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Government of Republic of Malawi

MINISTRY OF AGRICULTURE, IRRIGATION AND WATER DEVELOPMENT

**AGRICULTURE SECTOR WIDE APPROACH II
(ASWAP II)**

2017-2020

DRAFT

RESETTLEMENT POLICY FRAMEWORK (RPF)

October 2017

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ACRONYMS AND ABBREVIATIONS

ADC	Area Development Committee
ADC	Area Development Committee
AEC	Area Executive Committee.
AfDB	African Development Bank
AGCOM	Malawi Agriculture Commercialization Project
AM	Aide Memoire
ARAPs	Abbreviated Resettlement Action Plans
ASWAp SP II	Agriculture Sector Wide Approach Support Project II
CBO	Community Based Organization
CBRLDP	Community Based Rural Livelihoods Development Project
CWG	Compensation Working Group
DADO	District Agriculture Development Officer.
DC	District Commissioner
DEC	District Executive Committee.
DESC	District Environmental Sub Committee
DLO	District Lands Officer
DP	Displaced Person
DPD	Director of Planning and Development
DPs	Displaced Persons
EAD	Environmental Affairs Department
EDO	Environmental District Officer.
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
ESIA	Environmental and Social Impact Assessment
EU	European Union
FUM	Farmers Union of Malawi
FY	Financial Year
GDP	Gross Domestic Product
GNI	Gross National Income
GoM	Government of Malawi
GRC	Grievance Redress Committee
GVH	Group Village Headperson
ICT	Information and Communication Technology
IDA	International Development Association
IFC	International Finance Corporation
ISO	International Standard Organization
LA	Land Act
LEP	Livelihoods Enhancement Programme
LGI	Local Government Institutions
MDGS	Malawi Development and Growth Strategy.
M&E	Monitoring and Evaluation
M&EO	Monitoring and Evaluation Officer.
MoAIWD	Ministry of Agriculture, Irrigation and Water Development
MDGs	Millennium Development Goals
MEPD	Ministry of Economic Planning and Development.
MITC	Malawi Investment Trade Centre

MK	Malawian Kwacha
MLD	Million Litres per Day
MLGRD	Ministry of Local Government and Rural Development
MoEMNR	Ministry of Energy, Mining, and Natural Resources
MoFEPD	Ministry of Finance, Economic Planning and Development
MoGCDSW	Ministry of Gender, Children, Disability and Social Welfare
MoLHUD	Ministry of Lands, Housing and Urban Development
MoTT	Ministry of Trade and Tourism
MP	Member of Parliament
MTR	Mid-Term Review
NAP	National Agriculture Policy
NES	National Export Strategy
NGO	Non-Governmental Organisation
NSO	National Statistical Office of Malawi
NWSP	National Water Sector Policy
OP	Operational Policy
OVC	Orphaned Vulnerable Children
PAD	Project Appraisal Document
PAP	Project Affected Persons
PCU	Project Coordination Unit
PIM	Project Implementation Manual
PIU	Project Implementation Unit
PPD	Public Private Dialogue
PPT	Project Preparation Team
PSC	Project Steering Committee
RAP	Resettlement Action Plan
RIA	Responsible Investment in Agriculture
RPF	Resettlement Policy Framework
STI	Sexually Transmitted Infection
TA	Traditional Authorities
ToRs	Terms of Reference
UN	United Nations
US	United States
USD	United States Dollar
VDC	Village Development Committee
VGGT	Voluntary Guidelines on Responsible Governance
VH	Village Headperson
VMGP	Vulnerable and Marginalised Groups Plan
WB	World Bank
WTO	World Trade Organization

DEFINITION OF SELECTED TERMS USED IN THE RESETTLEMENT POLICY FRAMEWORK.

- Abbreviated Resettlement Action Plan (ARAP) - may be prepared where impacts on the entire displaced population are minor, or fewer than 200 people are displaced”.
- **Census:** means a field survey carried out to identify and determined the number of project affected persons or displaced persons in accordance with procedures including criteria for eligibility for compensation, resettlement and other measures, emanating from consultations with affected communities and the local chiefs.
- **Compensation:** means the payment in kind, cash or other assets given in exchange for the taking of land including fixed assets thereon, in whole or in part.
- **Cut – off – date:** means date of commencement of the census of project affected people within the project area boundaries.
- **Displaced persons:** means persons 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 Displaced Persons physically relocate.
- **Involuntary Resettlement:** means the involuntary taking of land resulting in direct or indirect economic and social impacts caused by loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the displaced persons has moved to another location.
- **Involuntary Land Acquisition:** means the taking of land by government or other government agencies for compensation for purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.
- **Land:** refers to agricultural and non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the project.
- **Land acquisition:** means the taking of or alienation of land, buildings or other assets thereon for purposes of a Project.
- **Resettlement Policy Framework:** A statement of the policy, principles, institutional arrangements and procedures that the borrower will follow in a project involving resettlement.
- **Rehabilitation Assistance:** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable displaced persons to improve their living standards, income earning capacity and production levels, or at least maintain them at pre-project levels.

- **Replacement cost:** means replacement of assets with an amount sufficient to replace lost assets and cover related transaction costs. In terms of land, this may be categorized as follows.
- **Replacement cost for land:** means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of preparing the land to levels similar to those of the affected land; and any registration and transfer taxes;
- **Replacement cost for houses and other structures:** means the prevailing cost of replacing affected structures, in an area and quality similar to or better than that of the affected structures. Such costs shall also include transporting building materials to the construction site; labour and contractors' fees; and registration costs.
- **Resettlement Assistance:** means the measures to ensure that displaced persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.
- **Voluntary Land Contribution:** means a process by which an individual or communal owner agrees to provide land or property for project-related activities. Voluntary contribution is an act of informed consent, made with prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress. Voluntary Land Contribution may be of two types. These are voluntary land contribution for compensation and voluntary land contribution without compensation.

EXECUTIVE SUMMARY

Country and Program Name:

This document serves as a Resettlement Framework for Agriculture Sector Wide Approach – Support Project II (ASWAp SP II). The proponent is Government of Republic of Malawi which is seeking financing of US\$50 million from the International Development Association of the World Bank Group

Project Development Objectives:

The proposed project objective is to improve the productivity and diversification of selected agriculture commodities in the project targeted areas in a sustainable manner.

The proposed project will address the project objectives through a community demand driven approach. The project will build on the successes of previous Agriculture Sector Wide Approach and upscale them in the selected project areas. The project will ensure that the activities promoted are technically and environmentally sound and ensure that the activities are sustained after project closure. The preliminary project structure would include the following four components. The proposed period of the project is 3 years, from 2017 to 2020

ASWAp SP II Project Components

The proposed Agriculture Sector Wide Approach Support Project II has four components that are aligned to the National Agriculture Policy and National Irrigation Policy. These components are (i) Sustainable agricultural productivity and diversification; (ii) Improvement of Rural Roads to enhance access to markets (iii) Institutional Development and Capacity Building for Implementation of National Irrigation Policy and National Agriculture Policy; and (v) Project Coordination and Management.

Resettlement Potential of ASWAp SP II

This RPF will cover activities with a potential for resettlement under Components 2 – Improvement of Rural Roads to enhance access to markets, that might lead to temporary and/or permanent acquisition of land and affect livelihoods in project sites. The framework will be used as an instrument throughout the Agriculture Sector Wide Approach Support Project II implementation. The RPF will be publicly disclosed both nationally in the Ministry of Agriculture, Irrigation and Water Development website and at the impacted 12 districts of Lilongwe, Mchinji, Kasungu, Dedza, Mzimba, Ntchisi, Phalombe, Ntcheu, Chitipa, Zomba, Mulanje and Thyolo, to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project. The Resettlement Action Plans (“RAPs”) for the ASWAp Support Project II will be prepared consistent with the provisions of this RPF.

Resettlement Policy Framework for ASWAp SP II

This Resettlement Policy Framework (RPF) therefore provides overall guidelines and procedures on how the sub-projects will avoid, minimize, manage or mitigate all these project related displacement risks. Whereas the individual sub-project will carry some risks of adverse

environmental and social impacts, this report addresses the risks that might arise if an **ASWAp SP II** sub-project will result into acquisition of land and hence disturbing the people's economic, social and/or physical aspects of life. Implementation of these sub-projects is expected to have a widespread positive impact on the overall socio-economic status and livelihoods of the people in the country as a whole.

This Resettlement Policy Framework (RPF) has been developed in line with (OP 4.12) to provide guidelines on how the projects will avoid, manage or mitigate potential risks and the process by which Resettlement Action Plans will be prepared and implemented during the project implementation period.

The objectives of the Resettlement Policy Framework (RPF) are to:

- i. Establish the resettlement and compensation principles and implementation arrangements;
- ii. Describe the legal and institutional framework underlying Malawi approaches for resettlement, compensation and rehabilitation;
- iii. Define the eligibility criteria for identification of project affected persons (PAPs) and entitlements;
- iv. Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- v. Provide procedures for filing grievances and resolving disputes.

Focus Impacts of the RPF

This resettlement policy framework focuses on direct economic and social impacts that result from the **ASWAp SP II** projects: -

- *The involuntary taking of land or other resources resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood.*
- *The involuntary restriction of access to legally designated protected areas and gazetted forests resulting in adverse impacts on the livelihoods of the displaced persons.*

Approximate Number of the PAPs by the projects

Though exact numbers cannot be established, it is envisaged that the **ASWAp SP II** Project activities could affect 1,000 PAHs of different categories including vulnerable and female headed households in 12 districts of Lilongwe, Mchinji, Kasungu, Dedza, Mzimba, Ntchisi, Phalombe, Ntcheu, Chitipa, Zomba, Mulanje and Thyolo.

Legislative Framework of the RPF

The RPF has been developed based on OP 4.12 and the Malawi Laws. Malawi laws cited in this RPF include – the Constitution of Malawi, the National Land Policy 2002, the Land Act (2016), the Customary Land Act (2016), the Land Acquisition Act (2017), the Physical Planning Act (2016), the Registered Land (Amendment) Act (2017), the Environmental Management Act (1996), the Public Roads Act (2017); the Forestry Amendment Act (2017) and other relevant Malawi Policies.

Institutional Implementation Arrangements for the RPF Implementation

The proposed **ASWAp SP II** will be implemented using existing organizational structures,

incorporating lessons learned and experience gained in the implementation of the **ASWAp SP I**. Thus, Ministry of Agriculture, Irrigation and Water Development will take charge of the project implementation working jointly with the National Roads Authority and Roads Fund Administration who will work with the responsible institution on land issues – the Ministry of Lands, Physical Planning and Urban Development on implementation of the RAPs. The district will implement district-specific activities through the existing decentralized structures where the and district councils will coordinate the implementation of subprojects under the supervision of Project Implementation Unit.

The executing agencies will prepare project (through consultants) specific ESIA/ESMPs and Resettlement Action Plans (RAPs) and all other safeguards instruments for identified investments following detailed screening. These reports will be submitted to the National Roads Authority for review before submission to the World Bank for clearance.

The implementation arrangements of the RPF build on the arrangements for land take, resettlement and compensation activities as required by Malawian Legislation. The main executing and accountable agency at national level will be the Roads Fund Administration via the Project Implementation Unit (PIU).

Valuation and Compensation Framework

The legal framework provides for acquisition of land for public purposes for the different development projects and that that all peoples affected by expropriation must receive fair and just compensation and that the calculation of fair and just compensation is to be made by independent valuers. Once the calculations are done, the Ministry of Lands, Housing and Urban Development validates the values done by the independent valuer. This RPF provides for Replacement Costs as valuation basis for compensation. The methods, formulae and cost for replacement entitlement are provided in the entitlement matrix of the RPF. This will ensure that OP4.12 requirements are met for valuation for all ASWAp SP II sub-projects.

Framework for Preparation and Implementation of RAP under ASWAp SP II

The steps to be undertaken toward the preparation of each individual RAP under ASWAp SP II includes a screening process, a socioeconomic profile, census and identification of Project Affected Parties (PAPs), land asset inventory of the area and valuation of assets, public consultation among other RAP preparation process. This will be followed by the development of a Resettlement Action Plan (RAP), RAP review and approval, implementation of the RAP and monitoring of RAP implementation and success. These steps will be the responsibility of the Project Implementation Unit (PIU) at Ministry of Agriculture, Irrigation and Water Development.

Framework for Grievance Redress Mechanisms

After preparation and approval of any individual RAP under **ASWAp SP II**, all affected individuals and households will have been informed on the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple, and will be administered as far as possible at the village level by the Community Leader/ Customary Land Committee and Resettlement and Compensation Committee to facilitate access by PAPs. This RPF contains principles of grievance

redress and elaborates the grievance redress process. All grievances concerning dissatisfaction with compensation amounts, or seizure of assets without compensation shall be addressed to the Ministry of Agriculture and resolved in coordination with the PIU. If not satisfied the PAPs can seek legal redress in the courts.

Disclosure of RPF/ ASWAp SP II

Public disclosure of this RPF will be done nationally and in the World Bank info shop. Disclosure of **ASWAp SP II** individual RAPs will be made to PAPs and other stakeholders for review and comments on entitlement measures and other issues in the implementation of the RAP. The purpose of the disclosure will be to receive comments and suggestions from PAPs and incorporate appropriate suggestions. The **ASWAp SP II** RAPs will be disclosed in a form, manner and language comprehensible to PAPs and at a place accessible to the displaced population and other stakeholders for review and comments on entitlement measures. Except for the Entitlement Matrix other sections of the RAP will be disclosed at national level. The MoAIWD will disclose and post any **ASWAp SP II** RAP in its websites and receive comments. Public disclosure of any RAP will be made in relevant local language, Chichewa and English languages. This will be done through recommended local dissemination outlets of both print and electronic media. RAPs will also be disclosed for input from civil societies, academics and other relevant stakeholders.

Monitoring and Evaluation Framework

The arrangements for monitoring the resettlement and compensation activities will fit the overall monitoring program of the entire **ASWAp SP II** program, which will fall under the overall responsibility of the PIU. At the sub-project level, the district authorities will have responsibility for ensuring monitoring and supervision is undertaken with the Resettlement and Compensation Committees coordination. Periodic evaluations will be made to determine that the PAPs have been paid in full and before implementation of the sub-project activities, economic rehabilitation measures have been implemented, and the PAPs have the same or higher standard of living. Indicators shall be used to monitor the impacts of the compensation and resettlement activities. These indicators will be both quantitative and qualitative measuring the physical and socio-economic status of the PAPs, to determine and guide improvement in their social economic wellbeing. In addition, an independent audit will take place at the completion of the RAP implementation.

Estimated Budget for the RPF implementation

The estimated cost for the implementation of this RPF will be USD 800,000 This does include the tentative costs of implementing individual RAPs whose actual costs have not yet been determined. The RPF budget costs also include among others stakeholders' consultations and disclosure of the RPF in different fora.

Capacity Building and Training for RPF

For the effective implementation of the Resettlement Policy Framework there will be capacity enhancement by MoAIWD for **ASWAp SP II** implementing institutions and other stakeholders in the form of stakeholder trainings, awareness and sensitization workshops and consultation forums on resettlement issues.

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE PROJECT

1.1 Background and Brief Overview of the Project

Agriculture remains the mainstay of Malawi's economy. Agriculture accounts for 30 percent of Gross Domestic Product (GDP) and generates over 80 percent of national export earnings. Agriculture employs 64.1 percent of the country's workforce comprising mostly the smallholder subsistence farmers. Agriculture is also the main contributor to the national and household food security and nutrition. Agricultural production and productivity remains low. Although Malawi has allocated considerable resources to agriculture over years, production and productivity of the sector has generally been below the country's potential and not sufficient to match growing domestic demand and export markets. This has been attributed to low adoption of agricultural technologies, low access to farm inputs, low mechanization, low technical labour skills, poor access to finance, weak linkages to markets, recurrent outbreaks of pests and diseases, progressive depletion of soil fertility and increasing soil acidification and limited irrigation among smallholder farmers.

This document serves as a Resettlement Policy Framework (RPF) for the Malawi Agriculture Sectorwide Approach Support Project II (ASWAp SP II). The proponent is Ministry of Agriculture, Irrigation and Water Development. Government of Malawi is seeking a grant of US\$50 million to be financed through the existing Multi-Donor Trust Fund (MDTF) established to pool contributions from various donors as a joint effort to improve harmonization, alignment and donor coordination in the agricultural sector in Malawi. The aim of the project is to improve production and productivity of other agricultural commodities in the intervention areas thereby promoting diversification of the agriculture sector in project impact sites through among others up-scaling successful interventions under the first ASWAp-SP.

The ASWApSP II is consistent with the World Bank's Malawi Country Assistance Strategy (2013-16) approved by the Board in January 2013. In particular, the project will be an integral part of the Bank's strategy to achieve the outcome 1.3 on "increased productivity and commercialization of agriculture and sustainable management of water resources for multiple uses" and outcome 1.2 on "promoting supportive environment that will enhance inclusive private sector growth and competitiveness", all falling under Thematic Area 1 of "Promoting sustainable, diversified and inclusive growth". In turn, the Project links with the country's development policies in particularly the MGDS II (2011-2016), under Sustainable Economic Growth (Theme 1), National Exports Strategy (2013-2018), National Agriculture Policy (2016-2020) and ASWAp (2010-2015).

1.2 Brief Overview of the Project

1.2.1 Project Development Objectives of ASWAp SP II

The Agriculture Sector Wide Approach Support Project II provides a coordinated development and investment strategy in the agriculture sector in Malawi.

The proposed ASWAp SP II development objective is to improve the productivity and diversification of selected agriculture commodities in the project targeted areas in a sustainable manner.

The specific objectives of the project are:

- i) To increase the yield of selected commodities
- ii) Percentage of farmers diversifying their production (using Simpson index)
- iii) To increase the number of farmers adopting improved soil fertility management technologies
- iv) To increase percentage change in motorized volume on targeted rural roads
- v) To increase the number of farmers accessing market/volume of produce sold to markets

The proposed Agriculture Sector Wide Approach II has four components that are aligned to the National Agriculture Policy and National Irrigation Policy. These components are (i) Sustainable agricultural productivity and diversification; (ii) Improvement of Rural Roads to enhance access to markets (iii) Institutional Development and Capacity Building for Implementation of National Irrigation Policy and National Agriculture Policy; and (v) Project Coordination and Management. Brief descriptions of the scope of components are as follows:

Component 1: Sustainable Agricultural Productivity and Diversification

This component addresses constraints related to limited agricultural productivity and diversification which has been adversely affected by climate change, whereby limiting agricultural growth and food security. Key constraints include: (i) weak agricultural extension services, leading to low adoption of improved agricultural technologies, (ii) inadequate utilization of productive assets such as land and water – leading to unsustainable agricultural practices, (iii) limited access to finance, compounding to limited input use; (iv) low soil fertility, (v) pests and disease outbreak, and (vi) climate change. The broad areas under this project component include (i) Farm Inputs Subsidy Programme, in promoting access to improved maize, other cereals and legume seeds, (ii) crop diversification through strengthening seed systems (bananas, legumes, sorghum/millet, cassava and sweet potatoes), (iii) integrated soil fertility management, (iv) plant protection, pest and disease control, and (v) poultry production.

Sub-Component 1.1: Farm Input Subsidy Programme

This sub-component will support (i) direct support to the seed component of the FISP as a vehicle to improve crop productivity and diversification - the seed component traditionally comprises of approximately 900,000 smallholder farmers annually, each provided with 5kg maize hybrid seeds (or approximately 8kg open pollinated varieties) and 2kg certified legume seeds. As part of the reforms, the Ministry announced that from 2017/18 agriculture season, the programme will be extended to other cereals like sorghum and rice, hence expanding crop diversification options; (ii) operations of the Logistics Unit, an independent entity responsible for farm family updating, beneficiary registry, input monitoring and verification of FISP payments, (iii) implementation of FISP reforms, aimed at improving efficiency and effectiveness of the programme, and (iv) independent monitoring/evaluation as well as improving coupon security and innovativeness, in line with the FISP reforms.

Sub-Component 1.2: Promotion of Diversified Crop Production Systems

The project will support (i) micro propagation of clean banana planting materials, in response to the banana bunchy top virus (BBTV) disease and ensuring that smallholder farmers access clean banana planting materials, (ii) production of breeder and foundation legumes seeds (in response to demand), while ensuring that the legumes seed revolving fund that was established under previous project is functional to sustain future basic legume seed demands, (iii) production of improved breeder and foundation seeds for new varieties of sorghum/millet, while promoting demand and utilization by farmers and other sectors, (iv) farmers' access to clean planting materials for cassava and sweet potatoes (highly productive and drought resilient) through private sector decentralized multipliers, working closely with NGOs, plus additional support to conserve and promote genetic resources, in addition to promoting modern nutritious crop varieties, and (v) development and provision of agricultural extension and messages integrated in relation to delivering the above agricultural production systems.

Sub-Component 1.3: Integrated Soil Fertility Management

The project will support (i) scaling up of climate smart agriculture practices among the smallholder farmers in order to enhance the resilience of agricultural production systems to climatic change shocks – these will include conservation agriculture, agroforestry and other integrated sustainable land and water management practices, (ii) support development of area specific fertilizer recommendations and other good agronomic practices based on soil analysis, ensuring dissemination of the messages and exploring to piloting the recommendations in specific districts, in line with findings from the soil maps.

Sub-Component 1.4: Pests/Diseases and Plant Protection

The project will respond to emerging pests and diseases that greatly affect agricultural production, in line with the value chains supported. Specific support will be provided in the following areas: (i) support awareness and surveillance of pests and disease outbreak (ii) procurement of required pesticides, in line with safeguards policies, (iii)

support operations of plant clinics, while linking such efforts to the district agricultural extension service system, (iv) support knowledge sharing and learning, and (v) institutional support for pest control (plant protection directorate, pesticide control board, department of agricultural research services) to effectively carry out their mandates.

Sub-Component 1.5: Poultry production

As part of promoting agricultural diversification and improving nutrition status of farmers, the project will support (i) hatcheries in government farm for production and distribution of 6 weeks Black Astrolop chickens at cost recovery basis. Special support will be provided for the acquisition of solar equipment to allow continuous production of chicks in hatcheries that has been affected by load shedding, (ii) procurement of vaccination drugs/kits (e.g. new castle vaccines), while putting in place effective drug revolving fund mechanisms at community level, and (iii) promotion of nutrition sub-project and awareness, particularly on the consumption of eggs at household level.

Component 2: Improvement of Rural Roads

This component will contribute towards market access to facilitate commercialization of agricultural production. Support will include rehabilitation of rural roads using labour-intensive methods and upgrading works through the Low Volume Sealing Methods in 12 districts of Lilongwe, Mchinji, Kasungu, Dedza, Mzimba, Ntchisi, Phalombe, Ntcheu, Chitipa, Zomba, Mulanje and Thyolo. This will be a continuation of similar interventions under Agriculture Sector Wide Approach Support Project I in selected districts but now with emphasis on providing more income to the local communities through the rural road works and building capacity for contract management in the District Councils in order to provide proper environment for decentralization. The Roads Authority will provide technical advice in the selection of the roads and lead in the selection of consultants and contractors that will construct the roads.

Selection of the project districts and roads will be done using criteria agreed between the Government and the Trust Fund Donors, targeting districts of good agricultural productivity where initiatives to increase agricultural production are evident. Works contracts and supervision consultancies will be procured through the District Councils with backstopping services being provided by the Roads Authority through a Roads Selection and Design Consultant.

