

SECURING LAND AND PROPERTY RIGHTS

Exploring the Scope for Results-Based Financing Approaches

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 The World Bank
 1818 H Street,
 NW Washington,
 DC 20433
 USA

Website: <http://www.gprba.org/> Contact us at: rbfinfo@gprba.org

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DEVELOPMENT CHALLENGE

It is hard to imagine a well-functioning economy without secure land and property rights. Markets, investments, service provision, public and private finance transactions, all have as a foundational pillar, the trust in secure land and property administration institutions and systems.

The statistics are staggering, and there is a clear call for action among development partners. It is estimated that only 30 percent of the global population has legally registered rights to their land and homes. Land is encompassed in eight targets and 12 indicators of the Sustainable Development Goals.

Secure land rights are critical for establishing sustainable agriculture and urban-development practices; supporting environmental protection; attracting job-creating private-sector investments; empowering women; supporting indigenous communities; fostering peace; and fighting fragility.

Designing a successful path towards securing land and property rights for most of the population requires targeting and accountability in financing. It also requires testing new approaches that could bridge the financing gap for the most vulnerable and marginalized communities, and incentivize communities, policy makers and development financiers to establish programs driven by results.

THE CONTEXT FOR APPLYING RESULTS-BASED FINANCING SOLUTIONS

Although the development community can claim much of the success in establishing results-based financing (RBF) programs in various sectors such as in health, education, solid-waste management, water & sanitation as well as energy access, the land sector has limited experience with RBF. These approaches can be implemented with a range of modalities, ranging from performance-based contracts to impact bonds and output-based subsidies.

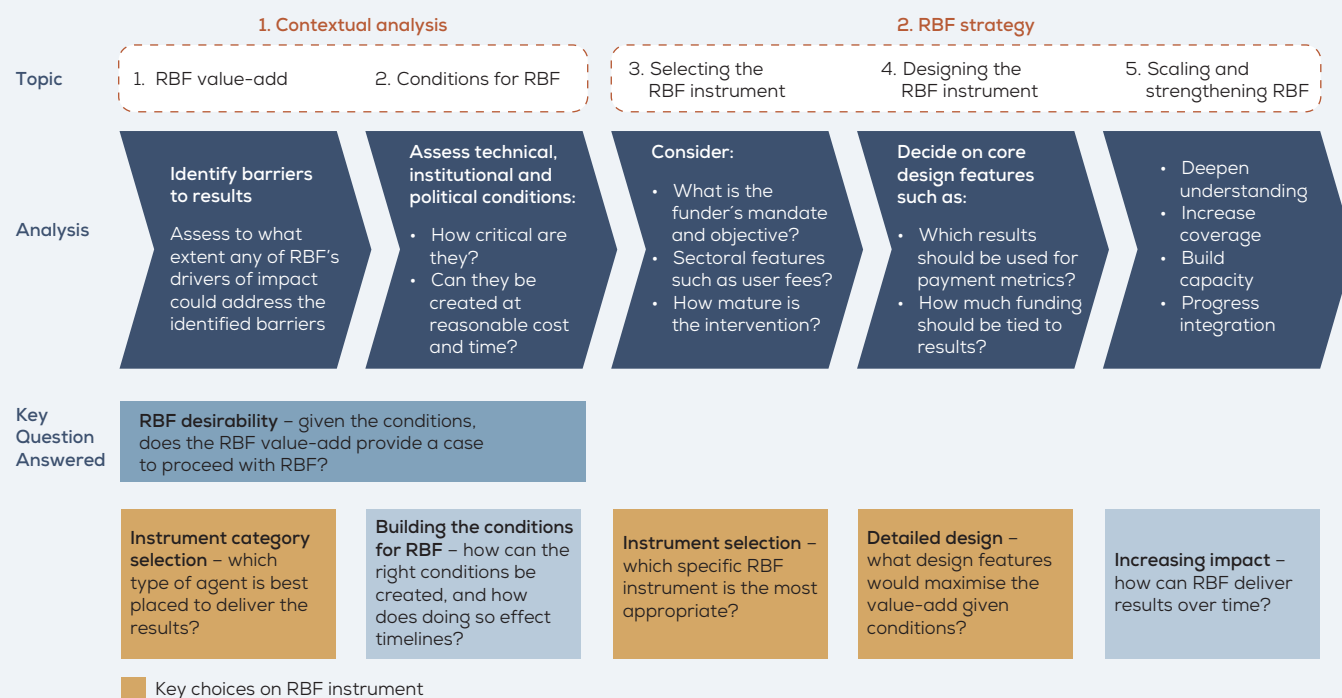
“RBF schemes” is an umbrella term that refers to schemes that disburse financing only after measurable, agreed-upon results have been achieved and verified. To illustrate this, a multilateral agency such as the World Bank could engage a service provider to secure property rights for a specific percentage of the population (or population segments) and pay only once this result has been achieved. The examples in Table 1 illustrate further the paradigm shift RBF creates by moving from paying for activities to paying for results.

