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Public Private Partnership Commission

Digital Malawi Project (DMP)

RESETTLEMENT POLICY FRAMEWORK

FINAL DRAFT REPORT

Public Private Partnership Commission
Livingstone Towers
2nd Floor
P O Box 937
Blantyre
MALAWI

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LIST OF ACRONYMS

AIDS	Acquired Immuno deficiency Syndrome
CERT	Computer Emergency Readiness Team
DMP	Digital Malawi Project
EAD	Environmental Affairs Department
ESCOM	Electricity Supply Corporation of Malawi
ESMF	Environmental and Social Management Framework
GoM	Government of Malawi
GRC	Grievance Redress Committee
HIV	Human Immuno Deficiency Virus
ICT	Information and Communication Technology
MACRA	Malawi Communications Regulatory Authority
MDAs	Ministries, Departments and Agencies
M & E	Monitoring and Evaluation
MoLHUD	Ministry of Lands Housing and Urban Development
MoLGRD	Ministry of Local Government and Rural Development
MoICT	Ministry of Information and Communication Technology
NGO	Non-Governmental Organization
OP	Operational Policy
OVI	Objectively Verifiable Indicators
PAP	Project Affected Person
PKI	Public Key Infrastructure
PIM	Project Implementation Manual
PIU	Project Implementation Unit
PPPC	Public Private Partnership Commission
ARAP	Abbreviated Resettlement Action Plan
RAP	Resettlement Action Plan
RC	Resettlement Committee
RCIPMW	Regional Communications Infrastructure Program-Malawi Project
RoW	Right of Way
RPF	Resettlement Policy Framework
RRB	Road Reserve Boundary
TA	Traditional Authority
USF	Universal Service Fund
VLP	Virtual Landing Point
WB	World Bank

DEFINITION OF TERMS USED IN THE REPORT

Census	A field survey, conducted to identify and determine the number of Project Affected Persons (PAPs) and their assets; in accordance with the procedures laid out in this document. The census assists to identify persons who will be affected by the project and to determine who will be eligible for compensation.
Compensation	refers to the payment in kind, cash or other assets, given in part or total, in exchange for the taking of land including fixed assets thereon
Cut-off date	is the date after which any development, within an area demarcated for payment of compensation, will not be considered for such compensation.
Disturbance Assistance/Resettlement Assistance	means the provision of development assistance (in addition to compensation) such as for land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels; or at least to maintain them at pre-project levels. Resettlement assistance may consist of, among others, land, assets, cash, employment as appropriate (World Bank OP 4.12)
Grievance Redress Mechanism	Is a set of procedures that are designed to ensure that the complaints or disputes about any aspect of the land acquisition, compensation, resettlement, and rehabilitation process, etc. are being addressed. This mechanism includes a procedure for filing of complaints and a process for dispute resolution within an acceptable time period.
Implementation Schedule	An outline of time frame for planning, implementation, monitoring and evaluation of the RAPs for subprojects, if applicable
Land	Refers to all types of agricultural and/or nonagricultural land and any structures thereon whether temporary or permanent and which may be acquired by the project
Land acquisition	Means the possession of or alienation of land, buildings, or other assets thereon for purposes of the project
Project Affected Persons (PAPs) or Displaced Persons	Refers to persons who, or institutions which are directly impacted by land acquisition, either through physical and/or economic displacement and who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project, result in direct economic and or social adverse impacts, regardless of whether or not the said project affected party physically relocate
Project impacts	Refers to impacts on the people living and working in the affected areas of the project, including the surrounding and host communities are assessed as part of the overall evaluation of the project
Resettlement Action Plan (RAP)	The RAP is a resettlement instrument (document) to be prepared when subproject locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the implementing agency and contain

	specific and legal binding requirements to resettle and compensate the affected people before project implementation.
Resettlement Policy Framework (RPF)	The RPF sets out the objectives and principles, organizational arrangements, and funding mechanisms for any resettlement, that may be necessary during implementation. The RPF guides the preparation of Resettlement Action Plans (RAPs), as needed, for subprojects.
Vulnerable Groups	<p>Refers to:</p> <ul style="list-style-type: none"> • Low capacity households - widows, the disabled, marginalized groups, low income households and informal sector operators; • Incapacitated households – those not fit to work; and • Child-headed households and street children. <p>This group is among other things, characterised by low nutrition levels, low or no education, lack of employment or revenues, old age, ethnic minority and/or gender bias (World Bank OP 4.12)</p>

EXECUTIVE SUMMARY

The Government of Malawi (GoM) through the Public Private Partnership Commission (PPPC) is proposing the Digital Malawi Project (DMP), which will succeed the Regional Communications Infrastructure Program-Malawi Project (RCIPMW). The program follows the Government's recognition of Information and Communication Technology (ICT) as an essential tool in promoting competitiveness, job creation, improving health system efficiency, knowledge transfer and sustainable development. To implement the DMP, the PPPC, as required by the World Bank (WB), needs a Resettlement Policy Framework (RPF). The RPF sets out resettlement and compensation policy, organizational arrangement and criteria to be applied to meet the needs of the people who may be affected by the project.

The overall aim of the proposed DMP is to extend and improve access to critical ICT infrastructure for the public and private sectors; improve ICT governance; improve access to government services; and reduce infrastructure costs by providing reliable, fast and adaptive government digital systems that will facilitate provision of e-services thereby enhancing public service delivery.

The proposed DMP has four components with each component further divided into subcomponents briefly described below:

Component A – Digital Ecosystem, which aims at creating an enabling for environment through legal and regulatory reform; regulatory capacity building and institutional development; and improved ICT skills development and innovation. Under this component, the project will support MACRA in developing regulatory bylaws, data collection and analysis tools required for effective implementation of the laws and new mandates stipulated in the new act

Component B – Digital Connectivity, which is intended to increase access to connectivity nationwide by addressing connectivity gaps for government, higher education and private consumers. The component will support a long term capacity purchase and services contract to connect all priority public institutions throughout the country such as government offices, hospitals and education institutions. The component will also support deployment and scaling up of innovative broadband access networks to secondary cities and rural areas;

Component C – Digital Platforms and Services, aimed at creating opportunities to transform public service delivery in Malawi using digital technologies. The component will focus on development of a Shared Digital Public Services Platform, with the aim to establish a solid foundation upon which all future digital services and applications will be built and developing human and institutional capacity of the government to deliver. The digital platform and services will provide opportunity to public to transact business through mobile and online platforms. Such services could include processing of passports, drivers license, business registration, birth certificates and payment of utilities and school fees. The component will also focus on development of citizen facing digital applications and services that leverage the shared platform, and

Component D – Project Management designed to support overall project management including support for an overall project manager, a digital government services coordinator

and specialists in procurement, financial management and safeguards. The component will also provide funding for strategic communications and partnerships, monitoring and evaluation activities as well as funding for audits, logistics and operational overheads.

Initial evaluation of scope of activities under each component indicates that following project activities would generate potential negative social and environmental impacts:

- a) Construction of a new national datacenter;
- b) Refurbishment or retrofitting of an existing facility; and
- c) Rollout of new network for rural connectivity.

The three project activities, depending on location, could require land acquisition for the infrastructure. Such acquisition of land would result in loss of land and properties, loss of business properties and opportunities, loss of crops, loss of trees, loss access to natural resources, conflicts over land use and ownership, disruption of footpaths and pathways.

The proposed project activities on rural connectivity may want to take advantage of the existing wayleaves and install project infrastructure given that there are deemed to be free of any activity. It would be expected that no physical displacement of households is expected but as encountered in the implementation of RCIP most of the wayleaves have been encroached such that project activities would disturb properties and assets of encroachers.

Preliminary assessment and evaluation scope of activities under WB Operational Policies has determined that construction or refurbishments of national data centre and rural connectivity rollout activities are expected to generate negative environmental and social impacts therefore triggering Operational Policy 4.01 (Environmental Assessment). Land acquisition for either construction of new data centre or building of new network for rural connectivity could trigger Operational Policy 4.12 (Involuntary Resettlement). Other operational policies triggered include Operational Policy 4.04 (Natural Habitats), Operational Policy 4.11 (Physical Cultural Resources) and Operational Policy 4:37 (Forests).

The project will likely finance purchase services from private providers which already have existing infrastructure and such investments will not trigger any environmental and social safeguards. The project could also motivate services providers to put up new infrastructure to deliver the required services to government but such developments will not trigger World Bank safeguard policies but the service providers would still be required to comply with Malawi legislation on environmental management and adopt other international best practices such as World Bank Environmental Health and Safety Guidelines for development of any infrastructure not directly funded by the project.

Therefore, the main objective of this RPF is to lay out the framework that will be used for the social screening and assessment of infrastructure project components to be funded within the framework of the proposed DMP. The framework has been prepared to achieve the following specific objectives:

- present the national policy, legal requirements and procedures for land acquisition and involuntary resettlement;
- present recognized international good practice for involuntary resettlement and where this diverges from national policy and regulation;

- set principles and procedures for undertaking land acquisition; resettlement action planning, implementation and evaluation;
- identify institutional arrangements for planning and implementing land acquisition and involuntary resettlement; and
- provide additional guidance for addressing unique situations pertaining to management of land acquisition and involuntary, resettlement within the project area of influence.

The RPF will be used during the planning and design stage and throughout the project implementation period; and it will be included in the Program Implementation Manual (PIM). The RPF will identify potential negative impacts (on assets or on sources of livelihood) resulting from the project activities; and it will develop a clear and systematic framework to compensate, or relocate (when necessary) the PAPs. The RPF has been prepared in anticipation that the project activities under the DMP will require additional land, especially customary and private land to be acquired from local people and proprietors. The RPF therefore, provides safeguards against adverse impacts of development activities of the DMP, through minimizing the number of PAPs in the first place. It provides procedures and means for adequately compensating for the losses the PAPs may incur, in the case that resettlement cannot be avoided.

The Malawi Policies governing the management of the environment and the WB Operational Policies will be applied to manage resettlement and compensation that may arise as a result of the implementation of the activities under the proposed project. To ensure that the environmental and social considerations of the project are adequately addressed, the Project has also prepared an Environmental and Social Management Framework (ESMF). The ESMF will facilitate the identification of potential environmental and social impacts and prescribe appropriate mitigation measures for the negative impacts.

Where a parcel of land has to be acquired, or where there is an impact on assets or livelihoods, from the DMP activities, there will be need for the preparation of procedures and principles for land acquisition, resettlement and compensation. This entails providing sufficient investment resources to meet the needs of the PAPs who may be displaced from their homes, resources, or livelihoods. Adequate collaborative consultation and agreement with the PAPs will be crucial to ensure that they maintain or improve their livelihoods and standards of living after relocation. The RPF has been prepared to ensure that investments under the proposed DMP are implemented in an environmentally and socially sustainable manner as required by the World Bank operational policies.

The proposed project activities fall under prescribed projects (category B) of the World Bank's Operational Policy (OP 4.12) on involuntary resettlement. This is the case because some project activities may require temporary or permanent land acquisition. Project activities may trigger a range of potential impacts (temporary and permanent) to land use/access and structures, which require compensation and resettlement assistance/procedures. This RPF therefore, has adopted applicable principles outlined in the World Bank's Operational Policy (OP 4.12) on involuntary resettlement into local experiences and legislation because they are not comprehensive enough to accord fair compensation and resettlement arrangements.

The preparation of this RPF largely involved review of literature focusing on detailed study of documents, and key stakeholder consultation. Preparation of the RPF also involved only consultations with key government departments and other stakeholders of the project as project locations are not yet decided upon. These consultations were done through key informant interviews to solicit views and opinions on current practices and recommendations resettlement and compensation practices in Malawi. Appendix 1 provides list of key stakeholders from government, non-government organisations and private sector.

The RPF draws its strength from the policy and legal instruments that exist in Malawi, specifically the new Land Act (2016), the National Land Policy (2002), the Land Acquisition Act, the Physical Planning Act (2016) which has replaced the Town and Country Planning Act. These and the WB Operational Policy on involuntary resettlement provide the basis and the legal platform for the conduct of fair land acquisition, compensation and resettlement; and they have been widely reviewed to prepare this RPF.

The legal instruments have been noted to contain relevant provisions that define the different classifications/categories of land, and specific issues that relate to land acquisition and land transfer including the management of the land acquisition and transfer processes. The legal basis, which has been found very useful in the preparation of this RPF, has been highlighted in chapter 3 of this RPF.

Stakeholder consultations have revealed that there are some land acquisition and resettlement activities managed mostly by the Department of Lands under the Ministry of Lands, Housing and Urban Development (MoLHUD). A number of gaps and inconsistencies have been identified in the way these activities are managed, particularly with respect to resettlement and compensation. This is because the GoM does not have a specific policy for resettlement and compensation but uses provisions in other pieces of legislation. The GoM is currently developing a Resettlement Policy which will guide compensation and resettlement activities in Malawi. For the purpose of this project, the principles in the WB policy will be used in addressing the gaps that are available in the local legislation. This will ensure that the economic status and living standard of the PAPs is better than when they were in their original homes or places of business and cultivation.

This RPF has developed the screening process, methods for valuing assets and procedures for delivery of compensation, using information obtained from literature review, review of policies and laws and stakeholder consultations. The RPF establishes parameters for the conduct of land acquisition, compensation, including resettlement of PAPs, who may be affected during implementation of the DMP. The RPF has made recommendations for appropriate local and national structures to facilitate smooth and effective implementation and monitoring of resettlement and compensation for the DMP.

This RPF includes guidelines for compensation for the project land acquired involuntarily. The guiding principles for land acquisition shall be that where land is required for implementation of the project activities, the recommended safeguards shall be observed to reduce the suffering of the affected communities.

The RPF is intended to assist all proponents implementing sub-projects under the DMP funded by the WB. The PPPC, as PIU, shall have the overall responsibility of ensuring that the principles laid out in this RPF are applied during design, planning and implementation of the DMP activities. The MoLHUD, City, Municipal and District Councils shall take

responsibility of applying the principles of the RPF in local authorities under their jurisdiction with assistance from PIU.

PPPC will ensure that the Framework is publicly disseminated and that project staff has the requisite skills and knowledge and, where necessary, they have received appropriate training to implement the RPF.