This component will be implemented in complementarity with an EU project being implemented by the National Authorizing Officer Support Unit (NAU-SU) under the Rural Roads Infrastructure Programme, which is aiming at analysing capacity gaps in the 12 District Councils and providing them with capacity building in areas where they are lacking. The Road Fund Administration will maintain its role of making all payments related to the project and providing periodic technical audits to monitor quality and adherence to standards.

Component 3: Institutional Development, Capacity Building and Coordination

The Agriculture Sector Wide Approach Secretariat in Ministry of Agriculture, Irrigation and Water Development remain relevant and essential to strengthen the foundation for the harmonized investment strategy. The project will continue to support and strengthening the Secretariat to address the gaps identified during the implementation of the first Agriculture Sector Wide Support Project. The Agriculture Sector Wide Approach II will also focus on improving the capacity of Ministry of Agriculture, Irrigation and Water Development staff in planning and alignment of the Ministry's budgeting to the National Irrigation Policy framework. Further, the project will continue to provide support towards improving sector coordination through the Joint Sector Reviews (JSR), Agriculture Sector Working Group (ASWG), Technical working Groups (TWGs), and in monitoring and evaluation of public investments in the agricultural sector. The TWGs modalities will be reviewed to reflect the NAIP framework at the same time to make them more effective as discussion fora for the technical issues in the sector.

Sub-Component 3.1 Strengthening Agricultural Planning and Agricultural Statistics

This sub-component will provide support towards strengthening the capacity of Planning Department to enhance their ability for strategic planning and enhance monitoring and evaluation functions of the Ministry at all levels. Special attention will be on the development of the agricultural statistics systems and establish a repository where all data in the sector will be stored and retrieved easily. Specifically, the project will focus, on the implementation of the recommendations on crop estimation methodologies; development of agricultural statistics data bank; food security monitoring and reporting; capacity building in planning, annual work plan and budgeting and conducting studies that will inform policy formulation.

Sub-Component 3.2 Technical and Skills Development

Under the technical development and skills development sub-component, the Ministry developed a training plan following the completion of the CFA study. The CFA identified some technical and skills gaps and support will be provided towards training officers at Masters and Diploma levels at LUANAR and Natural Resources College respectively. In order to enhance fiduciary capacity in the Ministry, the project will also support capacity building in financial management and procurement at all levels. Further support will be provided to develop capacity in human resource planning and enable the Ministry to undertake human resource audits of MoAIWD that will help to mainstream gender and HIV/AIDS in the human resources plan.

Sub-Component 3.3 Activities under Retroactive Financing

This sub-component will facilitate the completion of a number of studies and on-going contracts from the previous ASWAp-SP. There were consultancies that were in progress during the time the project was closing. However, most of the studies were very relevant to inform a number of reforms being initiated in the sector. These studies include; i) operationalization of the electronic permit system; ii) up-scaling identification of idle estates; iii) redesigning and development of the Land Information Management

System (LIMS); iv) digitization of records in title and deeds registries; v) systematic regularization of land tenure; vi) the development of the agricultural extension strategy; and vii) functional review of ADMARC.

Component 4: Project Coordination

This component will finance activities of the Project Coordination Unit (PCU) that would be established in the Ministry of Agriculture, Irrigation and Water Development using the existing Ministry structures with some additional Technical Assistance to augment the Ministry's capacity. The PCU will oversee the implementation of project activities, monitor project progress, and coordinate between implementing entities, ensure sound fiduciary management including coordinating and accounting for the project funds utilization, ensure social and environmental safeguards compliance, and engage in communication and reporting. The main responsibility of the PCU will be to comply with the World Bank's fiduciary reporting requirements. This includes submitting a project implementation progress report on a semi-annual basis. In addition, the PCU would be responsible for implementing the calls for proposals, management of contracts and consultancies.

1.3 Rationale and Justification of the RPF

During the Implementation of ASWAp-SP-2, there are activities with potential to have an impact on land, assets, and livelihoods hence the necessity to provide guidelines for ensuring that any possible adverse impacts are addressed through appropriate mitigation measures, and against potential impoverishment risks. The need for Resettlement Policy Framework emanates from indications that some sub-projects (rural access roads sub-projects and new seed multiplication farms) would trigger resettlement in one form or other:

- i. Rural road improvement works under the Agriculture Sector Wide Approach Support Project II would be in rural community settings of 12 districts. Rehabilitation works may involve land uptake (from local farms/customary lands) along the road corridors. Gravel pits for road improvement works may also require formal land acquisition processes. Acquisition of land for these pits will entail land tenure and access changes within the areas of location;
- ii. Establishment of new farms for micro propagation of clean banana seeds and new farms for production and multiplication of new varieties of hybrid seeds for sorghum and millet may require land acquisition – entailing land tenure and land access changes within community settings;
- iii. The specific locations of projects within the districts are not known at the moment as the sites would be selected at a later stage by districts councils. However, based from previous experiences of road works under ASWAp SP I, the locations of rural roads are within or in proximity of the communities. In this context, the implementation of the roads works may displace some households from parts of their homesteads and many also disturb livelihood bases.

1.4 Purpose and Objectives of the Resettlement Policy Framework (RPF)

The purpose of this RPF is to establish the mechanisms, procedures and principles for compensation and livelihood restoration for all potentially affected people and households under ASWAp SP II and guide the preparation of the RAPs for individual investments under ASWAp SP II.

The overall objective of this RPF is to provide a process, for ASWAp SP II activities, to ensure that where land acquisition and acquisition of other assets, or impact on livelihoods arising from the project activities is inevitable, resettlement and compensation activities for lost resources are conceived and executed in a sustainable manner. The specific objectives of the Resettlement Policy Framework (RPF) are to:

- i. Establish the ASWAP SP II resettlement and compensation principles and implementation arrangements;
- ii. Describe the legal and institutional framework underlying Malawian approaches for resettlement, compensation and rehabilitation;
- iii. Define the eligibility criteria for identification of project affected persons (PAPs) and entitlements;
- iv. Describe the consultation procedures and participatory approaches involving PAPs and other key stakeholders; and
- v. Provide procedures for filing grievances and resolving disputes.

1.5 Principles of the Resettlement Policy Framework

This RPF will apply to all project components and activities that will lead to either land acquisition and/or denial of, restriction to, or loss of access to economic assets and resources, whether permanent or temporary. The procedures outlined in this RPF will be carried out throughout the preparation and implementation of the project and different project components, and impacts of any potential resettlement will be included in Monitoring and Evaluation.

When RAPs will be required for implementation of the project in different districts, the RAPs will be prepared in accordance with the guidance of this RPF. Preparation of this RPF has been guided by provisions of the Malawi legislation and international policies and regulations such as the World Bank Operational Policy on Involuntary Resettlement OP 4.12. This RPF seeks to ensure that any possible adverse impacts of the proposed project activities to people's livelihoods are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks will be minimized by:

- i. Avoiding displacement of people as much as possible, ensuring that involuntary resettlement and land acquisition is avoided where feasible or minimized where it cannot be eliminated;

- ii. In the event that displacement is inevitable, having a well-designed compensation and relocation process in place because this RPF applies to all PAPs regardless of the total number affected, the severity of impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles;
- iii. Minimizing the number of PAPs, to the extent possible;
- iv. Compensating for losses incurred and displaced incomes and livelihoods where involuntary resettlement and land acquisition are unavoidable;
- v. Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs and their well-being and restore livelihoods. PAPs will be meaningfully consulted and will participate in planning and implementation of resettlement activities;
- vi. PAPs will be assisted in their efforts to ideally improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.
- vii. Measures to address resettlement shall ensure that project affected peoples are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.
- viii. Projected affected persons if resettled will be supported to integrate economically and socially into host communities so that adverse impacts on host communities and vice versa are minimized. To this end, appropriate patterns of social organization will be promoted and existing social and cultural institutions of PAPs will be supported to the greatest extent possible.
- ix. All PAPs will be identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.
- x. Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, persons with disabilities marginalized groups and

or other displaced persons who may not be protected through the Malawian law. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.

- xi. The implementation of individual RAPs must be completed prior to the implementation of the investments under ASWAp SP II.

Furthermore, this RPF applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank and Government of Malawi are a) directly and significantly related to ASWAp SP II investments; b) necessary to achieve its objectives as set forth in the project documents; and c) carried out, or planned to be carried out, at the same time as the project.

As noted above, investments under ASWAp SP II will avoid or at least minimize involuntary resettlement to the extent possible. However, where it is unavoidable, appropriate measures to mitigate adverse impacts will be carefully planned and implemented following the general framework outlined in this document.

1.6 Methodology for RPF Preparation

This Resettlement Policy Framework (RPF) was prepared using the following approaches and methodologies, mostly updating what was already done under the ASWAp SP I since, to a large extent, the processes remain the same. However, care was taken to present a framework document – providing guidelines on how the actual instruments like the RAPs and process (M&E) would be developed and implemented.

1.6.1 Literature review

Existing baseline information and literature was reviewed in preparing this RPF. Documents reviewed include:

- i. the Constitution of Malawi,
- ii. the National Land Policy 2002,
- iii. the Land Act (2016),
- iv. the Customary Land Act (2016),
- v. the Land Acquisition Act (2017),
- vi. the Physical Planning Act (2016),
- vii. the Environmental Management Act (1996),
- viii. the Public Roads Amendment Act (2017)
- ix. the Forestry Amendment Act (2017) and
- x. other relevant Malawi Policies

Besides, a number of Socio Economic Profiles for the different districts were also be reviewed. Examples of the information obtained from the different documents included project design, planned project activities and description, data on rainfall, flora and fauna, population statistics and socioeconomic data.

1.6.2 Stakeholder Consultations and discussions with implementing agencies

Stakeholder consultation meetings were conducted at district and community levels in sampled districts of selected districts targeting the District Executive Committee (DEC) members and the farming communities respectively in different districts. Stakeholder consultations help to identify and promptly address the concerns of different stakeholders and the PAPs regarding their rights and interests. Stakeholder consultation meetings help to i) inform the stakeholders about the project; ii) identify concerns from different stakeholders concerning the project; iii) address different concerns of stakeholders about the project; and document the concerns from stakeholders about the project with a view to minimizing potential conflicts that could arise during project implementation.

Field investigations and public consultations have revealed that there are some Land acquisition and resettlement activities managed mostly by the Ministry of Lands, Housing and Urban Development. A number of inconsistencies have been identified in the way these activities are managed, particularly with respect to resettlement and compensation. It was noted during the stakeholder consultations that cash compensation has been preferred for houses, buildings and secondary structures. The consultations also revealed that the prices used in the determination of compensation values have, in some cases not been regularly updated. This has resulted in project affected persons (PAPs) receiving inadequate compensation for them to maintain their livelihoods to the same or better levels, compared with pre-project conditions.

Using information obtained through stakeholder consultations and the existing laws and regulations as well as the World Bank Operating Policies, this RPF has developed the screening process, methods for valuing assets and procedures for delivery of compensation. The RPF establishes parameters for the conduct of land acquisition, compensation, including resettlement of (PAPs) who may be affected during implementation of the ASWAp SP II. The RPF has made recommendations for appropriate local and national structures to facilitate effective implementation and monitoring of resettlement and compensation for the ASWAp SP II.

1.6.3 Site visits

A number of visits to the different districts and likely project sites were carried out as part of the screening process. The site visits served as an opportunity for the familiarization with the proposed project areas and the team used this opportunity to brief staff from different District Councils and farming communities in different districts of the coming of the project.

During the site visits, different surveys were carried out. The surveys focused on the existing physical environment (topography, soils, water resources, etc.), biological environment (flora and fauna), cultural and socio-economic environment (data on existing human population, settlement pattern, economic activities, cultural sites such

as grave yards and land use patterns). Data generated through this baseline study was used in the description of existing socio-economic environment for the project.

The selection of road works and roads for rehabilitation/improvement within each of the participating districts will be conducted on the basis of agreed criteria including:

- i. Establishing more reliable access to trading centres and planned investments in agricultural production;
- ii. Overall connectivity within the district for social reasons (such as access to health, education and any other services) and for food security purposes;
- iii. Interest by private producer organizations in establishing reliable access and sustainable maintenance of the roads.

The Environment Management Act and the World Bank Operational Policies require that, for projects of this nature, an environmental impact assessment should be conducted. This is not possible for the rural roads component of the ASWAp SP II at this time since the precise types and locations of the roads to be improved are not yet known. However, to ensure that the environmental and social considerations of the project are addressed, the ASWAp SP II has prepared an Environmental and Social Management Framework (ESMF). The ESMF will facilitate identification of potential environmental and social impacts and development of appropriate mitigation measures for the negative impacts.

CHAPTER 2: PROJECT DESCRIPTION AND OVERVIEW OF IMPACTS

2.1 Project Purpose, Objectives, Location and Areas

2.1.1 Project Purpose and Objectives

The focus of most huge investments on agricultural production and productivity has been on maize. Only a few investments have focused on other commodities. Consequently, there have been no significant improvements in production as well as productivity of other agricultural enterprises of equal importance. This has resulted in increased risks of smallholder farmers as well as the economy at large to both weather related as well as price risks.

The proposed project therefore seeks to address the gap that has been created by over emphasis on improving maize productivity and production. It intends to improve production and productivity of other agricultural commodities in the intervention areas thereby promoting diversification of the agriculture sector in project impact sites through among others up-scaling successful interventions under the ASWAp-SP.

The project development objective is to improve the productivity and diversification of selected agriculture commodities in the project targeted areas in a sustainable manner. The proposed project will address the PDO through a community demand driven approach, rather than a Government-centric one. The project will build on the successes of the first ASWAp SP and upscale them in the selected project areas. The project will ensure that the activities promoted are technically and environmentally sound and ensure that the activities are sustained after project closure. The proposed project will have four components that are aligned to the NAP and NAIP.

2.1.2 Location and Areas

Selection of district and roads has been done using criteria agreed between the Government and the Trust Fund Donors, targeting districts of good agricultural productivity where initiatives to increase agricultural production are evident. A total of 12 districts (Lilongwe, Mchinji, Kasungu, Dedza, Mzimba, Ntchisi, Phalombe, Ntcheu, Chitipa, Zomba, Mulanje and Thyolo) have therefore been identified as the location of the project with the objective to improve market access to facilitate commercialization of agricultural production.

2.2 Project Proponent and Implementing Agencies

The proponent of the proposed Malawi Agriculture Sectorwide Approach Project II is Government of Republic of Malawi. Contact details and addresses of the proponent are as follows:

Proponent Name: Secretary for Agriculture, Irrigation and Water Development
Ministry of Agriculture, Irrigation and Water Development
Postal address: P.O. Box 30134, Capital City, Capital Hill, Lilongwe 3, Malawi.
Telephone: 265-01-789 033

Facsimile: 265-01-789 390
E-mail: agric@gov.mw.net
Project Contact: Erica Maganga/Cosmas Luwanda

A central project implementation unit based in Lilongwe will coordinate the overall implementation of the Malawi Agriculture sector wide Approach Support Project II. The unit will be supported by sectoral ministries and these will include: Ministry of Agriculture, Irrigation and Water Development, Ministry of Lands, Housing and Urban Development, Ministry of Trade, Industry and Tourism. There will be a number of consultants and contractors who will be hired in the design and implementation of civil works to enhance good quality and timely completion of activities.

2.3 Resettlement Impacts and Investments with Resettlement Potential

Involuntary resettlement, arising from development projects, often gives rise to severe economic, social and environmental hardships. The hardships stem from the following reasons among others:

- i. Disruption of production and income generating systems;
- ii. Affected persons' skills being rendered inapplicable in new environments;
- iii. Increased competition for resources;
- iv. Weakening of community and social fabric and networks;
- v. Dispersion of kin groups;
- vi. Loss of cultural identity and traditional authority; and
- vii. Loss of mutual help.

In most cases, resettlement of people 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.

The ASWAp SP II will support the improvement of unpaved rural roads. More important for this RPF, activities whose location and technical specifications are not known at the moment, are planned for future implementation. Given the nature of ASWAp SP II, specific project locations and scope of activities have not been defined and identified hence the preparation of the RPF as the basis for preparing the project investment specific Resettlement Action Plans (RAPs). The RPF will set out the procedures for the development of more detailed RAPs for those investments/projects and associated facilities that have an impact on land, assets, and livelihoods.

CHAPTER 3: RELEVANT POLICY, LEGAL AND REGULATORY FRAMEWORK

3.1 Review of Policies and Laws on Resettlement in Malawi

Malawi has a policy and legal framework on resettlement. The basis of legislation on resettlement is the Constitution. However, there is also legislation which deals specifically with land. Between 2016 and 2017 Malawi passed several Bills which either repealed legislation on land issues or amended it. Key Government policies and legislation relevant to issues of resettlement in Malawi include; the Malawi National Land Policy of 2002, Land Act No.16 of 2016, the Customary Lands Act No.19 of 2016, the Lands Acquisition Act and the Lands Acquisition (Amendment) Act No. 9 of 2017, the Physical Planning Act No.17 of 2016, the Public Roads Act and the Public Roads (Amendment) Act No of 2016, the Forestry Act 1997 and the Forestry (Amendment) Act No.5 of 2017. In addition to these Acts, there are other laws which have provisions pertaining to resettlement.

The chapter sets out the policy and legal operating environment for acquisition of land in the implementation of the ASWAp SP II.

Policy and legal framework on resettlement in Malawi is drawn from various government policies and pieces of legislation. The following paragraphs highlight some resettlement related requirements in the planning of rural road improvement works and development of new seed multiplication schemes under Agriculture Sector Wide Approach Support Project II.

3.1.1 The Constitution of Republic of Malawi (1995)

The Constitution of the Republic of Malawi guarantees land as a basic resource for social and economic asset for all Malawians. It affirms equitable access of land and ownership of property. The constitution also sets a benchmark on the issue of land acquisition. It provides in section 28(2) that “No person shall be arbitrarily deprived of property” and in section 44(4) 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 a court of law”. In regard to these facts, it will be necessary for the community to provide adequate land to for displaced persons. The Constitution of Republic of Malawi further guarantees security of tenure of land and free enjoyment of legally acquired property rights in any part of the country. The implication of this provision to resettlement related to rural road improvement works under Agriculture Sector Wide Approach II is that government must pay out fair and adequate compensation to land owners in event of the need to acquire persons’ land for upgrading of rural roads and development of new seed multiplication schemes.

3.1.2 The Malawi National Land Policy (2002)

The Malawi National Land Policy focuses on land as a basic resource common to all people of Malawi and for enhancement of socio – economic development. Section 4.11

affirms equitable access to land to all citizens of Malawi. The policy recognizes human settlement and agriculture as the major benefactor land use sector. As such, the policy advocates for orderly resettlements of villages or households especially in rich agricultural zones. Furthermore, the policy guarantees full legal protection to customary land tenure to the people of Malawi in order to enable the ordinary Malawians adequately participate in subsistence farming and socio-economic development activities. The Malawi National Land Policy also advocates for fair compensation on open market value to local people on all classes of land (whether held under customary land tenure or leasehold) in case such land is acquired for public interest or for development of public infrastructure. In reference to relocation of displaced people, the policy advocates adequate consultations with the affected people so that their interests are taken care of. Such provisions will have to be made in rural road improvement works under Agriculture Sector Wide Approach II for consideration of acquisition of land for upgrading of rural roads and development of new seed multiplication schemes.

3.1.3 Land Act (2016)

Land Act (2016) covers land tenure and land use quite comprehensively. Section 27 and 28 of the act guarantees landholders for appropriate compensation in event of disturbance of or loss or damage to assets and interests on land Act also provides procedures of acquisition of one class of land to another. The process begins with appropriate notice the existing lessee of the land.

3.1.4 Land Acquisition Act (2016)

This law covers procedures relating to the acquisition of land by either the government or individuals or developers from any form of the land tenure systems in Malawi. The act makes provision for preliminary investigation, preliminary survey of the area and the procedure to be followed where land should be acquired. The procedure for land acquisition starts with issue of a formal notice to persons who have existing interests in the land. Such notices are issued under section 6 of this act. Sections 9 and 10 of the act covers the steps for assessment of land, crops, fruits and other landed properties and subsequent procedures for payments of the compensation to the displaced people. Section 11 to 14 outlines the necessary steps for land surveying and land transfer following notices in government gazette. The responsibility of identifying alternative land for those affected people rests with their village headman, their traditional authority and District Commissioner of the district. The District Commissioner assists in transportation and provisions of necessary services on new sites of resettlement.

3.1.5 Physical Planning Act

Physical Planning Plan Act (2016) a principal act for regulating land use planning and physical developments in Malawi. The aim of regulating land uses and location of physical developments is to enhance orderly spatial physical growth of human settlements activities. In addition, the laws promote orderly physical planning in order to enhance optimum use of land and service infrastructures, protect and conserve fragile environmental systems in space. These objectives are achieved by guiding

physical developments, and controlling building uses in designated zones with regulated planning permissions. Section 40 basically prescribes environmental and socio-economic screening for medium to large scale development projects before they can be granted planning permissions under this act. Normally this screening is undertaken by local assemblies and developers of proposed large projects before they can be sanctioned under this act.

Sections 63 - 65 recognize the need of appropriate compensation to land owners in case of compulsory acquisition of land for public interest. Although the provisions indicate that compensation is at discretion of government, recent amendment to the sections have provided room for appeal to the high court by land owners in case they are aggrieved on amount of compensation on their assets.

It is expected that there will be no cases of compulsory acquisition of land on the project.

3.1.6 Public Roads Act

The public roads act covers the management of road reserves and streets. Land acquisition and resettlement issues are outlined in part II of the act. Section 44 provides assessment of compensation which can be paid under this act. The compensation cover surface and land rights of the owner or occupier of land. Section 45 provides for compensation for conversion of land into public use and the section states specifically that in case of customary land compensation is in respect to disturbance to people, section 49 and section 50 provide opportunities for land owners or occupiers to appeal to the High Court on grievances related to resettlement and compensation provided for in this act.

3.1.7 Forest Act (2016)

The Forestry Act (2016) affirms the role of Department of Forestry on control, protection and management of forest reserves and protected forest areas. In addition, the act recognizes the need to promote participatory social forestry and empowerment of communities for conservation and management of trees within the country. In this regard the act encourages community involvement in woodlots and management of forest reserves through co-management approaches. Section 86 of Forestry Act has provided guidelines on values/rates for sale of both indigenous trees and exotic trees. These rates are gazetted, and are reviewed from time to time by senior government officials. The values are used so that those who are involved in forestry are paid reasonable compensation on their timber trees and fruit trees. In case the department has not reviewed the rates at the material time, the department of Forestry normally assigns an officer to value the trees for purpose of immediate sale or compensation. Normally, the valuation of people's trees are done based on species of trees, measured diameter of breast height and market price in kwacha per cubic metre.

3.1.8 Environmental Management Act (1996)

The Environment Management Act (EMA) provides the basic legal and administrative

framework for environmental planning and management including environmental impact assessment for development projects. The EMA provides for the protection, conservation, and sound management of the environment for sustainable utilisation of natural resources.

The Environmental Affairs Department is mandated to administer Environmental Impact Assessment under section 9 of the EMA. The guidelines for prescribed projects (projects for which Environmental Impact Assessment is mandatory) are provided for in section 24 of the EMA.

