



REPUBLIC OF MALAWI



LILONGWE WATER BOARD

LILONGWE WATER AND SANITATION PROJECT

RESETTLEMENT POLICY FRAMEWORK (RPF)

October 2017

TABLE OF CONTENTS

TABLE OF CONTENTS	2
ACRONYMS AND ABBREVIATIONS.....	4
1. SUMMARY	5
2. DESCRIPTION OF THE PROJECT AND POTENTIAL INVESTMENTS CAUSING RESETTLEMENT	12
RESETTLEMENT IMPLICATIONS OF LWSP	15
3. METHODOLOGY & AN OVERVIEW OF IMPACTS	16
DETAILED AND IN-DEPTH LITERATURE REVIEW	16
INTERACTIVE DISCUSSIONS WITH IMPLEMENTING INSTITUTIONS	16
DEFINITION OF PROJECT AFFECTED PERSONS	17
PROJECT ACTIVITIES WITH DISPLACEMENT POTENTIAL	17
IMPLEMENTING AGENCY	17
CATEGORIES OF PAPs	17
VULNERABLE GROUPS	18
4. PRINCIPLES & OBJECTIVES GOVERNING RESETTLEMENT PREPARATION & IMPLEMENTATION	20
THE OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK (RPF):	20
RATIONALE FOR PREPARING THE RPF.....	20
FLEXIBILITY OF THE RPF.....	21
RPF PRINCIPLES UNDER LWSP	21
ENTITLEMENT UNDER RPF.....	25
<i>PHYSICAL DISPLACEMENT</i>	25
ECONOMIC DISPLACEMENT	25
5. LEGAL AND REGULATORY FRAMEWORK.....	27
6. ELIGIBILITY CRITERIA, ENTITLEMENT, VALUATION AND COMPENSATION	34
CATEGORY OF PROJECT AFFECTED PERSONS	34
<i>Vulnerable Assistance Measures</i>	35
<i>Eligibility for Vulnerability Assistance</i>	35
<i>Form of Assistance to Vulnerable Groups</i>	35
ELIGIBILITY TYPE FOR COMPENSATION	35
<i>ESTABLISHMENT OF RESETTLEMENT AND COMPENSATION COMMITTEE (RCC)</i>	42
METHOD TO DETERMINE CUT-OFF DATES	42
METHODS OF ASSETS VALUATION.....	42
VALUATION PROCESS OF ASSETS.....	43
METHODS FOR VALUING ASSETS IN MALAWI	44
CALCULATION OF COMPENSATION BY ASSETS	44
7. PREPARING & APPROVING RESETTLEMENT AND COMPENSATION PLANS	50
THE SCREENING PROCESS	50
PREPARATION OF A PROJECT SPECIFIC RAP	51
APPROVAL OF RESETTLEMENT ACTION PLANS:	53

8. INSTITUTIONAL ROLES FOR RAPS PREPARATION AND IMPLEMENTATION UNDER LWSP.....	55
9. IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS	57
IMPLEMENTATION SCHEDULE	57
10. GRIEVANCES REDRESS MECHANISMS.....	59
GRIEVANCE REDRESS PROCESS	60
<i>Procedures for grievance management</i>	60
<i>Grievance Log</i>	61
<i>Monitoring Complaints</i>	61
11. RPF IMPLEMENTATION BUDGET	62
12. MECHANISMS FOR CONSULTATIONS AND PARTICIPATION OF DISPLACED PERSONS IN PLANNING, IMPLEMENTATION AND MONITORING	65
<i>Objectives of LWSP Consultations with PAPs</i>	65
<i>Consultation Process With PAPS</i>	66
CONSULTATIONS ON THE RPF	66
DATA COLLECTING PHASE	66
DISCLOSURE OF RPF/ LWSP	67
IMPLEMENTATION OPERATION.....	67
MONITORING AND EVALUATION PHASE	67
13. ARRANGEMENTS FOR MONITORING AND EVALUATION	68
INDICATORS TO DETERMINE STATUS OF AFFECTED PEOPLE	68
MONITORING OF RPF/RAP IMPLEMENTATION	69
ANNEXES	70
ANNEX 1: GLOSSARY OF TERMS	71
ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM	75
ANNEX 4: COMMUNITY ASSETS AND INFRASTRUCTURE	79
ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM	81
ANNEX 6: DRAFT TORS FOR THE DEVELOPMENT OF RESETTLEMENT ACTION PLAN (RAP)	82
ANNEX 7: OUTLINE OF RESETTLEMENT ACTION PLAN.....	86
ANNEX 8: OP 4.12 - INVOLUNTARY RESETTLEMENT	90

