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RESETTLEMENT POLICY FRAMEWORK
FOR
BUILDING DISASTER/CLIMATE RESILIENCE IN
COMMUNITIES ALONG THE DILI-AINARO AND
LINKED ROAD CORRIDORS IN TIMOR LESTE

Adopted from Resettlement Framework of Timor Leste Road
Climate Resilience Project

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A. Project Description

1. The Government of Timor Leste has launched the Strategic Development Plan for 2011-2030 with plans to invest heavily in infrastructure, agriculture, rural development and social capital. There is a clear need to make these investments resilient to various shocks including that of disasters and climate change impacts. Coupled with existing vulnerability, periodic hazard events such as flooding and landslides are constantly depleting the resiliency of rural communities. Most disasters in Timor-Leste are localized and periodic, with serious impact on local communities.
2. The Building Disaster/Climate Resilience in Communities along the Dili-Ainaro and Linked Road Corridors in Timor Leste Project is developed in close coordination with and to support the development objectives of the World Bank financed Timor-Leste Road Climate Resilience Project (RCRP) which aims to deliver sustainable climate resilient road infrastructure on the Dili-Ainaro corridor through its rehabilitation. This road project will invest in key north-south road links, starting with the Dili-Ainaro Road, with additional financing in future years for this and other priority projects. It is expected that the rehabilitation will significantly improve connectivity and accessibility of the districts, which in turn is expected to provide opportunities for making livelihoods more resilient including to disaster/climate risks.

B. Anticipated Land Acquisition Impacts

3. The project has a component to prepare comprehensive sub-district/suco level Disaster Risk Management Plans by supporting sub-districts government and suco councils to identify small scale structural and non-structural risk reduction measures and supporting sub-district and suco councils to implement up to 1-3 prioritized risk reduction/adaptation activities as pilot project. The structural measures may include small scale bio-engineering, slope stabilization, river embankment, improving drainage system, etc. The civil works of the pilot projects would be expected to have only incidental, minimal and temporary impact although there may be need for land use for some of the pilot projects. Such impacts may result to loss of land, structure, trees and other assets. Pilot projects will be designed taking into account social safeguard policies of the WB that include avoiding and/or minimizing resettlement and land acquisition impacts.
4. The pilot project will help increase resilience to disasters small scale bio-engineering, slope stabilization, river embankment, improving/clearing drainage systems of roads, strengthening roofing of schools and houses to prevent damage from strong winds; improvement of rural roads that are linked to the Dili-Ainaro corridor, soil and water conservation programs/initiatives. These are best carried out with community participation, with people taking ownership over the management

C. Objectives of the Resettlement Policy Framework

5. This Resettlement Policy Framework (RPF) outlines the principles and procedures to obtain land for the pilot project. The Implementing Agency (IA, in this project is NDMD as PMU) will follow the procedures in obtaining land and provide direction in preparing, updating, implementing and monitoring pilot project land acquisition that will be incorporated in the regular pilot project progress report.

6. No involuntary resettlement will be undertaken in this project. Land needed or asset acquisition will be kept to a minimum. Alternative design options of the pilot project will be considered during detailed design of the pilot project to avoid and/or minimize involuntary resettlement. As the pilot project generally require only small piece of land, the community is expected to use voluntarily contributed land needed by the pilot project in exchange for the community's benefits from the pilot project.

D. Existing Legal and Policy Framework

(i) National Policies and Legislation

7. Section 141 of the Constitution of RDTL states that the ownership, use and development of land as one of the factors for economic production shall be regulated by law. Section 54 of the Constitution covers the right to private property and states:
 - i. Every individual has the right to private property and can transfer it during his or her lifetime or on death, in accordance with the law.
 - ii. Private property should not be used to the detriment of its social purpose.
 - iii. Requisitioning and expropriation of property for public purposes shall only take place following fair compensation in accordance with the law.
 - iv. Only national citizens have the right to ownership of land.
8. The first land law of Timor-Leste was promulgated in March 2003 and was designed to serve as an umbrella law for the rest of the land and property regime. The law established the Directorate of Land, Property and Cadastral Survey (DLPCS) as a legal entity and defined its jurisdiction, and articulated general rules concerning land tenure and property rights to be further developed by ensuing legislation. Moreover, this law established a one-year period for both nationals and non-nationals to register their land claims. Effectively Law No. 1/2003 vests all land that belonged to the Portuguese state, and all state property acquired or built by the Indonesian regime, in the new state of Timor-Leste.
9. A decree issued by the Government in February 2011 provides for granting compensation to relocate unlawful occupants of State property based on humanitarian considerations. The Ministry of Justice (MOJ) through Ministerial Decree, which is yet to be finalized, will establish the basis for calculating compensation.
10. Another decree promulgated in July 2011 passed in June 2011 allows private property rights registration by landowners/persons in areas where cadastral surveys have been completed (following registration and verification of claims by the government) and confirmed that the claims to land are undisputed. Among the claims registered so far under the Ita Nia Rai program, which has been limited to urban areas, some 92 per cent of claims are undisputed.
11. The Civil Code promulgated in 2011 (which will come in force in March 2012) includes a section that governs day-to-day land decisions such as the sale and lease of land. The following three draft legislations relating to land are awaiting parliamentary approval:
 - The Transitional Land Law would decide who owns what land and in the case of conflicting claims, who has the strongest right to the land;
 - The Expropriation Law that would allow the state to take land for "public good" for example, to build ports and other infrastructure.

- The Real Estate Finance Fund would provide compensation as determined under the other laws.
12. Currently there are no specific laws on involuntary land acquisition and compensation, although the proposed Expropriation Law would be the most relevant one. The legal basis for declaring the right of way outside the current road footprints has not been established. When road works required land in the past, the Government negotiated with the owners or users (including squatters) on a case by case basis. According to past practice, when land was required for project development, concerned parties under the direction of local authorities (district and sub- district Land and Property Units and village) negotiated and reached agreement on compensation rates, total compensation amount, and the procedures or mechanism for compensation and transfer.