The World Bank typically supports RBF programs through the Program for Results (PforR) instrument, by establishing disbursement linked indicators (DLIs) in investment project financing (IPF) operations, or through multi-donor-trust-funded facilities such as the Global Partnership for Results-Based Approaches (GPRBA).

Table 1. Payment for Inputs and Activities Versus Payment for Results

Program Objective	Paying for Inputs and Activities	Paying for Results
Secure Land and Property Rights	<p>Funders pay service providers for:</p> <ul style="list-style-type: none"> Hiring staff (administrative, legal, surveying) to develop and implement plans for the first registration process and the issuance of property titles, including communication campaigns, dispute-resolution systems, and the establishment of offices Purchasing equipment needed to register properties 	<p>Funders pay services providers for</p> <ul style="list-style-type: none"> Number of properties registered according to agreed-upon standards associated with the institutional and legal framework Utilization of property titles registered (number of land transactions)
Modernize Land Administration Systems	<p>Funders pay service providers for:</p> <ul style="list-style-type: none"> Hiring staff for developing and implementing strategies for digital transformation Purchasing hardware/software solutions 	<p>Funders pay services providers for:</p> <ul style="list-style-type: none"> Number of titles digitized Utilization of hardware/software systems, as indicated by number of transactions Reductions in transaction times Improvements in citizen and system user satisfaction

Figure 1: Diagnostic Framework for Developing RBF Programs



By linking payments to results, RBF schemes strengthen accountability in project delivery.

Additionally, by focusing on the delivery of outcomes or outputs, it has been observed that RBF programs facilitate the building of local capacity and the development of innovative solutions that are difficult to achieve in programs where financing is provided upfront, with hopeful ties to intended results. At the same time, RBF should not be considered a panacea, as there are important limitations in applying RBF programs, such as the capacity of the service provider to pre-finance a program towards agreed-upon results. Additionally, it is critical for RBF programs to operate within a supportive institutional environment that will enable service providers to focus on achieving results. Figure 1 provides a diagnostic tool framework for developing RBF programs.

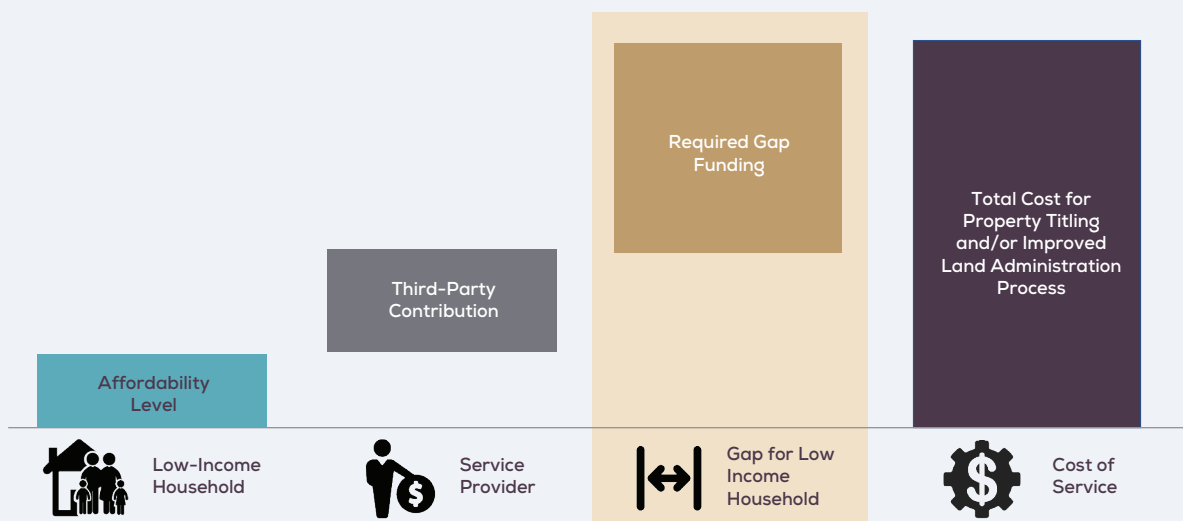
APPROACHES FOR APPLYING RBF IN LAND-ADMINISTRATION OPERATIONS
 Experience across sectors demonstrate that RBF can support the development of well-targeted approaches on issues of strategic importance, such as securing land and property rights for vulnerable groups, women and indigenous