For the ASWAp SP II the ESMF has been prepared to guide the process of environmental and social screening, impact assessment and preparation of environmental management plans. This RPF is prepared to guide the process of land acquisition and compensation for the PAPs. Both these frameworks are intended to supplement the EMA.

3.1.9 The Lands Acquisition Act No. 21 of 1979 and the Lands Acquisition (Amendment) Act No. 9 of 2017

The Lands Acquisition Act No. 21 of 1979 was enacted to provide for the acquisition of land. The Lands Acquisition (Amendment) Act No. 9 of 2017 has amended some provisions of the Lands Acquisition Act, the main one being that the Amendment Act now provides for the acquisition and compensation of land in the citation.

Section 3 of the Act read with the Amendment Act empowers the Minister responsible for lands whenever he is of the opinion that it is desirable or expedient in the interests of Malawi, to acquire land for public utility, either compulsorily or by agreement, and pay compensation as may be agreed or determined under the Act.

Sections 5-7 of the Act provide for the issuing of notices upon the persons who are possessed of an interest in the land. According to section 12 of the Amended Act when a notice to acquire land has been issued and published, the land shall revert to the Government as public land within 2 months of the publication of the notice.

Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment Act further provides that compensation shall be paid in one lump sum; therefore, the assumption is that compensation shall only be monetary.

Amended provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise. The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of

occupational rights, loss of land, costs of professional advice and disturbances which are a natural and reasonable consequence of the disposition of land. The Amendment has inserted substantive provisions on matters to be taken into consideration in assessing compensation for alienated land under section 10A.

Section 11 of the Act deals with the effect of payment of the compensation and states that a person who has been paid compensation for land cannot make further claims in respect of the land. However, this does not prevent any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof.

3.1.10 The Public Roads Act No.11 of 1962 as amended and the Public Roads Amendment Act No.8 of 2017

The Public Roads Act of 1962 as amended was enacted to consolidate and amend the law relating to Public Roads. In this Act the highway authority is assigned responsibilities for the construction, care and maintenance of any road or class of road in accordance with the Act.

The Public Roads Act provides for various instances when compensation may or may not be paid. Sections 44-50 of the Act provide for issues relating to compensation including assessment of compensation generally and for surface rights, compensation for land which becomes public land, matters to be taken into consideration in assessing compensation for alienated land and claims for compensation. The part also provides for procedures to be followed before a Land Tribunal and the right to apply to the High Court for judicial review if the claimant of highway authority is unhappy with a decision of the Land Tribunal.

3.2 Land Tenure Regimes in Malawi

Malawi embraces capitalist ideals with regard to land ownership. There are five distinct land tenure classes existing in Malawi. The implementation of the country wide Agriculture Sector Wide Approach II would likely involve land access to any one of the classes. Furthermore, cases of construction of new sub-project facilities within selected sites would trigger land tenure and access changes. The description and extents of the classes of land in Malawi are as follows:

i. Customary Land

This is land held in trust for all people of Malawi by the State President, who delegates his authority to traditional chiefs. This constitutes about 75% of the total 9.5 million hectares of the land. The land is commonly held and distributed to the people by local chiefs. Although each person has recognised ownership to a piece of land, he or she cannot trade on it as the land can be reassigned to other people in case the chiefs deem it fit. A coherent system in the distribution of land exists in both patrilineal and matrilineal societies. This system has allowed smallholder agriculture to survive without access to bank loans.

ii. Leasehold Land

This is part of private land that is leased by individuals or other legal residents. The lease period varies according to type of use that someone has applied for. Currently these fall into three groups of 21 years old leases for agricultural uses, 33 to 99 years old for property and infrastructure developments, and over 99-year lease for those who would wish to sublease to tenants of 99 years. About 8% of the land in Malawi is in this category.

iii. Registered Land

This is grouped into two classes called customary registered and adjudicated land. The first exists in Lilongwe District only. This land is registered in the family leader name with all family names in that area registered including the size of their land holdings. Their implicit freehold status as the families can trade in its holding by leasing out or selling bits of it with groups consent. Loans can therefore be obtained on strength of their certificates to the land. The second class is a simplified leasehold system, which allows owners to have certificates for their pieces of land based on survey and registration number. This is common in the urban areas, but has been applied in rural areas for agricultural, commercial and residential uses.

iv. Freehold Land

This is land, which has been granted to persons for perpetuity. The government has no specific control on transactions except on planning permission on uses. This lease is now limited to Malawian citizenship only. It is difficult to enforce conservation measures on this land because of the exclusivity, which the persons enjoy, particularly some owners who live overseas.

v. Government Land

This is land which is owned and used by government for public utilities, schools, hospitals, government offices and other properties, markets, government farms and other public goods throughout the country.

vi. Public Land

Land managed by agencies of the government and traditional leaders in trusts for the people of Malawi, openly used or accessible to the public at large. This includes catchment areas, protected forest reserves, national parks, game reserves, dambos, community forests, riverines, flood plains, wet lands, military sites and others.

3.3 Policies of the World Bank on Land Acquisition and Resettlement

World Bank Policy on resettlement is outlined in Operational Policy (OP 4.12, and the overall objective of this safeguard is to avoid or minimize involuntary resettlement

where feasible, exploring all viable alternative project designs. Further the policy advocates encourage community participation in planning and implementing resettlement. More specifically, where resettlement is un avoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to displaced persons on the following conditions:

- i. Those who 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 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 foreigners and 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 to the land they are occupying. This class of people includes squatters, pirates and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph 3.2(a) and 3.2 (b) shall be provided compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 3.2 (c) shall be eligible for compensation for the assets but not land.

In addition, the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

OP/BP 4.12 Involuntary Resettlement

World Bank Policy on resettlement is outlined in Operational Policy OP/BP 4.12, and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy advocates community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and assistance measures to displaced persons on the following conditions:

- i. Those who 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 but have a claim to such land or assets provided that such claims are recognized under the Malawi's laws. These include foreigners and 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 to the land they are occupying. This class of people includes squatters, pirates and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph 3.3 (a) and 3.3 (b) shall be provided compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 3.3 (c) shall be eligible for compensation for the assets but not land. In addition, the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

3.4 Comparison and Gaps between Policies of World Bank and Malawi on Resettlement.

Policies of the World Bank on resettlement and of Government of Republic of Malawi have a number of common aspects in management of resettlement. For example, both policies emphasise on minimisation of the extent of resettlement. Secondly, the policies recommend considerations of fair and adequate compensation to project affected persons. However, there some gaps which exists between the policies of World Bank and those of Government of Republic of Malawi. A detailed comparative analysis is provided in table 2. Some selected examples are as follows:

- i. On aspect of compensation on assets to project affected people, the policies of World Bank on resettlement include illegally built structures of squatters and pirates as eligible for compensation on their assets. In case of Malawi, such claimants are not entitled to compensation.
- ii. On aspects on compensation on land, the policies of Government of Malawi consider the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land). In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. World Bank policies do not distinguish such differential aspects of land classes and corresponding different market rates.
- iii. In cases on compensation of loss of land by project affected people, the World Bank policies prefer land for land compensation. In Malawi, an option of land for land compensation is normally preferred in customary land

transaction while option of land for money compensation is the preferred options in urban areas.

- iv. World Bank policies clearly stipulate resettlement as an upfront project – in that all issues of land acquisition and relocation of project affected people has to be done prior to commencement of the project site on the acquired site. The policies do not clearly spell out this approach and in practice; resettlement is treated as a separate exercise outside project planning and implementation process.
- v. World Bank Policies clearly recommends for adequate resettlement assistance and rehabilitation assistance to relocated people as a way of restoring and enhancing socio – economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawi legislation does not clearly define the extent of resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the project affected people.

3.5 Measures for addressing the Gaps in the Policies in implementation of Rural Road Improvement Works under Malawi Agriculture Sector Wide Approach Support Project II.

The approach in addressing the discrepancies between policies of the two institutions is to focus implementation of policy aspects which positively favour the project affected persons, and leave out those which negatively impact on the project affected persons. In this regard, where there are gaps, the policy that carries the higher standard will be applied and based on the comparative analysis and in all cases where the Malawi regulation appears less stringent than OP 4.12, it is recommended that Bank procedures will apply to this RPF. This recommendation is on the observation that a common position between World Bank Policy on Resettlement and the Constitution of Republic of Malawi on resettlement is the guarantee of fair and adequate compensation and adequate resettlement assistance for the project affected person. In this regard, suitable options to be adopted are as follows:

- i. Compensation in form of land for land loss to acquisition from those who have been displaced be made as a top priority. The option could come out as cost effective as the land acquisition process (which involves the project affected persons) may be much cheaper compared to acquisition of the same land by the government.
- ii. Compensation related to customary land acquisition to be made on real replacement values as opposed to previous practice of considering customary land as a free commodity. Whenever there is a conflict between the Bank and Government of Malawi policies on land tenure that of the bank will prevail.

- iii. Compensation should be paid to categories of project affected people so long they are covered within the cut-off date. Some special project affected persons to be included are the squatters, pirates, vendors' stalls/hawkers.
- iv. Compensation should be paid in relations to labour inputs into gardens and maintenance of trees and crops within the immediate past year.
- v. Provisions of basic and social services (such as potable water, graded access roads, sanitation facilities, subsidised fertile, income generating activities) to project affected people within the new area of relocations. Such support would enhance the restoration of standards of living of the project affected people.

Table 1 Summary of differences between World Bank Policy on Resettlement (OP 4.12) and the Laws of Malawi

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address gap
Policy objective	<p>The overall objectives of the Bank's policy on involuntary resettlement are the following:</p> <p>Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</p> <p>Where it is not feasible to avoid resettlement, 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.</p> <p>Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p> <p>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The Bill of Rights contained in Part IV of the Malawi Constitution entrenches several rights relevant to the objectives of WB: OP4-12</p> <p>For instance:</p> <ul style="list-style-type: none"> (i) The right to property in ss. 28 and 44(4) which provide protection against arbitrary acquisitions of property and for acquisition with adequate notification, and appropriate compensation. (ii) The right to development in ss.13 and 30 which accord the people right social, economic and political development and places the duty on the government. This accords with the project objective improving livelihoods and living standards <p>The right to due process in s.43 which accords with the objectives against forced eviction</p>	<p>While the WB: OP4-12 objectives are not word for word written into the Malawi Constitution, the overall shared picture and objective is the same when the enumerated rights and jurisprudence thereon are seen against the objectives of the WB: OP4-12.</p> <p>Under s. 5, the Constitution of the Republic of Malawi is the overriding legal instrument setting out the broad aspirations of the people and the government of Malawi. All acts of government are required to be consistent with the Constitution.</p> <p>Avoidance of impacts etc. is not specifically stated though. Further local laws do not specify on improvements or restoration of livelihoods & standards of living of displaced persons.</p>	<p>The subprojects will ensure that resettlement issues are considered at the design stage of the sub project in order to avoid or minimize resettlement.</p> <p>Implement World Bank OP 4.12 policy - displaced should be assisted in improving their livelihood to pre-project status.</p>
Eligibility for compensation	<p>According to paragraph 15 of the WB: OP4-12 applies to physical and/or economic displacement concerning:</p> <ul style="list-style-type: none"> a) Those who have formal legal rights 	<p>The entrenched identified in policy objectives column above are buttressed by s. 20 of the Constitution. It prohibits discrimination of any person in any form. The legal rights themselves are therefore</p>	<p>The WB: OP4-12 standard as to eligibility for compensation under the project can fall within the legal parameters for acquisition of land and</p>	<p>Ensure ALL users (including illegal squatters, labourers, rights of access) of affected lands are</p>

	<p>to land (including customary and traditional rights recognized under the laws of the country);</p> <p>b) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan, but have a claim to such land; and</p> <p>c) Those who do not have recognizable legal right or claim to the land</p> <p>To determine eligibility: Carry out resettlement census. Cut-off date for eligibility is the day when the census begins.</p>	<p>available to all persons affected by the project</p> <p>The understanding in item (i) is buttressed by a High Court judgment concerning the one of the former head of state where the court ruled that in spite of holding land customary land tenure, the constitutional protections were available to the claimant.</p> <p>Similarly, ss.28 and 44(4) of the Constitution accord protection against arbitrary acquisitions of property and for acquisition with adequate notification, and appropriate compensation to every person.</p>	<p>compensation under Malawi law.</p> <p>In law property is not a thing. It is bundle of rights relative to which a subject stand against the object of property. One may not have legal title in a piece of land but will have beneficial interests, or rights of use. Under OP4-12 in the project, those interests will be recognized and compensated for. So will they be recognized under property law in Malawi. If a squatter gets compensation, it's not because he is a squatter and is being rewarded for being a squatter but because he may have attained legally recognizable rights and interests in the course of his or her illegal occupation. As an example under s. 36 of the Land Act while a trespasser or encroacher or unlawful occupant upon any public land or private land or customary land may be ejected from the land by a Court order, this statutory provision recognizes the rights of such a trespasser or encroacher or illegal occupant of customary land or public land or private land to be given reasonable time to remove from the land his chattels or harvest his crops etc., or take down or disassemble his structures he may have constructed, but not necessarily be compensated for the structures or crops that s/he might have had on the land as would</p>	<p>included in the census survey or are paid</p>
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			be the practice followed in this project	
Compensation criteria and relocation	<p>WB: OP4-12 para 3(a) and 3(b), dictates that:</p> <p>(a) The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.</p> <p>(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are</p> <p>(i) provided assistance (such as moving allowances) during relocation; and (ii) provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.</p> <p>(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that</p>	<p>Sections 28 and 44(4) of the Constitution accord protection against arbitrary acquisitions of property and provide for acquisition with adequate notification, and appropriate compensation to every person. The full text reads:</p> <p><i>“Expropriation of property shall be permissible only when done for public utility and only when there had been adequate notification and appropriate compensation, provided that there shall always be a right to appeal to the court of law”</i></p> <p>The community involvement and grievance mechanism requirement criteria accords s.43 and s. 44(4) Constitution -due processes.</p>	<p>The constitutional preconditions to expropriation of property cover items in the OP 4-12 requirements. The difficulty is a practical one because the Constitution does not provide the meaning of adequate compensation.</p> <p>In addition, the compensatory principle of law applied by Courts in Malawi is the restitution in interregnum principle which essentially entails placing of the affected person in at least the same position as he or she would have been in but for the acts, in this project, injuring his or her interests. This means that the test in Malawi would be the same as item (i) if in the OP4-12 if the question of compensation were to come before the Courts. Marked difference lies in approaches between the OP4-12 and practice in Malawi with regards to the use of Replacement Cost rather than Depreciated Replacement Cost. While OP4-12 specifies aspects that need to be covered in the community engagement, local laws do not state the contents that would be deemed as adequate notification.</p>	Implement World Bank OP 4.12

	<p>displaced persons are : (i) offered support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and (ii) provided with development assistance in addition to compensation measures described in paragraph 6(a) (iii), such as land preparation, credit facilities, training, or job opportunities.</p>			
<p>Support to Vulnerable Groups including poor</p>	<p>The client will consider feasible alternative project designs to avoid or minimize physical and/or economic displacement, while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable.</p> <p>The OP 4-12 determines that in order to reach the objectives of the policy, particular attention should be paid to the need of vulnerable groups among those displaced especially those below the poverty line, the landless, the elderly, women and children, ethnic minorities or other displaced persons who may not be protected through national land compensation legislation</p>	<p>Under ss. 23 and 24 women and children have the right to full and equal protection by law and have the right not to be discriminated against on the basis of their gender or marital status (on the part of women) or on account of their circumstances of their birth (on the part of children).</p> <p>The National Policy on Equalization of Opportunities for Persons with Disabilities is to promote the rights of people with disabilities to enable them play a full and participatory role in society. The aim is to ensure that concrete steps are taken for people with disabilities to access the same fundamental rights and responsibilities as any other Malawian citizen. This means that there must be integration of disability issues in all government development strategies, planning and programs. Further it has objectives to Increase access to technical, vocational and entrepreneurial training opportunities for persons with</p>	<p>The OP 4-12 does define the vulnerable groups among those displaced as those below the poverty line, the landless, the elderly, women and children, ethnic minorities or other displaced persons who may not be protected through national land compensation legislation. Malawi law makes special recognition for women and children. It is to be noted that the kind of recognition does not give higher rights than the standard rights to equality or to property. Perhaps, the special emphasis in ss. 23 and 24 of the Constitution reflects a history of the people of Malawi and needs to be properly regarded in the management of the project although it does not have to create rights which did not hitherto exist. These are the rights to equality in s.20, to property in 28 and 44(4) and, as observed in the compensation criteria, are consistent</p>	<p>Implement World Bank OP 4.12 as it has a broader categorization of vulnerable groups</p>

		<p>disabilities and Improve access to loans and credit facilities for income generating activities.</p>	<p>with the Op 4-12 para 3(a) and (b). Further the National Policy recognizes the linkage between disability and poor and emphasizes on concrete steps being taken towards this effect. The policy also requires monitoring and evaluation of the implementation of its programs, to examine the extent to which the programs of line Ministries, Departments and parastatals are responsive to the needs of persons with disabilities.</p>	
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CHAPTER 4: PRINCIPLES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION

This RPF will apply to all project components and investments financed under the that ASWAP SP II that will lead to either land acquisition and/or denial of, restriction to, or loss of access to economic assets and resources, whether permanent or temporary. The framework is intended for use by all proponents implementing projects under the ASWAp SP II and will be applicable to private and NGO institutions that will utilize ASWAp SP II funds. The procedures outlined in this RPF will be carried out throughout the preparation and implementation of the project and different project components, and impacts of any potential resettlement will be included in Monitoring and Evaluation

When RAPs will be required for implementation of the project in different districts, the RAPs will be prepared in accordance with the guidance of this RPF. Preparation of this RPF has been guided by provisions of the Malawi legislation and international policies and regulations as outlined in the World Bank Operational Policy on Involuntary Resettlement (OP4.12). This RPF seeks to ensure that any possible adverse impacts of the proposed project activities to people's livelihoods are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks will be managed by:

- i. Avoiding displacement of people as much as possible;
- ii. In the event that displacement is inevitable, having a well-designed compensation and relocation process in place;
- iii. Minimizing the number of PAPs, to the extent possible;
- iv. Compensating for losses incurred and displaced incomes and livelihoods; and
- v. Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs and their well-being and restore livelihoods.

4.1 RPF principles under ASWAP II

- ✓ *Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.*
- ✓ *This RPF applies to all PAPs regardless of the total number affected, the severity of the impact and whether or not they have legal title to the land. Informal or customary tenure is to be treated in the same manner as formal, legal titles.*
- ✓ *Where involuntary resettlement and land acquisition are unavoidable, resettlement and compensation activities will be conceived and executed as sustainable development programs, providing resources to give PAPs the opportunity to share project benefits.*
- ✓ *PAPs will be meaningfully consulted and will participate in planning and implementing of the resettlement activities.*

- ✓ *Compensation for losses of assets will be provided at full replacement cost*
The World Bank OP4.12 states that Replacement Cost as a rate of compensation for lost assets must be calculated as market value plus transaction costs. It further expects the project to compensate affected people for loss of physical assets, revenue and income resulting from economic displacement or physical relocation regardless of whether these losses are temporary or permanent.
- ✓ *PAPs will be assisted in their efforts to ideally improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or levels prevailing prior to the beginning of the project implementation, whichever is higher.*
- ✓ *Measures to address resettlement shall ensure that project affected peoples are informed about their options and rights pertaining to resettlement, are included in the consultation process and given the opportunity to participate in the selection of technically and economically feasible alternatives. They will also be provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project investments.*
- ✓ *Projected affected persons if resettled will be supported to integrate economically and socially into host communities so that adverse impacts on host communities and vice versa are minimized. To this end, appropriate patterns of social organization will be promoted and existing social and cultural institutions of PAPs will be supported to the greatest extent possible.*
- ✓ *All PAPs will be identified and recorded as early as possible, preferably at project investment identification stage, in order to protect those affected by the project and prevent an influx of illegal encroachers, squatters, and other non-residents who will wish to take advantage of such benefit.*
- ✓ *Particular attention will be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line, the landless, the elderly, women and children, orphans, or other displaced persons who may not have legal protection. The objective is to provide whatever additional assistance may be necessary to restore pre-project living standards.*
- ✓ *The implementation of individual RAPs must be completed prior to the implementation of the investments under ASWAP II.*
- ✓ *Recommended sites for rural road improvement works under Agriculture Sector Wide Approach II shall be those site with no or minimal resettlement. Priority projects would be those projects where the implementation of a project would not bring about involuntary resettlement, voluntary or involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized*

by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

- ✓ *Projects proposed within a site where resettlement on the proposed site is unavoidable, government will plan and implement resettlement well in advance implementation of the rural road improvement works.*
- ✓ *A fair and equitable set of compensation options must be negotiated. In case of resettlement needs on the proposed rural roads rehabilitations government will take care of required compensation on and assets to project affected people based on open market values.*
- ✓ *Setting up of accessible grievance redress mechanisms. Government will put in place user friendly and cost-effective mechanisms for addressing complaints from project affected persons. The mechanisms will include use of local grievance redress mechanisms administered by local village heads, traditional authorities as well use of formal courts under the Judiciary. The use of local traditional courts administered by village headmen, group village headmen and traditional authorities will allow project affected people to access such services without going long distance.*

Furthermore, this RPF applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank and Government of Malawi are a) directly and significantly related to ASWAP SP II investments; b) necessary to achieve its objectives as set forth in the project documents; and c) carried out, or planned to be carried out, at the same time as the project.

As noted above, investments under ASWAP SP II will avoid or at least minimize involuntary resettlement to the extent possible. However, where it is unavoidable, appropriate measures to mitigate adverse impacts will be carefully planned and implemented following the general framework outlined in this document.

CHAPTER 5: ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION

This chapter is a summary description of the category of the affected groups under the ASWAP SP II and the potential type of impacts related to involuntary resettlement. In addition, this chapter describes entitlements for each type and category of impact, and sets out the detailed requirements for determining the value of affected assets and outlining the process by which valuation will be undertaken. It also explains entitlement and compensation measures.

In case of the need for resettlement in relation to in implementation of rural road improvement works under Agriculture Sector Wide Approach II, procedures for determining eligibility for compensation, resettlement assistance and the actual displaced persons shall consider the following:

- i. Those who 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 to the land they are occupying. This class of people includes those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph (i) and (ii) shall be provided compensation from the community for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 4.5(c) shall be eligible for compensation from the community for the assets but not land. Displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

5.1 Approach for identifying Project Affected Persons

The Land legislation considers all titled landowners, customary landowners, encroachers, persons affected by loss of access to sources of income and persons affected by loss of access to natural resources, as PAPs. As such it is clear that all affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land and are likely going to be affected by the project before the entitlement cut-off date. The entitlement cut-off date, which is publicly disclosed, refers to the time when the census of persons and their property in the area is carried out, i.e. the time when the project area has been identified and when the socio-economic study is taking place. Thereafter,

no new cases of affected people will be considered. Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

The RPF applies to all economically and/or physically displaced persons regardless of the total number of affected or the severity of impact and whether or not PAPs have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, the elderly, women and children, including orphans, marginalized groups, ethnic minorities and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through Malawi land compensation legislation.