(ii) World Bank Safeguard Policies

13. The WB's safeguard policy on Involuntary Resettlement – OP 4.12 – seeks to ensure that impoverishment risks due to involuntary resettlement are addressed and minimized.
14. The objectives of the policy are to:
- Avoid resettlement where possible, and otherwise minimize through alternative project designs;
 - Resettlement should be conceived and executed as a sustainable development program;
 - Affected people should be meaningfully consulted, and be facilitated to participate in planning and implementing resettlement plans; and
 - Displaced people should be assisted to improve, or at least restore their livelihoods and standards of living to pre-project levels.
15. The policy includes direct economic and social impacts that result from (a) the involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of APs.
16. To achieve the objectives of the policy, WB requires that particular attention be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous people, or other displaced persons who may not be protected through national land compensation legislation.
17. The policy comprises three important elements: (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and, (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.
18. The policy recognizes as affected persons as people in one of the following three groups:
- those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country)
 - those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan
 - those who have no recognizable legal right or claim to the land they are occupying.

E. Procedure to obtain land for the pilot project

19. Land required for the pilot project will be obtained through land donation/contribution scheme. This is because the approach taken under the pilot project is community based. Component 2 on community-based disaster risk management and adaptation plans supports the implementation of Community Driven Development approaches to planning, implementation and post-construction management of the structural measures for disaster risk management. Moreover, since the proposed pilot projects will be prioritized by the community through participatory planning process, the process is expected to avoid and/or minimize resettlement and land acquisition.
20. If the asset owners reject to contribute their assets for the pilot project and there is no alternative location for the pilot project, the compensation will be provided at local market cost for affected assets prior to the pilot project approval. In this case, project fund cannot be used for compensation.

F. Process for voluntary land donation

21. The process of obtaining land through land donation will be conducted at village/suco level. Voluntary land donation for a pilot project is acceptable with the following conditions:
 - (a) Land donor receives direct benefit from the pilot project and will not become worse off after the land is taken;
 - (b) Land donor has been informed clearly of their right to refuse to donate at the community meeting prior to the decision on contributing the land voluntarily, but nevertheless he or she is still willing to donate without any pressure;
 - (c) There is option to adjust the pilot project design or location in the case that owners refuse to donate their land;
 - (d) The land is identified by beneficiary communities and confirmed by the technical staff to be suitable for the pilot project;
 - (e) The location of facilities built should be agreed by the community to avoid donor's domination of the facilities;
 - (f) Consultations with the land donors or beneficiaries are conducted in a free and transparent manner;
 - (g) Processes and result of consultation meetings, grievance and actions taken to address complaints are properly documented; and
 - (h) The donated land will be recorded properly and well documented.
22. The criteria for eligibility for consideration of land owners as voluntary donation include:
 - The affected parties are not poor people or does not fall below the official poverty line;
 - The land contributed does not represent more of 10% of the affected parties total productive land;
 - The land owner has other land that will be unaffected by the pilot project and proposed works;
 - The donated land is not under dispute or a subject of an unresolved land claim;
 - The impacts of the donation on the land owners are insignificant and do not result in the displacement of households, or cause loss of household's income and livelihoods.

G. Negotiated land settlement

23. When the affected parties reject to donate their land or other assets for the pilot project and the pilot project location cannot be moved, the negotiated settlement or private acquisition will be applied. The compensation will be negotiated based on local market cost.
24. Compensation for the affected portion of land or other affected assets (building, crops or trees) will be negotiated by PMU and project administration at Suco level. Compensation for affected land or other assets (building, crops, etc) will be calculated based on replacement cost or at current market value. Land to land compensation is always the preferred method where land is available and such compensation should follow existing government regulation. The compensation negotiation will be discussed at Suco level in the community meeting.
25. Cost of compensation will be discussed at community/suco meeting through participatory process. Project funds cannot be used for the compensation.

H. Indigenous People

26. Since there are no significant differences in cultural and socio-economic identity among the different language groups, no specific adverse impacts are anticipated to warrant separate indigenous people plans. To ensure that the different language groups fully participate in planning and implementing land acquisition, discussion and project documents will be prepared and disclosed appropriately in relevant languages.

I. Gender

27. Community participatory process at Suco level should cover gender concerns that need to be addressed to ensure that women participate, through separate meetings and discussions where necessary, drawing on locally active formal and informal women's groups.

J. Grievance redress mechanism

28. A grievance redress mechanism, linked with existing traditional formal and informal systems and cognisant of cultural requirements will be established to solve land acquisition related disputes and complaints from affected parties.
29. Existing community processes can be used for dealing with land disputes. They include the village chief, other elders, church leaders and other recognized civil society leaders.

K. Institutional arrangement and implementation

30. The PMU under NDMD will have overall responsibility for implementing the pilot projects. The PMU will strengthen its capacity with a national social safeguard specialist to provide guideline and monitor land acquisition process for the pilot project at Suco level.
31. The PMU will be responsible for all social aspects of the pilot project development work. PMU will work closely with project administration at suco level to deal with land acquisition and to resolve any conflicts that may arise during these processes.
32. The PMU will engage experienced NGOs in implementing the pilot projects who will assist to monitor and validate the process, whether voluntary land donation or negotiated land acquisition

L. Monitoring and Evaluation

33. Project administration at Suco level will provide regular progress report on planning, updating, implementing and monitoring pilot project process, including land acquisition process for pilot project at Suco level. The regular progress report will be submitted to PMU. PMU will review the report and forward it to the World Bank.