To ensure smooth implementation of the RPF, it is recommended that the following principles, as stipulated in the RPF, be adhered to:

- no project works should be implemented prior to the approval of ARAP/RAP by relevant authorities;
- the form of compensation shall be determined by the provisions of ARAP/RAP;
- appropriate compensation shall be made for trees, shrubs and different types of crops at prevailing market rates as stipulated in the legislation;
- compensation must be paid to owners of structures adversely affected by construction works; even if they are not relocating;
- replacement housing, agricultural land, commercial buildings and other structures will be preferred compensation option to cash;
- payment of cash compensation should be made to the tenant for the loss of structures and other improvements on rented land;
- replacement land must be given to persons with no recognisable legal right to the land they occupy but whose status has been legalised through history of occupation of the land;
- compensation shall be made for communal land and associated natural resources (e.g. community woodlots) acquired or affected by a project; and
- compensation shall be paid for affected graves and cultural assets, taking into account all due ceremony and customs as agreed with the concerned families.

CHAPTER 1. INTRODUCTION

1.1 Background Information

Information and Communication Technology (ICT) is now globally recognized as an essential tool in promoting competitiveness, job creation, sustainable development, and overall poverty reduction. A combination of widespread access to broadband and a robust ICT services ecosystem can offer a powerful platform for reducing poverty, improving human development and increasing government transparency and efficiency. ICT has the potential to transform business and government - driving entrepreneurship, innovation and economic growth and breaking down barriers of distance and cost in the delivery of services. In recognition of this fact, the GoM through thePPPC is proposing the DMP, which will succeed the RCIPMW. The program follows the Government's recognition of ICT as an essential tool in promoting competitiveness, job creation, improving health system efficiency, knowledge transfer and sustainable development. To implement the DMP, the PPPC, as required by the WB, needs a RPF. The RPF sets out principles to guide any compensation and resettlement process, organizational arrangements and criteria for determining those who are eligible for compensation

1.2 Project Description

The proposed DMP builds on the RCIPMW which was successfully completed recently. The objectives of RCIPMW were to contribute to the availability of low cost broadband communications in Malawi through providing high-speed communications access from the East coast of Africa where international submarine cables are established. The program also supported the GoM in providing ICT services to public institutions and availing technical assistance supporting the development of the ICT sector. The program further facilitated the review of the country's policy and legislative frameworks governing operations in the ICT sector. It specifically involved the establishment of optical fiber cable network from the Malawi-Tanzania border at Songwe through Karonga, Rumphu, Mzimba, Nkhatabay, Nkhotakota, and Salima to a Virtual Landing Point (VLP) in Lilongwe. A redundant leg of the cable runs from the VLP and terminates at the Malawi-Zambia border in Mchinji.

The overall aim of the proposed DMP is to extend and improve access to critical ICT infrastructure for the public and private sectors; improve ICT governance; improve access to government services; and reduce infrastructure costs by providing reliable, fast and adaptive government digital systems that will facilitate provision of e-services thereby enhancing public service delivery. The proposed project has been divided into four components, namely; digital ecosystems, digital connectivity, digital platforms and services and project management.

1.2.1 Component 1: Digital Ecosystem

The aim of Component 1 is to make Malawi a more attractive and competitive place to invest and innovate while ensuring that the benefits of digital technology are reaching all citizens. This will be accomplished by strengthening the many inter-related elements that characterize a thriving digital ecosystem – creating and implementing forward looking laws, regulations and policies; building digital skills and capacity of institutions and citizens; and developing a critical mass of innovators and supportive services. These objectives will be supported through three sub-components:

Sub-Component 1.1: Legal and Regulatory Reform and Implementation (Enabling Environment)

Under this sub-component, the project will prioritize support for those elements which most directly contribute to enhancing citizen's access to ICT services, affordability and service quality, as well as enabling efficient, secure and reliable digital transactions and innovation. Proposed activities under this project may include but are not limited to: development of a rollout plan for regulatory bylaws and other instruments; technical assistance to support drafting of regulations including for establishment of a converged licensing framework, interconnection regime, mobile number portability, infrastructure sharing, etc.; technical assistance to develop methodologies related to quality of service monitoring, innovative spectrum management, and cost modelling; support for statistics and data collection programs (ICT usage surveys and data collection from operators) and other needs as they arise.

Sub-component 1.2: Regulatory Capacity Building and Institutional Development

The project, under this subcomponent, will aim to strengthen MACRA's institutional and human capacity to deliver on its new mandates, respond to evolving technological and regulatory innovations and to establish a progressive regulatory environment. The project will also aim to strengthen the capacity of key staff at the Ministry of Information and Communications Technology (MoICT) and the wider government to enable them to carry out effective policy development and regulatory implementation. The project proposes to support this capacity building through a number of activities which may include, but are not limited to: undertaking a comprehensive institutional structure and capacity assessment of MACRA; establishing a comprehensive training program for relevant staff in MACRA and other ministries, departments and agencies (MDAs) in areas of new responsibility and next generation regulatory issues; conducting a needs assessment and developing an implementation plan for establishment of a Computer Emergency Readiness Team (CERT); establishing a public key infrastructure (PKI); support for developing a national Broadband Strategy; technical assistance to design and administer the Universal Service Fund (USF); and undertaking a 'digital leadership' capacity development program for selected government officials.

Sub-component 1.3: Partnerships for ICT Skills Development, job creation and Innovation

The project under this sub-component proposes to leverage partnerships and co-financing as the primary mechanism to help address the ICT skills divide. This may include partnerships with the education ministry and other donors, NGOs and the private sector to establish a new ICT curriculum for schools, launch or scale up ICT awareness and skills programs focused on adult and disadvantaged populations (such as the elderly, disabled persons, women and girls) and to increase access to higher level degree and certification programs for Malawian citizens.

The project further proposes to support and/or partner with Malawian based tech hubs to help increase their visibility, expand operations including in development of new digitally enabled services, local content and scaling up emerging innovations that have proven to work. Specific interventions will include support for connectivity, rental of incubator space, challenge/innovation funds and competitions and support to strengthen technical expertise and trainings in areas such as business plan development, intellectual property, marketing and financing. Collaboration will also be sought to encourage greater female participation in the

tech sector though support to programs such as ‘Girls who Code’, ‘She will Connect’, and the Technovation Challenge (Girls in Technology Entrepreneurship Program) among others.

1.2.2 Component 2: Digital Connectivity

There is a strong need for high speed, affordable connectivity for government, citizens and businesses across Malawi. In addition to measures to boost sector competitiveness and network investment through regulatory and other “soft” mechanisms (described under component 1), there is a need for more direct interventions to encourage infrastructure deployment in areas which do not offer sufficient short to medium term returns, or are considered too risky, to attract investment from the private sector alone. There is also a need to exert competitive pricing pressure, create network redundancy and increase capacity along the most well trafficked routes that are currently dominated by a limited number of providers.

Three sub-components are proposed to address the remaining connectivity gaps for government, higher education and private consumers:

Sub-component 2.1: Connectivity for Public Institutions (“Virtual National Network”)

This sub-component proposes to support a long term capacity purchase and services contract to connect all priority public institutions throughout the country. It would do so through a competitive tendering process for advanced purchase of bandwidth, using a mechanism similar to that used under RCIPMW to create a seamless national backbone network. The winning bidder would be required to operate the network infrastructure on an open access, competitive and non-discriminatory basis and to offer unit pricing per Mbit/s that is equivalent to that offered to the government.

The locations/institutions to be connected will be defined during project preparation as part of a planned feasibility study. These will include priority government offices and may be expanded to include educational establishments and hospitals. This component is designed to be able to be scaled up or down relatively easily by adjusting the number of sites to be connected and/or the amount of bandwidth specified.

Sub-Component 2.2: Innovative Broadband Access Solutions

In addition to completing the ‘virtual national network,’ additional activities will be considered to improve broadband access to target groups, particularly in rural areas, taking advantage of recent and future technological and business model innovation for broadband deployment. The sub-component will explore potential partnerships to introduce innovative new technologies and approaches for broadband deployment, notably in secondary cities and rural areas with low population density. This could potentially include support for scale up of the recently completed TV white spaces pilot program to leverage unutilized spectrum previously reserved for analog TV broadcasting for targeted broadband deployment. Support for innovative broadband access pilot programs, in partnership with the USF, and partnerships with the international companies and foundations seeking to deploy new technologies for broadband service delivery (satellite, drones, balloons, etc.) will also be explored. The internet exchange point (IXP) currently serving Blantyre (MIX-BT) may be expanded to cover Lilongwe and other population centers. Specific activities and modalities will need to be identified as part of ongoing consultations.

Sub-component 2.3: Higher education connectivity

Although this sub-component builds on elements of the other connectivity sub-components, identifying it separately should help in ensuring focus and in monitoring progress. At the macro-level, the mechanism of advance purchase of capacity, described in sub-component 2.1, will be used to secure dedicated bandwidth for universities, research institutes and schools. This will also involve support to MAREN, the Malawi research and education network, and to MALICO, the Malawi Library and Information Consortium. At the micro-level, it will involve investment in Campus WiFi for participating universities and high schools. These hotspots could also serve the wider community through free and unmetered internet access. Finally, bandwidth needs to be complemented by demand stimulation measures, especially for teachers and professors. It is proposed therefore to establish a revolving fund that can be used to provide low or no interest loans to teachers wishing to acquire a laptop, tablet or smartphone, for use in the classroom. This could follow the “*Mwalimu Digital Initiative*” that has been developed in Kenya, by Intel and other partners.

1.2.3 Component 3: Digital Platforms and Services

Component three will follow a phased approach to upgrading Malawi’s digital service delivery capacity. The first phase will focus on development of a Shared Digital Public Services Platform, with the aim to establish a solid foundation upon which all future digital services and applications will be built and developing human and institutional capacity of the government to deliver. The second phase will focus on development of citizen facing digital applications and services that leverage the shared platform.

Sub-Component 3.1: Strengthening Institutional Capacity to Deliver Digital Services

This subcomponent will seek to address these challenges through a number of activities, including but not limited to: (i) supporting development of a comprehensive Digital Government Strategy, including an institutional structure and capacity review of the MoICT and development of a corresponding capacity building program and work plan for rollout of shared digital infrastructure and services; (ii) financing an extensive training program for the IT common service staff and other relevant officials; (iii) hiring of a resident digital government advisor to support the strategy and skills development activities at the outset of the project and (iv) supporting a change management and outreach program to sensitize key stakeholders across government.

Sub-Component 3.2: Shared Digital Public Services Delivery Platform

This subcomponent will seek to establish a Shared Digital Public Service Delivery Platform that will help the Government to significantly reduce the cost and time taken to develop and maintain new digital services, utilizing a “build once, re-use always” philosophy. Currently, MDAs planning to offer a service digitally spend considerable time and money to develop, implement and operate their own stand-alone IT systems. They could significantly speed up the deployment of digital services and cut costs by leveraging a shared infrastructure and services platform for their data storage, hosting, security, data sharing, citizen authentication, e-payment, professional IT support and other needs. This approach would allow MDAs to focus on the areas of their areas of core competency when developing a new digital service, rather than worry about the issues of IT infrastructure, cybersecurity, etc.

Common Elements of the Shared Public Service Delivery Platform to be supported will include:

- **Shared data center infrastructure:** financing for a data hosting solution. There are a number of models which will be explored including purchase of hosting services from the private sector, and development or expansion of a national data center, possibly as a PPP, government owned entity, and possibly in conjunction with an IXP.
- **Shared digital services:** Establishment of common “enablers” needed for nearly all digital services: user authentication, electronic ID integration, mobile delivery platform, electronic payment services, SMS notification services, etc. This may also include financing for Information Security activities as recommended in the National Information Security Strategy that is now being developed in collaboration with Commonwealth Telecommunications Organization (CTO).
- **Malawi digital services Portal:** Development of a single point of entry (“one stop shop”) for citizens, businesses, and Government officials to access information and digital services, regardless of the type of device used.
- **Data Integration and Sharing Program:** This will support the establishment and management of a whole-of-Government Data Management Program to deliver a seamless and convenient user experience with e-Services, help desk support and access to data across MDAs for real-time analysis and effective, data-informed policymaking.
- **Shared IT services:** this will finance the development of government email, document management system, and other services, etc.

Sub-Component 3.3: Digital Applications and Services

Once sufficient capacity is built and the Shared Digital Public Services Delivery Platform is in place, the project will support a select number of digital applications and services to demonstrate the use of the shared platform. A limited number of these applications may be financed directly through the project, but the primary mechanism will be to support partnerships with other MDAs and projects to develop digital services utilizing the shared platform and to build the credibility and reputation of the e-government department. It is proposed that mobile survey tools or other methods are leveraged to gather citizen input on priority applications. Partnerships with local technology hubs may also be used to incentivize local content creation, development of mobile based apps and services that address local problems. The project may also support digitization of paper records to enable digital migration of selected services.

1.2.4 Component 4 - Project Management

Component four will support essential project management functions of the project. This will include support for an overall project manager, a digital government services coordinator and specialists in procurement, financial management and safeguards. It will also include funding for strategic communications and partnerships, monitoring and evaluation activities as well as funding for audits, logistics and operational overhead. Project management will continue to be led by the PPC in collaboration with key stakeholders and technical counterparts including MoICT (e-government department) and MACRA.

1.3 Objectives of the RPF

The main objective of this RPF is to lay out the framework that is to be used for the social screening and assessment of infrastructure project components to be funded within the framework of the proposed DMP. The RPF will build on the work conducted under RCIPMW. The framework has been prepared to achieve the following specific objectives:

- present the national policy, legal requirements and procedures for land acquisition and involuntary resettlement;
- present recognized international good practice such as WB policy (OP.4.12) for involuntary resettlement and where this diverges from national policy and regulation;
- set principles and procedures for undertaking land acquisition; resettlement action planning, implementation and evaluation;
- identify institutional arrangements for planning and implementing land acquisition and involuntary resettlement; and
- provide additional guidance for addressing unique situations, pertaining to management of land acquisition and involuntary, resettlement within the project area of influence.

1.4 Justification for the RPF

The RPF is being prepared to ensure that investments under the proposed ICT project are implemented in an environmentally and socially sustainable manner as required by the financier's operational policies. As part of the preparation of the project, the WB requires preparation of a RPF to provide guidelines for the preparation of all mitigation plans (Environmental Impact Assessment, Environmental and Social Management Plan, Resettlement Action Plans or Abbreviated Resettlement Action Plan) to respond to the anticipated project impacts, once the specific locations are identified.