communities, as well as system modernization targets. RBF approaches can be developed under a gap-funding or incentive-driven framework or hybrid schemes tailored to public-private partnerships (PPPs).

Gap-funding approaches can support the poorest households and communities in securing their property rights. This is done, by subsidizing part of the cost for registering their properties, which involves paying for legal, surveying and administrative services. Once defined, the allocated subsidy amount is provided upon verification that the property titles for the targeted households and communities have been issued according to agreed-upon standards (Figure 2). A similar approach could be developed for modernizing land-administration systems.

Incentive-driven approaches can support system-level changes in the operational model of land-administration (LA) systems and services. Such support could motivate efforts to improve client satisfaction in transactions with land agencies, promotion of women's rights, or the building of trusted delivery-focused programs in conflict-affected areas. Furthermore, for first

Figure 2: Gap-Funding Approaches Applying RBF for Land Administration



registration services with legal and institutional complexities, such schemes could encourage public authorities to intervene and identify solutions that couldn't be realized without incentives. In these cases, all parties (funders, implementing agencies and service providers) agree on commonly recognized needs and associated measurable targeted outputs and outcomes that are closely monitored. In principle, the financing structure is not different between gap-funding and incentive-driven RBF approaches. An illustrative funding flow is presented in Figure 3.

Hybrid schemes that bring together gap-funding with incentive-driven approaches are relevant to the development of private-public partnerships (PPPs). Such schemes could mobilize funding in phases of the PPP transaction where there is a funding gap in the commercial viability, or "bankability" of the project, and apply incentives in the performance of the private party—or penalties, if the performance of the public and private parties doesn't meet the PPP conditions. In the context of commercial viability of the project (or "bankability"), RBF can strengthen the reliability of cash flows in phases of the project with high perceived risk for the private party (e.g., first registration).

The structure of RBF solutions can take different forms and be tailored to operational needs.

Structures could range from one-off subsidies in the delivery of first registration services (to account for the cost of conducting first registrations in

