere with its beneficial enjoyment by the prospective leasor and which encumbrance is not disclosed in the lease agreement, he or she shall so certify.
5. The County Land Commissioner, through the Superintendent, shall forward the prospective lease agreement to the Office of the President along with a request for an executive order directing the County Land Surveyor to conduct a survey of the land described in the prospective lease agreement.
6. If the President issues an executive order in accordance with Procedure 4, the County Land Surveyor shall issue a public service announcement. The public service announcement shall be in the form of: a conspicuous posting in the local market for thirty (30) days prior to conducting the survey; daily broadcasts on the national radio station for thirty (30) days prior to conducting the survey; and weekly announcements by the town crier on the local market day up to the week of the survey. The purpose of the public service announcement shall be to notify the surrounding deed holders and the affected community(ies) of the date, time, and place of the survey. The prospective leasor must pay the costs of the survey and the public service announcement prior to the issuance of the public service announcement.
7. If the Local Authorities who gave their provisional written consent to the prospective lease agreement are satisfied with the results of the survey, they may give their final written consent to the prospective lease agreement.
8. The prospective leasor shall then deliver the prospective lease agreement along with the final written consent of the four traditional authorities to the President.

9. If the President approves, he or she shall sign the prospective lease agreement.
10. The prospective lessor shall deliver the prospective lease agreement to the probate court with jurisdiction over the prospective lease agreement.

4.4 ALLOTMENT OF PUBLIC LAND AS FEE SIMPLE, LEASEHOLD, OR CONCESSION

The Land Commission, in the execution of its mandate, considered the concerns of citizens expressed in consultative meetings held in the 15 counties in March and April 2010. The Governance Commission held similar consultations in 2008.¹¹ In these consultations people overwhelmingly expressed their concerns over the history of allocation of public land. In the case of concessions, people consistently indicated that they had not been consulted prior to the awarding of the concession and felt that they had not received just compensation or benefits from the concessions. They were concerned that large acreages of public land were often acquired by individuals with political connections to the presidency or by local government officials or elites who have often failed to develop the land. In some cases people reported that they had been presented with tribal certificates originating from Monrovia. Local people are effectively denied the opportunity to acquire public land themselves. Those in the consultations were virtually unanimous in the view that “it is not good for any one individual to own too much land” or for a concession to have “too much land,” especially when these lands are undeveloped or underutilized.

Accordingly, the people consulted recommended that there should be a limit on the quantity of land owned by individuals or held by concessions. There was no consensus on what constitutes “too much,” especially because many local people do not have a clear idea of what constitutes an acre. The people consulted generally recognized that the quantity of land to be allocated is linked to the nature and amount of the proposed investment. The limits frequently suggested were: 1 lot or 1 acre for a house, 100 acres for farmland, and 100,000 acres for concessions.

Notwithstanding the challenges posed by the lack of data on the total stock of public land, the Land Commission views as expedient the need to establish ceilings on public land allotment given that land is a finite asset and its sale amounts to permanent alienation of the land, which if left uncontrolled could produce catastrophic consequences in terms of access to public land by current and future generations. Further, the Land Commission recognizes that public land allotment should be principally for investment, human settlement, farming and the performance of core government functions. Finally, the Land Commission considers that clear standards should exist to determine whether the allocation of public land in a particular case should be by sale in full ownership, lease, or concession.

Accordingly, the Land Commission proposes the following limitations on the allotment of public land:

- Allotment of Public Land as Fee Simple
 - Contiguous allotments in fee simple to a natural person(s) for residential use shall not exceed one (1) acre.
 - Contiguous allotments in fee simple to a natural person(s) or legal entity(ies) for commercial use shall not exceed twenty-five (25) acres.
 - Contiguous allotments in fee simple to a natural person(s) or legal entity(ies) for farmland shall not exceed one-hundred and fifty (150) acres.
- Allotment of Public Land as Leasehold
 - Allotments ranging from one-hundred and fifty-one (151) to one-thousand (1000) acres, shall be covered under a long-term lease agreement that must be accompanied by a development plan.
 - If a leaseholder fails to perform in accordance with the lease agreement in such a way as to constitute a breach, the lease agreement shall be subject to revocation by the Government of Liberia.
- Allotment of Public Land as Concession
 - Allotments of more than one-thousand (1000) acres shall be as concessions and in accordance with the Public Procurement and Concessions Law and all other applicable laws.
 - In any concession agreement the following shall be non-negotiable: If a concession holder fails to perform in accordance with the concession agreement in such a way as to constitute a breach, the concession agreement shall be subject to revocation by the Government of Liberia.
- Allotment of Public Land to Philanthropic and Faith-Based Organizations
 - Allotments of farmland, as fee simple, leasehold or otherwise, to philanthropic and faith-based organizations shall not exceed fifty (50) acres.
 - Allotments of public land in the cities, as fee simple, leasehold or otherwise, to philanthropic and faith-based organizations shall not exceed five (5) acres.