The implementation of this project will trigger the World Bank policy (OP.4.12) on involuntary resettlement as there are some activities that will require land acquisition. Project activities may trigger a range of potential impacts (temporary and permanent) to land use or access to land and structures, which will require compensation to be paid and resettlement of those who will be affected. DMP will involve trenching for underground installation of cables, installation of towers, building of plant repeater stations and other telecommunication network equipment. The RPF is therefore required to guide all activities involving land acquisition

1.5 Methodology Used to Prepare the RPF

The preparation of this RPF employed literature review and desk research. The purpose of the exercise was conducted to establish an overview of project activities and potential socio-economic and environmental impacts expected to be generated. The preparation of the RPF also involved consultations with officials from MoLHUD, Centre for Environmental Policy and Advice, selected district councils and mobile operators. Consultations with officials from MoLHUD and EAD provided policy direction on resettlement and environmental management issues in Malawi and highlighted key issues that have to be incorporated during design of project activities.

CHAPTER 2. RESETTLEMENT: IMPACTS, LAND ACQUISITION, AND COMPENSATION

Resettlement can involve among others; land acquisition; other asset acquisition physical relocation; and loss of access to resources. Project activities under components 2 and 3 such construction of a new national data centre and rollout of new network for rural connectivity would generate potential negative social and economic impacts. Depending on location, project activities could require land acquisition which would result in loss of land and properties, loss of business properties and opportunities, loss of crops, loss of trees, loss access to natural resources, conflicts over land use and ownership, disruption of footpaths and pathways. This chapter discusses the aspect of compensation and resettlement, which may follow from the activities of this project.

2.1 Impacts

The principal objective of proposed DMP is to promote purchase of connectivity services from private service providers having existing infrastructure thereby eliminating the need to develop new infrastructure as was the case with international connectivity transaction under RCIPMW. However, ICT infrastructure is not widely developed in the country such that new network infrastructure may be required. Activities to develop new infrastructure may trigger land acquisition and resettlement safeguard policies. The activities may require tree cutting for aerial installation or trenching for underground installation of fibre cables depending on the selected method by the contractors or project. In some cases, small pieces of land may be required to install towers, plant repeater stations and other ICT network equipment. In certain situations, the installation might require the appropriation of land which is occupied by cultivated fields especially in rural areas where road reserves and public land restrictions are not observed. The interventions are likely to have impacts on land holdings, sources of income and livelihoods in various target areas and communities particularly in rural areas where most of the land is predominantly used for agriculture. Thorough assessment of impacts in the proposed area of project influence will be done during project preparation, and will be taken on board during the preparation of the ESMPs and RAPs, in case these may be required. This RPF has been prepared to assist mitigate against the potential negative impacts and to enhance the positive attributes and benefits of the project to the potentially affected persons.

2.1.1 Components Likely to Cause Impacts

The following components and sub-components may trigger land acquisition, resettlement safeguards and may restrict access to services or movement:

The development of national network backbone and access networks under connectivity component would require installation of new infrastructure to increase connectivity to areas without access to the existing network. Such activities under this component may require tree cutting or trimming for aerial installation or trenching for underground installation of cables. Land may also be required to install towers, plant repeater stations and other ICT network equipment. In addition, installation might require acquisition of land which is occupied by cultivated fields particularly in rural areas. By and large, interventions under this component are likely to have impacts on land holdings, sources of income and livelihoods in various target areas and communities. Therefore, mitigation measures will need to be proposed to

ensure that all affected persons are fairly compensated and that works are undertaken in an environmentally friendly manner.

Under component 3, the project may finance refurbishment of an existing facility for a national data centre or a new parcel of land may be acquired to construct a national data centre and such facility may require land acquisition. The acquisition of land to construct new data centre would have impact on existing use. However, it is envisaged that the land for national data centre could be within public land hence eliminating disturbance on public unless if the land has been encroached.

Although, the proposed DMP activities may trigger land acquisition and resettlement safeguard policies as indicated above, the proposed project area of influence will not require acquisition of huge pieces of land. Most of the infrastructure to be put in place under the connectivity component related to the national network backbone, access network, and data center access network structures will require minimal land. The right of way (RoW) required for the proposed infrastructure will not require additional pieces of land because they will take advantage of the available land such as road reserve boundary (RRB) and places where other ICT service providers or utility companies have their facilities. This arrangement leads to minimal land acquisition, restriction to or loss of access to economic assets and resources on private and customary land. Where such situations may arise, a thorough process for land acquisition, relocation, resettlement of people and compensation will be required.

In most cases, resettlement to pave way for development projects is done because the project activities demand land acquisition. Little attention, if any, is given to the welfare of the people who may be affected because of loss of agricultural land; loss of buildings; loss of access or proximity to water; health and social amenities.

Certain conditions in the project may present special problems or opportunities to resettlement. Some of these special problems may result from:

- encroachments into public land;
- ineligible opportunists taking advantage of compensation offers;
- disadvantaged affected persons being side-lined;
- lack of awareness (by the PAPs) of their rights; and;
- compensation amounts that do not match the replaced assets.

Opportunities may include:

- Access to information-Increased access to fast and affordable internet services;
- Improve and increased access to distance learning education,
- Improved access to healthcare services-fast and affordable internet services will enable local medical practitioners to consult specialist from overseas when executing complex medical procedures;
- Reduced cost of doing business and organisation expenditure as video conferencing, teleconference, and instant messaging will replace travel to meetings;
- Increased connectivity between urban and rural growth centres;
- Improved productivity in organisations as connectivity will enable organisations to respond to changes or interact with colleagues from overseas quickly;
- Improved information management within organisations;

- Creation of job and business opportunities as more internet service providers will enter the market;
- Acceleration of innovation with improved connectivity;
- Improved trade within and outside the country as farmers and traders will be able to compare market prices of commodities and
- Increased ICT business support services.

This RPF and the laws of Malawi for land acquisition and impacts on assets for the proposed phases of the DMP therefore set procedures for compensation while acquiring land from citizens. Both Malawi laws and the WB's OP 4.12 should be adhered to.

2.2 Land Acquisition and Compensation

The DMP is not required to prepare a RAP at this stage since the sub-projects and areas affected have not yet been identified. However, the DMP is required to prepare a RPF, which is to be disclosed as a separate and stand-alone document from the ESMF. The disclosure will be made available in locations accessible to the public, locally in impacted areas, at WB country offices, and World Bank website (in compliance with the World Bank's Public Consultation and Disclosure Policy) and the date for disclosure will precede the date for appraisal of the project.

Specific cost of RAPs will be prepared as necessary through the RPF process for subprojects, which may result in land acquisition and/or impact on assets, including livelihoods.

2.3 Objectives of the Resettlement Policy

There are three objectives that form a basis of OP 4.12 Resettlement.

- a) Land acquisition and impact on assets, including livelihoods, will be avoided where feasible, or minimized, by exploring all viable alternatives.
- b) Where impacts are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, ensure replacement of losses, provide sufficient resources to give the persons impacted by the project the opportunity to share project benefits. Impacted persons will be meaningfully consulted and will have opportunities to participate in planning and implementing resettlement and compensation programs.
- c) Impacted persons will be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-impact levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.

Affected people, according to the Bank policy refers to people who are directly affected socially and economically by Bank-assisted investment projects caused by:

- Relocation or loss of shelter;
- Loss of assets or access to assets, whether or not the affected persons must move to another location;
- Loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

- The involuntary restriction or access to legally designated parks and protected areas results in adverse impacts on the livelihood of the impacted persons.

2.4 Application of RPF

The resettlement policy applies to all components under the project, whether or not the Bank directly funds them in whole or in part. The RPF will also apply to sub-projects associated with DMP, whether or not funding is received from the WB. The policy applies to all affected persons regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those impacted; especially those below the poverty line; the landless, the elderly, women and children, and ethnic minorities, orphans, or other affected persons who may not be protected through national land compensation legislation.

In particular, for DMP, the policy also requires that the implementation of individual resettlement and compensation plans are a prerequisite for the implementation of project activities causing land acquisition or impact on assets, to ensure that impacts or restriction to access does not occur before necessary measures for compensation are in place. It is further required that these measures include provision of compensation and of other assistance required for replacement of lost assets, prior to impact. In particular, the taking of land and related assets or the denial of access to assets may take place only after compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and moving allowances have been provided to impacted persons. Furthermore, where relocation or loss of shelter occurs, the policy further requires that measures to assist the impacted persons be implemented in accordance with the resettlement and compensation plan of action.

It is particularly important to neutralize to the extent possible any socioeconomic pressures in the communities that are likely to be exacerbated by project impacts, by facilitating the participation of those impacted in the project activities. Therefore, impacted communities must be consulted and are part of the planning process and implementation.

Finally, the RPF seeks to ensure that affected communities are meaningfully consulted, have participated in the planning process and, are adequately compensated to the extent that their pre-impact standard of living have been restored and that the process is a fair and transparent one.

CHAPTER 3. LEGAL AND INSTITUTIONAL FRAMEWORK

The implementation of the MDP may require cutting of trees for aerial installation or trenching for underground cables. There may also be need to acquire parcels of land for the installation of towers, plant repeater stations and other telecom equipment. The required parcels of land may be a source of livelihood for the people in the project areas since it may be used for grazing or cultivation by the local communities. Physical cultural resources and natural habitat for fauna may also be affected in cases where the project activities may have to be implemented in graveyards and protected areas. In the event that the activities of the project affect people in the areas they will be implemented negatively, the developer will have to compensate the people and comply with the local and international pieces of legislation that will guide the process.

This section will provide local and international policies and legislation which have to be complied with in the process of compensating the people who will be affected by the implementation of the MDP. There will also be a review of WB Policy provisions and principles on involuntary resettlements which will be applied in cases where the local legal framework is not providing clear guidelines on compensation and relocation.

To ensure that communities and individuals who are affected by the project are compensated fairly for their losses and are assisted in their efforts to improve their livelihoods and living standards, the developer will have to prepare resettlement action plans for specific areas. The legal provisions will also ensure that PAPs are not worse off after being compensated and relocated than they were before the introduction of the project in their area.

There are also institutions that provide the technical and administrative functions which the developer will have to work with during the design and implementation of the project. The legal and institutional framework will also guide consultants who will be preparing resettlement action plans for specific areas to ensure that the PAPs are resettled and fairly compensated.

3.1 Legal Framework for Expropriation and Compensation

3.1.1 The Constitution of the Republic of Malawi

The Constitution of Malawi provides the basis for and against land acquisition. Section 28 (2) of the Constitution of the Republic of Malawi states that “No person shall be arbitrarily deprived of property” and section 44 (4) states that “Expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to a court of law for redress.

In cases where people will be deprived of their land, property and source of livelihood to pave way for the implementation of the MDP, the developer will be required to compensate them for the losses that will be incurred. In preparation of the RAPS, the developer should ensure that the compensation packages will improve and restore the livelihoods of the PAPs.

3.1.2 The National Land Policy 2002

The policy recognizes the free enjoyment of legally acquired property rights in land and that a land holder is entitled to compensation in the event that his land is acquired by government for public use. The policy emphasizes that customary land has value and as such, compensation for such land has to be based on the market value of the land and all permanent improvements on the land at the time of acquisition.

The land that will be required for the RoW for the ICT facilities may fall under customary or private tenure and the developer will have to ensure that the affected people receive fair compensation for their land and the property they will lose based on the current market value. The money they will receive should enable them to settle comfortably wherever they will be relocated and restore the source of livelihood.

The policy further highlights that compensation is inadequate at times because certain items or qualities are excluded during the assessment to determine their value and that there are always delays in the payment once the value has been determined. This should be taken into account during the RAP preparation process to ensure that all items are taken into account during assessment and that the affected people receive their compensation in time before the commencement of the project implementation.

3.1.3 Monument and Relics Act (Cap 29:01)

Graves are among the monuments that are protected under the monuments and relics act. The chief antiquities officer is given the power to preserve and protect all monuments entrusted to his care under section 4 (a) of the act.

Section 13 (b) of the act states that no person shall without prior consent of the minister carry out any cultivation or mining project or other work so as to cause or likely to cause damage or disturbance to any protected monument or protected relic. In preparing RAPs, consultants will have to consult the Department of Antiquities to ensure that they have consent from the chief antiquities officer to exhume bodies in the event that the implementation of the project will affect an existing graveyard.

3.1.4 Land Act (Cap 57:01) 2016

The Land Act of 2016 has replaced the Land Act of 1965 and it will come into force once the date indicated by the Minister responsible for Land matters has been gazetted. Section 18 of the act provides for the compensation of customary land in cases where it is required for public use. The section also provides for any person who suffers any disturbance or loss or damage to any property to be paid reasonable compensation for such disturbance, loss or damage.

The developer will have to compensate the people who will be affected by the implementation of the Malawi digital Project for loss of land or access to it as well as the developments on the land as has been provided for in this act.

3.1.5 Land Acquisition Act (Cap. 58:04)

The Lands acquisition act provides procedures which have to be followed by developers when acquiring land of any tenure in the country. The project may affect land under Government, private, freehold or customary tenure. The developer should ensure that procedures provided for under this act are followed when acquiring the land from the affected persons.

Section 3 of the act provides for the payment of fair compensation on acquisition of land by compulsory or by agreement. The compensation can be paid as a lump sum or by installments as has been provided in section 9 of this act. To ensure fair compensation, section 9 provides that an assessment for compensation will have to be carried out taking into account the following aspects:

- a) The amount of money that the owner paid when acquiring the land;
- b) The value of the improvements on the land, standing crops and growing produce; and
- c) Appreciation in the value of the land since the date of acquisition.

The act in section 5 provides that the owners of the land that is to be acquired should be given a notice of the intention to acquire their land which should be served on the people and also published in the government gazette.

In preparing the RAPs, the developer will have to carry out an assessment for compensation for the land that will be acquired taking into consideration what has been provided for under this act.

3.1.6 Forestry Act (1997)

The Act provides for the management of indigenous forests on public, customary, and private land. Section 46(a) states that no person shall cut, take, fell, destroy, uproot, collect and remove forest produce from a forest reserve, customary land, public land and protected forest area. In compliance with this section, alternative site selection for replacement of affected land should be done in compliance with this provision. They will also have to promote a forestation programmes to reduce the pressure on existing forest products with time.

3.1.7 Public Roads Act

The Public Roads Act is the most comprehensive of all Acts that deal with compensation in providing guidance on assessment of land and assets. It will provide guidance during the valuation exercise for compensation of the people affected by the implementation of the proposed Malawi digital project.

Section 45 states that compensation has to be paid in cases where:

- a) A person has to move his residence or place of business;
- b) Where no alternative land can be made available to him; and

- c) Where he will have to spend money in order to make the land that he will be given as a replacement fit for cultivation.