5.2 Determining categories Potential Project Affected Persons

According to this RPF, Project affected people, refers to those persons, households or communities directly affected, socially and economically as a result of: **(i)** The appropriation of land and other assets causing relocation or loss of shelter; loss of assets or access to assets; loss of income sources or means of livelihood, whether or not of the affected person; and persons must move to another location; and **(ii)** The restriction or denial of access to legally designated areas that result in adverse impacts on the livelihood of the economically or physically displaced persons

Until the exact project investment sites are determined in terms of location, nature, scope and magnitude, it will not be possible to determine the exact number of persons who may be affected. However, a conservative approximation estimates that the project will affect, in some form or other, at most **1000 households**. The likely displaced persons can be categorized into three groups as individuals; households; and vulnerable groups or people.

Individuals. This category refers to those people with personal property/ businesses and may be affected in form of losses of their personal assets, land, property, or access to natural and/or economical resources as a result of land acquisition for construction/rehabilitation of rural feeder roads and development of new seed schemes.

Households: A household is affected if one or more of its members is affected by the program activities, either by loss of property, land or access, or is otherwise affected in any way by program activities. In case of this project, some households may lose family gardens, family wells, family trees and fruit trees, family winter gardens, family houses, family livestock kraals among others. A household is affected when there is loss of source of livelihood to any member of the household.

Vulnerable groups of people: Vulnerable groups refer to underprivileged members of the society. Most vulnerable groups are resource poor people. In implementation of

project of this nature, vulnerable groups may be made worse off if they are not protected from undue negative risks. In rural areas of Malawi, vulnerable groups who may be affected by land acquisition and loss of properties may include the following:

- i) **Female-headed households:** These households are mainly dependent on male relations for a livelihood. However, there are also cases where women are the sole breadwinners for households even while the men have remained within the household. There are also situations where the land being appropriated is used by females without formal rights to it or by females who are dependent on a male other than their husband for their primary income. In addition, some female farmers are discriminated in technical support and provision of agricultural inputs in rural areas. Special considerations have to be made on land acquisition for construction/rehabilitation of rural roads to minimize displacement of female headed households during land acquisition for commercial farms.
- ii) **People living with disabilities and the elderly;** People living with disabilities and elderly persons are especially vulnerable as they are more often than not dependent on the generosity of family, relatives, friends, and neighbors. Land and any form of asset loss could severely affect their livelihoods.
- iii) **People living with HIV/AIDS:** Relatively high percentages of the poor are living with HIV or are terminally ill with AIDS. While many are beneficiaries of numerous health programs from government, international organizations, and NGOs, loss of assets could affect their livelihoods. These will require special attention to enable them benefit from the project.
- iv) **Orphans and Child headed households/Youth:** - Due to the impacts of the HIV/AIDS crisis in Malawi, there are a considerable number of orphaned children whose parents have died from AIDS. These children fall into three categories of care: (i) those being looked after by relatives; (ii) those being looked after by the government, local authorities, or NGOs; and (iii) those living alone and providing for themselves and other siblings. Child headed households and youth are vulnerable because most of them are voiceless. During land acquisition for land for feeder roads, children/youth may lose family houses/land to commercial farmers and may not get assistance to reclaim their properties and land.

5.3 Eligibility for Vulnerability Assistance

The identification of vulnerable households will be on the following criteria:

- Predisposition to economic vulnerability;
- Age;
- Disability and Infirmary;
- Gender;

For groups identified as particularly vulnerable it will be ensured that they are included in the socioeconomic and baseline study so that: (i) they are individually consulted and

given the opportunity to participate in the project activities under Agriculture Sector Wide Approach Support Project II; (ii) their resettlement/compensation are designed to improve their pre-project livelihood; (iii) they receive special attention to ensure that their pre-project livelihood is indeed improved upon; (iv) they are given technical and financial assistance if they wish to make use of the grievance mechanisms of the project; and (v) decisions concerning them are made in the shortest possible time.

5.4 Eligibility for Compensation

The following are some of the category of impacts eligible for compensation. The list, though, can be added to when socio-economic study and census undertaken for individual investments under ASWAP II, where other types of impacts could be identified.

Land

Property

Land and property

Structures on land

Crops and trees

Livelihoods

Grazing land

Businesses

Community assets

Landing sites

All affected persons irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. The entitlement cut-off date refers to the time when the census and asset inventory of project affected persons (assessment of persons and their property) in the area is carried out for the preparation of investment specific RAPs.

Table 1 below summarizes the entitlements for each group of affected persons.

Table 2: Entitlement Matrix

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural land	Less than 20% of land holding affected Land remains economically viable.	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value
		Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of land holding lost Land does not become economically viable.	Farmer/ Title holder	Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost. Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance) Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
		Tenant/Lease holder	Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
Land users	Impact on livelihood	Land less, encroachers	Compensation to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
	Assets used for business severely	Title holder/business	Land for land replacement or compensation in cash according to PAP's choice. Land for land

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	<p>affected</p> <p>If partially affected, the remaining assets become insufficient for business purposes</p>	owner	<p>replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)</p>
		Business person is lease holder	<p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</p> <p>Relocation assistance (costs of shifting)</p> <p>Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.</p>
Residential Land	Land used for residence partially affected, limited loss	Title holder	Cash compensation for affected land
	Remaining land viable for present use.	Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)
	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws</p>	Title holder	<p>Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost.</p> <p>Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status.</p> <p>When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			Relocation assistance (costs of shifting + allowance)
	Land and assets used for residence severely affected Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws	Rental/lease holder	Refund of any lease/ rental fees paid for time/ use after date of removal Cash compensation equivalent to 3 months of lease/ rental fee Assistance in rental/ lease of alternative land/ property Relocation assistance (costs of shifting + allowance)
Buildings and structures	Structures are partially affected Remaining structures viable for continued use	Owner	Cash compensation for affected building and other fixed assets Cash assistance to cover costs of restoration of the remaining structure
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant). Disturbance compensation equivalent to two months' rental costs
	Entire structures are affected or partially affected Remaining structures not suitable for continued use	Owner	Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP. Right to salvage materials without deduction from compensation Relocation assistance (costs of shifting + allowance) Rehabilitation assistance if required (assistance with job placement, skills training)
		Rental/lease holder	Cash compensation for affected assets (verifiable improvements to the property by the tenant) Relocation assistance (costs of shifting + allowance equivalent to four months rental costs) Assistance to help find alternative rental arrangements Rehabilitation assistance if required (assistance with job placement, skills training)
		Squatter/informal dweller	Cash compensation for affected structure without depreciation Right to salvage materials without deduction from compensation

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available) Rehabilitation assistance if required assistance with job placement, skills training)
		Street vendor (informal without title or lease to the stall or shop)	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance to obtain alternative site to re- establish the business.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques, <i>Economic rehabilitation assistance:</i> Provide assistance to facilitate this transition... For example, assistance with and payment for construction of new zero-grazing structures on alternative lands; provision of buffer lands for growth of cattle fodder; assistance with cultivation of fodder, provision of cattle fodder for lag period until cultivated cattle fodder becomes available. Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	<i>Replace water access:</i> Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Loss of communal properties such as burial grounds and places of worship,	Loss of access to these sites, temporarily or permanently, loss of investment made.	Communities affected	<i>Consultation:</i> Undertake consultation with affected households to determine appropriate arrangements and compensation if suitable. Replacing the social building such as schools and dispensaries.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
community centres, and social buildings			
Loss of livelihoods (losing commercial unit, working/using agricultural/other land including rented land)	Loss of means of livelihoods such as a trade, small production, such as collection of forest product, fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	Wage earners (workers employees within shop/business/ industries) and persons engaging in non-farming livelihoods such as hunters and gatherers, fisher folk, beekeeper.	Livelihood restoration measures- land or non-land based: Undertaken to help the affected persons restore their livelihood.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation or reinstatement for any assets affected (e. g. boundary wall demolished, driveways, trees removed)
Additional support to vulnerable people		PAP or PAH	An additional financial assistance of 20% on the base compensation amount payable. Provision of livelihood support if eligible as per criteria. Provision of financial literacy training as given to all PAPs This amount will be in addition to other compensation and assistance amounts given above per type of loss

5.5 Establishment of Resettlement and Compensation Committees

For the purpose of this RPF, at each district level where most sub-project investments are likely to be, an ad hoc Resettlement and Compensation Committee will be established to help ensure that all legal processes involving valuation, compensation and grievance management are followed in a just and transparent manner. This committee is proposed to ensure participation and inclusion of stakeholders.

The Resettlement and Compensation Committee will ensure effective communication among between affected persons, the district and implementing agency. The Resettlement and Compensation Committee will include representative of Lands department, representative of the implementing agency, district and village administration, social services department, representative of an NGO, representative of the PAPs among other members. The Resettlement and Compensation Committee will be the liaison between the PAPs at the lower levels with the implementing agency and district administration.

5.6 Method to Determine Cut-Off Dates

The entitlement cut-off date refers to the time when the assessment of persons and their property in particular project areas is carried out, which is the time when the census or economic survey is initiated. The establishment of a cut-off date, that is publicly disclosed and published, is required to prevent opportunistic invasions/rush migration into the area.

Where there are clearly no identified owners or users of land or assets, the respective district administration will notify the TAs to help to identify and locate the land users and owners. These leaders and representatives will also be charged with the responsibility to notify their members about the established cut-off date and its significance. The PAPs will be informed through both formal notification in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

5.7 Methods of Asset Valuation

Valuation is the process of determining the value of land, or an asset that PAPs possesses or use. Compensation for all land use and assets in kind or cash will be required for the following:

Land;

Residential buildings, structures and fixtures;

Cultivated crops (both cash and food crops) and trees; and

Loss of businesses or employment.

In addition, resettlement and economic rehabilitation assistance will be provided to the PAPs, as outlined in the Entitlement Matrix. It is essential that if cash compensation is selected then replacement values are used to establish actual compensation for all projects funded under ASWAP II. A registered valuer will undertake the valuation

exercise, using existing market price, to establish replacement cost. This will be done as part of the preparation of each investment specific RAP.

5.8 Valuation Process of Assets

Development of Standard Valuation Table

Due to the expected investments under ASWAP SP II and the localized nature of most project interventions, it is not anticipated that large number of small-scale asset valuations will need to be carried out during the course of the implementation of ASWAP II.

Field Preparation of asset inventory

The first step will be to carry out an asset valuation survey as part of the RAP preparation. The team will include the consultant contracted by the implementing agency to carry out the RAP and the district and/or registered land valuer who will work closely with Resettlement and Compensation Committee, which will be established for the implementation of the RAP in a given project area. Each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the approach described above. The values of each asset will then be recorded in a register and shown to the affected person for agreement. The register will be signed and a copy given on the spot to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism. The information collected, including census, will have been compiled in electronic and hard copy form, with a separate file for each affected household, including:

Census results;

Asset inventory and valuation;

Photographs; and

Any other relevant information.

The type of compensation will be an individual choice although every effort will be made to instil the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets. **Table 5** below describes the forms of compensation.

Table 3. Forms of Compensation

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Malawi Kwacha, based on the replacement cost. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
Resettlement and Economic Rehabilitation Assistance	Assistance may include livelihood restoration measures, moving allowance, transportation and labour

One purpose of using in-kind compensation will be to reduce inflationary pressure on the cost of goods and services. Local inflation may still occur and thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The issue of security, especially for people who will be receiving cash compensation payments will be addressed by the local administration. The timing and venue for in-kind compensation will be decided by each implementing agency in charge of specific investment with consultation with the PAPs and with the assistance of Resettlement and Compensation Committee

5.9 Methods of Assets Valuation

In Malawi methods of valuation of assets (such as buildings, trees, fruit trees, crops, vegetables) for purpose of compensation are based on various pieces of legislations. These include Land Acquisition Act (2016), Public Roads Act and Physical Planning Act. Generally, Ministry of Lands, Housing and Urban Development (MLNR) will provide technical support and leadership on these issues. The ministry will provide benchmark on compensation schedules to determine values for loss of assets due to implementation of projects on construction of roads, health centres, earth dams, water schemes and other infrastructure. Currently there three types of compensation schedules based on type of assets affected. These schedules are used to determine compensation for the following groups of assets:

Physical assets such as buildings, bare land and other structures; Agriculture produce such as crops fruit trees, plantation crops, flowers; Trees such as indigenous and exotic trees. Each category of the assets has its own methods of valuation, and the exercises of valuation are based on appropriately established professional rates by relevant experts. The following paragraphs highlight the approaches to valuation of the assets.

5.9.1 Valuation for compensation of agricultural produce

This category covers crops, fruit trees, flowers and plantation crops. The valuation of people's crops and trees is undertaken by a team of relevant professional experts at district assembly level and led by The District Commissioner (DC). Additional staff come from Ministry of Agriculture, Irrigation and Water Development and Department of Forestry.

A detailed inventory of household heads and their assets will be established. The calculations will be based on established compensation rates. The District Commissioner (DC) maintains schedules of compensation rates for various types of crops and trees. After the exercise, The District Commissioner produces a schedule outlining names of household heads, list of their properties, values of their properties and total value of all properties assessed. This schedule is normally used for payment of the compensation to the affected people.

5.9.2 Valuation of physical building/structures and land

This category covers valuation of land, building and related structures such as houses, toilets, kitchen, and bathrooms, temporary structures made of wood and metal and animal enclosures. A detailed inventory of household heads and their properties is established. Department of Lands and Valuation in collaboration within District Commissioner calculate compensation amounts based on prevailing construction cost estimates for a given area. Construction costs estimates are normally prepared by qualified quantity surveyors in Department of Buildings. In large and permanent buildings, normally government uses the services of qualified valuation surveyors and quantity surveyors to determine the best replacement values of the affected structures.

Normally compensation is paid based on these replacement cost estimates. Valuation for compensation for loss of land is normally led by Department of Lands and Valuation. Department of Lands and Valuation in collaboration with District Commissioner calculate compensation amounts based on prevailing market rates for a given area. In this case, those people who have interests in land (customary or leased) are compensated based on the market values established by land economy surveyors from Department of Lands and Valuation. Similarly, when the government agency intends to acquire land for development or resettlement as is in this case, the government should compensate the original owners of land on basis of commercial market prices.

5.9.3 Valuation for compensation of fruits and trees

This category covers fruit and exotic trees. The valuation of people's trees is done based on species of trees, measured diameter of breast, height and market price in kwacha per cubic metre. For fruit trees, the calculation will be done based on the number of fruits each fruit bears per year, the unit price of the fruit in that area and the average number of years it takes for a replacement seedling takes to start bearing fruits.

The exercise will be led by a team of relevant professional experts from Department of Forestry, district assembly level and led by the District Commissioner (DC). A detailed inventory of household heads and their trees will be established. The calculations will be based on established compensation rates. Department of Forestry, the District Commissioner (DC) maintains schedules of compensation rates for various types of trees. After the exercise,

The District Commissioner produces a schedule outlining names of household heads, list of trees lost, values of their properties and total value of all trees assessed. This schedule is normally used for payment of the compensation to the affected people.

5.9.4 Limitations of the Existing Valuation Methods on Assets

The existing valuation methods have several limitations as some parameters were established in the past. The consequences include under valuation of the assets and underpayment of compensation to project affected people. The limitations of the valuation methods stem from the following weaknesses:

The methods use old rates in valuation of replacement costs of buildings and structures in some local authorities in rural districts.

The rates for calculation of replacement costs for buildings do not include the labour costs, transport costs incurred in the re-erection of the houses and other structures. The rates used for valuation of crops in some local authorities in rural districts tend to be old rates and not regularly reviewed and updated by relevant authorities. In most cases, key experts in asset valuation are not involved as the actual field work is dominated by officials from local authorities. Cases in points are valuation of trees and fruit trees that are normally carried out by officials from District Commissioners Office based on old figures from Ministry of Agriculture and Department of Forestry. Such incidents lead to undervaluation of assets as some officials cannot professionally adjust rates to realistic levels reflecting the field observations.

The methods do not explicitly stipulate resettlement assistance especially n identification of appropriate alternative land for relocation. The tasks of identification of alternative land is left in hands local leadership such as village headmen and traditional authorities of the area where the people stay. The District Commissioner is practically expected to oversee how the people are assisted in relocation by their local leaders.

Some of the measures which will be adopted in addressing the inadequacies outlined above include the following:

Government authorities will ensure that local authorities that will be involved in valuation of land and assets have updated rates of valuation for crops, trees and buildings structures. Government authorities will ensure that appropriate teams of experts are constituted prior to commencement of preparation of resettlement action plans. The team should consist of experienced personnel in land management, valuation, foresters, building foremen, quantity surveyors, agronomists and horticulturalists.

Cases of compensation of loss of land will emphasise on compensation alternatives to people displaced. The option may be as cost effective as the land acquisition process (which involves the project affected persons) and much cheaper compared to acquisition of the same land by the government.

Compensation related to customary land acquisition will be made on open market values and the cost of transaction as opposed to previous practice of considering customary land as a free commodity.

Compensation will be paid to all categories of project affected people so long they are covered within the cut-off date. Some special project affected persons that will be included are the squatters and hawkers.

Compensation will be paid in relation to the labour inputs made into gardens/farms and maintenance of trees and crops within the immediate past year.

Provisions of basic social services (such as potable water, graded access roads, sanitation facilities, subsidised fertilisers, and income generating activities) will be made to project affected people within the new areas of relocation. Such support is envisaged to enhance the restoration of standards of living of the project affected people.

5.10 Compensation of assets

The following methods will be adopted for the preparation of the standardized asset valuation tables and/or the application of specific case by case valuations in the case of projects that have significant impacts.

5.10.1 Compensation for Land in urban and peri urban areas

The compensation will be based on replacement cost, which will be the market price plus the cost of buying a new plot of land and the fees and taxes involved.

5.10.2 Compensation for Agricultural Land

The project will provide first replacement of land for any affected land. If receiving land as compensation, the affected party will then be compensated for the labour required to replant the crops. In the case where there is no alternative land available, cash compensation at full replacement value will be provided. This will be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality.

Any associated costs of purchasing the land i.e., taxes, registration fees will be included in the compensation. Compensation will also be done for any improvement made on the land with calculation made using current prevailing market rates for labour, equipment and materials. In cases where land lost is only a small fraction of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided will be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land). In addition, the PAPs will be compensated for any permanent improvements made to the land (for instance water distribution and supply lines). This will be calculated based on the price of making the permanent improvement at current prevailing market rates for labour, equipment and materials.

Compensation for land is aimed at providing a farmer and land owners whose land is acquired and used for project purposes, with compensation for land labour and crop loss. The farmer's labour is one of the biggest investments he/she makes in producing a crop which is higher than all other inputs such as seed and fertilizer. As a result, compensation relating to land will cover the market price of labour invested as well as the market price of the crop lost.

5.10.3 Compensation for Crops and Trees

The compensation of the crops and trees will be paid at market rate for the production lost. This rate incorporates the value of crops and the value of the labour invested in

preparing new land. The value is equivalent to highest market price over the last 3 years' market value for the mature and harvested crop. This will be validated from current market prices of crops as kept by District Agricultural office. The value of the labour invested in preparing agricultural land and ploughing will be compensated at the average wage in the community for the same period of time. The labour cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop.

5.10.4 Compensation for Buildings and Structures

Compensation will be paid by replacing structures such as houses, buildings, huts, farm, outbuildings, latrines and fences on alternative land provided as an in-kind compensation. Cash compensation would be available as preferred option for structures lost, that are not the main house or house in which someone is living. The ongoing market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement costs without depreciation of the structure. The second option is provision of cash compensation at full replacement value. Replacement values will be based on:

- *Measurements of structures and detail of materials used;*
- *Average replacement costs of different types of household buildings and*
- *Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).*
- *Prices of these items collected in different local markets;*
- *Costs for transportation and delivery of these items to acquired/ replacement land or building site;*
- *Estimates of construction of new buildings including labour required;*
- *Any associated taxes, registration fees.*

5.10.5 Voluntary Land Donation

For land donated voluntarily for the ASWAP SP II projects, a written consent must be undertaken by the owner of the land and also consented by the family of the owner and witnessed by the Chief. An agreement will then be prepared by the Lawyer, signed by the owner and witnessed by the Chief. The project should ensure that (i) the potential donors have been appropriately informed and consulted about the project and the choices available to them, that potential donors are aware that refusal is an option, (ii) that the donated land is minor and that the donation will not reduce the donors' current livelihood level, (iii) the donor is expected to benefit directly from the project, and (iv) no household relocation is involved,

5.10.6 Compensation for Community Assets

Community assets include community-owned assets such as water points, wells, marketplaces and community/ public facilities (e.g., schools, clinics police posts).

Community assets will be identified through the census and enumerated. In the event that community assets are affected, in-kind and new facilities will be provided even if there are existing facilities at the new location, except if such assets are not needed in the new place. However, if community trees are affected, the community will be compensated through provision of new seedlings equivalent to the value of lost trees. Some community assets such burial grounds in rare case may need to be moved, therefore the cost of moving graves and related structures will be considered by the project.

5.10.7 Compensation for Sacred Sites

This RPF is conscious of the fact that valuation of sacred places is a difficult undertaking because of the complexity of placing monetary value on a cultural site. Additionally, most sacred sites belong not only to an individual but a family, village or community.

Under this RPF to the largest extent possible, the sacred sites and use of land that is defined to be cultural and/or sacred property by the Banks Safeguards OP 4.11 will be avoided. Sacred sites will include but not restricted only to museums, altars, initiation centres, ritual sites, ancestral tombs, trees, stones, and cemeteries which are considered sacred by the project affected persons. It will also include other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. However, if the impact on some cultural sites is unavoidable, utmost care will be taken to ensure that all related activities affecting such sites and compensation is culturally appropriate and acceptable to the involved community and that all the processes are done in a consultative manner and with full participation of the affected communities.

5.10.8 Compensation for Loss of Enterprises

Business structures in project areas will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income, profits and production during the transition period (time lag between losing the business and re-establishment). If it is not possible or preferable to provide replacement site for an affected business/enterprise, the full replacement cost to re-establish the business, as described above, will be provided.

5.10.9 Compensation for vegetable gardens and beehives

Most vegetable garden, form part of the residential space of most homes - though miniature in size, they make critical component of most family's food and nutritional supplement through provision of vegetables. Until a replacement garden starts to bear, the family displaced (economically or physically), will have to purchase vegetables in the market for daily use. The replacement costs therefore, will be calculated based on the average amount that an average town dweller spends on buying these items for one year per adult from the local market. Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities, or access to hives is denied, beekeepers will be free to move them,

and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

5.10.10 Compensation for horticultural, floricultural and fruit trees

Papaya, Banana, Guava, spice crops, medicinal and aromatic crops will form a set of primary fruit trees that are likely to be found in project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of: *subsistence food for families; cash produce that contribute to the export economy; petty market income in some areas, and shade (in the case of mango trees)*. For banana trees, they have a relatively much shorter productive life, normally, than mango trees. For species, banana trees will not bear fruit more than once a year. Therefore, compensation for banana trees will be based on the full market rates for bananas harvested in that year and for one additional year. The second-year payment is for the replacement cost of planting a new tree, looking after it and harvesting it which could all be done in one year. This method in general is used for trees/plants that have a relatively short life.

Mango tree and other fruit bearing trees with longer life span will be compensated on a combined replacement/market value. Mango trees used for commercial purposes will be compensated at market value based on historical production records.

If households choose to resettle, they will be compensated for the labour invested in the trees they leave behind. For this RPF, the compensation rate will be based on the value of the mango and other fruits harvested in one season multiply by the years of the maturity of the tree. The compensation could also be in the form of providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income.