- Allotments of public land to philanthropic and faith-based organizations as fee simple shall follow the interim procedures for the sale of public land in Section 4.2; as leasehold they shall follow the interim procedures for the leasing of public land in Section 4.3; and as concession they shall follow the procedures set forth in the Public Procurement and Concessions Law and all other applicable laws. Provided, that any request for allotment of public land be accompanied by a development plan for the operation of the organization’s philanthropic or faith-based activities.

4.5 THE PRICE OF PUBLIC LAND

Table 1 shows the price structure for the sale of public land as prescribed in the 1973 Public Lands Law. The existing prices of public land are not market-driven. The difference between the official price and the actual, market value of a parcel of public land represents an opportunity for corruption of the public land sale process, and should be eliminated so far as possible. Based on the concept of public land as a ‘fund’ of public wealth and the free market principles underlying the structure of the Liberian economy, allowing market forces to determine the price of public land is the preferred choice. However, ‘assessing a market price for public land may be difficult at this time given capacity constraints’,¹² coupled with the limited land market and price information.¹³

TABLE 1-EXISTING PRICES FOR THE SALE OF PUBLIC LAND

TYPE OF LAND	SALE PRICE
Land lying on the margin of a river	\$1.00 per acre
Land lying in the interior	\$0.50 per acre
Town lots	\$30.00 per lot
Marshy, rocky or barren land	Price offered by the highest bidder

Liberian law has not always required the sale of all public land at the prices listed in Table 1. Rather, for most of Liberian history public land was to be sold primarily through public auction and only secondarily through private sale. In the 1956 Public Lands Law, public land prices were changed from minimum prices to the current mandatory prices for all public land sales. Prior to that law, the prices of public land were stipulated in the 1904 Public Lands Law, enacted as part of the Revised Statutes of Liberia in 1929. The 1904 Public Lands Law required first that the public land was offered at public auction. If the public land went unsold then the Land Commissioner was allowed to sell it through a private transaction. The minimum public land prices only applied to this private sale, requiring that the Land Commissioner sell the public land at or above the following minimum prices: \$1 an acre for “[l]and lying on the margin of a river,” 50 cents per acre for “[l]and lying in the interior,” and \$30 per lot for town lots.¹⁴ This public auction system and these minimum prices for public land not sold at public auction, but sold through a private transaction, date from at least 1850, with passage of An Act Regulating the Sale of Public Lands.

Note that these values are the same as those found in the 1956 Public Lands Law and the 1973 Public Lands Law. The crucial difference is that they are minimum prices for public land that had not been sold at public auction and which was being sold through a private transaction, rather than mandatory prices for all public land sales.

In view of the foregoing, the Land Commission recommends the prices for public land contained in Table 2. The Land Commission recognizes that because the prices for public land sales are specified in the 1973 Public Lands Law, they could best be changed by amending that law. This should however await the more general revision of that law under discussion in the Land Commission. The Land Commission would like to discuss with the Office of the President whether it might be possible to change these prices in the interim by executive order or some other instrument short of amendment of the Law.