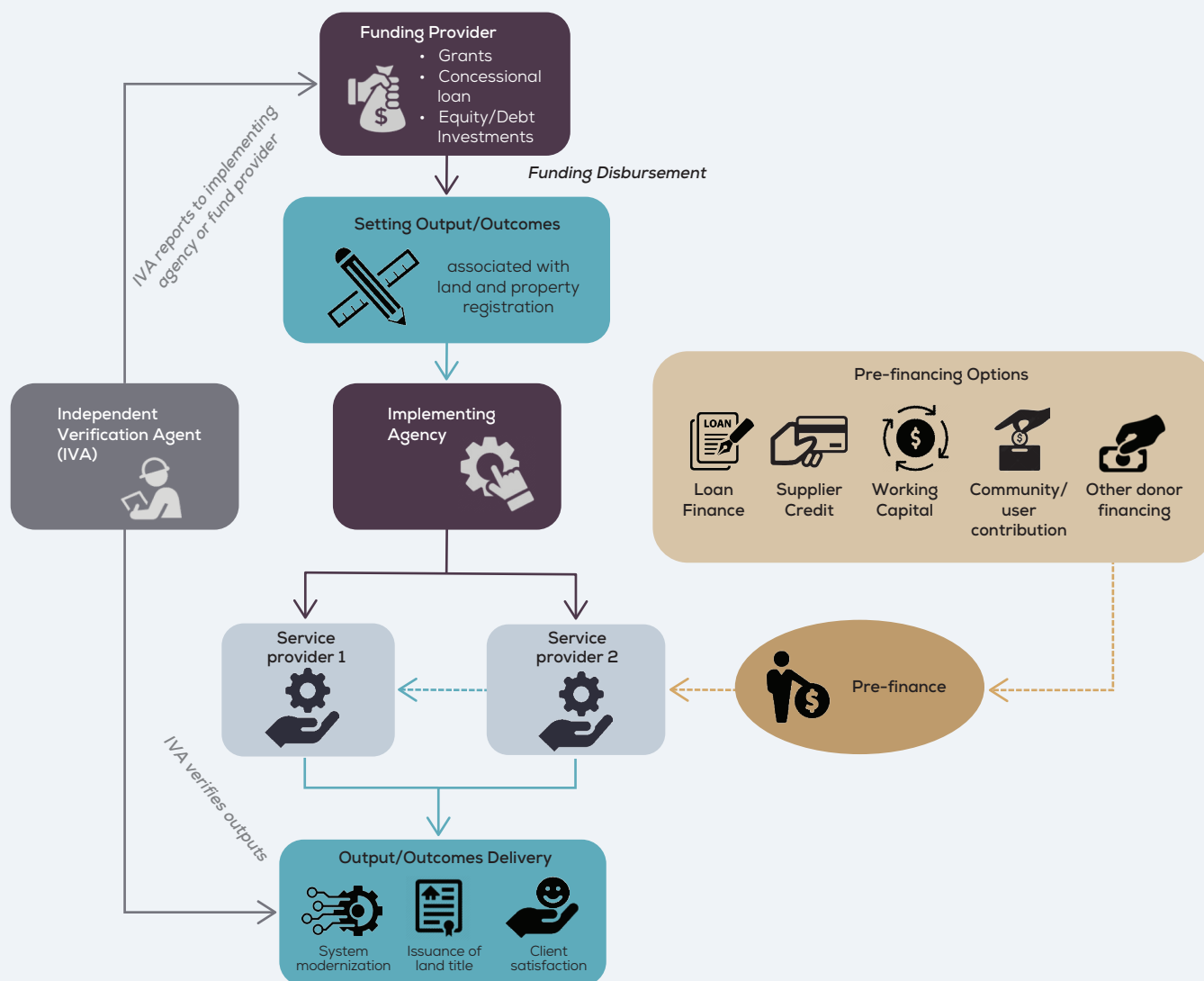
targeted areas and reflecting specific community needs) to phased-funding schemes that account for productivity gains, and approaches that balance the amount of funding to fee collection.

EXPLORING RBF SOLUTIONS IN STRATEGIC AREAS

Experiences across sectors have shown the RBF schemes are well-suited for partnership schemes with the private sector. The added value of RBF to schemes that blend public and private incentives can be summarized as follows:

- **Inclusion of low-income communities:** Because private capital providers have been reluctant to lend to projects primarily targeting low-income consumers, RBF can provide the incentive for them to do so. Specific RBF instruments, such as output-based aid (OBA), link payments to pro-poor investments, improving the financial viability of serving low-income communities.
- **Reduction of repayment risk:** RBF can make strategic use of private investment, by reducing the risk to lenders through performance/ results-based grants paid to project implementers against agreed-upon results. This payment reduces the debt burden on the client (utility company, household, or other) while also reinforcing accountability for performance and assurance of results.

Figure 3: Indicative Flow of Funding in RBF Operations for West Bank-Gaza Systemic Land Registration



- **Complementing other de-risking financial instruments:** RBF has successfully been used alongside other risk-mitigating instruments, such as partial credit guarantees, further providing incentives to the private sector to lend to projects with high development impact.

Furthermore, analysis that has explored the applicability of PPPs in land-administration services (LAS) has demonstrated the alignment between RBF and contractual components associated with key performance indicators (KPIs) across different PPP modalities (management contract, concession, joint venture). In a nutshell, similar to RBF operations,

PPP agreements typically incorporate indicators in the form of KPIs, which are monitored regularly and to which both public and private-sector parties must abide. Subject to the PPP agreement, failure to achieve these indicators may result in penalties or even termination of the PPP. Table 2 captures the conceptualization of PPPs for LAS.