5.10.11 Compensation for other domestic fruit, shade trees

As defined in this RPF, individuals will be compensated for wild trees which are located in their land. Wild productive trees belong to the community when they occur in the bush as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

5.10.12 Compensation for livelihoods that are not necessarily land based

For those who have small production and that production is a major part of their livelihoods, such as forest fruit and herbs collectors, fishermen, beehive keepers, livestock owners, tenants, those working on land, sand collectors, earning an income, which is affected by any of ASWAP SP II sub project investment, the RPF proposes full livelihood restoration and support to such vulnerable groups affected by the project activities.

5.11 Livelihood Restoration for Economically Displaced:

- i. Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;
- ii. In cases where land acquisition affects commercial structures, compensate the affected business owner for the cost of re-establishing commercial activities elsewhere, for lost net income during the period of transition, and for the costs of the transfer and reinstallation of the plant, machinery or other equipment;
- iii. Provide replacement property (e.g., agricultural or commercial sites) of equal or greater value, or cash compensation at full replacement cost where appropriate, to persons with legal rights or claims to land which are recognized or recognizable under the national laws;
- iv. Compensate economically displaced persons who are without legally recognizable claims to land for lost assets (such as crops, irrigation infrastructure and other improvements made to the land) other than land, at full replacement cost. The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date;
- v. Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected; and
- vi. Provide transitional support to economically displaced persons, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.

For loss of *Agricultural Income*, ASWAP SP II will focus on improving well-being and adaptation capabilities of the affected people, enhancing resilience and livelihood adaptation and ensuring natural resource sustainability. To generate alternative source of agricultural income, if PAPs will stay in the settlements and have sufficient land for cultivation (in case of unavailability of land, they can purchase by their cash compensation), ASWAP SP II will continue the on-going agricultural activity in smaller areas of land in more intensive manner but learn and use good farming practices to be able to increase crop yield.

5.12 Approach and Procedures for Delivery of Compensation

Once valuation of land losses and asset losses has been finalized, it is the responsibility of the extension workers and District Lands Officer to circulate to District Executive Committee for review and approval the compensation packages from the community to project affected people. The process of payment of compensation is hastened so as to reduce risks of inflations and devaluation of the sums of the money. Typically, compensations are be delivered to project affected persons within a period of six months from the date of valuation of the assets and prior to any displacement. The recommended procedures for the community to deliver compensation to project affected people are as follows:

5.12.1 Delivery of compensation based on official valuations

This delivery mechanism is based on when the community offers such sums as deemed adequate as compensation to displaced person; and that person may accept that amount as compensation payable to him. Normally the sums are disbursed to the District Commissioners for the community in question for payment to the displaced persons. Local village headmen, traditional authority and assembly shall maintain records of displaced persons, their claims and entitlements. After payment of such sums, assembly documents the name(s) of the displaced persons, the amount of compensation and the records of how the compensation was arrived at. A copy of such records shall be made available to the government and local chiefs.

5.12.2 Delivery of compensation based on arbitrated values by formal courts

Normally this approach is based on the recommended figures for compensation from formal courts. Such incidents occur when some people appeal to courts for review of the compensation packages. What is decided by the courts is then used for compensation to project affected people.

It should be highlighted that in case some project affected persons have objections to land acquisition and resettlement, their objections should be done in writing to the District Commissioner or Commissioner for Lands and Valuation within 30 working days after the public notice; or formal complaint lodged via the local village headmen and traditional authority. It should also be pointed out that normally claims are not entertained after five years from the date of the proclamation; and or 12 months after the execution of the purpose out of which the claim has arisen in respect of any damage done to the land acquired.

CHAPTER 6: PREPARING AND APPROVING RESETTLEMENT AND COMPENSATION PLANS

This chapter describes how a determination will be made (screening) on whether ASWAP SP II sub project investments will lead to physical or economic displacement. If through the screening process, it is determined that land acquisition will occur, then the section highlights the steps, process and methodologies for preparing RAPs. The RAPs for each investment will be prepared in accordance with this RPF.

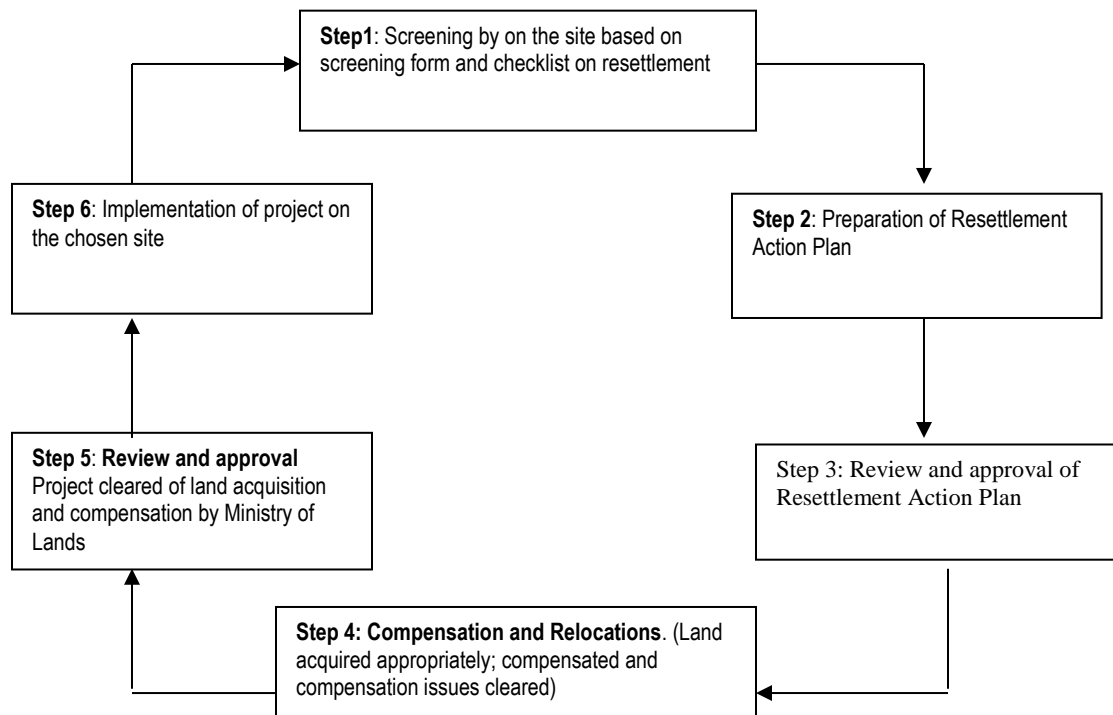
Resettlement screening process will consist of a series of appraisal activities prior to approval of the implementation of rural road improvement works project and development of new seed schemes. The exercise will be done by the Area Development Committee (ADC) as well as the District Executive Committee (DEC) of a local assembly. The purpose would be to identify potential resettlement impacts. The objectives of this screening process are:

- i. To guide communities in identification of appropriate sites for rural road improvement works and development of new seed multiplication schemes.
- ii. To guide communities in identification of measures for addressing resettlement issues (if they arise) prior to submission of the proposal.
- iii. To monitor measures for addressing the social impacts from resettlement.

6.1 The Screening Process

Figure 2 below outlines a diagrammatic flow of the proposed resettlement screening rural road improvement works under Agriculture Sector Wide Approach II.

Figure 1: Diagrammatic flow of the screening process



6.2 Screening of the sites by Area Development Committee and District Executive Committee

This step will be the first step in the resettlement process, and it will be done on the proposed site of the project based on the defined area of impact, primary engineering drawings, maps and if available satellite images of the project area showing homes, farms, workplaces, schools, health posts, places of worship and other individual and community assets. This will be undertaken by use of the *Resettlement Screening Form (appendix 3)*. The committee would be assisted in screening by extension workers. The committee will carry out the exercise based on checklist and screening forms (sample in appendix 1).

The aim of this exercise will be to assess the suitability of the proposed site, identify any form of encumbrances and determine whether resettlement is likely.

6.3 Desk appraisal of the proposed site and project

Desk appraisal of the projects will be carried out by District Executive Committee led by District Commissioner in districts of site locations. Based on field verification and results from the screening, the District Executive committee will make any of the following recommendations:

6.3.1 Clearance of the project on the proposed site

This would be based on the observation that the implementation of the project on the proposed site would not trigger involuntary resettlement, physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or titled), impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

6.3.2 Preparation of Resettlement Action Plan for the proposed site

Based on the observation that the implementation of the project on the proposed site would trigger resettlement, or physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or is titled), impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources. , The next step will be to initiate resettlement planning, and consultations for the preparation of a RAP.

6.4. Preparation of a Project specific RAP

Once it is determined that the project will affect land, assets and/or livelihoods, the Ministry of Agriculture Irrigation and Water Development through the District Commissioner will mobilization an appropriate team of experts to prepare a resettlement action plan within a reasonable time. A diagrammatic flow chart regarding the preparation of resettlement action plan is provided in annex 4. An outline of the contents of a resettlement action plan is provided in annex 8. In general, a resettlement action plan for a community based micro projects must consist the following aspects and processes:

- i. Description of the location of the proposed sub project and an analysis of alternative sites undertaken during the land screening process.
- ii. Determination of the size of land which the sub project will take and its existing uses.
- iii. Notification of potential eligible PAPs about the project and the RAP process and establishment of cut-off date as part of determining PAPs eligibility. The RAP team must also notify the respective local authorities and leaders.
- iv. Verification and inventorying of all assets to be lost by all households and individuals affected. This will be done using a compensation form containing necessary personal information on the PAPs and their household members, total land holdings, register of assets affected.
- v. Census of the people who will lose land over which they have established ownership or rights of usufruct (either permanently or temporary fashion) to allow for construction of the facility. This includes a socio-economic baseline survey, including relevant demographic information, against which the future wellbeing of the households can be measured.
- vi. Consultation with the identified project affected persons. The process requires the involvement of PAPs throughout the census and socioeconomic study for identifying eligible PAPs and throughout the RAP preparation process.
- vii. Determine compensation and valuation. This will refer specifically to the basis for valuing the land and other assets, which will be done in the presence of the PAPs or their representatives. Once such valuation is established an agreement that lists all property and assets that will be acquired by the project, the entitlements, types of compensation selected by PAPs from options such as in-kind and cash compensation. All compensation should occur in the presence of the affected persons and the community local leaders.
- viii. A plan of action for the resettlement must be drawn. This should also detail how payments will be made, where replacement of land will found (if necessary), and which steps will be followed to ensure that the households productive base is re-established. The A plan of action will also ensure that the communally held resource base is replaced/re-established to ensure that no one is worse off after project implementation than before is established.
- ix. Establishment of grievance mechanisms to address disputes. All PAPs will be informed on how to register grievances or complaints, including specific concerns about compensation and relocation as well as disputes regarding livelihood restoration measures. The PAPs will be informed about the dispute resolution process, specifically about how the disputes will be resolved in an impartial and timely manner.

The preparation of a resettlement action plan would be done as a collaborative effort between the community and District Executive Committee. Key officials to be involved would be the District Lands Officer, District Agriculture Officer, District Forestry Officer, District Water Officer, Environmental District Officer, Community Development/Social Services Officer and extension workers. In case of inadequate technical personnel (such as valuation experts) at district level, assistance should be sought from Department of Lands and Valuation at Ministry of Lands, Housing and Urban Development. These experts will provide adequate support to area development committee to produce credible schedule for compensation to project affected people.

6.5 Approval of Resettlement Action Plans

The District Executive Committee will be responsible for preparation and review of Resettlement Action Plans supported by the District Environmental Sub-committee. Resettlement Action Plans prepared by District Executive Committee will be reviewed and approved by The Ministry of Lands, Housing and Urban Development and Environmental Affairs Department. These reports will also be submitted to the World Bank's for review and clearance.

CHAPTER 7: INSTITUTIONAL ARRANGEMENTS FOR DELIVERY AND IMPLEMENTATION CAPACITY BUILDING

The overall responsibility for the coordination of the projects under the ASWAp SP II will be provided by the Ministry of Agriculture, Irrigation and Water Development (MoAIWD).

Component	Implementing Agencies
Component 1	<ul style="list-style-type: none">• MoAIWD
Component 2	<ul style="list-style-type: none">• National Roads Authority and Roads Fund Administration•
Component 3	<ul style="list-style-type: none">• MoAIWD,
Component 4	<ul style="list-style-type: none">• MoAIWD, MoITT, MLHUD, MoTPW

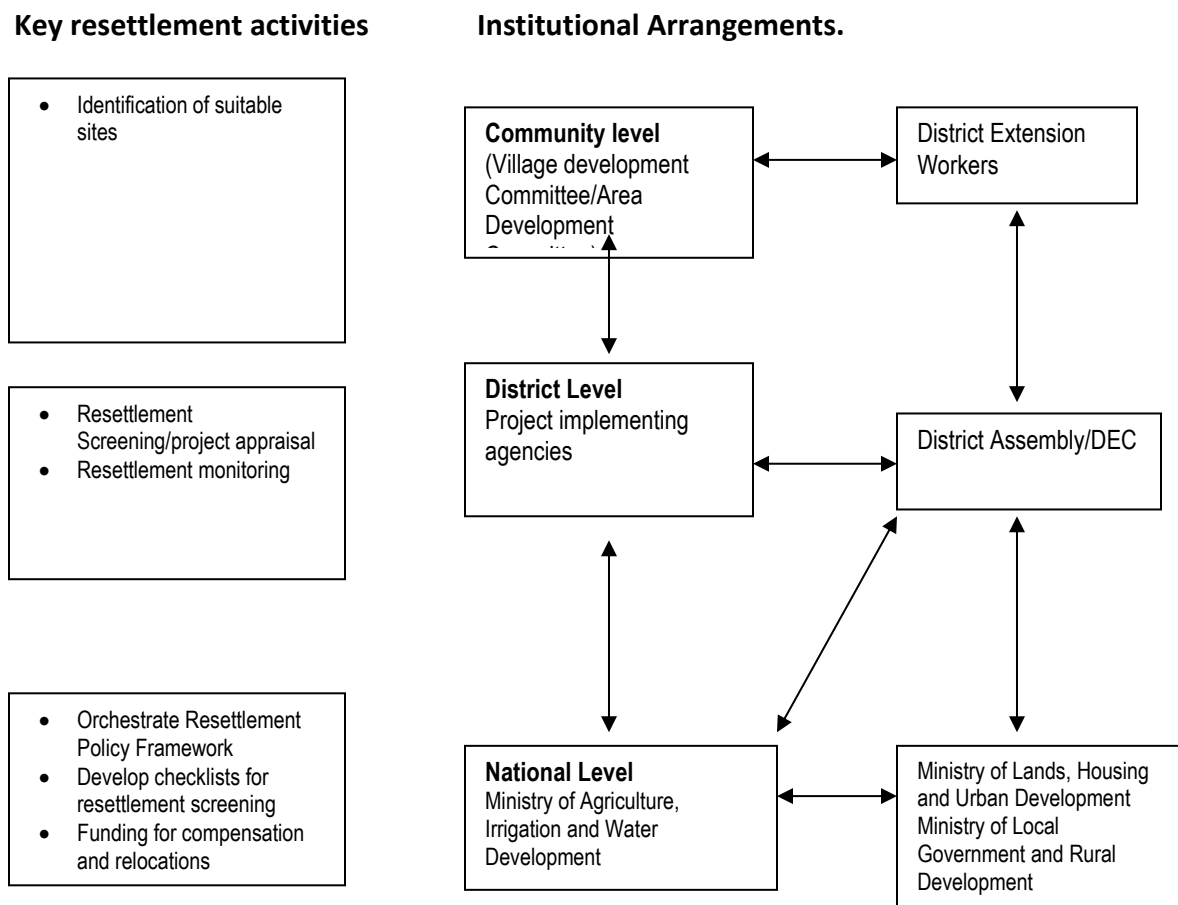
The implementing agencies will prepare project specific Resettlement Action Plans (RAPs) (through consultants) and all other safeguards instruments during the feasibility study phase of the project following detailed screening.

7.1 Institutional Roles for RAPs preparation and implementation under ASWAP II

7.1.1 Institutional Arrangements

Resettlement exercises have been traditionally the responsibility of the Ministry of Lands, Housing and Urban Development (particularly the Department of Lands and Valuation), the District Commissioner, Traditional Authorities and village headmen within the chosen area. However, today because of the multi-dimensional nature of resettlement activities, successful implementation of resettlement depends on collaboration of different stakeholders, at local level (village/area level), district level and national level. This is necessary because the implementation of the activities require input, expertise and resources which necessitate parties to liaise throughout the process. Figure 3 below outlines a diagrammatic arrangement of key institutions to be involved in resettlement.

Figure 2: Diagrammatic arrangements of key institutions in resettlement activities



7.2 Definition of Stakeholders Responsibilities

The following sections outline key responsibilities of the institutions involved in resettlement planning and implementation within the context of implementation of rural road improvement works under agriculture Sector Wide Approach II.

7.2.1 Responsibilities of the community

In context of community development initiatives, permanent community level structures include village development committees, area development committees and area executive committees. Main responsibilities in resettlement activities will be as follows:

- i. The Village Development Committees (VDC)/Area Development Committee (ADC), which include extension workers, will be responsible for resettlement screening based of checklists and screening form (annex 3). This would help to identify and mitigate the potential social impacts within selected sites. The exercise will help the communities to select potential sites without cases of

resettlement. The committees will be responsible for consultations with wider communities on resettlement related matters.

- ii. The Village Development Committees (VDC)/Area Development Committee (ADC) will be responsible for identification project affected people, assets to be compensated and identification of land and asset resources for compensation to those to be displaced.
- iii. The Village Development Committee/Area Development Committee will be responsible for initial attention to grievances which may arise from resettlement related matters. Since micro projects are community based, negotiation and agreement by consensus will provide the best avenue to iron out and resolve any grievances expressed by individual land owners or households whose land and properties might be affected. Further review of the grievances will be the responsibility of Traditional Authorities within the area.

The main institutional weaknesses of these local structures include: - inadequate knowledge on use of screening forms on resettlement, inadequate skills in scoping social impacts from resettlement related exercises. One way of addressing these gaps would be for District Executive Committee particularly the District Lands Officer, Environmental District Officer and extension workers to provide technical back up to the village development committees.

7.2.2 Responsibilities of the Local Authority

The District Executive Committee (DEC) is the key implementation arm of a local authority, and responsibilities in relation to resettlement activities will be as follows:

- i. Local authorities will be the main implementing government institutions on resettlement activities within the implementation schedule of the rural road improvement works under Agriculture Sector Wide Approach II. Main tasks will include project screening for resettlement, implementation of compensation measures in line with Resettlement Policy Framework. Necessary annual budgets provisions for resettlement related activities will be made for and by each district assembly.
- ii. District Executive Committee in collaboration with Village Development Committees (VDC)/Area Development Committee (ADC) will screen the site before land acquisition and resettlement. The District Executive Committee will verify that the land on the site is free from encumbrances.
- iii. Making recommendations on rejection for sites which would bring about unwarranted involuntary resettlement of households or communities when implemented.
- iv. The District Executive Committee will be responsible for monitoring the community level activities on resettlement to ensure that compensation measures are adequately taken care of before commencement of the project.

Some institutional weaknesses at district assembly level include inadequate technical skills for valuation of properties, inadequate knowledge on use of screening forms on

resettlement and in adequate skills in scoping social impacts from resettlement. Since 2006, Malawi Government has deployed District Lands Officers in local authorities in order to assist District Commissioner in overall land administration and property management matters. The District Lands Officers are graduate professionals, and they provide technical leadership in land administration and property management. The main job descriptions for District Lands Officer include overall land management within the district, monitoring land uses, conflict resolution on of referred cases of land disputes, processing land leases and resettlement activities. However, as at the time of preparation of this framework, most posts of District Lands Officer were vacant due to resignations. In view of this, it will be necessary to undertake adequate trainings in resettlement screenings to existing staff in such as District Environmental Officer, Director of Planning and Development, and District Community Development Officers. Such trainings would assist these officers to undertake the initial screenings and assist with administration of resettlement in absence of the District Lands Officer.

7.2.3 Responsibilities at national level

Resettlement activities require a multi sectoral approach and as such several line ministries would be involved in the process. However, in case of resettlement issues related to rural road improvement works under Agriculture Sector Wide Approach II, the following ministries have to be involved adequately: - Ministry of Agriculture, Irrigation and Water Development; Ministry of Lands, Housing and Urban Development; Ministry of Transport and Public Works through the Roads Authority; Ministry of Local Government and Rural Development; Ministry of Finance, Economic Planning and Development; Ministry of Energy, Mining and Natural Resources through Environmental Affairs Department. Main activities to be done at national level are as follows:

- i. Mainstreaming resettlement planning within project management systems of Agriculture Sector Wide Approach II by synchronising resettlement screening with project appraisal systems.
- ii. determine the requirements of the environmental and social impact assessments.
- iii. determining the requirements on land take and resettlement
- iv. Preparation of comprehensive and user friendly checklists on social impacts from land acquisition and resettlements
- v. Securing and channeling resources to districts for the project and allocating financial resources including compensation funds.
- vi. Provision of necessary resources for conducting resettlement awareness meetings for district level staff and Village/area development committees in selected districts.
- vii. Provision of necessary resources to district level staff for monitoring resettlement activities.
- viii. Sensitization of stakeholders on resettlement planning in implementation of rural road improvement works and new seed multiplication schemes under Agriculture Sector Wide Approach II.