Table 2: PROPOSED PRICES FOR THE SALE OF PUBLIC LAND (ALL PRICES ARE IN US DOLLARS)

CATEGORY	TYPE OF LAND	PROPOSED SALE PRICE
1	Communities buying land which they and their ancestors have traditionally used in accordance with longstanding customary rules or practice	\$0.50 per acre*
2	Buyers purchasing land in fee simple when the buyer is a subsistence farmer and the land is that which the buyer and their ancestors have traditionally used in accordance with longstanding customary rules and practice	\$0.50 per acre
3	Buyers purchasing in fee simple land within a city's limits, defined as a radius of 8 square miles from the city center	\$150 - \$500 per lot
4	Buyers purchasing in fee simple land in townships and large towns	\$75 - \$150 per lot
5	Buyers purchasing in fee simple farmland in clans, towns, and villages	\$100 per acre

*Shall not be resold

There are several important features to the Land Commission's proposed prices in Table 2. First, Category 1 is only for communities buying land which the community has held under customary tenure. Consistent with its customary status, such land shall not be resold. Second, Category 2 is only for subsistence farmers who wish to purchase land as fee simple which they and their ancestors have held under customary tenure. Such land may be resold. Third, the reason for the 50 cents per acre price for Categories 1 and 2 is the general distaste for the idea that subsistence farmers and communities must purchase land which they and their ancestors have possessed and used since 'time immemorial.' The 50 cents per acre price for these farmers and communities, merely meant to cover the administrative costs of the purchase, recognizes that these farmers and communities should only be required to pay a token price for land over which they and their ancestors have long enjoyed possession and use.

Fourth, the proposed price structure contains three additional categories based on the location of the land: cities; townships/large towns; and farmland in clans, towns, and villages. These categories, while imperfect, reflect that land values differ significantly between these three types of locations. Indeed, the use of a price range for city and township/large town lands is designed so that the actual sale price will more closely track the local market price.

Fifth, the Commission recognizes that the proposed prices in Table 2 are unsupported by long-term studies and data on land prices and uses throughout Liberia. Because these are interim measures for which there is an urgent need, there was insufficient time to undertake long-term studies and gather the requisite data. The proposed prices represent the Commission's best estimates as to workable interim public land prices that will prevent corruption, speculation, underutilization of land, and other problematic practices.

Sixth, there is considerable discretion vested in government officials to determine what land falls within Categories 1 and 2 (i.e. is held as customary tenure). However, this discretion will be limited by the fact that local officials are familiar with local land tenure arrangements such that who holds land under customary tenure and who does not will be fairly obvious. In addition, every public land sale must fit into one of the three procedures set forth in Section 4.2. These procedures were carefully crafted so that numerous checks on the discretion of local officials exist to prevent corruption. In other words, a prospective buyer could not simply bribe a County Land Commissioner to price public land within Categories 1 and 2 and thereby wrongfully benefit from the 50 cents per acre price. In order for the scheme to work, the prospective buyer would have to corrupt the traditional or local authorities, the affected communities, the County Land Surveyor, the County Superintendent, the President, and the relevant official at the Ministry of Finance—an unlikely scenario to say the least.

Finally, local elites and Monrovia-based citizens originating from communities with customary tenure systems have attempted to purchase land on behalf of a community (Category 1 land) and then sell parcels of that land as fee simple for their own enrichment. Special protections must be required to remedy this problem. These protections must be on the face of the public land sale deed covering Category 1 land to alert prospective buyers and government officials of the community's ownership of the land. Therefore, for Category 1 land the public land sale deed must plainly and clearly state the name and location of the community on whose behalf the agent is purchasing the land. Because the agent is not the buyer, the community is the buyer, the agent's name should not appear anywhere on the public land sale deed in order to avoid confusion or unintentionally facilitating fraud. The public land sale deed should also plainly and clearly state that ownership of the land vests with the named community, and such land covered by the public land sale deed shall not be resold.

Moreover, it is important to note that Procedures 1 and 2 for public land sales in rural communities, townships, and cities (Sections 4.2.1 to 4.2.3 above) require that the affected community(ies) be consulted on the public land sale. Indeed, the affected communities must attest to having been consulted before the public land sale can proceed and may withhold that attestation if the consultation is inadequate. Communities with customary tenure systems who desire to purchase their land in accordance with these procedures will be the affected communities and therefore will be directly involved in the sale process. This inclusiveness will act as a check against an individual who serves as the agent of the community only to later resell the land in fee simple. With a direct and strong role in the public land sale process the community is much less likely to designate an agent who is untrustworthy.