A recent project in West Bank is piloting the use of RBF to support women's rights. RBF approaches may be suitable to be added to the development toolbox that can be used to support women around the world to claim their land rights. Acknowledging the legal and cultural complexity and significance

Table 2. Concepts for PPPs in Land Administration Services (LAS)

Type of Project	Possible Activities	Possible PPP Structure
Building Land-Administration Services	<ul style="list-style-type: none"> • First registration • Data digitization and conversion 	<ul style="list-style-type: none"> • Management contract • Concession • Joint venture
Providing Services to Users	<ul style="list-style-type: none"> • Registering property transactions • Provision of development/building permits 	<ul style="list-style-type: none"> • Service contract • Concession • Joint venture
Other LAS to Broader Range of Users	<ul style="list-style-type: none"> • Sales information to valuers • Valuation rolls for local government areas (LGAs) • Land use maps 	<ul style="list-style-type: none"> • Service contract • Concession
Other LAS to Government	<ul style="list-style-type: none"> • Mass appraisal/valuation rolls/tax rolls • Land use systems/maps • Transfer of data (for tax, corruption, etc.) 	<ul style="list-style-type: none"> • Service contract • Concession

of the issue, RBF could be explored in supporting approaches towards: i) a legal framework that fully supports equal access to property ownership or use of land titles as collateral without a male guardian; ii) property registration in the names of both husband and wife, so that women do not lose their homes or land in the case of divorce or the death of the husband; and iii) enforcing the legal rights of women to inherit land or property (they are often forced by male relatives to waive their rights).

Securing land rights keeps the path open for displaced people to return back to their livelihoods and provides the foundation for reconstruction when conflicts end. Peace is at risk when land and property rights are not well addressed. Service provision with accountability in fragile and conflict-affected situations (FCS) can support stabilization and conflict mitigation by strengthening civic engagement, rebuilding public trust in government institutions, and reducing tensions and grievances between groups over services. GPRBA has provided more than \$150 million for RBF programs in FCS. RBF experience in FCS has shown that fragility factors are not necessarily the best indicators of a project's eventual success. Quality of design and flexibility, along with solid, targeted technical assistance throughout the project cycle, have proved stronger predictors. RBF is most likely to be effective in countries or regions showing signs of recovery, where government institutions are relatively stable and gradually increasing in legitimacy. When such an enabling environment exists, RBF is one mechanism that can contribute to broader efforts at breaking cycles of fragility and violence by providing basic

services to the targeted groups and increasing accountability among providers.

With technological solutions being a key component in land-administration operations, RBF approaches could focus on ensuring their functionality, utilization and delivery for better services for communities. It is not the procurement of a system that matters, but its functionality within a specific context of doing business. A lack of resources and capacity prevent many agencies from effectively capturing the technological progress in land administration service solutions, in the form of digitization of archives, e-services, system inter-operability, etc. Although many agencies have access to software solutions that have been procured or delivered without cost from donor agencies, many times these solutions are outdated, fragmented, unutilized, and don't effectively support their operations. Development of RBF approaches could incentivize agencies to develop existing or future technological solutions to develop functional land administration service. Such approaches could transform the financing arrangements from procurement of software packages to outcomes that could be achieved with technology utilization and could benefit people, for example by reducing transaction times for title issuance and application of e-payment schemes.

TESTING RBF IN LAND-ADMINISTRATION SERVICES – LESSONS LEARNED

RBF solutions have not been explored sufficiently in the delivery of land administration services, but there are important lessons to be learned in

developing pilot schemes. Some of these lessons include the following:

Disbursement-linked indicators: Setting indicators should be an inclusive process, involving a realistic assessment of the reporting capacity and internal control systems of service providers (SPs) and implementing agencies. Effective verification relies on available data sources and baseline data, such as existing access to services and development indicators. Results and indicators must be specific, measurable, and under the control of the SP. They should be directly linked to incentives and aligned with stakeholder objectives and priorities. Although the verification process should be kept simple whenever possible, more complex systems are sometimes needed to accurately measure access to services. For example, the Energy Sector Management Assistance Program (ESMAP), under the Sustainable Energy for All (SE4All) initiative, has developed the multi-tier framework (MTF) to monitor and evaluate energy access. The MTF redefines energy access from a simple yes/no count to a multi-dimensional assessment that includes duration, reliability and quality of supply; affordability; legality; safety; and other factors. Energy access is then graded on a tiered spectrum from zero to five. Applying a similar framework to land tenure security could be explored.