7.3 Capacity Building for Management of Resettlement Activities

The proposed rural road improvement works and development of new seed schemes under Agriculture Sector Wide Approach II will be implemented across the country. The risks of generating resettlement impacts emanate from civil works in relation to roads rehabilitations and new seed schemes that may require land. While at the moment the specific locations are not known, it is necessary to put in place measures for ensuring knowledge and skills development among the staff to be involved in resettlement screening and identification of compensation measures. Some of the key capacity building activities which have to be carried out are as follows:

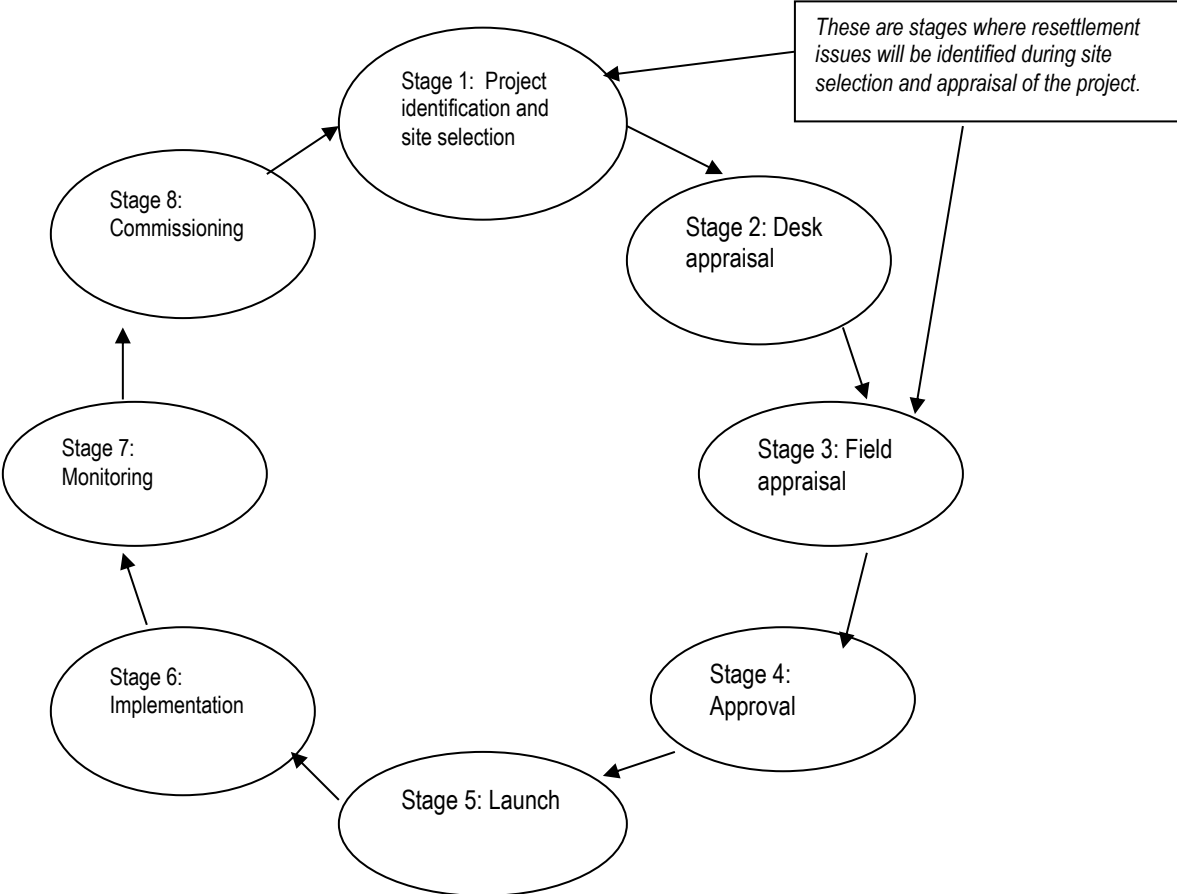
- i. Preparation of a user-friendly implementation manual on land acquisition and resettlement for local authorities.
- ii. Briefing meetings for District Executive Committee on the resettlement potential in the context of ASWAp SP II.
- iii. Preparation of checklists for social and economic impacts from resettlement activities to be used at local level. Such tools would guide in the site identification processes. The target group for this exercise would be staff of Ministry of Agriculture, Irrigation and Water Development and District Executive Committees.
- iv. Training and awareness in use of resettlement screening forms to appraise rural road improvement works and new seeds multiplication schemes under Agriculture Sector Wide Approach Support Project II. The target group for this exercise would be staff of Ministry of Agriculture, Irrigation and Water Development and District Executive Committees
- v. Training and awareness in use of resettlement screening forms by extension workers within village/area development committees.

CHAPTER 8: IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

Before any sub project investment is implemented, resettlement measures including compensation and other assistance to be provided to PAPs will need to be fully concluded. The schedule for the implementation of activities related to specific RAPs, will be prepared based on the principles of this RPF.

The diagram below provides generic project cycle for activities related to rural road improvement works and development of new seed multiplication schemes. The diagram also includes the recommended stages for resettlement screening. The steps of implementation are outlined in the diagrammatic flow of the project cycle shown below.

Figure 3: Generic project cycle for rural road improvement works



Identification of resettlement issues will be done during project identification and site selection process in stage 1. It is at this stage that Village Development Committees (VDC)/Area Development Committee (ADC) assisted by the planning team of District Executive Committee will carry out resettlement screening work before the project can be appraised by the District Executive Committee (DEC).

8.1 Implementation schedule

Once each sub project investment is screened and it is determined that a RAP will be prepared, a detailed implementation schedule will be included as part of the RAP. Therefore, all RAPs will include an implementation schedule covering all activities from initial baseline and preparation,

compensation and relocation to post relocation economic and social activities. The schedule will include targeted dates when the expected benefits for resettled persons and hosts community will be realized as well as arrangements for monitoring of implementation of the resettlement and evaluating its impact.

Planning and coordination of the tasks of the various actors involved in the RAP preparation and implementation will be key to the success of RAP implementation. To achieve this, workshops will be organized at district level between relevant government agencies and stakeholders at individual project launching and at the commencement of every project investment identified to have adverse social and economic impacts. The workshops will focus on (i) taking stock of the legal framework for compensation, (ii) settling institutional arrangements and mechanisms for payment of compensation, (iii) defining tasks and responsibilities of each stakeholder and (iv) establishing a work plan all in accordance to tasks in individual RAP (v) adherence to principles of RPF.

CHAPTER 9: GRIEVANCES REDRESS MECHANISMS

Grievance procedures are required to ensure that PAPs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution on the issue. PAPs will be informed of the intention to put in place a grievance mechanism, and the procedures will be communicated to all PAPs at the time of the preparation of investment specific RAPs.

Resettlement of people generates a number challenges and complaints especially to those moved from one place to another. Examples of complaints include objections to use of an individual's land, encroachment on private land, theft of property within the land, harassment and unfair treatment of women in the distribution of assistance. Examples of grievances include dissatisfaction with the criteria used to value assets, the amount of compensation, the size and nature of land replacement. Since the implementation of micro projects will be community based, negotiation and agreement by consensus at community level will provide the first avenue to iron out and resolve any grievances expressed by individual land owners or households whose land and properties might be affected.

Appropriate channels of grievance redress will be put in place, in line with norms of the communities as well as laws of the country, and the project affected people will be sensitised on their use. A clear time schedule will be defined for resolving grievances under each investment, ensuring that they are addressed in an appropriate and timely manner. The grievance procedure will be simple and will be administered as far as possible at local (village and district) levels to facilitate access by PAPs.

The normal process of grievance redress in Malawi involves informal structures handled by traditional leaders (village headmen, traditional authorities) and when necessary the involvement of District Commissioner as well as formal courts within the judiciary.

9.1 Grievance and redress principles

The following principles will apply to grievance management:

- i. The procedure to be followed will take into account community and traditional dispute settlement systems. Traditionally people approach traditional leaders to resolve disputes, particularly in issues relating to use and ownership of land, trees and housing structures. Although it may be inevitable that, in the process of grievance management, project affected people continue to follow customary procedures, they are likely to accept project-related structures if they are consulted on the matter and such leadership is incorporated into the structures. The Customary Land Act of 2016 establishes Customary Land Tribunals in every Traditional Land Management Area which are supposed to adjudicate on any disputes concerning customary land in that area. A person who is aggrieved by a decision of the Customary Land Tribunal may appeal to the District Land Tribunal which is presided by the District Commissioner and includes 3 T/As, 3 reputable persons residing in the area and the District Land Registrar who are knowledgeable about customary land law. A person who is aggrieved by a decision of this Tribunal can appeal to the Central Land Board which is established under section 38. This Board is presided over by a Resident Magistrate.
- ii. Information about all dispute and grievance procedures, including the functions of each structure and the processes to follow, will be widely disseminated to all PAPs and stakeholders, through project structures, governmental and non-governmental organizations, Community Based Organizations (CBOs), the Project Information Centre,

and the media. This will include who to contact (a phone number, address and location, time) as well as type of grievances they can put through this procedure. This will not only fulfil the function of dissemination of information, but also transparency around project-related matters.

- iii. Affordable and accessible procedures will be made available for the settlement of disputes arising from resettlement.
- iv. Anybody assigned for reviewing grievances will be required to be independent and impartial to foster the trust and confidence of all stakeholders.
- v. A written record or log of all disputes/grievances raised and dealt with on a project level will be kept by the appropriate body. Each complaint will have an individual reference number. The entire grievance resolution process will be recorded, tracked and a copy made available to the aggrieved person/s. All records will be monitored regularly by project, as part of an on-going project monitoring and evaluation process.

9.2 Grievance redress process

All attempts shall be made to settle grievances amicably and at the earliest possible time. Contracts for compensation and resettlement plans will be binding and will recognize that customary law is the law that governs land administration and tenure in the rural areas. This is the law that most Malawians living in these areas, are used to and understand.

- i. Those seeking redress or intending to present grievances will do so by notifying their Local Leaders / Customary Land Committee which will inform and consult with the Resettlement and Compensation Committee (RCC) to determine validity of claims.
- ii. Once determined as valid, the affected person should file her/his grievance in writing (in English or the local language that s/he is conversant with), to the Community Leader/ Customary Land Committee. The grievance note should be signed and dated by the aggrieved person. Where the PAP is unable to write, he/she should obtain assistance to write the note and endorse the letter with his thumb print.
- iii. The Community Leader/ Customary Land Committee should respond within 14 days 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 be requested to revalue the assets, which may necessitate a slightly longer period of time. In this case, the aggrieved person must be notified by the Community Leader / Customary Land Committee that his/her complaint is being considered.
- iv. If the Community leadership cannot provide an appropriate solution to the problem, the problem will be referred to the RCC for guidance, which may include the review in presence of peers of the PAP and other Community Leaders.
- v. The aggrieved person will receive a response from the RCC within 14 days and if not satisfied with the outcome within the agreed time, they must lodge their grievance to the Customary Land Tribunal which is presided over by the Traditional Authority (TA).
- vi. The Customary Land Tribunal will then attempt to resolve the problem (through dialogue and negotiation) within 14 days of the complaint being lodged. In most cases/ complaints of this nature are sorted out at traditional authority level.
- vii. However, if no agreement is reached at this stage within 14 days, or the complainant is not satisfied with the outcome, then they can appeal to the District Land Tribunal which is presided by the District Commissioner.
- viii. If no agreement is reached within 14 days or person is aggrieved by a decision of the District Land Tribunal the matter may be referred to the Central Land Board which is presided over by a Resident Magistrate.

9.3 Grievance Logging

A Project Liaison officer will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- i. Date the complaint was reported;
- ii. Date the grievance log was uploaded onto the project database;
- iii. Date information on proposed corrective action sent to complainant (if appropriate);
- iv. The date the complaint was closed out; and
- v. Date response was sent to complainant.
- vi. Nature and type of grievances being raised

Monitoring Complaints will be undertaken to ensure weekly reporting on status of complaints, outstanding issues to be addressed; and an analysis of the type of complaints, levels of complaints, and actions to reduce complaints.

CHAPTER 10: MECHANISMS FOR CONSULTATIONS AND PARTICIPATION OF DISPLACED PERSONS AND DISCLOSURE

Public consultations and participation are essential because they afford potential PAPs the opportunity to contribute to both the design and implementation of the project activities and reduce the likelihood for conflicts between and among PAPs and implementing agencies. In recognition of this, particular attention will be paid to public consultations with project affected individuals/households when valuation and compensation concerns are involved.

Public consultations will take place at the inception of the planning stages of ASWAP SP II when the potential land areas are being considered. The participation strategy will revolve around the provision of a full opportunity for involvement of the PAPs. Therefore, as a matter of strategy, public consultations will be an on-going activity taking place throughout the entire project cycle.

10.1 Data collection phase

During the preparation of ASWAP SP II RAPs, preliminary public consultations during the socio-economic survey study will be undertaken. It will involve active participation of the all PAPs in provision of preliminary data. Information about proposed project will also be provided to PAPs in a local language that they understand. Besides, PAPs will be given platform for queries and to make inquiries about the project, clarify potential impacts of the proposed ASWAp SP II projects, suggest mitigation measures and alternatives to be considered in the technical designs. Attention will be given to vulnerable households to ensure adequate representation in the processes.

10.2 Disclosure of RAPs

Public disclosure of the ASWAp SP II RAPs will be made to PAPs and other stakeholders for review and comments on the entitlement matrix and other issues in the implementation of the RAP. The purpose of the disclosure will be to receive comments and suggestions from PAPs and incorporate appropriate suggestions. The ASWAp SP II RAPs will be disclosed in a form, manner and language comprehensible to PAPs and at a place accessible to the affected population and other stakeholders for review and comments on entitlement measures. Except for the Entitlement Matrix, other sections of the RAP will be disclosed publicly. The Ministry of Agriculture, Irrigation and Water Development will disclose and post ASWAp SP II RAPs in its websites and receive comments. Comments and critiques made on any ASWAp SP II RAPs by PAPs and other stakeholders will be taken by the proponent into consideration. The proponent will also ensure that stakeholders and representatives of civil societies, local leaders are fully involved. The public disclosure of any RAP will be made in the local language and English, posting them in a range of publicly accessible places such as districts, TA offices and at village level.

10.3 Implementation operation phase

During implementation, the PAPs will be informed about their rights and options, and their views will be taken into consideration. Cash compensation amounts and size of land offered for compensation will be presented to each eligible PAPs for consideration and endorsement before cash payment or land compensation can be effected. Attention will be given to consultation with vulnerable groups such as the landless, people living with disabilities, people living with HIV, orphans and child headed households, people living in informal settlements, women and female headed households to ensure that they are represented adequately in the consultation processes.

The RCC is expected to play an important role in the consultation processes of the RAPs. It will be in close contact with the affected persons and communities and in continuous communication with them about the ASWAP SP II sub projects, their impacts, resettlement and compensation processes, grievances management, among other issues. The RCC is also expected to manage the process of communication on the cut-off date to the PAPs.

10.4 Monitoring and Evaluation phase

The PAPs representatives will participate in the project completion workshops, to give their assessment of how the management of impacts of the project. They will be provided room to suggest corrective measures, which may be used to improve implementation of other ASWAP SP II subprojects and future investment operations. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as part of an audit exercise for the RAPs.

10.5 Consultations and Disclosure for RPF

Public consultations on this RPF were held in Ntchisi and Lilongwe Districts with extension workers, district staff from different departments, civil society organizations and farmers to discuss the contents of this RPF. The list of participants to these discussion is attached as an Annex 7.

Table 4 Issues raised on RPF

ISSUES RELATED ON RPF		
Issue Raised		Response provided
1	The farmers and local leaders were worried that since some contractors for roads may be coming from somewhere with a large number of workforce, the community members in the project impact area may be at risk of HIV/AIDS and other sexually transmitted diseases.	The members of the consulting teams informed the farmers and local leaders that there will be a comprehensive HIV/AIDS and other sexually transmitted diseases and TB programme during project implementation phase. In addition, management of labour influx impacts will be taken into consideration in all subprojects. The Consultant further highlighted that it is each individual person's duty to behave responsibly.
2	How long is the ASWAP II Project going to take	The project id for two and half years and is likely to be effective in January 2018
3	What was the selection criteria for the districts	It was ease or difficulty of accessibility to the markets and also production potential
4	Why is capacity building focussing in Master's degree and Diploma and not Bachelor's degree	Greatest Gaps were identified at Masters level and field level extension staff. That is why the project is providing support for training at those wo levels
5	Why is livestock not part of the ASWAP Project	It is because there is another project, Agricultural Commercialization Project which is also support by the Bank which has a big component on livestock production
6	Roads should not be done during the raining season to avoid	This was noted by the facilitators

	destruction of already established crop stands	
7	How many roads will be constructed in Ntchisi	It has not been determined yet. This will be decided in a consultative process/manner between the Roads Authority and the District Councils involved. But a total length of 1,200 km of roads will be shared among the 12 districts
8	How are the communities going to be protected from exploitation, sexual and other forms	A large number of workers will be employed from local communities so that they are empowered with cash and also to minimize the numbers of migrant workers who may engage in sexual activities with the receiving community
9	Experience has shown that village headmen favour their relatives on public works programmes. What mechanisms have been put in place to avoid re-occurrence of the same in this project	Village headmen will be provided with procedures for recruiting workers and that process will be monitored
10	Will you consider compensations for these people whose farming land will be expropriated for the purposes of the road?	Compensation will be provided where applicable following procedures stipulated in the Resettlement Action Plan
11	Will the contractor consider giving some employment opportunities for those people affected by the road project?	The Resettlement Action Plan will explore the possibility of including that approach as a means of addressing effects of economic losses induced by resettlement
12	How will you mitigate conflicts between the employed on public works and their local leaders over payment delays?	Procedures will be put in place for conflict resolutions. These will be outlined in the RAP and should be discussed and agreed on with the concerned parties

Public disclosure of the RPF will be done nationally in the both nationally in the Ministry of Agriculture, Irrigation and Water Development website, at district level in the impacted 12 districts of Lilongwe, Mchinji, Kasungu, Dedza, Mzimba, Ntchisi, Phalombe, Ntcheu, Chitipa, Zomba, Mulanje and Thyolo, and in the World Bank external website. When the final version of the RPF is disclosed, the contact details of those who participated in the consultations will be removed for confidentiality reasons.

CHAPTER 11: RESETTLEMENT BUDGET ESTIMATES

The actual cost of resettlement and compensation for each ASWAp SP II investment will be determined during each socio-economic study for the preparation of the individual RAPs. The Government of Malawi will finance all resettlement and compensation costs including expenses for capacity building in relation to involuntary resettlement.

At this stage, it is not possible to estimate the exact number of people who may be affected under ASWAp SP II project since details of all investments have not yet been finalized. Hence it is not possible to provide an estimated budget for the total cost of resettlement that may be associated with ASWAp SP II implementation.

However, when locations are known, and after the conclusion of the site specific socio-economic surveys, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, a detailed and accurate budget for each ASWAp SP II RAP will be prepared.

Management of resettlement issues in relation to rural road improvement works under Agriculture Sector Wide Approach Support Project II will be carried out at district level by the District Executive Committee and national level by Ministry of Agriculture, Irrigation and Water Development and Ministry of Transport and Public Works through the Roads Authority. Funds for resettlement and compensation will flow from the Ministry of Finance, Economic Planning and Development to the local authority, the Ministry of Agriculture, Irrigation and Water Development and the Roads Authority. Appropriate budget support to activities expected at each of these three levels is outlined in Tables 4, 5 and 6 below here. It should be pointed out that the budget estimates are indicative, and may be revised by and with stakeholders during census and asset inventory phase as the cases of resettlement become clear. The tables also highlight sources of funding for the exercises. Furthermore, it should be highlighted that the figures are provided on the assumption that the rates of land acquisition and compensation would be on real replacement values. The use of real replacement values in compensation of assets would be consistent with stipulations in the World Bank Operational Policy on Involuntary Resettlement (OP 4.12). Compensation on real replacement values of assets would contribute to much higher incomes and better lives for project affected persons after Resettlement exercise.

Each RAP will include a detailed budget, using the following template.

Table 5. Illustrative Budget Template for RAP

Asset acquisition	Amount or number	Total estimated cost	Agency responsible
Land			
Structure			
crops and economic tress			
Community infrastructure			
Land Acquisition and Preparation			
Land,			
structure,			
Crops areas and others			
Community infrastructure			
Relocations			
Transfer of possessions			
Installation costs			
Economic Rehabilitation			
Livelihood restoration			
Grievance Mechanism			
Training			
Capital Investments			
Technical Assistance			

NGO/civil society support			
Monitoring			
Contingency			

Table 6: Indicative annual budget district level support services for resettlement activities

#	Main activities budgeted for	Unit of budget	Budget Estimates (in Malawi Kwacha) per year.	Source of funding
1	Screening activities	Lump sum	To be determined	Annual budget Malawi Government
2	Preparation Resettlement Action Plans	Lump sum	To be determined	Annual budget Malawi Government
3	Monitoring activities	Lump sum	To be determined	Annual budget Malawi Government
4	Training and sensitization of the communities on resettlement issues	Lump sum	To be determined	Annual budget Malawi Government
5	Administrative costs	Lump sum	To be determined	Annual budget Malawi Government
		Total		

Table 7: Indicative annual budget for national level support services to resettlement activities

#	Main activities budgeted for	Unit of budget	Budget Estimates (in Malawi Kwacha) per year	Source of funding
1	National stakeholder awareness workshops on resettlement issues	Lump sum	To be determined	Annual budget Malawi Government
2	Preparation of screening checklists for social and economic impacts of resettlement	Lump sum	To be determined	Annual budget Malawi Government
3	Monitoring and evaluation activities	Lump sum	To be determined	Annual budget Malawi Government
4	Administrative costs	Lump sum	To be determined	Annual budget Malawi Government
		Total		

For the RPF operation, the following are indicative budget items and amounts that may be needed for its implementation in the lifetime of the project:

Table 8: Indicative Budget

	Indicative Budgetary Item	No.	Unit cost (USD\$)	Total cost (USD\$)
1	Stakeholders trainings and consultation forums on RPF	2	3,000	6,000
2	Disclosure of RPF	2	500	1,000
3	RAP implementation manual for ASWAp SP II	1	1,000	2,000
4	Monitoring and evaluation exercises on the implementation of RAPs under ASWAp SP II	5	2,000	10,000
5	Compensations for PAPs under ASWAp SP II	sum	sum	600,000
6	Grievance Mechanisms ASWAp SP II	sum	sum	30,000
7	Annual audit	5	5,000	25,000
8	20% contingency			134,000
	Total			808,000

Table 9: Assumptions for the RPF Budget line

Item	Justification
Stakeholders trainings and consultations for GOM institutions that will be involved in the implementation of RAPs under ASWAp SP II	ASWAp SP II implementing agencies and other GOM institutions charged with resettlement will need to be taken through the RPF, its principles and requirements
Disclosure of RPF	The RPF and RAPs will be disclosed nationally, at district and community levels.
RAP implementation manual for ASWAp SP II	There will be need to develop a RAP implementation manual that is line with RPF principles building on lessons learnt.
Compensations for PAPs under ASWAp SP II	Indicative budget estimates for RAPs compensations
Monitoring and evaluation exercises on the implementation of RAPs under ASWAp SP II	To ensure compliance to the principles of RPF, it is expected that the ASWAp SP II will carry out monitoring and evaluation of the RAPs. The M and E assessments will help with the review and subsequent adjustments of the RPF.
Grievance Mechanisms ASWAp SP II	ASWAp SP II to put in place grievance mechanisms at project and community levels.
Development of RPF – RAP implementation manual	There will be need to develop a RAP implementation manual that is line with RPF principles building on lessons learnt.
RPF Audit	RPF Audit will be organized at least once a year to review both the process and outcome of RAPs and derive lessons learnt for future resettlement programs.
20% contingency	Shall support unforeseen contingencies including compensations to be made in the implementation of this RPF.

CHAPTER 12: ARRANGEMENTS FOR MONITORING AND EVALUATION

This chapter sets out requirements for the monitoring and evaluation of the implementation of the RAPs which will be prepared in accordance to this RPF.

Monitoring and evaluation mechanisms for resettlement activities within the programme will be linked to existing government monitoring and evaluation systems at community level, district level and national level. Monitoring and evaluation at community level will be undertaken by District Executive Committee (DEC) with technical support of the extension workers. Monitoring resettlement activities at community level should be done by District Executive Committee (DEC) as opposed to the community structures so that the District Executive Committee provides independent results. The District Monitoring and Evaluation Officer will provide technical support in tracking key monitoring indicators on the exercises.

Monitoring at national level will assess the effectiveness of the stakeholders in mainstreaming of resettlement principles in the administration and implementation of rural road improvement works and development of new seed multiplication schemes under ASWAp SP II. The key stakeholders in monitoring at national level will be Ministry of Agriculture, Irrigation and Water Development, Ministry of Lands, Housing and Urban Development, and Ministry of Local Government and Rural Development (MLGRD). Information from district assemblies will be collected by District Monitoring and Evaluation Officer (M&EO) and will be transmitted to Ministry of Economic Planning and Development. The ministry will produce consolidated annual monitoring reports.