4.6 TRIBAL CERTIFICATES

The issue of tribal certificates is one of the most politically sensitive and controversial issues to confront on an interim basis. However, it is essential to address this issue. A failure to do so would continue the misunderstanding of many Liberians who regard tribal certificates as equivalent to a deed. Moreover, some existing tribal certificates are fraudulent and the legal enforceability of even lawfully obtained tribal certificates is uncertain after the passage of many years. The Land Commission considers the following options to be the best available choices in dealing with existing tribal certificates. Of the three options listed below, the Land Commission favors Option 1(A) because it strikes a balance between thoroughly reviewing existing tribal certificates and ensuring finality to the review process. That said, the below three options do not represent all possible policy choices, and should be not be viewed as such.

- **Option 1:** Submit to a task force all tribal certificates the holders of which have not completed the process for obtaining a public land sale deed as of the date the moratorium is lifted. The task force shall be established under the auspices of the Screening Committee and appropriate stakeholders at the county and local levels. The task force shall be financially supported by the government and charged with: (a) collecting within a period of 12 months all tribal certificates and related documents, and (b) analyzing/validating within another period of 12 months the tribal certificates and make recommendations for their approval or rejection. The institutional composition of the task force will be determined if the option is accepted. It is important to note that this option would not require that tribal certificates complete the review process within 12 months, only that they begin that process in the first 12 month period by submission to the task force.
 - **Option 1(A):** In addition to the process laid out in Option 1, any tribal certificate in existence after a given date shall be void.

- **Option 1(B):** In addition to the process laid out in Option 1, no time limit for submitting tribal certificates to the task force will be imposed. Rather, a new land agency, which will most likely be created after the Land Commission’s mandate expires, will continue the task force’s work by vetting on a rolling-basis tribal certificates the holders of which have not completed the process for obtaining a public land sale deed as of the date the moratorium is lifted.

Option 1(B) is not favored by the Land Commission because it could needlessly prolong the tribal certificate problem for many years.

- **Option 2:** Declare by Executive Order that all tribal certificates in existence as of the date the moratorium is lifted are void and require those who possess them to begin the interim process for acquiring a deed.
 - **Option 2(A):** In addition to Option 2, provide no compensation for voiding the tribal certificates.
 - **Option 2(B):** In addition to Option 2, provide some compensation for voiding the tribal certificates.

Option 2 and its sub-options are not favored by the Land Commission because many Liberians regard tribal certificates as equal to a deed and voiding them will be perceived as unduly harsh or be interpreted as an unjustified exercise of eminent domain, and likely spark deep resentment. Even if some compensation is paid it is not likely to be regarded as sufficient given that many will interpret this act as taking away their ownership rights.

- **Option 3:** Convert by executive order tribal certificates into provisional public land certificates in the interim procedures and require that the process be completed beginning at Procedure 3—sending them to the County Land Commissioner.

Although seemingly an easy way to integrate existing tribal certificates into the IGPSPL, this option is not favored by the Land Commission for two reasons. First, it would nullify the benefits of Procedures 1 and 2. Second, it would probably generate a great deal of confusion among the public and government officials. Third, it could seemingly validate fraudulent tribal certificates.

4.7 IMPLEMENTATION

Implementing the foregoing will require informing and educating the public and stakeholders on the IGPSPL. The vehicle for this is a robust communication campaign led by the Land Commission. The active role of the Ministry of Information, the Liberia Broadcasting System, and the Ministry of Internal Affairs through county stakeholders in land and the network of nation-wide community radio stations will be imperative. The IGPSPL will be published in newspapers to allow for public discussion, and small workshops on its provisions will be held for specific interest groups, especially traditional authorities as well as local and national government officials directly involved with public land sales (e.g. County Land Commissioners, County Surveyors, Probate Judges, and relevant staff at the Center for National Documents and Records/Archives and the Ministry of Finance).

Cost estimates of all associated activities and programs will be established once approval is obtained. A funding request to the Government of Liberia will be submitted at a later date as the Land Commission is inadequately resourced to undertake this program single handedly without budgetary support.

5.0 RECOMMENDATIONS

The Land Commission recommends the following actions by the President and Cabinet:

- Approve the IGPSPL, including approval of Option 1(A) for addressing existing tribal certificates;
- Issue an executive order or some other instrument short of amendment to the 1973 Public Lands Law giving the force of law to the proposed guidelines and procedures concerning the sale of public land, allotment of public land, price of public land, and tribal certificates; and
- Provide budgetary support to cover the costs associated with implementing the IGPSPL.