The act also provides the factors that should be taken into account when assessing the amount of compensation in section 46 to include:

- a) The open market value of land or interest at the valuation date;
- b) The damage if any sustained by the person interested at the valuation; and
- c) Any increase in the value of the other land or other benefit of the person interested.

The valuation exercise for the land and assets along the RoW for the ICT infrastructure and repeater stations and towers stations will have to take into account the provisions of this act in order for the people to get fair compensation.

3.1.8 Town and Country Planning Act (1988)

Some of the sites for the project will fall within towns which are statutory planning areas established under the Town and Country Planning Act. The act regulates the use of land and provides guidelines for the planning and management for all development activities in the country especially those in statutory planning areas. It is therefore a requirement for all development within a statutory planning area should seek permission from the planning authority before being implemented.

In resettling the displaced persons within districts that are planning areas the Planning areas, the developer will have to ensure that PAPs submit their development plans to respective Town Planning committees so that they are approved before commencement of the redevelopment exercise.

Section 40 of the Act also requires Local Councils to ensure that environmental negative impacts of projects are avoided. The implication of this provision for the proposed project is that PAPs are allocated land that is zoned for the use and should monitor the implementation of their development to ensure that they are complying with the zoning to ensure environmental protection during construction and operation of their various developments.

Parliament passed the Physical Planning Act of 2016 which provides for developer to seek permission for development activities on any parcel of land regardless of tenure. In the event that the sub projects will be implemented after the new law comes into force, PAPs will be required to submit development plans for the redevelopment of their structures to the respective planning authorities for approval before commencing construction works.

3.1.9 National Gender Policy (2000)

The project affected people will include women, men, the youth, and girls including some who may be vulnerable. The National Gender policy provides gender mainstreaming in the planning and implementation of projects to ensure that the needs of different groups of people affected by a project are taken care of in a manner that promotes equity. The developer should ensure that principles that promote equity among different groups are applied in the assessment and implementation of the RAPs that will be prepared to facilitate the compensation and resettlement of the PAPs.

3.1.10 Overview of World Bank's Safeguard Policy on Involuntary Resettlement (OP 4.12)

The WB indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. The Bank therefore recommends that involuntary resettlement should be avoided where feasible or minimized and alternative project designs should be explored. If resettlement cannot be avoided, then, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in the planning and implementing resettlement programs.

The following principles provided under the World Bank Policies on Involuntary Resettlement implementation under this RPF:

- Involuntary resettlement, including land acquisition and all associated impacts, should be avoided or at least minimized;
- Compensation and other forms of rehabilitation assistance (moving allowance, credit facilities, training and job opportunities) should be provided in order to provide those affected with opportunities to improve and restore their incomes and living standards;
- Compensation should be prompt and effective at full replacement cost for losses of land and assets attributed directly to the project for land
- Replacement land for settlement and cultivation should have a combination of locational advantages or productive potential, and other factors at least equivalent to or better than the advantages of their original
- Affected persons should be fully informed and consulted on impacts and planned mitigation measures;
- Affected persons should be consulted on offered compensation choices and provided with technically and economically feasible resettlement alternatives
- The socio-cultural institutions of PAPs should be supported as much as possible;
- Compensation should be carried out with equal consideration of women and men; and
- Lack of legal title should not be a bar to compensation or alternative forms of assistance in lieu of compensation.

The policy provides for vulnerable groups which include female, elderly and child headed households, the physically challenged, and the sick to be given special consideration, and providing them with the appropriate assistance so that they can adapt to changed circumstances caused by the relocation.

3.2 Gaps and how they will be addressed

The GoM does not have a specific policy for resettlement and compensation but uses provisions in other pieces of legislation. As such it does not provide clear guidance on some of the elements of compensation which creates gaps in the process as compared to the World Bank which has a specific policy on involuntary resettlement. For the purpose of this project,

the principles in the WB policy will be used in addressing the gaps that are available in the local legislation. This will ensure that the economic status and living standard of the PAPs is better than when they were in their original homes or places of business and cultivation. Table 3.1 below outlines the provisions in the local legislation and World Bank policy on resettlement and compensation.

Table 3-1 Gaps between Local Legislation and World Bank on Resettlement and mitigation measures

Involuntary Resettlement elements	Provisions under Laws of Malawi	World Bank Policy	Gaps and Measures to address gaps
Involuntary resettlement	Government can purchase any parcel of land regardless of tenure if it is required for implementation of a project	Involuntary resettlement should be avoided or minimized where it is inevitable	The Local legislation is silent on minimizing resettlement. Populated areas should not be considered as project sites to avoid resettling people. In the event that such sites are selected, compensation will be paid to those who will lose land. They will also be provided with assistance for livelihood restoration at the new site in order to minimize the impacts of relocation
Public notice	There is a provision for PAPs to be informed through a public notice of the intention to purchase their land	PAPs should be informed about the intention to purchase their land and the should be involved in the planning of the resettlement process	The Local legislation is silent in the involvement of PAPs in the planning of the resettlement Process. PAPs will be informed in advance about the acquisition of their land and will participate in the planning of the resettlement process.
Compensation for land	Compensation for land should be at the open market value	Compensation should be at the replacement value and include cost of cultivation in case of agriculture land	Land for land where feasible or cash compensation for land will be paid at replacement cost and rehabilitation assistance will be provided.
Compensation for	Compensation to be at replacement	Compensation for structures to be	PAPs will be given compensation at

structures	cost	at replacement value and PAPs should be provided disturbance and assistance allowance	replacement value for buildings and allowance to pay for reconstruction labour
Compensation for Economic Trees.	Tree lost	PAP (whether owner, tenant, or squatter)	Cash compensation based on type, age and productive value of affected trees plus 10% premium for regrowing.
Standing Crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash Compensation based on market value
Livelihood restoration and assistance	There is no provision for livelihood restoration and assistance to PAPs	Livelihoods and living standards of PAPs should be restored to pre displacement or better.	PAPs will be given disturbance allowance, transitional financial support and resources so that they can establish themselves at the new sites. Relocation sites should have advantage over their original homes They should also be provided with farm inputs credit facilities and training so that they can prepare their gardens, find employment or engage in new income generating activities as well as job opportunity within the project site.
Cut-off date	There is no provision for setting a cut-off date	A cut-off date is to beyond which new comers will not be eligible for compensation	A cut of date will be set and duly communicated to all PAPs to avoid payment of compensation to speculators
Conflict Resolution	PAPs who are aggrieved can take their issues up with the courts	A grievance redress committee must be put in place to hear and resolve disputes between PAPs and the developer	A grievance redress committee will be put in place to reduce/resolve conflicts during compensation payment and other resettlement related issues

3.3 Institutional Framework

The Commissioner for Lands, under the provisions of the land Act has the mandate to facilitate the planning and management of resettlement and compensation of PAPs affected by the implementation of projects. However, it is the responsibility of the District Commissioner for affected districts to request the department of Lands to provide the technical assistance for assessment of land and assets for the purpose of compensation. Government Agencies advise the developer on the actions and steps to be taken to ensure that the PAPs are fairly compensated in line with provisions of both the local pieces of legislation and WB Policy on involuntary resettlement. Institutions involved in the compensation process are outlined in the table 3.2

Table 3-2 Institutions involved in planning and Implementation of RAPs

	Institution	Role
1	Ministry of Lands, Housing and Urban development	Policy guidance on land acquisition and compensation Review and Approval of RAP Monitoring the Implementation of the RAP
2	Department of Lands	Assessments of Land and Assets
	Department of Forestry	Providing Schedule for assessment of trees
	Ministry of Agriculture and water Development	Providing schedule for crop assessment
3	Office of the President and Cabinet	Provision of Funds for compensation for Government projects
4	Project Implementation Unit	Preparation of RAP Payment of Compensation for sub-projects directly funded by DMP
5	District Council	Heading the Grievance Mechanism committee Oversees the payment of Compensation to PAPs Monitoring implementation of RAPs
5	Ministry of Information and Communication Technology/Project Implementation Unit	Disbursing Compensation funds provided by OPC to District commissioners
6	Traditional Leaders	Coordinates with the developer and District Council Helps in identifying the PAPs Identifies Alternative Land for PAPs Member of the Grievance redress committee
7	PAPs	Participates in the planning and implementation of the compensation process Member of the Grievance redress committee through representatives
8	Grievance Redress Committee	To hear and resolve complaints on compensation packages and relocation sites
9	Line NGOs	Monitoring the implementation of RAPs

3.4 Overview of World Bank's Safeguard Policies

3.4.1 Requirements of the World Bank for Resettlement

The WB's Safeguard Policy OP 4.12 applies to all components of the program, all associated activities, and to all economically and/or physically affected persons, regardless of the number of people affected, the severity of impact and the legality of land holding. The OP 4.12 further requires particular attention to be given to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities, orphans, and other disadvantaged persons.

The WB's Policy requires that a resettlement action plan shall be prepared and cleared by the Bank prior to implementing activities causing loss and/or impacts. The Bank also requires that the provision of compensation and other assistance to PAPs to restore livelihoods when these are affected appreciably, shall be done prior to impacting people. In particular, the policy requires that possession of land for project activities may take place only after compensation has been provided. Resettlement sites, new homes and related infrastructure, public services and moving allowances and replacement of impacted assets` must be provided to the affected persons in accordance with the provisions of the RAP.

3.4.2 Resolving the Gaps

The existing gaps, as discussed above, are not contradictions. Some gaps are silent on one or more provisions whilst some gaps emphasize categorization of land and PAPs for consideration of compensation. As a resolution, in cases where there is inconsistency between Government requirements and OP 4.12 requirements, the more stringent requirement will govern. As such, the above-identified gaps will be resolved as follows:

- a) Illegally built structures of squatters and pirates will be eligible for compensations on their assets.
- b) On aspects on compensations on land, all land will be treated the same, taking into account the 2016 Land Bill which requires that all compensation should be calculated based on prevailing market values. In addition, those compensated with land-for-land will be assisted in the registration of their land including costs associated with the process
- c) In cases on compensation of loss of land by project-affected people, in kind compensation (in this case land-for-land) will be preferred for all forms of land.
- d) All issues of land acquisition and relocation of PAPs will be done prior to commencement of project works on the acquired site.
- e) Adequate resettlement assistance and rehabilitation assistance to affected people will be provided as a way of restoring and enhancing socio-economic living standards. This will be undertaken within the first years of relocation on the new sites.

CHAPTER 4. RAP PREPARATION

Proper planning and management in the compensation and resettlement of PAPs is very crucial and ensures improvement their economic status and living standards as well as protection of the environment in the new areas where they may be relocated to. This will also protect the developer from paying unrealistic compensation sums to people who may not even be eligible for compensation. The developer will be required to prepare a RAP which will guide the resettlement and compensation process.

4.1 Overall Process

The preparation of a RAP is a consultative process that involves the developer and consultants working with all the stakeholders who have been outlined in 3.2, which include PAPs. PAPs will have to be involved when identifying land for the implementation of the project and throughout the RAP Preparation process. The whole process will be guided by the local legal framework and World Bank policies that have been reviewed as well as the principles that have been put forward in this document. An outline of the RAP has been provided in Appendix 2.

The steps to be followed in the preparation of a RAP include:

Step 1: Public Notice

There is a legal provision that requires that all PAPs be informed of the intention to acquire their land to pave way for the implementation of a project. They are also informed about the proposed project, resettlement and compensation and the RAP preparation process.

Step 2: Identification of projects Impacts and PAPs

This stage involves the identification of impacts and people who will be affected. There is also an analysis of the environmental status of the area and socio economic status of the population. This provides consultants preparing the RAP with baseline information for monitoring at a later stage. The following activities are taken to complete this step:

- i. Maps to show the existing land uses and extent of developments on the land which will be affected by the projects and the relocation sites will have to be prepared. Other maps will show the physical features of the places and settlement patterns. The maps are supported by a description of the environmental setting for the catchment area for the project sites and socio economic status.
- ii. A census is conducted to establish the total number of PAPs. This carried out alongside the documentation and assessment of their assets that will be affected by the project is carried out. The assessment will be guided by the valuation schedules for each asset. It is crucial for the developer to involve officials from the department of Lands, Forestry and Agriculture at this stage to guide with the assessment using the government valuation schedules. It is a requirement to set and agree on a cut- off date for compensation at the onset of the census period. This will ensure that people settling into the area after the agreed date will not be eligible for compensation.
- iii. The data collected is analyzed to come up with a valuation report which becomes the basis for coming up with compensation packages for each PAP. It should be noted that some

of the affected assets may be owned by communities and the government. These facilities will also have to be compensated for.

Step 3: Discussing Compensation Packages with PAPs

Once the valuation team has produced a valuation report which includes the compensation packages, a meeting is arranged with the PAPS to discuss the compensation packages due to each one of them. They will also be informed of all the different types of compensation and the basis for valuation of their land and assets Representatives form relevant agencies listed in table 3.2 may be are part of this meeting.

Step 4: Preparation of an Entitlement Matrix

An entitlement Matrix will be prepared indicating: all the categories of PAPs; the type of loss associated with each category and the compensation and assistance that each category is entitled to. Refer to table 4.1 for a sample

Table 4-1 Entitlement Matrix

Category of PAP	Type of Loss	Entitlements
Land Owners with legal rights	Land	Cash at open market value Replacement land and resettlement assistance Replacement land for cultivation Land replacement and assistance for land clearing at the new site
	Residential /commercial Buildings	Cash at full replacement value Disturbance Assistance transitional allowance to be paid to cover loss of income from business during relocation
	Socio-cultural identity.	Disturbance assistance, shifting and relocation costs Rehabilitation assistance, skills training if the current means of livelihood will no longer be viable and PAPs will be engaged in unfamiliar income generating activities Arrange for assistance from host communities
Tenants	Loss of rental accommodation	Replacement costs for non-movables. Disturbance assistance. Transportation assistance, if relocating Rentals for a few months as agreed
	Loss of business	transitional allowance to be paid to cover loss of income from business during relocation
Land owners without legal rights	Loss of shelter, assets and land for cultivation	Cash compensation for physical developments. assistance in securing other alternative parcels of land Cash compensation for trees and crops at replacement cost in lean season.
Community/ institutions	Communal assets	Compensation for structures and water points at full replacement value; Land replacement and assistance for land clearing at the new site

Step 5 Payment of Compensation:

A compensation schedule is produced for all the PAPs, institutions and community. This will guide the payment of compensation packages to the PAPs by the Project Implementation Unit through the District Councils in each district. The developer will be responsible for payment of compensation for all private sub projects.