ACRONYMS AND ABBREVIATIONS

AM	Aide Memoire
ARAPs	Abbreviated Resettlement Action Plans
DPs	Displaced Persons
EAD	Environmental Affairs Department
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
IFC	International Finance Corporation
FY	Financial Year
GOM	Government of Malawi
IDA	International Development Association
LA	Land Act
LEP	Livelihoods Enhancement Programme
LGI	Local Government Institutions
LCC	Lilongwe City Council
LWB	Lilongwe Water Board
LWSP	Lilongwe Water and Sanitation Project
LWREP	Lilongwe Water Resources Efficiency Program
MLD	Million Litres per Day
M&E	Monitoring and Evaluation
MDGs	Millennium Development Goals
MK	Malawian Kwacha
MOAIWD	Ministry of Agriculture, Irrigation and Water 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
MTR	Mid-Term Review
NRW	Non-Revenue Water
NWSP	National Water Sector Policy
NGO	Non-Governmental Organisation
OP	Operational Policy
OVC	Orphaned Vulnerable Children
PAD	Project Appraisal Document
PAP	Project Affected Persons
PIU	Project Implementation Unit
PIM	Project Implementation Manual
PPT	Project Preparation Team
RAPs	Resettlement Action Plans
RPF	Resettlement Policy Framework
USD	United States Dollar
VMGP	Vulnerable and Marginalised Groups Plan
WB	World Bank

I. SUMMARY

Country and Project Name:

Malawi – Lilongwe Water and Sanitation Project (LWSP)

Project Development Objectives (LWSP):

The project development objective is” *to increase access to improved water services and safely managed sanitation in Lilongwe city.*

The project scope consists of four components:

Component 1–Network rehabilitation, expansion and NRW reduction (US\$66 million). This component involves investments in priority network rehabilitation to remove bottlenecks, increase hydraulic capacity of the existing network and reduce losses, and network expansion to increase coverage. Investments include: upgrading of approx. 142km of existing distribution network and creation of pressure zone boundaries; construction of approx. 27km of transmission mains, eight associated pumping stations and four storage reservoirs with a combined storage of 2,600m³; and performance-based non-revenue water (NRW) reduction through improvements in network maintenance, active leakage control, speed and quality of leak repairs and pressure management. The component will also finance approx. 186km of network expansion to unserved areas.

Component 2-Priority sanitation improvements (US\$19 million). This component will finance various investments to increase access to safely managed household and public sanitation in Lilongwe. These investments include: rehabilitation and expansion of the sewerage network (approx. 100km); installation of 5,000 new connections; rehabilitation and upgrading of the existing Kauma sewage treatment plant; support to construction of 8,000 improved sanitation facilities targeting the poor and vulnerable households; sanitation marketing campaigns; and construction of improved sanitation facilities in 10 markets and 10 schools

Component 3–Technical assistance (US\$8.5 million). This component includes various TA activities designed to (i) support preparation and supervision of all infrastructure investments planned under the project; and (ii) enhance LWB’s capacity to plan future investments and to strengthen the pipeline of investment-ready sub-projects under the Lilongwe Water Program.

Component 4– Technical assistance (US\$8.5 million). This component includes various activities designed to (i) strengthen the capacity of LWB to implement the project and to provide improved water services to its customers; (ii) strengthen the capacity of LCC to implement the sanitation component of the project; operate and maintain the sanitation infrastructure; and support the reforms needed to provide and promote safely managed sanitation services in Lilongwe City.

Activities Covered under this RPF:

This RPF will cover activities with a potential for resettlement under the project or that might lead to temporary and/or permanent acquisition of land and affect livelihoods in project sites. They include:

Component 1

A. Priority Water Distribution Network Rehabilitation

- Replacement/upgrading of existing pipelines with larger diameter pipelines. The entire existing network shall be reconfigured to ensure that there is smooth operation of the whole LWB distribution system. This include upgrading of approx. 142km of existing distribution network and creation of pressure zone boundaries; construction of approx. 27km of transmission mains; eight associated pumping stations and four storage reservoirs with a combined storage of 2,600m³. **LWB has conducted consultations and socioeconomic studies of the areas affected by the priority network rehabilitation activities and prepared a Resettlement Action Plan (RAP) following the provisons of this RPF. The RAP was publicly disclosed in-country and on the Bank's website on October 3, 2017.**

B. Non-Revenue Water Reduction

- This will involve improvements in network maintenance, active leakage control, speed and quality of leak repairs and pressure management. Activities will involve: (i) verifying all the existing District Metered Areas (DMAs) established by LWB; (ii) carrying out a baseline 7-day inflow and pressure measurement prior to starting any activities in any of the DMAs;(ii) leak detection surveys (using appropriate equipment and technologies); pressure management: stabilizing, managing and reducing average DMA pressure using Pressure Reducing Values (PRVs) and controllers and various techniques as appropriate; (iii) leak repair: repair of leaks on mains and replacement of leaking service connections; (iv) detection of illegal connections; (v) quarterly leakage modelling; (vi) continuous monitoring of DMA inflow, pressure and minimum night flow and execution of leak detection and repair should the tolerance limits be exceeded; and (vii) execution of the final inflow and pressure measurement. These activities are covered by this RPF. Specific safeguards instruments will be prepared during project implementation following the provisions of this RPF.