APPENDIX A

Members of the National Screening Committee (listed in alphabetical order)

Name	Organization	Position	Term of Service
Dr. Alfred N. Amah *	Environmental Protection Agency	Executive Director	
Dr. Cecil T. O. Brandy	Land Commission	Chairman	February 2010 to Present
Hon. Florence Chenoweth	Ministry of Agriculture	Minister	February 2010 to Present
Hon. Peter Kamei	Ministry of Internal Affairs	Acting Minister for Internal Affairs	
Dr. Eugene Shanon	Ministry of Lands, Mines, and Energy	Minister	February 2010 to November 2010
Hon. Christiana Tah	Ministry of Justice	Minister	February 2010 to Present
Dr. Richard Tolbert	National Investment Commission	Chairman	February 2010 to November 2010
Hon. Moses Wogbeh	Forestry Development Authority	Managing Director	February 2010 to Present
Hon. Samuel Woods	Ministry of Public Works	Minister	February 2010 to Present
Mr. James Yarsiah (NGO Representative)	Rice and Rights, Inc.	Director	February 2010 to Present

* Deceased

APPENDIX B

Members of the Technical Sub-Committee (listed in alphabetical order)

Name	Organization	Position
Atty T. Robert Lee Chattah	Ministry of Justice	Legal Counsel and Prosecutor
Mr. Nathaniel G. Dole	National Investment Commission	Director for Research
Hon. Peter Z. N. Kamei	Ministry of Internal Affairs	Deputy Minister for Research & Planning
Mr. John Kartor	Forestry Development Authority	Technical Manager for Research and Development
Mr. Jerome Vanjahkollie	Transitional Justice Working Group (Civil Society Representative)	Steering Committee Member
Hon. Estelle K. Liberty	Land Commission	Commissioner with Oversight for Land Policy and Programs
Hon. James Logan	Ministry of Agriculture	Deputy Minister
Hon. James Mendscole	Ministry of Public Works	Deputy Minister
Hon. George Miller	Ministry of Lands, Mines, and Energy	Assistant Minister
Mr. Milton Quage	Ministry of Finance, Division of Real Estate	Acting Director for Enforcement
Ms. Cecilia G. Rogers	Ministry of State for Presidential Affairs	Director for Deeds
Hon. P. Bloh Sayeh	Center for National Documents and Records	Director General
Mr. Stanley N. Toe	Land Commission	Program Officer for Land Policy Programs/Researcher for the Sub-Committee
Mr. Henry Williams	Environmental Protection Agency	Manager for Inter-Sectoral Coordination
Hon. Walter Wisner	Land Commission	Vice Chairman with Oversight for Land Administration

APPENDIX C

Sample of the Questionnaire Used During the Vetting Exercise

C. FINDINGS AND OBSERVATIONS USING THE QUESTIONNAIRE AS GUIDE

QUESTIONNAIRE CHECKLIST

Vetting of Public Land Sale Deeds (Less than 500 acres)

Date of exercise:

Name(s) Owner:

Property Location:

Surveyor of Deed:

Arrival Time:

Departure time:

Names of Officials Interviewed: (Please use notes section if you need additional space)

Number of Community Members Interviewed:

Land Commission

Were the local authorities consulted prior to the sale? Yes No

Is there dispute over the ownership of the subject property? Yes No

If yes, please explain:

Is there dispute over the boundary of the subject property? Yes No

If yes, please explain:

Ministry of Finance

Does the deed-holder possess a flag receipt for this property? Yes No

Environmental Protection Agency (EPA)

Does the subject property border a national park or reserve? Yes No

Is there a swamp on this property?

Do you, the stakeholders or any members of the community have reason to believe that the property may contain critical habitat for endangered or protected species?

Yes No

If yes, please explain.

Are there any notable environmental hazards or concerns? Yes No

If yes, please explain.

Forestry Development Authority (FDA)

Does the land contain or border a natural forest? Yes No

Is the property being used for commercial logging? Yes No

Does the land contain non-timber forest products? Yes No

If yes, please explain.