Step 7: Formation of a Grievance Redress Committee

A grievance redress committee should be put in place for each RAP that will be prepared to hear and resolve conflicts that may arise between the PAPs and the developer. The conflicts may arise from disagreements on the compensation paid or the relocation sites identified for settlement, cultivation or place of business. PAPs should be informed of the existence of this committee and the reporting channels to be followed when they have an issue to be resolved.

4.1.1 Project Affected Entities

Project affected entities are the PAPs who will lose assets, land, buildings, access to land or buildings, infrastructure, source of livelihood as a result of the implementation of the Malawi Digital project. These will comprise of all affected people regardless of whether they have a legal right to the land or not as long as they are living on the affected land before the cut -off date that will be set for the specific sites. The project affected entities can be categorized as follows:

- i. Individuals
- ii. Households--household members include,
 - a. men, women, children, dependent relatives and tenants;
 - b. relatives who depend on one another for their daily existence
- iii. Communities in the event that the project has affected a grazing ground, markets within a road reserve or a water point.
- iv. Institutions in the event that a school, health centre or any facility that belongs to an institution has been affected
- v. Utility companies like Electricity Supply Commission of Malawi (ESCOM), water boards, telecommunication companies who install their infrastructure within the road reserve which will also be utilized in the implementation of this project.

It should be noted that some of these PAPs may be old, ill, orphans, or physically challenged who are considered to be vulnerable and may be affected more by the relocation than others. As such, they should be given special consideration and assistance when they are relocating so that they are not taken advantage of. .

4.2 Eligibility Criteria and Cut-offs Dates

4.2.1 Eligibility Criteria

PAPs who will be eligible for compensation will be those who shall be living on the affected land or those who have interests in the land in form of business or, cultivation land before the cut-off date. Anyone who settles in the area after the cut-off date will not be eligible for compensation of any kind. The following criteria provided in the World Bank policy on involuntary resettlement will form the basis for determining eligible PAPs:

- i. Those with formal legal rights to land, (lease hold, freehold) or those with customary rights according to the provisions of the local legislation.
- ii. Those who do not have formal legal rights to land or assets but have a claim to the land or ownership of assets according to the local legislation.
- iii. Those using land without any legal right or claim. These will include illegal developers with structures or cultivating in the road reserves, or those who earn their livelihood from land that they may not own.

PAPs in group i and ii will be provided with compensation, resettlement and rehabilitation assistance for the land, and improvements on the land. PAPs in group iii will be provided with resettlement assistance in lieu of compensation. They will also be given relocation assistance in line with the provisions of this policy framework.

4.2.2 Establishing the Cut-off date

The consultants who will be responsible for preparing RAPs, in consultation with the stakeholders outlined in Table 3.2 will establish a cutoff date for compensation eligibility. This is usually the date when the census of PAPs and assessment of land and assets is commenced.

It is important to set up a cutoff date and communicate to people in the project area and its immediate surroundings to ensure that there are no new entries or new structures being put up in the affected area for the sake of benefiting from the compensation exercise.

This chapter provides a detailed discussion on principles and objectives that should govern planning and implementation of resettlement and compensation activities under the Digital Malawi Project.

4.3 Basis for Evaluation

The assessment for compensation of land, structures, crops and trees (local, exotic and fruit) will be based on the valuation schedules and formulas that are approved under the local legislation. The Department of Forestry will provide the schedule for the assessment of local, exotic and fruit trees, while the Ministry of Agriculture, Irrigation and Water Development will provide the schedule for assessing crops. The valuation of buildings is based on the replacement cost depending on the size of the building, construction materials used, and type of roofing and floor materials.

The valuation team will be collecting the following data when carrying out the assessments:

- Name of the PAP and members of the household
- Size of land to be affected and location;
- detailed measurement of buildings, shops and structures;
- type of materials used for the construction of the building (permanent or temporary)
- type and number of trees to be lost (local, exotic or fruit trees)

4.4 Compensation Payments & Related Considerations

In coming up with compensation packaged, the developer in consultation with local leaders, district council officials and the PAPs will consider the following options:

- Cash Payments Compensation which will be calculated and paid in local currency.
- Material compensation in the form of buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
- Other area to be taken into consideration when paying compensation will include:
 - Cash compensation for land should be on open market value
 - Replacement land for settlement should be provide equal opportunities in terms of location, proximity to basic needs
 - Replacement land for cultivation should be of similar fertility to the original site
 - Assistance allowance should be provided to enable PAPS construct new buildings and cultivate their gardens
 - a transitional allowance should be provided to cover loss of income from business crops and fruit trees

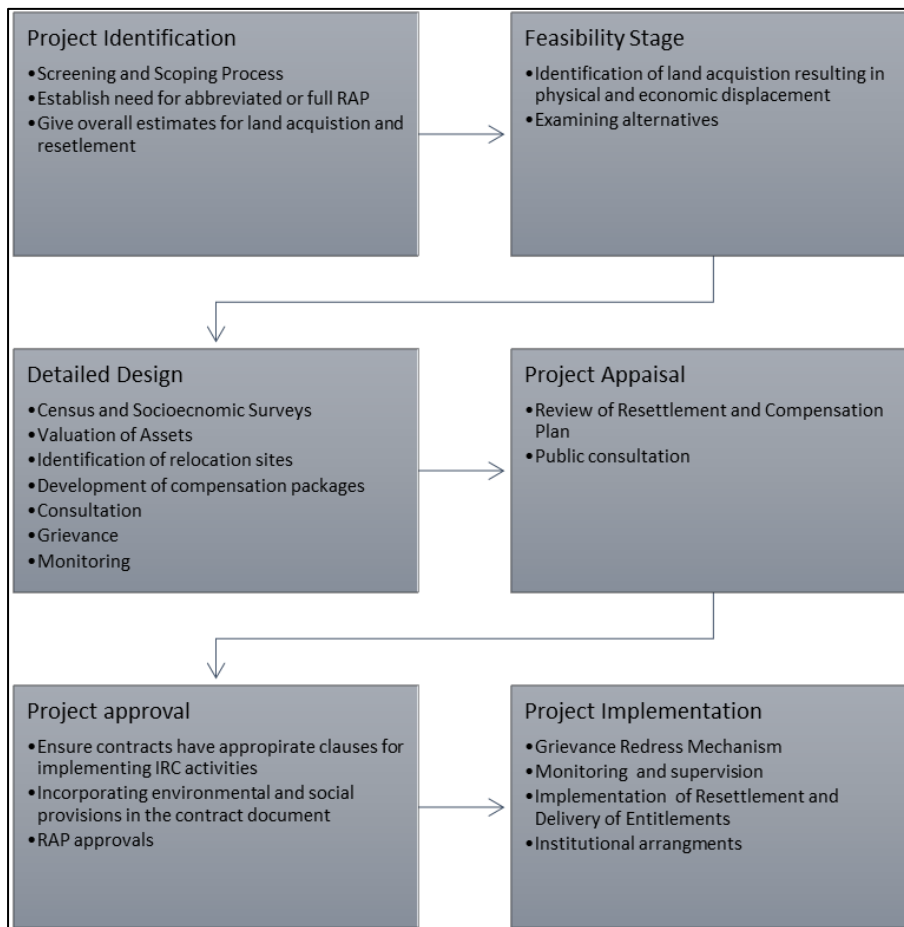
4.5 Timeframes

The time frame relates to the implementation of the RAP. Each RAP will have an implementation schedule or action plan which will guide the compensation and relocation of PAPs. Preparation of RAP should be done during the design and planning stage of the project cycle. This will provide enough time for the valuation of assets and approval of the RAP which will facilitate the payment of compensation and relocation of PAPs way before the time for project implementation.

4.6 Linking Resettlement Implementation to Civil Works

Compensation of PAPs under the MDP will be guided by the provisions of the local legislation and World Bank policy on involuntary resettlement as provided in this RPF. The RAPs that will be prepared to include detailed compensation and resettlement schedule. It is a requirement for PAPs to be compensated before implementation works for the project commence. The PAPs will also relocate only after they been compensated and established themselves in the places where they will be relocated. It is only after they have been resettled that the developer can take possession of the project sites and commence implementation activities. Figure 4.2 provides a summary of RAP preparation and approval process.

Figure 4-1: Schematic preparation and approval process for RAP



CHAPTER 5. GUIDING PRINCIPLES FOR LAND ACQUISITION AND COMPENSATION

5.1 Land Acquisition Mechanism

The local and international policy and legal framework provided in chapter 3 of this framework will guide the acquisition of the land required for the provision of infrastructure for the Malawi Global project.

The developer will work with officials from the Department of Lands, District Councils and Traditional Authorities with the PAPs in order to initiate the acquisition process. The Department of Lands will assist in identifying land owners of private land holdings and those with customary interests will be identified by the traditional leaders.

5.2 Voluntary Land Contributions with Compensations

Both the local legislation and WB policies advocate for the payment of compensation even in the event that PAPs are willing to give up their land to pave way for the development of a project. This is referred to as voluntary land contribution with compensation and the PAPs negotiate with authorities on the compensation that they are paid for their land and assets. If this scenario will occur during the implementation of the MDP the developer should understand that the PAPs will still have to be compensated even if they are willing to contribute the land for the development.

5.3 Involuntary Acquisition of Land

Involuntary land acquisition or displacement means the compulsory taking of land resulting in direct or indirect economic and/or social hardships, caused by loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets and loss of income sources or means of livelihood, whether or not the project affected person has moved to another location. Resettlement of people to pave way for the implementation of a project should be avoided according to the WB Policy on involuntary resettlement. However, in the event that this cannot be avoided, then the impacts of resettlement should be minimized. To achieve this, PAPs should be involved in the land acquisition process, the preparation and implementation of RAP. The Developer in consultation with the District council and local leaders should be engaging the PAPs in meetings where decisions made will be communicated and discussed with them.

5.4 Eligibility Criteria for Compensation

The local legislation provides for only those who are recognized to have legal or traditional claims to a parcel of land to be eligible for compensation. Those who have encroached on public land on the other hand, are not entitled to compensation. This framework has indicated that World Bank principles will be used for the compensation of PAPs under the Malawi Digital project. In this regards, the groups of PAPS who will be entitled to be compensation will include:

- i. Those that have formal legal rights to land, including customary and traditional rights recognized under the laws of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations;
- ii. Those who have no 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 Malawi. This class of people includes those that come from outside and given land by the local chief to settle;
- iii. Those who have no legal right or claim to the land they are occupying. This class of people includes those who settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority; and
- iv. Compensation will be paid for the land and developments that will exist before the notice of the intention to purchase the land by the developer.

5.4.1 Special consideration of Vulnerable Groups

Women, children, the elderly, the physically challenged and people living with HIV and AIDS are considered to be vulnerable groups in any society. As such, they are going to be affected more than the other PAPs. This category of PAPs will be given special consideration and assistance during the planning and implementation of the resettlement programme. In so doing, the project implementing agency be taking care of their welfare and ensuring that their economic status standard of living is improved after relocation.

5.5 Procedures for Payment of Compensation

After a RAP is prepared and approved, the developer should engage the regional lands officials to carry out an assessment based on the initial basement that was carried out during the RAP preparation. A valuation schedule is produced after the assessment which the District commissioner will submit to OPC through the MoI for them to release the funds for compensation. I

The district commissioner will be responsible for payment of compensation packages to PAPs based on the valuation schedule which will show the entitlement of each PAP. PAPs will report to the grievance agreement committee in the event that they are not in agreement with the compensation paid to them. Cases which may not be resolved the committee can be taken to court for a final decision.

5.6 Malawian Legislation on Compensation

The Land Policy, Land Act, Land Acquisition act, and the Public roads act provides for the compensation of land, structures, trees and crop for PAPs whenever land is required for the implementation of a project. The laws provide for the compensation of land at the open market value while compensation for assets should be based on replacement value.

5.7 Determination of Compensation Payments

In compensating PAPs for the loss of land there is need to take into consideration the following:

1. The value of the land and at the time of acquisition. Any improvements that may be carried out on the land after the notice of acquisition will not be taken into consideration.
2. If a PAP loses only a portion of his land, the increase in value of the land of the remaining parcel that may result from the implementation of the project will not be taken into consideration
3. Loss or damage that a PAP losing a portion of his land may suffer because of such a subdivision.

This RPF has also indicated that there will be compensation in form of cash for lost assets and the following aspects should be taken into consideration when determining such compensation:

1. Compensation for agricultural land should enable the PAPs to cultivate the replacement land
2. Compensation for crops should be guided by the crop schedules that can be obtained from the Ministry of Agriculture, Irrigation and Water Development. Scheduling the relocation after the PAPs harvest their crops would be the ideal scenario as it will reduce the compensation cost but also ensure PAPs have enough food as they move into a new area.
3. Compensation for buildings should take into account the replacement value and the labour for reconstruction.

CHAPTER 6. GRIEVANCES REDRESS MECHANISMS

This chapter outlines grievance redress mechanism that should be set in order to handle and address all complaints pertaining to valuation, resettlement and compensation of PAPs.

6.1 Objective of Grievance Redress

The objective of a grievance redress mechanism is to provide an opportunity for PAPs to present their concerns about the process of resettlement and compensation packages. PPPC will sensitize key stakeholders and Local Leaders of the presence of the grievance redress mechanism. Local Leaders will communicate the grievance redress procedures to PAPs during the consultations. The project proponent shall form a grievance redress committee (GRC) to comprise Local Leaders, Consultants; staff from Department of Lands, District Council, PIU and representatives of PAPs. The members of GRC will sit on the committee as volunteers. The members of the committee will be paid allowances for attending orientation meeting and grievance redress meeting called by the project. All grievances concerning non-fulfillment of contracts, compensation packages, or seizure of assets without compensation shall be addressed to the grievance redress committee through the Local Leaders. The procedure for handling grievances should be as follows:

- 1) The affected person should file his/her grievance in writing, to the Local Leader. The grievance note should be signed and dated by the aggrieved person. Where the affected person is unable to write, s/he should obtain assistance to write the note and emboss the letter with his/her thumbprint.
- 2) The Local Leader should advise the aggrieved person during which any meetings and discussions to be held with the aggrieved person should be conducted. If the grievance relates to valuation of assets, experts may need to be requested to revalue the assets, and this may necessitate a longer period of time. In this case, the aggrieved person must be notified by the Local Leader that his/her complaint is being considered. If the grievance is resolved then there will be no further action but if the Local Leader cannot resolve the issue, he will refer it to the GRC.
- 3) GRC will resolve grievances received from the Local Leader and respond within three weeks. If the issue is not resolved then the GRC will refer the matter to PIU,
- 4) If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time he lodges his grievance to the relevant City, Municipal or District Council.
- 5) The Local Administration or Municipal Council will then attempt to resolve the problem (through dialogue and negotiation) within 14 days of the complaint being lodged. If no agreement is reached at this stage, then the complaint is taken to the Courts of Law for each respective country.