Key issues to be monitored at community level will be type of resettlement losses, delivery of compensation to affected people and provision of resettlement assistance to project affected people. Table 3 below here outlines a suggested monitoring plan at community level. The plan outlines typical resettlement losses, entitlements, monitoring indicators, authorities responsible for monitoring and means of verifications.

Table 10: Proposed Monitoring Plan of Resettlement Activities at Community Level by District Executive Committee

Type of resettlement losses	Compensation entitlement	Monitoring indicators	Monitoring authorities	Means of verifications	Frequency of monitoring
Loss of land	<ul style="list-style-type: none"> Land replacement Cash compensation in lieu of land 	<ul style="list-style-type: none"> Hectares of land replacement. Cash paid in Malawi Kwacha Number of people compensated. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of residential structures	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash compensation. Number structures compensated. Number of people compensated. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of commercial/business structure	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha. Number of structures compensated. Number of people compensated. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of rental accommodation	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash compensation in Malawi Kwacha Number accommodation units compensated. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of businesses	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha Number of businesses compensated. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of forest trees	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Number of trees compensated. Cash pad in Malawi Kwacha Number of people compensated 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of fruit trees	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha Number of fruit trees compensated. Number of people compensated 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of crops	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Kilogrammes of crops compensated. Cash paid in Malawi Kwacha Number of people compensated 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of vegetables	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha. Kilogrammes of vegetables compensated. 	District Executive Committee Traditional Authority	Records with local village headmen and Village Development	Annually

		<ul style="list-style-type: none"> • Number of people compensated 	(T/A)	Committee	
Loss of grazing land	<ul style="list-style-type: none"> • Grazing land replacement 	<ul style="list-style-type: none"> • Availability of alternative grazing land 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Blockages to access to natural resources	<ul style="list-style-type: none"> • Alternative access routes 	<ul style="list-style-type: none"> • Functional alternative routes to natural resources. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Blockage of pathways/footpaths	<ul style="list-style-type: none"> • Provision of alternative pathways/footpaths 	<ul style="list-style-type: none"> • Functional alternative footpaths/pathways 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Blockage to access to irrigation land	<ul style="list-style-type: none"> • Provision of alternative irrigation land 	<ul style="list-style-type: none"> • Availability of alternative irrigation land. 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually
Loss of public facilities	<ul style="list-style-type: none"> • Cash compensation 	<ul style="list-style-type: none"> • Number of structures/sites. • Cash compensation in Malawi Kwacha 	District Executive Committee Traditional Authority (T/A)	Records with local village headmen and Village Development Committee	Annually

ANNEXES

Annex 1: ToRs Resettlement Policy Framework (RPF)

The scope and level of detail for the development of resettlement action plan will involve the following the following.

a) Description of the investment/project under ASWAp SP II, project area and area of influence: Information presented in this section will include description of the project area showing location, sitting of plants, structures, lands, affected dwellings etc.; ASWAp SP II objectives and strategy; the investment/project objectives; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.

b) Potential Impacts: Description of investment/project components or activities which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement.

c) Community Participation: This sub-section includes: -

- Description of the consultation and participation of the displaced and host communities in design and implementation of resettlement activities including a summary of the views expressed and how these views were incorporated during the preparation of the resettlement plan.
- A review of the resettlement alternatives identified and choices made by the displaced people, including choices related to forms of compensation and resettlement assistance, relocating as individual families or as part of pre-existing families and to retaining access to cultural property (e.g. cemeteries, places of worship etc)
- Description of procedures for redress of grievances by affected people throughout the planning and implementation period.
- Description of measures aimed at sensitizing and educating the affected and host communities on matters of resettlement.

e) Integration with host communities

- Arrangements for consultation with host communities and procedures for prompt payment to the host for land and other assets should be provided to the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons and host communities should be put in place.
- Appropriate measures to augment public services such as education, water, health in host communities in order to avoid disparities between resettled persons and the host communities should be put in place.
- Plan for resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized.

f) Socio-economic Studies

These will include the following: - Population census of the project area including a description of production systems, household organization, baseline information on livelihoods and standards of living of the displaced population (and host communities)

- An inventory of assets of displaced households; the magnitude of the expected loss (total or partial for individual or group assets); and extent of physical and economic displacement;
- Information on disadvantaged/vulnerable groups or persons for whom special provisions may have to be made. Such groups and persons include those living below the poverty line, the landless, the elderly, women, children, and displaced persons who are not protected through national land compensation legislation. Resettlement involving vulnerable/disadvantaged groups/persons should be preceded by a social preparation phase to build their capacity to deal with issues of resettlement;
- Provisions for updating information on the livelihood of displaced people and their standards of living at regular intervals;
- Description of land tenure systems including common property and non-title based land ownership or allocation recognized locally and related issues;
- Public infrastructure and social services that will be affected; and
- Social and cultural characteristics of displaced and host communities. Appropriate patterns of social organization should be promoted and the existing social and cultural institutions of resettled persons and their host should be retained, supported and used to the extent possible.

(g) Institutional arrangement and responsibilities

This will be the same as the RPF

(h) Eligibility

Definition of displaced persons and criteria for compensation and other resettlement assistance including relevant cut off dates. The assurance should be given that lack of legal title should not bar affected persons from being compensated.

(i) Valuation and Compensation for losses

- The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets.
- A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001, updated February 2011), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

(k) Identification of alternative sites, selection of resettlement site(s), site preparation and relocation

- Institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources.
- Procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites.

- Measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages.
- Legal arrangements for regularizing tenure and transferring titles to resettled persons.

(l) Shelter, infrastructure and social services

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply etc) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host.

(m) Environmental protection: An assessment of possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts.

(n) Implementation Schedules

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation. The schedule should indicate dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance.

(o) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

(p) Monitoring and evaluation

Under this sub-section, information regarding arrangements for monitoring of resettlement activities by the implementing agency is presented. When appropriate, independent monitors will supplement the role of the implementing agency to ensure objectivity and completeness of information. Performance indicators for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts for a reasonable period of time after the resettlement activities have been completed are also presented. (Similar to the RPF)

(q) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP.

(r) Description of programmes for improvement and restoration of livelihoods and standards of living of the affected people.

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy framework

Annex 2: Draft ToRs for Elaboration of Resettlement Action Plan (RAP)

The scope and level of detail for the development of resettlement action plan will involve the following the following.

a) Description of the investment/project under ASWAp SP II, project area and area of influence:

Information presented in this section will include description of the project area showing location, sitting of plants, structures, lands, affected dwellings etc; ASWAp SP II objectives and strategy; the investment/project objectives; policy and legal framework; timeframe; geographical coverage; project strategic context and rationale.

b) Potential Impacts: Description of investment/project components or activities which would trigger resettlement; the cultural, social, economic and environmental impacts envisioned; and the alternatives considered to avoid or minimize resettlement.

c) Legal Framework:

The analysis of the legal and institutional framework should cover the following:

- Scope of existing land and property laws governing resources, including state owned lands under eminent domain and the nature of compensation associated with valuation methodologies; land market; mode and timing of payments, etc.;
- Applicable legal and administrative procedures, including a description of the grievance procedures and remedies available to PAPs in the judicial process and the execution of these procedures, including any available alternative dispute resolution mechanisms that may be relevant to implementation of the RAP for the sub-project;
- Relevant laws (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law; communal laws, etc. related to displacement and resettlement, and environmental laws and social welfare legislation;
- Laws and regulations relating to the agencies responsible for implementing resettlement activities in the sub-projects;
- Gaps, if any, between local laws covering resettlement and the Bank's resettlement policy, and the mechanisms for addressing such gaps; and
- Legal steps necessary to ensure the effective implementation of RAP activities in the subprojects, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage, etc. and which are specific to the sub-projects.

d) Census and Socio-economic Assessments

Applying appropriate and up to date participatory methodologies, collect and evaluate both qualitative and quantitative baseline data on the socio-economic and socio-cultural characteristics of the study area. These will include the following:

- Census: Delineate the area of direct and indirect potential resettlement impacts and identify all the affected persons through a census survey. Indicate the extent of physical and economic displacement and provide an inventory of assets to be affected. Ensure that the PAPs census survey covers all people and assets in the affected area and using a cut-off date establish a baseline for the design of the resettlement program and exclude subsequent inflows of people from eligibility for compensation and resettlement assistance. Develop a gender and age

disaggregated profile and a data-set for the PAPs, providing personal identification numbers corresponding to photo log and assets (structures/properties/crops) to be affected.

- Socio-Economic Survey: This will include a demographic profile of the population (i.e., full time and seasonal); land use (i.e., year-round and seasonal) and land tenure systems including common property and non-title based land ownership or allocation recognized locally; production systems, and household organization, planned development activities; Public infrastructure and social services; employment and labor markets; distribution of income, livelihood patterns and standards of living, goods and services; recreation; public health; education; cultural properties (e.g., archaeological and historically significant sites); customs, aspirations and attitudes. The socio-economic survey should also describe magnitude of the expected loss (total or partial for individual or group assets) of assets, and the extent of displacement, whether physical or economic.
- Vulnerability and Gender Baseline: As part of the socio-economic baseline study, develop a profile on vulnerability clearly stipulating the levels of vulnerability of different categories of PAPs through an appropriate set of indicators and classification tool. Such groups and persons include those living below the poverty line, the landless, the elderly, children, and displaced persons who are not protected through national land compensation legislation. A specific gender analysis should be undertaken within this component and should clarify among others, gender roles, responsibilities, relations and power differences; examine gendered resource allocation, distribution and access; and clarify gender based differences that constrain the distribution of development opportunities and benefits, how the project intervention will affect men and women and the risks of men and women benefiting or being disadvantaged disproportionately as a consequence of the planned interventions.
- Socio- cultural characteristics of displaced and host communities, including social capital and mechanisms for social cohesion, a description of formal and informal institutions (e.g. community structures/organizations, nongovernmental organizations (NGOs) that may be relevant to designing and implementing the resettlement activities. Appropriate patterns of social organization should be promoted and the existing social and cultural institutions of resettled persons and their host should be retained, supported and used to the extent possible.
- Provisions for updating information on the livelihood of displaced people and their standards of living at regular intervals;

e) Community Participation:

This sub-section includes: -

- Description of the consultation and participation of the displaced and host communities in design and implementation of resettlement activities including a summary of the views expressed and how these views were incorporated during the preparation of the resettlement plan.
- A review of the resettlement alternatives identified and choices made by the displaced people, including choices related to forms of compensation and resettlement assistance, relocating as individual families or as part of pre-existing families and to retaining access to cultural property (e.g. cemeteries, places of worship etc.)
- Description of procedures for redress of grievances by affected people throughout the planning and implementation period.
- Description of measures aimed at sensitizing and educating the affected and host communities on matters of resettlement.

f) Integration with host communities

- Arrangements for consultation with host communities and procedures for prompt payment to the host for land and other assets should be provided to the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons.
- Arrangements for resolving conflicts which may arise between the resettled persons and host communities should be put in place.
- Appropriate measures to augment public services such as education, water, health in host communities in order to avoid disparities between resettled persons and the host communities should be put in place.
- Plan for resettled persons should be integrated economically and socially into host communities so that adverse impacts to host communities are minimized.

g) Institutional arrangement and responsibilities

This will be the same as the RPF

h) Eligibility

Definition of displaced persons and criteria for compensation and other resettlement assistance including relevant cut off dates. The assurance should be given that lack of legal title should not bar affected persons from being compensated.

i) Valuation and Compensation for losses

- The methodology to be employed for valuing losses in order to determine their replacement cost. This is a description of the levels of compensation under the local laws and supplementary measures aimed at determining replacement of cost for lost assets.
- A description of the packages of compensation and other resettlement measures that will ensure that each category of eligible displaced persons get their fair compensation. In conformity with the World Bank Operational Policy (OP.4.12 of Dec 2001, updated February 2011), displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them to pre-displacement levels or to levels prevailing prior to the start of project implementation whichever is higher.

j) Identification of alternative sites, selection of resettlement site(s), site preparation and relocation

- Institutional and technical arrangements for identifying and preparing relocation sites for which a combination of productive potential, location advantages and other factors, should be at least comparable to ancillary resources.
- Procedures for physical relocation including timetable for site preparation and land title transfer and description of resettlements sites.
- Measures to prevent the influx of ineligible person (encroachers and squatters) into the selected sites such as the identification and recording of affected people at the project identification stages.
- Legal arrangements for regularizing tenure and transferring titles to resettled persons.

k) Shelter, infrastructure and social services

This sub-section provides details regarding plans to provide or finance housing, infrastructure (e.g. roads, water supply etc) and social services (schools, health services) and plans aimed at ensuring that services and any necessary site development to host.

l) Environmental protection: An assessment of possible environmental impacts of the proposed resettlement and measures to mitigate and manage the impacts.

m) Implementation Schedules

An implementation schedule covering all resettlement activities from project preparation through implementation to monitoring and evaluation. The schedule should indicate dates for achievement of expected benefits to resettled persons and hosts and dates for terminating the various forms of assistance.

n) Costs and Budget

The breakdown of cost estimates for all resettlement activities including allowances for inflation and other contingencies, timetable for expenditures, sources of funds and arrangements for timely disbursement of funds.

o) Monitoring and evaluation

Under this sub-section, information regarding arrangements for monitoring of resettlement activities by the implementing agency is presented. When appropriate, independent monitors will supplement the role of the implementing agency to ensure objectivity and completeness of information. Performance indicators for measuring inputs, outputs and outcomes of resettlement activities and for evaluating impacts for a reasonable period of time after the resettlement activities have been completed are also presented. (Similar to the RPF)

p) Commitment to follow RPF guidelines and requirement

A statement of assurance that the implementing agency will follow the guidelines and requirement of the RPF should be included in the RAP.

q) Description of programmes for improvement and restoration of livelihoods and standards of living of the affected people.

Programmes aimed at improving and restoring the livelihoods and standards of living of the affected people in line with the Resettlement Policy framework

Annex 3: Sample Resettlement Screening Form

Project Location (Village, Traditional Authority, District):

Land tenure status:

Name of the Evaluator:

Date:

1. Site Selection:

When considering the location of a subproject, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.

Site Sensitivity				
Issues	Low (L)	Medium (M)	High (H)	Rating (L, M, H)
Natural habitats	No natural habitats present of any kind	No critical natural habitats; other natural habitats occur	Critical natural habitats present	
Water quality and water resource availability and use	Water flows exceed any existing demand; low intensity of water use; potential water use conflicts expected to be low; no potential water quality issues	Medium intensity of water use; multiple water users; water quality issues are important	Intensive water use; multiple water users; potential for conflicts is high; water quality issues are important	
Natural hazards vulnerability, floods, soil stability/ erosion	Flat terrain; no potential stability/erosion problems; no known volcanic/seismic/ flood risks	Medium slopes; some erosion potential; medium risks from volcanic/seismic/ flood/ hurricanes	Mountainous terrain; steep slopes; unstable soils; high erosion potential; volcanic, seismic or flood risks	
Cultural property	No known or suspected cultural heritage sites	Suspected cultural heritage sites; known heritage sites in broader area of influence	Known heritage sites in project area	
Involuntary resettlement	Low population density; dispersed population; legal tenure is well defined; well-defined water rights	Medium population density; mixed ownership and land tenure; well-defined water rights	High population density; major towns and villages; low income families and/or illegal ownership of land; communal properties; unclear water rights	
Indigenous peoples or ethnic minority	No indigenous population or ethnic minority	Dispersed and mixed ethnic minorities; highly acculturated ethnic minority	Indigenous territories, reserves and/or lands; vulnerable ethnic minority populations	
Loss of assets or access to resources	No impact to assets and/or access to resources	Minimal impact to assets and/or access to resources	Significant impact to assets and/or access to resources	

1. Checklist questions:

Physical data:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Site area in ha	
Extension of or changes to existing alignment	
Any existing property to transfer to sub-project	
Any plans for new construction	

Refer to project application for this information.

Preliminary Environmental and Social Information:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
State the source of information available at this stage (proponents report, EIA or other environmental study).	
Has there been litigation or complaints of any environmental or social nature directed against the proponent or sub-project	
Identify type of activities and likely environmental and social impacts:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
What are the likely environmental and social impacts, opportunities, risks and liabilities associated with the sub-project?	
Determine environmental screening category:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
After compiling the above, determine which category the subproject falls under based on the environmental categories A, B and C.	
Mitigation of Potential Pollution:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Does the sub-project have the potential to pollute the environment, or contravene any environmental and social laws and regulations?	
Will the subproject require pesticide use?	
If so, then the proposal must detail the methodology and equipment incorporated in the design to constrain pollution within the laws and regulations and to address pesticide use, storage and handling.	
Does the design adequately detail mitigating measures?	
Environmental Assessment Report or environmental studies required:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
If Screening identifies environmental issues that require an EIA or a study, does the proposal include the EIA or study?	
Indicate the scope and time frame of any outstanding environmental study.	
Required Environmental Monitoring Plan:	

If the screening identifies environmental or social issues that require long term or intermittent monitoring, does the proposal detail adequate monitoring requirements?	
Public participation/information requirements:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Does the proposal require, under national or local laws, the public to be informed, consulted or involved?	
Has consultation been completed?	
Indicate the time frame of any outstanding consultation process.	
Land and resettlement:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
What is the likelihood of land acquisition for the sub-project?	If yes, prepare a RAP
How will the proponent go about land acquisition?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

Actions:	
List outstanding actions to be cleared before sub-project appraisal.	
Approval/rejection	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
If proposal is rejected for environmental or social reasons, should the sub-project be reconsidered, and what additional data would be required for re-consideration?	

Recommendations:

Requires an EIA and/or RAP, to be submitted on date:

Requires EMP, to be submitted on date:

Does not require further environmental studies

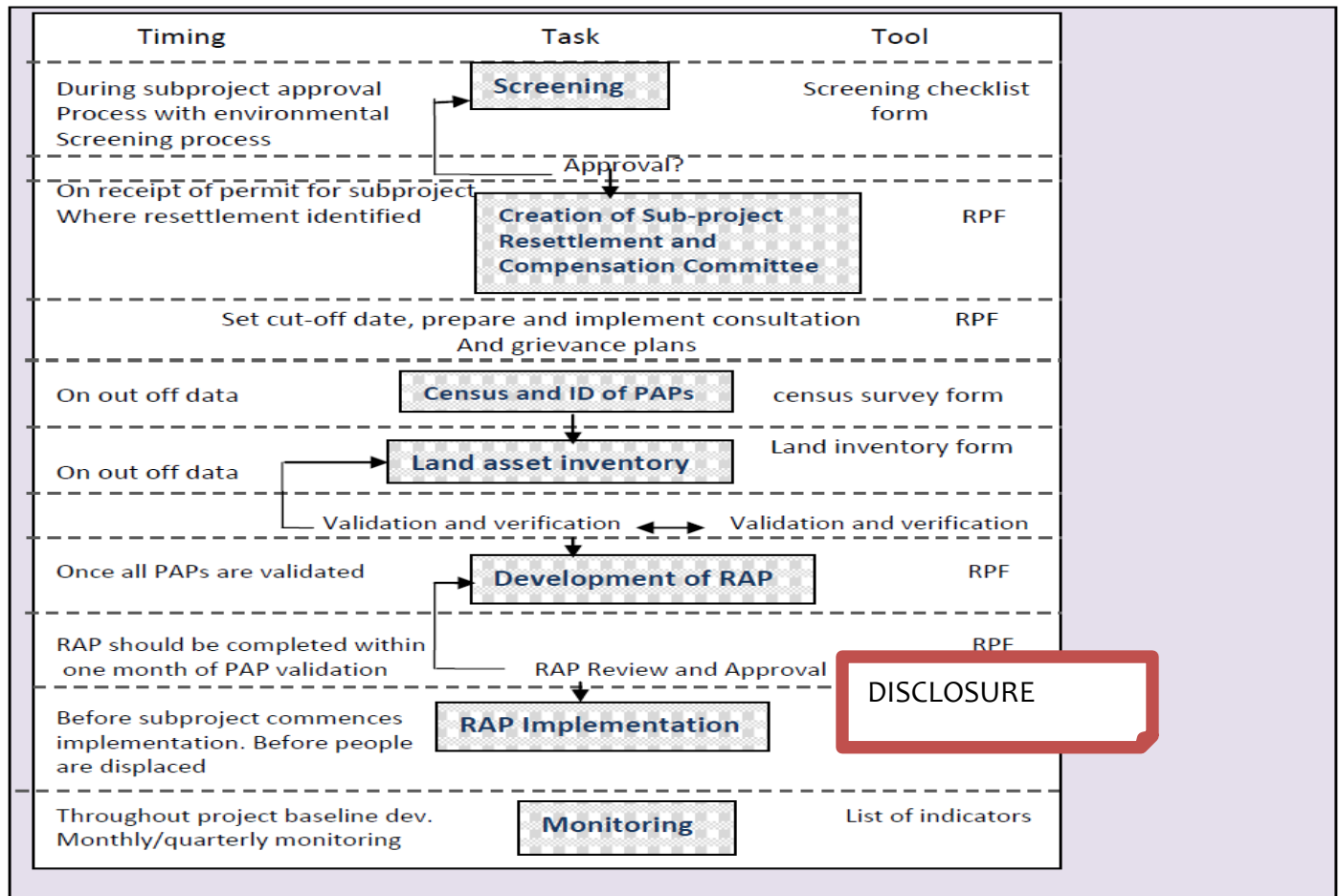
Reviewer:

Name:

Reviewer:

Signature: Date:

Flow of RAP preparation process



Annex 4: Screening Criteria for Sites

1.0 Screening Criteria for Social and Economic Impacts										
	Will the implementation and operation of the sub-project activities within the selected site generate the following socio-economic costs/impacts?	No	Yes	On Site	Within 3-5 km	Beyond 5km	Low	Medium	High	
1.1	Loss of land/land acquisition for human settlement, farming, grazing									
1.2	Loss of assets, property, houses, Agricultural produce etc									
1.3	Loss of livelihood									
1.4	Require a RAP or ARAP									
1.5	Loss of cultural sites, graveyards, monuments 1/									
1.6	Disruption of social fabric									
1.7	Interference in marriages for local people by workers									
1.8	Spread of STIs and HIV and AIDS, due to migrant workers									
1.9	Increased incidence of communicable diseases									
1.10	Health hazards to workers and communities									
1.11	Changes in human settlement patterns									
1.12	Conflicts over use of natural resources e.g. water, land, etc									
1.13	Conflicts on land ownership									
1.14	Disruption of important pathways, roads									
1.15	Increased population influx									
1.16	Loss of cultural identity									
1.17	Loss of income generating capacity									
2.0	Consultation (comments from Beneficiaries)									