Ministry of Agriculture

Is the subject property in an agricultural concession area? Yes No

Does the land contain tree crops? Yes No

Do the deed-holders intend to farm tree crops in the future? Yes No

Is the land farmland? Yes No

If yes, what does the deed-holder grow or intend to grow on the land?

Is the land being used or intended to be used for aquaculture? Yes No

Ministry of Internal Affairs

Is the subject property in a concession area? Yes No

Is the subject property considered tribal land? Yes No

If the land is tribal, are the locals aware of the existence of a

tribal certificate for this land? Yes No

Is the subject property considered communal land? Yes No

Is the land revered or considered sacred by the local inhabitants? Yes No

If yes, please explain.

Ministry of Lands, Mines & Energy

Is the subject property in a mining concession area? Yes No

Has the area been surveyed? Yes No

If yes, when?

Are the cornerstones/markers placed at the correct location? Yes No

Does the deed accurately reflect the property? Yes No

APPENDIX D

National Experts (listed in alphabetical order)

Name	Organization	Position	Presentation Topic
Mr. Lindsay Haines	Formerly of the National Bank of Liberia	Former Deputy Governor	The Impact of Public Land Price Adjustment on Taxation and Valuation
Cllr. Koboi Johnson	Formerly of the Ministry of Justice	Former Minister	The 1973 Law on the Sale of Public Land
Dr. Nevada Ricks	United Nations Mission in Liberia		The Implications of the 1973 Public Lands Law on Liberia's International Relations
Prof. Wilson Tarpeh	Formerly of the Ministry of Finance	Former Minister	The Relevance of Pricing of Public Land as Enshrined in the 1973 Public Lands Law on the Operations of Sectoral Activities
Dr. Byron Tarr	Formerly of the Ministry of Planning & Economic Affairs	Former Minister	The 1973 Public Lands Sale Law from an Economic Perspective vis-à-vis the Poverty Reduction Strategy (PRS)
Dr. J. Chris Toe	Formerly of the Ministry of Agriculture	Former Minister	Transactions and Concessions in the Land Sector
Mr. Jerome M. W. Vanjahkollie	Transitional Justice Working Group	Steering Committee Member	Perspective on Public Land: Pricing, Allocation and Procedures

International Experts (listed in alphabetical order)

Name	Organization	Position	Presentation Topic
Dr. John Bruce	World Bank	Consultant	Land Tenure Dualism and Decentralization of Local Administration
Dr. Mark Marquardt	World Bank	Consultant	What is Land Policy and Why Does it Matter?
Dr. Laurel Rose	World Bank	Consultant	Managing Land Disputes

¹ See Appendix A for the membership of the National Screening Committee.

² Executive Order of February 22, 2010, page 2.

³ See Appendix B for the membership of the Technical Sub-Committee.

⁴ See Appendix C for a copy of the questionnaire.

⁵ Minutes of the 1st meeting of the National Screening Committee establishing a Technical Sub-Committee and its composition.

⁶ The Vetting Team consists of the following institutions: Land Commission; Forestry Development Authority; a member of civil society; Ministry of Lands, Mines, and Energy; Ministry of Internal Affairs; and the Environmental Protection Agency.

⁷ GPS stands for global positioning satellite.

⁸ UTM stands for Universal Transverse Mercator Geographic Coordinate System.

⁹ A table of the national and international experts is provided in Appendix D. Assistance was also provided by: Dr. Jeanette Carter, Advisor to the Land Commission; Guglielma da Passano, UN-HABITAT; and Caleb Stevens, Esq., Carter Center Law Fellow.

¹⁰ Comments of Dr. John Bruce, World Bank Consultant, October 2010.

¹¹ Governance Commission, Regional Consultative Meetings on Land (May 2008).

¹² Comments of Dr. John Bruce, World Bank Consultant, October 2010.

¹³ Comments of Dr. John Bruce, World Bank Consultant, October 2010.

¹⁴ Section 1285 of the 1904 Public Lands Law states, "All lands surveyed and offered at auction and not sold may be sold by the Land Commissioner at private sale, payment to be made in the same manner as for land sold at auction; provided that the minimum price of land lying on the margin of rivers shall be one dollar an acre, and those lying in the interior of the lands on the rivers shall be fifty cents per acre, and town lots shall be thirty dollars each, except marshy, rocky, and barren lots, which may be sold to the highest bidder."