The procedure of grievance redress outlined above is designed with the objective of solving disputes at the earliest possible time, which will be in the interest of all parties concerned and therefore, it implicitly discourages referring such matters to a Tribunal for resolution. Compensation and resettlement plans (contracts) will be binding under statute, and will recognize that customary law is the law that governs land administration and tenure in the

rural/village areas. This is the law that inhabitants living in these areas, are used to and understand.

However, the process shall take into consideration the following:

- The grievance procedures will ensure that the PAPs are adequately informed of the procedure, before their assets are taken;
- PAPs must be present during valuation of assets so that they understand how the asset values will be derived, to minimize grievances;
- All objections to land acquisition or project impacts on assets shall be made in writing, in the language that the PAPs understand and are familiar with, to the Local Leader;
- The Local Leaders and GRC shall maintain records of grievances and complaints, including minutes of discussions, recommendations and resolutions made;
- Copies of the complaints shall be sent to Project Planning Team and Environmental Specialist and the relevant Minister for administration of land matters, within 20 days after the public notice;
- PAPs will not be required to cover any grievance costs should they need to explore further processes beyond the local level;
- All responsibilities for payment of compensation and provision of all other types of assistance including support towards GRC operations will reside with the PPPC compensation and resettlement budget under the allocated project funds; and
- PAPs and households will have been informed of the process for expressing dissatisfaction and to seek redress at the time that the individual RAPs are approved and individual compensation contracts are signed.

6.2 Consensus, Negotiations and Conflict Resolution

Consensus and negotiations are central to addressing grievances and sensitization and awareness of PAPs on their rights, their commitments to the country as citizens. Negotiations and conflict resolution between the project developers and project beneficiaries to achieve consensus are crucial to the success or failure of any project. Key players during the negotiations and conflict resolution include the Government, local leaders, PAPs, and developer. As a guiding principle emphasis shall be placed on simplicity and proximity of the conflict resolution mechanisms to the affected persons and the following shall be noted:

- a) Negotiation and agreement by consensus will provide the best avenue to resolving any grievances expressed by the individual landowners or households affected by sub projects.
- b) The PPPC shall ensure that the main parties involved achieve any consensus freely. The relevant government representative shall clearly advise the PAPs, as to who is responsible for the activity and the procedure for handling grievances or compensation claims.
- c) Grievances shall be addressed during the verification and appraisal process using the procedure outlined under section 6.1 above. If a suitable solution is not found, the PPPC shall defer consent of the project and the concerned project activities shall not be allowed to proceed.

d) The mediation process will be implemented according to traditional methods of mediation/conflict resolution. The resolution will then be documented on the relevant consent forms and verified.

Grievances shall be addressed using the procedure outlined in section 6.1 above.

6.3 Grievance Log

The Grievance redress committee will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log should also contain a record of the person responsible for an individual's complaint, and records dates for the following events:

- Date the complaint was reported;
- Date the Grievance Log was uploaded onto the project database;
- Date information on proposed corrective action sent to complainant (if appropriate);
- The date the complaint was closed out; and
- The date response was sent to complainant.

A sample of grievance form has been provided in Annex 3 which could be used to record all grievances registered under DMP.

6.4 Monitoring Complaints

The traditional Leader will be responsible for:

- Providing the Project grievance redress committee with a weekly report detailing the number and status of complaints;
- Any outstanding issues to be addressed; and
- Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.

CHAPTER 7. MECHANISM FOR CONSULTATIONS AND PARTICIPATION OF AFFECTED PERSONS IN PLANNING, IMPLEMENTATION AND MONITORING OF RAP

Consultations are a critical element for the success of any project. This chapter outlines the procedures and steps to be taken by the DMP in consulting PAPs in the planning, implementation and monitoring of the RAPs that will be prepared for the implementation of sub projects.

7.1 Notification Procedure

The PPPC shall by public notice announce in the media (Daily Newspapers, National Television, National Broadcasting Radios), notify the public of its intention to acquire land or impacts that will emanate from project activities. The notice shall state:

- a) PPPC's proposal to acquire the land or impact on assets
- b) The purpose for which the land is needed or impacts that will be experienced
- c) That the proposal or plan may be inspected by the PPPC or the offices of the District Commissioner in the respective districts, during working hours
- d) That any person affected may, by written notice, object to the transaction giving reasons for doing so, to the PPPC with copies to District Commissioner and the Village Headmen/Traditional Authorities within 14 days of the first public announcement or appearance of the notice. Assurances must be made that affected persons have actually received this information and notification.

7.2 Public Consultation Mechanisms

Consultation with and participation by PAPs and host communities is an essential element of the land acquisition, resettlement and compensation. Public consultation and participation are essential because they provide an opportunity for informing the stakeholders about the proposed project. Public consultation and participation will create a sense of ownership for the sub projects, providing an opportunity for people to present their views and allowing consideration and discussion of sensitive social mitigation measures and trade-offs.

There will be adequate consultation and involvement with the PAPs to ensure that they are informed about their options and rights on land acquisition and resettlement. Public consultations and participation will afford the PAPs an opportunity to contribute to both the design and implementation of the program activities. In this regard, well informed PAPs through a well-structured consultations process are more likely to accept the consequences of the project and to subsequently adjust to any changes in their lifestyles.

In recognition of this, particular attention shall be paid to public consultation with PAPs, households and homesteads (including host communities) when resettlement and compensation concerns are involved. Public consultation shall be an on-going activity taking place throughout the entire project cycle which will include the following stages:

- Project inception and planning

- Screening process
- Feasibility study,
- Preparation of project designs
- Resettlement and compensation planning
- Drafting and reading/signing of the compensation contracts.
- Payment of compensations
- Resettlement activities and
- Implementation of after-project community support activities

PAPs will be consulted in the following manner at each stage of the project cycle:

- a) Following the identification of project sites, the PPPC will visit the PAPs and advise them of their rights under the project. This will include sharing information on their entitlements to compensation and grievance redress. They will also confirm with the PAP and local authorities what assets and livelihoods will be affected by the project activities.
- b) Once the inventory and valuation of assets is complete, the PPPC will present and discuss the details with the PAP(s) and whether or not the inventory is accurate and the valuation is acceptable to them.
- c) Once the RAP is complete the PAPs will be provided the relevant sections as per the disclosure procedures described in this RPF.
- d) Prior to implementation of the project the amount of cash or in kind (land) offered for compensation will be discussed with each eligible PAP for consideration and endorsement before transfer of the asset is affected. PAPs are entitled to have a third-party present at this crucial time or at the other steps leading up to this final transfer. At any point PAPs can instigate a complaint using the grievance redress process described in this RPF.

A communication strategy shall be prepared as part of the RAP for effective consultations. The strategy shall highlight ways and means of communication throughout the resettlement and compensation process and must include:

- means for notification for consultations (e.g. through district commissioners and Local Leaders);
- methods for sensitisation (e.g. public hearings, newspapers, radio or other media)
- parties to be consulted;
- parties to lead the consultations; and
- how, when and where consultations will take place.

However, the public consultation and participation processes shall take into consideration the following:

- The processes shall take place through local meetings, radio and television programs, request for written proposals/comments, completion of questionnaires/application forms, public readings and explanations of the project ideas and requirements; and
- Public documents during consultations shall be made available in appropriate languages at the national, local and homestead levels and at suitable locations including the official residences/offices of village governments and village elders.

This will ensure that appropriate measures are in place to ensure that low literacy levels prevalent in the rural communities are addressed, by allowing enough time for discussions, consultations, questions and feedback.

CHAPTER 8. INSTITUTIONAL ARRANGMENTS AND CAPACITY BUILDING

8.1 Institutional Arrangements

Effective implementation of RPF will require technical capacity within the PIU and other institutions responsible for monitoring DMP activities including line ministries and departments. There will be need for in depth understanding of the operationalisation mechanism for RPF to be provided to various key stakeholders involved in the implementation of DMP activities. Capacity building will be integral to support the teams appreciate their roles in providing supervision, monitoring, evaluation and environmental reporting on the projects activities. Therefore, a special initiative is needed to develop the capacity of the project implementing unit, staff from line ministries and District Environment Sub-Committee (DESC), to support implementation of the DMP including social and environmental safeguards. During consultations with Department of Lands, it was observed that the department at national, regional and district level will require orientation on the RPF and project activities. The department is also handicapped in terms of human resources and finances. The department will require training support for staff to familiarize themselves with principles of RPF. Similarly, staff at Department of Lands will have to be trained on key aspects of RPF. PPPC will have to recruit safeguard specialist to provide oversight role in application of RPF.

8.2 The Institutional Arrangements for the Resettlement Activities

At national level, **the Public Private Partnership Commission, as PIU**, would be responsible for overall coordination and monitoring application of RPF during project design and preparation. PPPC will ensure that all project activities are properly screened and that appropriate instrument is used to manage resettlement activities. PPPC will recruit consultants to prepare any ARAP/RAP that may be required for project activities. **Ministry of Lands, Housing and Urban Development** is responsible for managing resettlement and compensation processes. The Department of Lands and Valuation will assist in assessment and valuation of affected assets. The department will support PPPC in screening project activities, reviewing ARAP/RAP prepared for the project, and providing oversight role in monitoring implementation of ARAP/RAPS.

At district level, the District Executive Committee (DEC) comprising of heads of department will ensure that land acquisition, compensation and resettlement activities are implemented effectively and in line with ARAPs/RAPS. The DEC, which is chaired by the DC, will report to the PIU and will supervise in the identification of alternative livelihood restoration activities; plan, organize, implement resettlement activities in the district; undertake sensitization and stakeholder consultations; assist grievance redress committees in resolving grievances

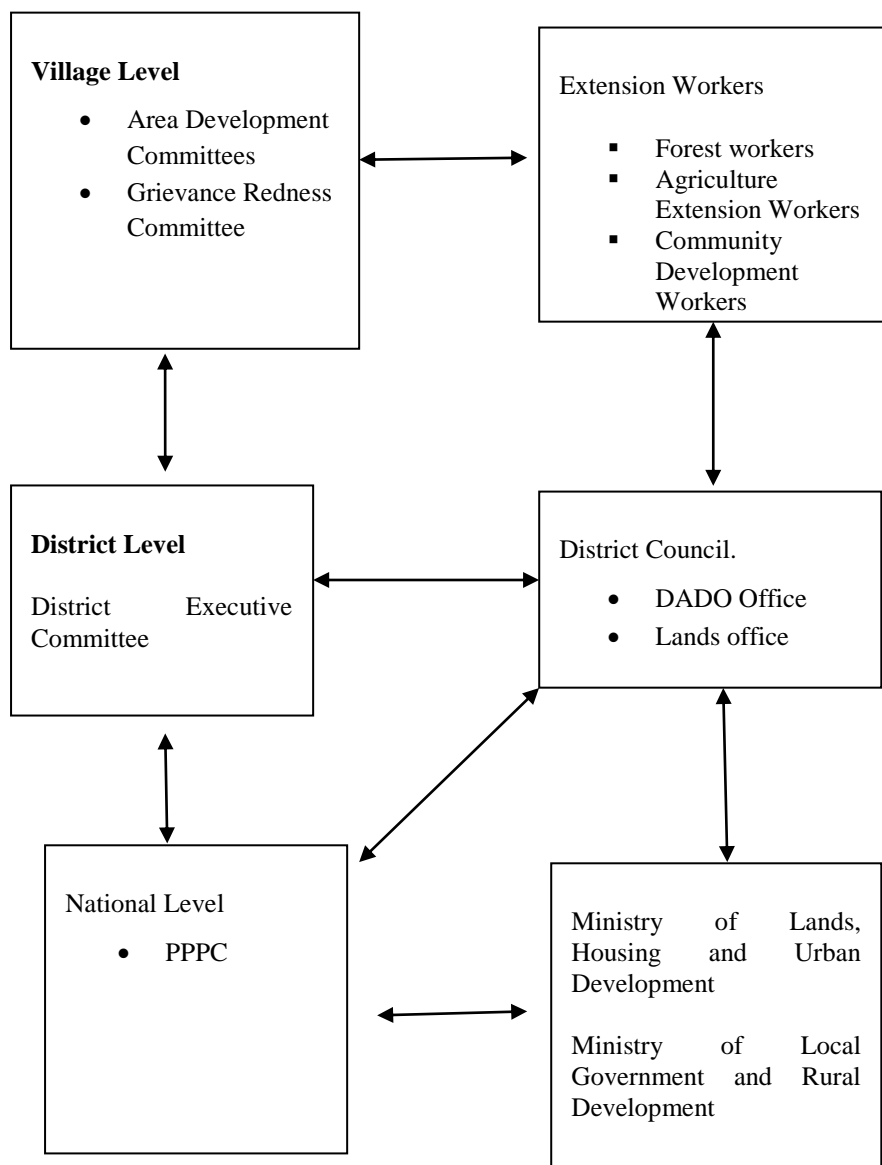
At local level, **The Area Development Committee (ADC)** comprising of Local Leaders, extension workers and representatives of Village Development Committees will report to DEC. This committee will co-opt representative of the PAPs and host community. The committee will carry out awareness and sensitisation campaigns on proposed projects and

how the PAPs will be affected and assisted. In addition the committee will also have the following responsibilities:

- coordinate with DEC in implementing land acquisition and resettlement activities;
- inform PAPs of their rights and compensation entitlements;
- consult with PAPs on land acquisition and resettlement.
- assist the RAP consultant to carry out census for PAPs
- assist Local Leaders to verify eligibility of PAPs for compensation;
- assist Local Leaders to identify and allocate land to PAPs;
- assist DEC in implementing and monitoring land acquisition, compensation and rehabilitation measures.
- assist GRC in resolving PAPs grievances

Figure 8-1 Implementation Responsibilities

INSTITUTIONAL ARRANGEMENTS



8.2.1 Capacity Building Requirements for the RPF

Effective implementation of RPF will require technical capacity within the PIU and other institutions responsible for monitoring DMP activities including line ministries and departments. There will be need for in depth understanding of the operationalisation mechanism for RPF to be provided to various key stakeholders involved in the implementation of DMP activities. Capacity building will be integral to support the teams appreciate their roles in providing supervision, monitoring, evaluation and environmental reporting on the projects activities. The PIU will have to be capacitated with human resources to manage environmental and social safeguards. An orientation training workshop will have to be provided to PIU on ESMF and RPF. Consultations with Department of Lands, it was observed that the department at national, regional and district level will require orientation on the RPF and project activities. The department is also handicapped in terms of human resources and finances. The department will require training support for staff to familiarize themselves with principles of RPF. Similarly, staff at Department of Lands will have to be trained on key aspects of RPF. PPPC will have to recruit safeguard specialist to provide oversight role in application of RPF

The following thematic areas are proposed to be part of training for PIU, MoLHUD and DEC members:

- Orientation on principles of RPF and the implications of the safeguards on project activities,
- Preparation of Terms of Reference for ARAPs and RAPs;
- Preparation of checklists for identification of socio-economic impacts from land acquisition and resettlement;
- Participatory public consultation and engagement; and
- Supervision, monitoring and evaluation of resettlement and compensation activities;

Officials from the following institutions will need capacity building training to ensure effective application of principles and guidelines of RPF during design and implementation period of the project:

- The main implementing agencies, about 10 individuals (6 staff members from PPPC and 4 staff from Department of e-Government, directly involved in the implementation of DMP),
- District Executive-Committees, about 34 individuals (one individual for each city, municipality and district councils),
- 5 staff from MoLHUD

The above 2-day training should also aim at reviewing and refining some aspects of the process, particularly the forms, toolkits and guidelines proposed in this RPF, in view of their smooth implementation by the different institutions involved in the process of supervising and monitoring implementation of DMP activities.