Annex 5: Sample Grievance Procedure Form

Grievance Form				
Grievance Number		Copies to forward to:		
Name of the Recorder		(Original)-Receiver Party		
Sub-County		(Copy)-Responsible Party		
Date				
INFORMATION ABOUT GRIEVANCE				
Define the Grievance:				
INFORMATION ABOUT THE COMPLAINANT		Forms of Receive		
Name-Surname		<input type="checkbox"/> Phone Line <input type="checkbox"/> Community/ Information Meetings <input type="checkbox"/> Mail <input type="checkbox"/> Informal <input type="checkbox"/> Other		
Telephone Number				
Address				
Village				
Sub-County				
Signature of Complainant				
DETAILS OF GRIEVANCE				
1. Access to Land and Resources a) Fishing grounds b) Lands c) Pasturelands d) House e) Commercial site f) Other	2. Damage to a) House b) Land c) Livestock d) Means of livelihood e) Other	3. Damage to Infrastructure or Community Assets a) Road/Railway b) Bridge/ Passageways c) Power/Telephone Lines d) Water sources, canals and water infrastructure for irrigation and animals e) Drinking water f) Sewerage System g) Other	4. Decrease or Loss of Livelihood a) Agriculture b) Animal husbandry c) Beekeeping d) Small scale trade e) Other	5. Traffic Accident a) Injury b) Damage to property c) Damage to livestock d) Other
6. Incidents Regarding Expropriation and Compensation (Specify)	7. Resettlement Process (Specify)	8. Employment and Recruitment (Specify)	9. Construction Camp and Community Relations a) Nuisance from dust b) Nuisance from noise c) Vibrations due to explosions d) Misconduct of the project personal/worker e) Complaint follow up f) Other	10. Other (Specify)

Annex 6: Summary of Comments/Issues Raised on the RPF by the Stakeholders in Responses from the Government Team

ISSUES RELATED TO RPF raised in Lilongwe and Ntchisi Districts	
Issue Raised	Response provided
1 The farmers and local leaders were worried that since some contractors for roads may be coming from somewhere with a large number of workforce, the community members in the project impact area may be at risk of HIV/AIDS and other sexually transmitted diseases.	The members of the consulting teams informed the farmers and local leaders that there will be a comprehensive HIV/AIDS and other sexually transmitted diseases and TB programme during project implementation phase. In addition, management of labour influx impacts will be taken into consideration in all subprojects. The Consultant further highlighted that it is each individual person's duty to behave responsibly.
2 How long is the ASWAP II Project going to take	The project id for two and half years and is likely to be effective in January 2018
3 What was the selection criteria for the districts	It was ease or difficulty of accessibility to the markets and production potential
4 Why is capacity building focussing in Master's degree and Diploma and not Bachelor's degree	Greatest Gaps were identified at Masters level and field level extension staff. That is why the project is providing support for training at those wo levels
5 Why is livestock not part of the ASWAP Project	It is because there is another project, Agricultural Commercialization Project which is also support by the Bank which has a big component on livestock production
6 Roads should not be done during the raining season to avoid destruction of already established crop stands	This was noted by the facilitators
7 How many roads will be constructed in Ntchisi	It has not been determined yet. This will be decided in a consultative process/manner between the Roads Authority and the District Councils involved. But a total length of 1,200 km of roads will be shared among the 12 districts
8 How are the communities going to be protected from exploitation, sexual and other forms	A large number of workers will be employed from local communities so that they are empowered with cash and also to minimize the numbers of migrant workers who may engage in sexual activities with the receiving community
9 Experience has shown that village headmen favour their relatives on public works programmes. What mechanisms have been put in place to avoid re-occurrence of the same in this project	Village headmen will be provided with procedures for recruiting workers and that process will be monitored
10 Will you consider compensations for these people whose farming land will be expropriated	Compensation will be provided where applicable following procedures stipulated in the Resettlement

	for the purposes of the road?	Action Plan
11	Will the contractor consider giving some employment opportunities for those people affected by the road project?	The Resettlement Action Plan will explore the possibility of including that approach as a means of addressing effects of economic losses induced by resettlement
12	How will you mitigate conflicts between the employed on public works and their local leaders over payment delays?	Procedures will be put in place for conflict resolutions. These will be outlined in the RAP and will have to be discussed and agreed on with the concerned parties

Annex 7: List of Participants during the Public Consultations

Districts: Lilongwe Date: 24th October, 2017

NO.	NAME OF PARTICIPANT	ORGANISATION	POSITION	PHONE NO.
1.	Francis Mlongo	Agric	DAHLDO	0888628468
2.	Manuel Kasenza	Public Works	DRS	0888758968
3.	Joseph Katema	Agric	AEDC	0998915339
4.	Joseph Nanthambwe	Agric	AEDC	0999190060
5.	Smith Mkwapatira	Agric	AEDO	0888655322
6.	Gift Matiya	Agric	AEDC	0999736643
7.	Gloria Lidamlendo	Agric	Crops Officer	0994898178
8.	Japhet Zingani	Agric	ABO	0999669457
9.	Siliro Magomero	Agric	EMO	0999228228
10.	Hyacinthe M. Jere	Agric	DADO	0991588792
11.	Ian Saini	Agric	AGRESO	0999023477
12.	Henry Hunga	DLRC	PLRCO	0999380377
13.	Fred Nyirenda	KADD-MU	SLRCO	0999450891
14.	Richard Mzumara	KADD-MU	PAO-CP	0888505193
15.	Salim Mdoka	NS DAO	AO -C	0994643777
16.	Davie Kaonga	NS DAO	LRCO	0888552216
17.	Habil Kalumo	NOYD-NGO	M & E Officer	0999673920
18.	Henderson Chikamaulanga	NASFAM-FO	District Manager	0991011614
19.	David Ng'oma	NS DAO	AO- Legumes	0991521763
20.	Eviness Nyalugwe	DCD-MoAIWD	DCD - HO	0994025165
21.	John Ng'ambi	Roads Authority	Social Specialist	0995411473
22.	Rexy Tolani	MoAIWD	PCA	
23.	Sydney Nyanda	Agric	ALRCO	0994760222
24.	McSosten Chikwatula	Agric	ADAELLA	0999557238
25.	Chrispin Chilowe	Agric	AEDO	0993643679
26.	Bright Kangachepe	Agric	FA	0999192680
27.	Olive Kubwalo	Agric	SALRCO	0888126304
28.	Beatrice Kalipinde	Agric	AEDO	0999971283
29.	Vincent Kachilili	Agric	AEDO	0991165087
30.	Angella Kakolo	LAFORD-NGO	PO	0881259606
31.	Blessings Zembani	Farm Concern International-NGO	MTO	0888597822
32.	Memory Saka	Agric	AEDO	0888618363
33.	Cyben Kondowe	Agric	CPO	0881627373
34.	Mike Nkhonjera	Agric	AEDO	0888517043
35.	Gift Njolomole	WV-NGO	DF	0992653668
36.	Eliza Ziba	Agric	Student	0996515230
37.	Benson Chasambira	TAPP-NGO	Field Officer	0999044839
38.	Christopher Chinkhadze	Agric	AEDO	0994350167
39.	Gift Kapota	Agric	AEDO	0999059674
40.	Eliza Wickson	Agric	Field Assistant	0884350774

41.	Howard Mwambakulu	Agric	Enumerator	0884188449
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District; Lilongwe Date : 24th October,2017

NO.	NAME OF PARTICIPANT	ORGANISATION	POSITION	PHONE NO.
1.	Anthony T.M. Banda	Agric	AEDO	0999007062
2.	Chifundo Mkanda	BASENDA	Field facilitator	0991492273
3.	Christian Msachina	Agric	DAH	0884230722
4.	Redson Sudzulani	Agric	DAH	0884399364
5.	Andrew Madzi	Agric	DAH	0881886758
6.	Simplex Joseph	Agric	FA	0888709398
7.	Edwin Mphonde	Agric	DAH	0999616104
8.	Uledi Isaac	Agric	V. Scout	0995416073
9.	Hodges Nkhoma	Agric	AEDC	0999645991
10.	Stanford Nkhonjera	Agric	AEDO	0996325403
11.	Athanasius Foster	Agric	AEDO	0884326222
12.	Clement C. Tumba	Agric	FA	0884780367
13.	Joseoh Chakwanila	Agric	DAH	0991235858
14.	Allan Kaziputa	Roads Authority	Enumerator	0888639441
15.	George Lungu	DCD	PAO	0995662550
16.	Gertrude Kambauwa	DLRC	DDECE	0888321562
17.	Nixon Nyalugwe	LADD	PAO-CP	0995497477
18.	Mercy Malumelo	LL DAO West	EMO	0999893634
19.	Jacob Ngwira	Agric	AEDO	0888745377

7b: List of Farmers

Districts: Lilongwe and Ntchisi Date: 24th October,2017

SR NO	DZINA/NAME	UDINDO/POSITION	FONI NO
1.	Dustan Solomon	Secretary	08881311759/0999490109
2.	Steven Nkhoma	Member	0999749599
3.	Makiliwani Chisemphe	Oyanganira Msika	0999749599
4.	Anna Singo	Lidi farm	-
5.	Aginesi Mapulanga	Vice Secretary	09992525954
6.	Malita Jelemiya	Lidi Farm	
7.	Marcy Mapulanga	Settitarr	
8.	Fuloresi Steven	Member	0995359449
9.	Florence Kalowa	Member	
10.	Martha Chisinga	Chair Lady	0991958148
11.	Sadrack folochiya	Member	0996566717
12.	Emma Kandaidi	Member	0998498768
13.	Mikiel Missi		0995654663
14.	Misheck Chawia	Member	0991487852
15.	Manford Katonge	Farm leader	09999190020
16.	Evely Chigoli	Treasurer	0991521570
17.	Spiano Kamwala	Chairman	0991487852
18.	Emmanuel Silvesta	Member	0997937939
19.	Medson Mzelezea	Member	
20.	Yona Matewere	Member	
21.	Lunia Bowa	Member	
22.	Mercy Mapulanga	Member	
23.	Zecharia Chitsamba	Member	
24.	Cliford Banda	Member	
25.	Veronica Kamwala	Member	
26.	Mercy Jeptala	Member	
27.	Trexa Chananga	Member	
28.	Anna Singo	Member	
29.	Generate Jonathan	Member	
30.	Chisomo Banda	Member	
31.	Elia Sambo	Member	
32.	Gladwell Malipenga	Member	
33.	Grace Chifu	Member	
34.	Esta Batison	Member	
35.	Regina James	Member	
36.	Joyce Jekapu	Member	
37.	Colleta Banda	Member	
38.	Stella Wilson	Member	
39.	Magrete Tomas	Member	

40.	Mpasulana Mpinganjira	Member	
41.	Sana Chitute	Member	
42.	Getrude Zezala	Member	
43.	Grace Andrea	Member	
44.	Eveness Majamanda	Member	
45	Agness Chikanamba	Member	
46.	Lucy Daniel	Farmer	
47.	Alice Paliani	Farmer	
48	Likiness Yakobe	Member	
59.	Wadson Bello	Member	
50.	Davie Ngwende	Member	
51.	Peter Kavumbula	Member	
52.	Bertha Zimba	Member	
53.	Jossam Lumbe	Member	
54.	Hellens Kalowanjombe	Member	
55.	Marria Mwale	Member	
56.	Matco Richard	Member	
57.	Juliasi Phiri	Member	
58.	Agness Kamwala	Member	
59.	Gift Banda	Member	
60.	Agartha Mrluntha	Member	
61.	Janet Benjamin	Member	
62	Olipa Banda	Member	
63.	Sinolia Nthenda	Member	
64.	Alice Paliani	Member	
65.	Sara Chitute	Member	
66.	Stella Wilson	Member	
67.	Agness nthala	Member	
68.	Malita Jeremia	Member	
69.	Rose Kachepa	Member	
70.	Felestina Mayembe	Member	
71.	Lustia Mvula	Member	
72.	Agness Cholamokanda	Member	
73.	Sambo Kapophinda	Member	
74.	Ganizani Chuma	Member	
75.	Levison Malitano	Chairperson	0996020794
76.	Kanenedi Machila	Member	
78.	Ephraim Gwaza	Member	
79.	Chiwoko	Member	
80.	Samuel Chiwango	Member	
81.	Kachoka Elisa	Secretary	0993178060
82.	Harrison Chilamba	Member	
83.	Essau Richard		
84.	Daniel Chibwe	Member	
85.	Patrick Khumutche	Member	
86.	Amon chizu	Member	

87.	Dominic Lesio	Member	
88.	Jambulani Banda	Member	
89.	Foster Banda	Member	
90.	Mgona Chilambo	Member	
91.	Joel Malithano	Member	
92.	Mark Phiri	Member	
93.	James Mbande	Member	
94.	Mkoma Shawa	Member	
95.	Khalidwe Chiwaula	Member	
96.	Joven Divala	Member	
97.	Samson Mandala	Member	
98.	Enelesi Chilamba	Member	0995134637
99.	Christina Manuel	Member	
100.	Agness Banda	Member	0999132819
101.	Lingison Kafelo	Member	0998742860
102.	Grace Jeriko	Member	0996015603
103.	Enelesi Nkolola	Member	0992110554
104.	Sisiliya Shawa	Member	0997528639
105.	Chrissy Dzozi	Member	0992880460
106.	Lesita Chiwengo	Member	
107.	Faneki Soko	Member	
108.	Mary Banda	Member	
109.	Likistina Soko	Member	
110.	Everesi Thauzeni	Member	
111.	Agness Kasimpha	Member	
112.	Alefa Chrford	Member	
113.	Eniliya Banda	Member	
114.	Mercy Chikalipo	Member	
115.	Getrude Banda	Farmer	
116.	Aida Makuta	Farmer	
117.	Agness Mikiri	Farmer	
118.	Magdalene Banda	Farmer	
119.	Velentina Jossamu	Farmer	
120.	Layina Tambala	Farmer	
121.	Alefa Dzodzi	Farmer	
122.	Zelinati Banda	Farmer	
123.	Diseliya Sitaliki	Farmer	
124.	Anna Jezala	Farmer	
125.	CHRISSA Banda	VH	0996566539
126.	Victoria Chiramba	VH	
128.	Foster Banda	VH	
129.	Mgona Chirambo	VH	
130.	Joel Malithano	VH	
131.	Marko Phiri	VH	
132.	James Mbande	VH	0995213914
133.	Mkoma Shawa	VH	

134	Khalidwe Chiwaula	VH	
135	Javeni Divala	VH	
136	Samson Mandala	VH	
137	James Bruce	VH Mbende	
138	Joevison Malitano	VH Kadzidzi	
139	Kachoka Elisa Pasipantima	GV Josam	
140	Efraim Gwaza	VH Jenala	
141	Samuel Chiwengo	VH Masiya	
142	Kanenedi Machira	VH Jaka	
143	Lingson James	VH Chikuhgwa	
144	Mkoma Shawa	VH	
145	Khalidwe Shawa	VH	
146	Khalidwe Chiwaula	VH	
147	Jambulani Banda	VH	
148	Maliko Phiri	VH	
149	Domoniko Lesiyo	VH	
150	Rabson Lpenga	VH	
151	Gidion Dambwe	VH	
152	Mgona Chilambo	VH	
153	Mary Banda	Farmer	
154	Enelesi Mkolole	Farmer	
155	Richard Masarti	Farmer	
156	Paul Soko	Farmer	
157	Delivalia Shaliko	Farmer	
158	Malikesi Makiri	Farmer	
160	Jerina Thole	Farmer	
161	Elizabeth Chikugwa	Farmer	
162	Teleza Mngulu	Farmer	
163	Elizabeth Sitifano	Farmer	
164	Cathren Byson	Farmer	
165	Feliya Clement	Farmer	
166	Rosemary	Farmer	
167	Monika	Farmer	
168	Mesita Libisson	Farmer	
169	Rosemary Gladson	Farmer	
170	Eliasi Fiala	Farmer	
171	Vasco Kadzakuwani	Farmer	
172	Tchalesi Lekesoni	Farmer	
173	Zifa Kasintikita	Farmer	
174	Nebat Dambo	Farmer	
175	Esitele Biziwaki	Farmer	
176	Thom Fesitala	Farmer	

Annex 8: Outline/Contents of RAP/ARAP

This template is extracted from World Bank OP 4.12 Annex A. Its full description can be found in the World Bank external website [web.worldbank.org].

The scope and level of detail of the RAP will vary depending on the magnitude and complexity of resettlement or displacement. The RAP is prepared based on the most recent and accurate Information on the:

- i. proposed resettlement and its impacts on displaced persons and other adversely affected groups; and
- ii. legal issues affecting resettlement. The RAP covers elements that are specific to the project context.

A broad outline of the RAP, as applied to sub-projects covered under a RPF includes, but is not limited to, the following:

Description of the sub-project: General description of the sub-project and identification of sub-project area or areas.

Potential Impacts: Identification of the:

- i. the sub-project components or activities that require resettlement or restriction of access;
- ii. zone of impact of components or activities;
- iii. alternatives considered to avoid or minimize resettlement or restricted access; and iv. mechanisms established to minimize resettlement, displacement, and restricted access, to the extent possible, during project implementation.

Objectives: The main objectives of the resettlement program as these apply to the subprojects.

Socio-economic studies: The findings of socio-economic studies to be conducted in the early stages of project preparation, and with the involvement of potentially affected people will be needed. These generally include the results of a census of the affected populations covering:

- i. Current occupants of the affected area as a basis for design of the RAP and to clearly set a cut-off date, the purpose of which is to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
- ii. Standard characteristics of displaced households, including a description of production systems, labour, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;

- iii. Magnitude of the expected loss, total or partial, of assets, and the extent of displacement, physical or economic;
- iv. Information on vulnerable groups or persons, for whom special provisions may have to be made; and
- v. Provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at
- vi. the time of their displacement, and to measure impacts (or changes) in their livelihood and living conditions.
- vii. There may be other studies that the RAP can draw upon, such as those describing the following:
 - viii. Land tenure, property, and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the sub project area;
 - ix. Patterns of social interaction in the affected communities, including social support systems, and how they will be affected by the sub-project; iii. Public infrastructure and social services that will be affected; and
 - x. Social and cultural characteristics of displaced communities, and their host communities, including a description of formal and informal institutions. These may cover, for example, community organizations; cultural, social or ritual groups; and non-governmental organizations (NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

Legal Framework: The analysis of the legal and institutional framework should cover the following:

- i. Scope of existing land and property laws governing resources, including stateowned lands under eminent domain and the nature of compensation associated with valuation methodologies; land market; mode and timing of payments, etc;
- ii. Applicable legal and administrative procedures, including a description of the grievance procedures and remedies available to PAPs in the judicial process and the execution of these procedures, including any available alternative dispute resolution mechanisms that may be relevant to implementation of the RAP for the sub-project;
- iii. Relevant laws (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights, customary personal law; communal laws, etc related to displacement and resettlement, and environmental laws and social welfare legislation;

- iv. Laws and regulations relating to the agencies responsible for implementing resettlement activities in the sub-projects;
- v. Gaps, if any, between local laws covering resettlement and the Bank's resettlement policy, and the mechanisms for addressing such gaps; and
- vi. Legal steps necessary to ensure the effective implementation of RAP activities in the subprojects, including, as appropriate, a process for recognizing claims to legal rights to land, including claims that derive from customary and traditional usage, etc. and which are specific to the sub-projects.

The institutional framework governing RAP implementation. The institutional framework generally covers:

- i. Agencies and offices responsible for resettlement activities and civil society groups like NGOs that may have a role in RAP implementation;
- ii. Institutional capacities of these agencies, offices, and civil society groups in carrying out RAP implementation, monitoring, and evaluation; and
- iii. Activities for enhancing the institutional capacities of agencies, offices, and civil society groups, especially in the consultation and monitoring processes.

Eligibility: Definition of displaced persons or PAPS and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

Valuation of and compensation for losses: The methodology to be used for valuing losses, or damages, for the purpose of determining their replacement costs; and a description of the proposed types and levels of compensation consistent with national and local laws and measures, as necessary, to ensure that these are based on acceptable values (e.g. market rates).

Resettlement Measures: A description of the compensation and other resettlement measures that will assist each category of eligible PAPs to achieve the objectives of OP 4.12. Aside from compensation, these measures should include programs for livelihood restoration, grievance mechanisms, consultations, and disclosure of information.

Site selection, site preparation, and relocation: Alternative relocation sites should be described and cover the following:

- i. Institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, location advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;
- ii. Any measures necessary to prevent land speculation or influx of eligible persons at the selected sites;

- iii. Procedures for physical relocation under the project, including timetables for site preparation and transfer; and
- iv. Legal arrangements for recognizing (or regularizing) tenure and transferring titles to those being resettled.

Housing, infrastructure, and social services: Plans to provide (or to finance provision of) housing, infrastructure (e.g. water supply, feeder roads), and social services to host populations; and any other necessary site development, engineering, and architectural designs for these facilities should be described.

Environmental protection and management: A description of the boundaries of the relocation area is needed. This description includes an assessment of the environmental impacts of the proposed resettlement and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

Community Participation: Consistent with the World Bank's policy on consultation and disclosure, a strategy for consultation with, and participation of, PAPs and host communities, should include:

- i. Description of the strategy for consultation with and participation of PAPs and hosts in the design and implementation of resettlement activities;
- ii. Summary of the consultations and how PAPs' views were taken into account in preparing the resettlement plan; and
- iii. Review of resettlement alternatives presented and the choices made by PAPs regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individual families or as parts of pre-existing communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); and
- iv. Arrangements on how PAPs can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that vulnerable groups (including indigenous peoples, ethnic minorities, landless, children and youth, and women) are adequately represented.
- v. The consultations should cover measures to mitigate the impact of resettlement on any host communities, including:
- vi. Consultations with host communities and local governments;
- vii. Arrangements for prompt tendering of any payment due the hosts for land or other assets provided to PAPs;
- viii. Conflict resolution involving PAPs and host communities; and iv. Additional services (e.g. education, water, health, and production services) in host communities to make them at least comparable to services available to PAPs.

Grievance procedures: The RAP should provide mechanisms for ensuring that an affordable and accessible procedure is in place for third-party settlement of disputes arising from resettlement. These mechanisms should take into account the availability of judicial and legal services, as well as community and traditional dispute settlement mechanisms.

RAP implementation and responsibilities:

The RAP should be clear about the implementation responsibilities of various agencies, offices, and local representatives. These responsibilities should cover:

- i. delivery of RAP compensation and rehabilitation measures and provision of services;
- ii. appropriate coordination between agencies and jurisdictions involved in RAP implementation; and
- iii. measures (including technical assistance) needed to strengthen the implementing agencies' capacities of responsibility for managing facilities and services provided under the project and for transferring to PAPs some responsibilities related to RAP components (e.g. community-based livelihood restoration; participatory monitoring; etc).

Implementation Schedule: An implementation schedule covering all RAP activities from preparation, implementation, and monitoring and evaluation should be included. These should identify the target dates for delivery of benefits to the resettled population and the hosts, as well as clearly defining a closing date. The schedule should indicate how the RAP activities are linked to the implementation of the overall project.

Costs and budget: The RAP for the specific sub-projects should provide detailed (itemized) cost estimates for all RAP activities, including allowances for inflation, population growth, and other contingencies; timetable for expenditures; sources of funds; and arrangements for timely flow of funds. These should include other fiduciary arrangements consistent with the rest of the project governing financial management and procurement.

Monitoring and Evaluation: Arrangements for monitoring of RAP activities by the implementing agency, and the independent monitoring of these activities, should be included in the RAP section on monitoring and evaluation. The final evaluation should be done by an independent monitor or agency to measure RAP outcomes and impacts on PAPs' livelihood and living conditions. The World Bank has examples of performance monitoring indicators to measure inputs, outputs, and outcomes for RAP activities; involvement of PAPS in the monitoring process; evaluation of the impact of RAP activities over a reasonable period after resettlement and compensation, and using the results of RAP impact monitoring to guide subsequent implementation.