Targeting: Increasingly operations are focused on FCS and in countries that are likely to have few or no existing mechanisms, such as reliable population data registration or tax systems, that can be used to target specific populations, such as indigenous people living in poor households. Therefore, straight geographic targeting for RBF projects is often the simplest and best approach, especially for reaching vulnerable groups. Any targeting mechanism should take into account the fluid context, being realistic about what is achievable, and providing for a greater-than-normal margin of error. Careful monitoring should be ongoing, along with a willingness to adapt targeting mechanisms as needed.

Risk transfer: A key component of RBF is the transfer of performance risk to the service provider. Inputs are pre-financed by service providers, and RBF subsidies are not paid out until pre-specified results are delivered. However, service providers in many countries are sometimes unable to carry the full pre-financing risk, and flexibility may be required in order to ease this burden, particularly for agencies with weak capacity. Solutions for

partial risk transfer include phasing subsidy payments over time by linking them to intermediary milestones.

Balancing simplicity and effectiveness in verification:

The use of an independent verification agent (IVA) is a core component of RBF projects. IVAs certify that service providers are delivering contractual outputs and that agreed-upon standards of service are being achieved. Although verification mechanisms should be kept simple, particularly where local capacity is weak or has been decimated by conflict or natural disaster, it may be advisable to complement the use of independent verification agents with multi-layered verification systems involving different stakeholders. Where risk of corruption is high, and accountability is low, such systems are especially relevant. Going forward, technology will play a greater role in the verification process, because it can reduce costs while increasing efficiency, rigor, and credibility. A number of results-based approaches are already making innovative use of technology in verification.

Scale and frequency of verification: Unless a technological solution is in place, seeking 100-percent verification of results is not feasible, and statistical sampling is often the most economical and effective approach, with care taken to ensure that the sample adequately represents the universe. Many projects in the infrastructure sector have a two-stage verification and disbursement process—the first being the service provision (e.g., a working electricity connection), and the second taking place after several months of verified service, involving a review of billing and collection records. In other sectors, such as health, education, or solid-waste management, verification and disbursement are ongoing. Flexibility in the timing and frequency of verification may be required. In an OBA education project in Vietnam, for example, a more frequent verification cycle instigated during project implementation allowed for more regular disbursement of funds, which was helpful to SPs who had found pre-financing difficult.

Avoiding conflicts of interest: When selecting a verification agent, the aim is to avoid conflicts of interest and reduce the inherent risk of capture. The funding entity should be protected against potential manipulation or inflation of results, which may occur when a government entity (such as the project's implementing agency) is responsible both for overseeing service providers and for output verification. Likewise, the agency that hires the

IVA should not have a vested financial interest in the IVA's performance. If the same agency who hires the IVA is the direct funds recipient, there exists scope for collusion or lax application of verification protocols. If the same SP that hires the IVA is the direct funds recipient, there exists scope for collusion or lax application of verification protocols.

Technical assistance: Because institutional capacity in many public agencies tends to be low, sustained technical assistance (TA) should be employed throughout the project cycle and targeted at key fragilities. Although TA is normally financed in an input-based manner (entities are paid to deliver capacity-building services), there are cases of employing TA in results-based approach, primarily by targeting accountability in institutional delivery.

CONCLUSION

The development community has set an ambitious target to achieve a 70-percent tenure-security ratio by 2030. Success in achieving such a target will require continuous work on legal and policy frameworks, leveraging technological solutions, increased funding, and innovative ways of financing land-tenure security and system modernization.

RBF approaches could support innovative ways of financing land-administration services, with a focus on the most vulnerable. Operational experiences have shown that institutions, donors and investors benefit from the transparency and accountability that results-based approaches require. Finally, results-based land-administration services could provide incentives to public or private service providers for leveraging technical solutions and targeting vulnerable groups.



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