8.2.2 Training Budget

Forty-nine participants will be trained in RPF implementation, in the thematic areas proposed for PIU, MoLHUD and DEC members. The cost of this training, which is proposed to take place in Lilongwe, will be \$27,400.00. The estimated costs cover travel expenses from the 28 district councils, 4 city councils and 2 municipal councils which could be impacted by project activities. Other expenses are for accommodation, hire of training room and facilities, meals and per diems for the participants. The budget is also based on the following:

- Participants' per-diem, including accommodation and meals:
 - USD 116 per day x 2 days x 52 participants
 - Sub-total: USD 14,800.00
- Trainers' fees:
 - 10 days (including preparation) x 2 x USD 200.00 per day
 - Sub-total: USD 4,000.00
- Logistics of the workshop, including participants' transport from their respective districts and hiring of conference hall, snacks and lunch: USD 8,600

Table 8.1 provides details of the budgetary requirements for the two day training.

Table 8-2 Summary of costs for training

No.	Description	Unit	Quantity	Rate	Total
A	PER DIEM			USD	
1	Participants for 2 days	Person days	49	30	1,470.00
2	Support staff for 2 days	Person days	2	30	60.00
3	Drivers	Person days	10	30	300.00
B	MEALS AND REFRESHMENTS				
1	Lunches	No	98	10	980.00
2	Tea	No	208	5	980.00
C	ACCOMMODATION				
1	Participants	Person nights	104	100	9,800.00
2	Support staff for 2 days	Person nights	4	100	400.00
D	TRANSPORT				8,000.00
E	WORKSHOP MATERIALS				200.00
F	PA SYSTEM	Sum			100.00
G	HIRING OF CONFERENCE HALL	Sum			300.00
H	TRAINERS	Fees			4,000.00
	GRAND TOTAL				26,590.00

CHAPTER 9. MONITORING AND EVALUATION PLAN

A monitoring and evaluation plan will assist in assessing whether the goals of the resettlement and compensation plan are being met. A monitoring plan will specify parameters to be monitored, institute monitoring milestones and provide resources including responsible persons or institutions to carry out the monitoring activities. The arrangements for monitoring the resettlement and compensation activities will fit the overall monitoring program of the DMP, which will be executed by the PPPC. The PPPC will institute an administrative reporting system that:

- a) Alerts project authorities on the necessity and procedures for land acquisition, or impact on assets, for the project activities and the need to incorporate land acquisition, resettlement, loss of assets and impact on livelihood provisions in the design technical specifications and budgets;
- b) Provides timely information about the asset valuation and negotiation process,
- c) Maintains records of any grievances that require resolution, and
- d) Documents timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses, as well as unanticipated, additional construction damage.
- e) Updates the database with respect to changes that occur on the ground as resettlement and compensation activities are being implemented. Periodic evaluations will be made in order to determine whether the PAPs have been paid in full before implementation of the sub project activities; and whether the PAPs enjoy the same or higher standard of living than before relocation.

This framework is suggesting that where appropriate and where it is determined to be cost effective, the office of the District Commissioner shall be structured to host the monitoring and evaluation component of the project. This will take the form of giving the districts the mandate to carry out independent monitoring of the implementation of the resettlement and compensation plans at periodic intervals of quarterly or half yearly (as guided by circumstances) during the project life.

The objective will be to make a final evaluation in order to determine:

- a) If affected people have been paid in full before the implementation of subprojects, and
- b) If the people who were affected by the subproject are living a higher standard than before, living at the same standard as before, or they are they are actually poorer than before.

9.1 Indicators

A number of Objectively Verifiable Indicators (OVI's) shall be used to monitor the impacts of the compensation and resettlement activities. These indicators will be targeted at quantitatively, measuring the physical and socio-economic status of the PAPs, to determine and guide improvement in their social wellbeing. Therefore, monitoring indicators to be used for the RAPs will have to be developed to respond to specific site conditions. As a general guide, Table 8-1 provides a set of monitoring indicators which can be used.

Table 9-1 Types of verifiable indicators

Monitoring	Evaluation
Outstanding compensation or resettlement contracts not completed before next agricultural season.	Outstanding individual compensation or resettlement contracts.
Communities unable to set village-level compensation after two years.	Outstanding village compensation contracts.
Grievances recognized as legitimate out of all complaints lodged.	All legitimate grievances rectified
Pre project production and income (year before land used) versus present production and income of re-settlers, off-farm-income trainees, and users of improved mining or agricultural techniques.	Affected individuals and/or households compensated or resettled in first year that have maintained their previous standard of living at final evaluation.
Pre project production versus present production (crop for crop, land for land).	Equal or improved production per household.

a) Indicators to determine status of affected people

A number of indicators would be used in order to determine the status of affected people (for instance, land being used compared to before, standard of houses compared to before, level of participation in project activities compared to before, how many kids in school compared to before, health standards, etc.). Therefore, the resettlement and compensation plans will set two major socio-economic goals by which to evaluate its success:

- Affected individuals, households, and communities are able to maintain their pre-project standard of living, and even improve on it; and the local communities remain supportive of the project.

b) Indicators to measure RAP performances

In order to assess whether these goals are met, the resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. For example, the following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance;

- Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
- Proposed use of payments
- The number of contentious cases out of the total cases
- The number of grievances and time and quality of resolution
- Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
- Mining , business and agricultural productivity of new lands
- Number of impacted locals employed by the civil works contractors

- Seasonal or inter-annual fluctuation on key foodstuffs
- General relations between the project and the local communities
- Proximity of new areas to social amenities and services

(c) Indicators to monitor and evaluate implementation of RAPs

The Local Governments will maintain financial records and the executing agencies to permit calculation of the final cost of resettlement and compensation per individual or household. Each individual who will receive compensation will have a dossier containing:

- Individual bio-data information,
- Number of people s/he claims as household dependents
- Amount of land and assets available to the individual or household when the dossier is opened.

Additional information will be acquired for individuals eligible for resettlement/compensation:

- Level of income and of production
- Inventory of material assets and improvements in land, and
- Debts.

9.2 Internal Monitoring

The Grievance redress committee will require internal verification that all entitlements have been delivered before it requests approval from PPPC to hand over a project site to a contractor for construction. Project specific internal monitoring to verify delivery of entitlements would begin on the day that any compensation is disbursed and continue on a monthly basis until full delivery has been verified.

9.3 External Monitoring System

The PPPC will recruit services of an independent consultant to evaluate whether the resettlement planning arrangements as set out in this RPF are being adhered to. The consultant will be recruited to undertake midterm and end of term evaluations.

External monitoring would have two goals:

- a) Verification that resettlement has followed PPPC , provisions in the local legislation and Operational Policy 4.12 guidelines and
- b) Collection of data to enable an assessment of the net effects of resettlement caused by a project.

For verification, monitors would evaluate the following items, using data from asset inventories and RAP socioeconomic surveys for comparison:

- Quality of replacement structures—adequate? Equal or better than the affected dwelling? Ancillary structures accessible or also replaced?
- Land under structures—replaced or compensated? If replaced, land title provided?

- Land along wayleaves—registered easement agreements provided? Quality of replacement land—of equal or better productivity than affected land? Prepared for cultivation prior to project construction?
- Compensation values—continuing grievances from PAPs?
- Vulnerable households—living standard and incomes restored?

CHAPTER 10. RPF IMPLEMENTATION BUDGET

The cost of resettlement and compensation will consist of costs from lost assets and income, as per valuation method adopted. At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs and details of the sub projects have not yet been developed. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with implementation of this project. However, when these locations are known, and after the conclusion of the site-specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, detailed and accurate budgets for each RAP will be prepared. However, in calculating the total cost of resettlement and compensation, the following aspects will be considered:

- compensation for land (land in cultivation, /being prepared for cultivation and cultivated in the previous year);
- compensation for structures and buildings (both permanent and temporary structures that will be/have been abandoned because the PAPs will be relocated);
- compensation for crops (annual and perennial);
- compensation for trees (fruit trees, indigenous or exotic);
- compensation for sacred sites (graveyards);
- income restoration (loss of income from crops and businesses);
- disturbance allowance (based on prevailing interest rates at commercial banks, minimum of 20% of total compensation);
- special assistance to vulnerable groups during the resettlement process;
- transport allowance where PAPs are relocating to a distance of more than 3km; and
- relocation allowance, where PAPs are relocating to distances of less than 3km

The budget for the project shall include RAP implementation, resettlement, rehabilitation monitoring, evaluation, training and capacity building. The developer will prepare the resettlement budget and will finance this budget through the administrative and financial management rules and manuals like any other activity eligible for payment under the project. All responsibilities for payment of compensation and provision of all other types of assistance will reside with the PPC through a compensation and resettlement budget under the allocated project funds. Disbursements based on budgetary requirements, established by the RAPs in consultation with PAPs and local leaders, will be made through the relevant District Councils.

Resettlement and compensation cost estimates and budget will consider items covered in the matrix presented in Table 8.1.

Table 10-1 Resettlement and Compensation Cost Estimation

Category	Activities
Resettlement and Compensation cost	<ul style="list-style-type: none"> • cost of census and survey of PAPs and inventory of assets • cost of sensitization and consultation • compensation for lost assets (land, structures etc) • cost of replacement land • cost of rebuilding structures • cost of preparation of replacement farmland
Relocation and transfer	<ul style="list-style-type: none"> • cost of moving and transporting movable items • cost of site and infrastructure development and services • subsistence allowance during transition • cost of replacement businesses and downtime
Income restoration plan	<ul style="list-style-type: none"> • cost estimates for income restoration plans (e.g. training, small business, community enterprise, etc)
Administration costs	<ul style="list-style-type: none"> • transport/vehicles, materials • operational staff (managerial, technical) and support staff
Capacity Building	<ul style="list-style-type: none"> • training on the RPF application and monitoring • technical assistance on ESIA and RAP preparations

CHAPTER 11. CONCLUSIONS AND RECOMMENDATIONS

11.1 Conclusions

The aim of this RPF is to promote participatory design of fair land involuntary acquisition, resettlement and compensation measures, for restoration of livelihoods to affected persons. These measures have to be appropriate to the local socio-economic context and conducive to broad-based socio-economic development.

There are many challenges related to the current land acquisition and resettlement practices, methods of valuation, calculation of compensation and grievance redress mechanisms in Malawi. These have been discussed in the RPF and they include, among others:

- a) lack of well-established and legally accepted land acquisition and resettlement procedures;
- b) lack of standard procedure for resolving disputes;
- c) delays in payment of compensation to PAPs;
- d) lack of awareness, for consequences of encroachment by the affected communities;
- e) affected parties' lack of knowledge, of their rights to compensations and
- f) lack of law enforcement to prevent people from encroaching on public land.

11.2 Recommendations

The recommendations drawn in this RPF are aimed at ensuring that project affected persons are fairly compensated for loss of property and livelihood in accordance with the national legislation as well as WB Operational Policy on Involuntary Resettlement. In addition, appropriate mechanisms must be designed for PAPs to lodge complaints associated with land acquisition, resettlement and compensation; and for DMP to address these complaints. Some of the specific recommendations of this RPF include the following:

- a full time safeguard specialist will be recruited by the PIU to provide oversight role of monitoring environmental and social safeguards of the project;
- affected communities will be involved during design phase of project activities to promote ownership of project and traditional leadership will be engaged in community mobilization and sensitization in respect to implementation of resettlement processes;
- no project works shall be implemented prior to the approval of ARAP/RAP by relevant authorities and it shall be the responsibility of PIU to ensure that contractors engaged have complied with the resettlement and compensation processes;
- district councils and line ministries should be provided with adequate resources (both human and financial) to enable them conduct regular monitoring of project activities to ensure adherence to ARAPs/RAP;
- the form of compensation shall be determined by the provisions of ARAP/RAP;
- appropriate compensation shall be made for trees, shrubs and different types of crops at prevailing market rates as stipulated in the legislation;
- compensation must be paid for to owners of structures adversely affected by construction works; even if they are not relocating;
- replacement housing, commercial buildings and other structures must be preferred compensation option to cash;

- payment of cash compensation should be made to the tenant for the loss of structures and other improvements on rented land;
- replacement land must be given to persons with no recognisable legal right to the land they occupy but whose status has been legalised through history of occupation of the land;
- compensation shall be made for communal land and associated natural resources (e.g. community woodlots) acquired or affected by a project; and
- compensation shall be paid for affected graves and cultural assets, taking into account all due ceremony and customs as agreed with the concerned families.

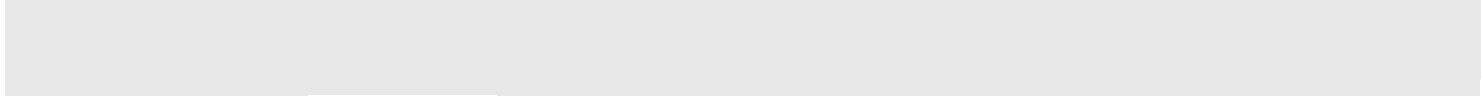
REFERENCES

- 1 Government of Malawi (2005) The Monuments and Relics Act, Ministry of Information, Culture and Tourism, Lilongwe
- 2 Government of Malawi (2015) Town and Country Planning Act, Ministry of Lands, Housing and Urban Development, Lilongwe.
- 3 Government of Malawi (2002), Malawi National Land Policy, Ministry of Lands, Housing and Surveys, Lilongwe
- 4 Government of Malawi (1997) Forestry Act, Ministry of Forestry, Fisheries and Environmental Affairs, Lilongwe
- 5 Government of Malawi (2016) Land Act, Ministry of Lands, Housing and Urban Development, Lilongwe
- 6 Government of Malawi (2013) Water Resources Act. Ministry of Water Development
- 7 Government of Malawi (1998), Local Government Act, Ministry of Local Government, Lilongwe.
- 8 Government of Malawi (1997), Land Acquisition Act. Ministry of Lands, Housing and Urban Development, Lilongwe
- 9 Government of Malawi (1996), Environment Management Act, Number 23. Environmental Affairs Department, Lilongwe
- 10 Government of Malawi (2000) National Gender Policy, Ministry of Women and Community Development, Lilongwe.
- 11 World Bank Operational Policies, OP 4.12 Involuntary Resettlement Policies

APPENDIX 1: VIEWS OF KEY STAKEHOLDERS CONSULTED

Name and details	Institution	Remarks
1. Kwame Ngwira, Commissioner of Lands,	Ministry of Lands, Housing and Urban Development	<ul style="list-style-type: none"> New land laws require that all compensation should be based on market value of the property and assets as such the proposed DMP should comply with new laws on compensation.
2. Mr. Chilunga, Principal Estates and Valuation Officer		
3. Mrs Juwo Sibale Head of EIA Section	Environmental Affairs Department	<ul style="list-style-type: none"> The propose project is likely going to generate some adverse on the environment during implementation as such screening all project activities should be undertaken to determine appropriate EIA instrument to be prepared. Project briefs should be submitted to Environmental Affairs Department before implementation of project activities to seek guidance on whether an EIA or ESMP would be required by the project. Where project activities will affect livelihoods of communities, an abbreviated RAP or full RAP should be prepared before implementation of project activities. Communities should be engaged during design, preparation and implementation of project activities. Project should provide resources for training staff that will be involved in monitoring of project activities.
4. Joana Chikafa, Environmental Inspector 0991337764		
5. Maxwell Mbulaje Environmental District Officer (EDO-Blantyre) 0882627866 02-12-2016	Environmental Affairs Department	<ul style="list-style-type: none"> The project is likely going to cause deforestation through poles and wood or charcoal for cooking by workers during the work. The project should therefore avoid going through sensitive areas. The proposed project should also avoid wanton cutting of trees and do selective cutting of trees where it cannot avoid. Where archeological findings are involved, the activity must stop and department of antiquities should be involved as quickly as possible. The project has to have a proper way of disposing litter from unpacking project materials and not just litter anyhow in the bush or communities. The project is likely going to affect people's livelihoods through removing some trees including fruit trees which are a source of income. Therefore the project should do less of using heavy machinery and equipment but resolve to use manual labor to create labor for the local communities. There is very little expected impact through noise and therefore nothing can be done.
6. Cecilia Chauluka (Regional Forestry Officer –South) cecilia.chauluk@yahoo.co.uk 0999 954754	Dept of Forestry	<ul style="list-style-type: none"> The project may go through customary land whether it takes Zalewa Road or Zomba Road. Therefore most potential project impact includes: cutting of trees from Village Forestry Areas (VFAs), individuals woodlots and orchards. The project may also affect private plantations like in estates around 6 Miles and Annies Forest), coffee and macadamia estates especially around Mapanga; and Mission Forests like Namikango in Zomba and Illovo and smallholder cane growers plantations in Chikwawa. In Blantyre city and town assemblies, the project will go through government and private lands mostly with installations

of sewage systems, water, electricity and ICT infrastructure owned by various players. As the project descends to Chikwawa, there is government forest at Milare before going onto a community forest reserve planted with eucalyptus up to Thabwa. The project may also affect government forests like (Mualivulezi in Dedza; Liwonde (Balaka) and Malosa (Zomba)). The project should avoid creating a way where communities go through the reserves to cut trees because the project is cutting trees. It is important for the project to make this clear to communities that the project is for public benefit and not an individual.



- | | | |
|---|--|---|
| <p>7. Patrick Magawa
Acting Head of Planning and Implementation
0888518895
16-12-2016</p> | <p>Malawi Telecom Limited (MTL)</p> | <ul style="list-style-type: none"> • MTL is the first to have its own optic fibre network in Malawi and other services providers have for some time been getting service from MTL. This network runs from Tanzania connecting Malawi through Songwe in Karonga. Then it goes to Rumphu, and Mzuzu. From Mzuzu, the network becomes cyclic through Nkhatabay, Nkhotakota, Lilongwe and back through Kasungu and Mzimba. Another cycle runs from Lilongwe to Dedza to Ntcheu to Blantyre and back through Zomba, Mangochi and Salima. The cable goes out to Mozambique through Mwanza. In the end the MTL network forms a figure of 8. This structure allows MTL to separate effects of faults or vandalism of one section from the other areas. The Lower Shire is not serviced yet. It is using radio/microwave transmission which has low capacity than the optic fibre network. • Apart from MTL, there are other optic fibre cable networks and these include ESCOM and Simbanet. • The proposed Digital Project may cause damage to MTL existing infrastructure if not well planned because all these use the road reserves therefore may disturb MTL services. • Apart from this, communities may also affect the project through possible vandalism because of curiosity. There is an existing copper market outside Malawi. Communities now cut the fibre cable and realize it is not copper after the damage is already done. The project must have a thorough engagement of the communities to deal with this potential problem. • On the impact of the project to MTL, it will increase competition. On the other side, the project is an opportunity for a back-up to MTL when its infrastructure has fault. • On environment, the project should make use of existing infrastructure like ESCOM pylons instead of creating a new way-leave but can discuss with the owners. This will reduce time, cost and also vandalism. |
| <p>8. Herbert Mwalukomo
Director of Programs
(23-2-2017)</p> | <p>Center for Policy Advocacy (CEPA)</p> | <ul style="list-style-type: none"> • The project should avoid areas of biodiversity significance to reduce high environmental costs. • The project should make sure that all relevant environmental laws are adhered to. E.g. If the line is passing through the National Parks, comply to National Parks & Wildlife Act, if through a Forest Reserve, comply to Forestry Act. • Trenching activities may be less costly in many ways on the environment. “An example is how the SimbaNet avoided cutting trees in Vizara to create way-leave because the project could not compensate for the exotic trees. This shows a more realistic value of using poles in most places. It is just that proper values are not established in the other areas. In fact the other areas have indigenous trees which take long to grow and have more value but we tend to undervalue these. We may have an effective ICT but pass on to the next generation very high environmental cost. It is important to do a realistic environmental cost analysis before the project is implemented. The aerial cable on poles, require cutting of trees for poles, will remain visible as it is for years demanding high maintenance costs and also poses as traps to birds while trenching is once, not visible, and causes limited damage to the soil, wildlife and its habitats. At the end trenches are easily reclaimed. We need to do less of cutting trees in the face of high deforestation rate and do more re-vegetation. |

- On social side, peoples livelihoods e.g. loss of land use needs alternatives and not just compensations. Malawi does not have a clear Resettlement Policy and tends to use World Bank Frameworks. But mostly, implementation is not monitored to ensure compliance. People tend to think that the compensation (in terms of money) is enough but soon they realize what they lost because they did not get right values of their property. The project needs to provide real value. If people have lost a house, they should get an equal house or better, if water source, the better source of water so that the ICT development is sustainable.
- Unfortunately there is mostly a blurred line between ESMF and CSR implementation. Implementation of ESMF is a requirement and benefits individual PAPs. CSR benefits the communities and puts a public face to the developer/contractor. In most cases, developers go for the CSRs that create a good public image but it is done as the developer wants, while the ESMF is a requirement and must be done for the PAP. When CSRs are done however, developers as well as communities feel the ESMF has been complied to. This is mostly because: the government hardly monitors the implementation. When you ask the District Assembly, they say it is the headquarters. When you ask the headquarters, they say they have no resources. The people in the village are not communicated to on what they deserve from the project. As a result, the contractors do what they want without anyone to follow them. It is strongly recommended that the project should develop a clear communication plan, cost it and implement it so that the people affected will monitor the project themselves. There is need for appropriate and realistic costing of the environment and social changes.

9. **Mrs Masupayi,**
Assistant
Director of
Forestry,
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Department of
Forestry

- needs to obtain. License for the installation of the telecommunications equipment and the license for installation of telephone lines.
- The license for the installation of telephone line requires that the applicant pays an application fee of MK2000; an annual (Government financial year) operation fee of MK50,000; and an annual Government financial year) residential fee per square meter of MK100.
- The license for the installation of telecommunications equipment requires that the applicant pays an application fee of MK2000; and an annual (Government financial year) operation fee of MK1,000 per square kilometer.
- Application for licenses is made to the Director of Forestry by the project developer. The minimum requirements for each license are provided to the applicant and the conditions needs to be properly followed by the developer once the license is provided. The department is mandated to make follow-ups and monitor the operations if they are in line with the provisions under the license.
- Trees cut in the process of installation of telecommunication equipment and telephone lines needs to be properly valued and compensated for. There is need for proper involvement of the project affected persons, local leaders and district officials.

10. **Mr. Khombe**
Historian
0888566022
akhombe@gmail.com

Department of
Antiquities

- It is a requirement by Government and other funding agencies such as World Bank that Cultural Heritage Impact Assessment should be conducted for any development project that may have impact to the socioeconomic and biophysical environments. This can be done as a component of the Environmental and Social Impact Assessment (ESIA). This is also in line with the provisions of the Monuments and Relics Act.
- Principles of rescue archeology needs to be applied fully and followed. The developer can either engage a consultant, a certified archeologist, with experience on African Heritage. The consultant needs to be accompanied by antiquities officer during the assessment. Otherwise, the developer may also engage the department of antiquities to do the assessment.
- A cultural heritage survey should be done before the implementation of the project. This survey recommends whether rescue of monuments is required or not. The report provides the details of the items to be rescued.
- The department of antiquities can do the rescue or an expert can be hired to do

the work under the company of the officials from the department of antiquities. The hired expert needs to be given a license/permit to carry out the work.

- The rescued property becomes the property of Malawi Government
- The department recommends that a diversion be created where immovable cultural heritage resources are identified. Only where the resources can not be avoided through diversions then rescue is recommended.
- There is need for proper sensitization of the affected persons and other stakeholder of the intentions and the procedure of operations. There is need for full involvement of the stakeholders such as policy, hospital staff, community members, District Councils and local leaders during the rescue operations.

APPENDIX 2: OUTLINE OF RESETTLEMENT ACTION PLAN

For every subproject component which requires land acquisition and leads to displacement of people a resettlement action plan will be prepared. The RAP will cover the following areas:

1. description of the project and its area of influence;
2. potential positive and negative impacts;
3. resettlement and activities;
4. legal framework;
5. organisational responsibility;
6. community consultation and participation;
7. integration with host communities;
8. baseline information
9. socio-economic studies
10. mechanism for conflict resolution and appeals
11. eligibility criteria (including vulnerable groups)
12. valuation of and compensation for losses
13. evaluation of alternative sites
14. site preparation and relocation
15. detailed budget; and
16. implementation schedule
17. Framework for monitoring, evaluation and reporting

APPENDIX 3: SAMPLE GRIEVANCE FORM

GRIEVANCE FORM				
<i>Grievance Number</i>		<i>Copies to forward to:</i>		
<i>Name of the Recorder</i>		<i>(Original)-Receiver Party</i>		
<i>District</i>		<i>(Copy)-Responsible Party</i>		
<i>Date</i>				
INFORMATION ABOUT GRIEVANCE				
<i>Define The Grievance:</i>				
INFORMATION ABOUT THE COMPLAINANT				Forms of Receive
<i>Name-Surname</i>				<input type="radio"/> <i>Phone Line</i>
<i>Telephone Number</i>				<input type="radio"/> <i>Community/</i>
<i>Address</i>				<input type="radio"/> <i>Information</i>
<i>Village</i>				<input type="radio"/> <i>Meetings</i>
<i>District</i>				<input type="radio"/> <i>Mail</i>
<i>Signature of Complainant</i>				<input type="radio"/> <i>Informal</i>
				<input type="radio"/> <i>Other</i>
DETAILS OF GRIEVANCE				
<i>1. Access to land and resources</i> <i>a) Fishing grounds</i> <i>b) Lands</i> <i>c) Grazing lands</i> <i>d) House</i> <i>e) Commercial site</i> <i>f) Other</i>	<i>2. Damage to</i> <i>a) House</i> <i>b) Land</i> <i>c) Livestock</i> <i>d) Means of livelihood</i> <i>e) Other</i>	<i>Infrastructure or Community Assets</i> <i>a) Road/Railway</i> <i>b) Bridge/Passageways</i> <i>c) Power/Telephone Lines</i> <i>d) Water sources, canals and water infrastructure for irrigation and animals</i> <i>e) Drinking water</i> <i>f) Sewerage System</i> <i>g) Other</i>	<i>4. Decrease or Loss of Livelihood</i> <i>a) Agriculture</i> <i>b) Animal husbandry</i> <i>c) Beekeeping</i> <i>d) Small scale trade</i> <i>e) Other</i>	<i>5. Traffic Accident</i> <i>a) Injury</i> <i>b) Damage to property</i> <i>c) Damage to livestock</i> <i>d) Other</i>

<p><i>6. Incidents Regarding Expropriation and Compensation (Specify)</i></p>	<p><i>7. Resettlement Process (Specify)</i></p>	<p><i>8. Employment and Recruitment (Specify)</i></p>	<p><i>9. Construction Camp and Community Relations</i> <i>a) Nuisance from dust</i> <i>b) Nuisance from noise</i> <i>c) Vibrations due to explosions</i> <i>d) Misconduct of the project personal/worker</i> <i>e) Complaint follow up</i> <i>f) Other</i></p>	<p><i>10. Other (Specify)</i></p>
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