C. Water Distribution Network Expansion

This activity will involve installation of a total of approximately 186 km of water distribution pipeline network in areas of the city that are currently not served by piped water. The proposed expansion areas include: Area 25, western bypass, Nanjiri, Chitedze and Mchezi. These areas have registered considerable development over the last five years, but currently lack piped water supply as the existing distribution network does not reach these areas. The exact pipeline routes/locations are unknown at this stage as the design is not yet done. However, pipe diameters are expected to range from DN100mm to DN500 mm. The activity will also include installation of 14,700 new household water connections and construction of 60 communal water points to increase water supply coverage in the expansion areas. These activities are covered by this RPF. Specific safeguards instruments (RAPs) will be prepared during project implementation following the provisions of this RPF.

Component 2

A. Sewerage Network Rehabilitation and Expansion

This activity includes rehabilitation and expansion of the sewerage network (approximately 100km of sewers pipelines), and connection of 5,000 new sewer connections. The exact location of sewer network rehabilitation/expansion works is unknown at this stage. However, it is expected that these will mainly be in the central part of the city where most of the sewer network is concentrated. Sewer network expansion will be limited to those areas of the city that are within the vicinity of an existing trunk sewer. Priority sewer expansion areas identified include Area 3, 6, 12,18,30, 47 and 48. The exact sewer pipeline routes are unknown at this stage as the design is not yet done. The activity is therefore covered by this RPF. Specific instruments (RAPs) will be prepared during project implementation following the provisions of this RPF.

B. Rehabilitation and Upgrading of the Existing Kauma Sewage Treatment Plant

The nature and scope of rehabilitation works is unknown at this stage, but it is expected to include the following:

- Construction of additional facultative and maturation ponds
- Installation of a perimeter fence around the treatment plant;
- Flow measurement equipment installation;
- Treatment expansion and rehabilitation, including embankments, tertiary treatment and effluent disposal facilities;
- Baffle installation; and
- Site office rehabilitation/construction

The activity is covered by this RPF. Specific safeguards instruments will be prepared during project implementation following the provisions of this RPF.

C. Onsite Sanitation

This activity includes the development and implementation of sanitation marketing activities, the construction of 8,000 on-site sanitation facilities for the poor households, and the construction of 20 public sanitation facilities (10 school sanitation facilities and 10 market sanitation facilities - to be delegated to private management). The exact location of household and public sanitation facilities will be determined during project implementation. Specific safeguard instruments will be prepared during project implementation following the provisions of this RPF.

Component 3 and 4

The RPF also covers the following technical assistance activities:

A. Technical Assistance for Water Supply

This activity includes Technical Assistance designed to support preparation and supervision of all water supply infrastructure investments planned under the project and future investments under the

Lilongwe Water Program. These are:

- Detailed engineering designs, tender documentation and construction supervision of water distribution network rehabilitation and expansion infrastructure planned under the project;
- Preparation and/or update of environmental and social management plans and resettlement action plans for network investments planned under the project;
- Development of an ‘investment framework’ to serve as a guide for improving the quality and speed of preparation of future investments under the Lilongwe Water Program.
- Assessment of groundwater resources, map the groundwater potential and vulnerability to support groundwater planning and management around Lilongwe City;
- Preparation of a water supply master plan for Lilongwe City; and
- Feasibility studies and engineering designs for priority water supply infrastructure identified in the water supply master plan (excluding dams¹).

B. Technical Assistance for Sanitation

This activity includes Technical Assistance designed to support preparation and supervision of all sanitation infrastructure investments planned under the project and in the future. These are:

- Preparation of a sanitation master plan for Lilongwe City;
- Engineering designs, tender documentation and supervision of priority sanitation investments planned under the project;
- Preparation of environmental and social impact assessments, environmental and social management plans and resettlement action plans for priority sanitation investments planned under the project; and
- Feasibility studies for other priority sanitation investments identified in the sanitation master plan.

Component 4

This RPF is also applicable to the following institutional capacity strengthening activities to be financed under this component.

A. Institutional Capacity Strengthening of Lilongwe Water Board (LWB)

This activity will support the implementation of LWB’s institutional capacity development action plan code-named “Pathway to Success Program” (PSP). PSP is a five-year program (2016-2021) to strengthen corporate governance; improve staff productivity; improve customer service; and modernize LWB’s internal processes and systems. The activity also includes Project Implementation Unit (PIU) support for incremental operating costs, individual consultants to support the PIU on monitoring and evaluation, as well as environmental and social safeguards implementation and monitoring for the entire project; and support to implementation of citizen engagement and communication plans and gender action plans.

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¹ LWB already completed feasibility studies and detailed designs for a new water source (Diamphwe dam), and will therefore not require any further technical assistance under this project. LWB is also currently studying the feasibility of abstracting water from Lake Malawi. This study is already underway, and is unlikely to require any technical assistance support from this project.

B. Institutional Capacity Strengthening of Lilongwe City Council (LCC)

This activity will support the establishment of a revenue stream and financial management, improve operational efficiency, and staff training for Lilongwe city Council (LCC). The operational management and maintenance of sewers, wastewater treatment plants and other sanitation facilities—including sewer cleaning equipment—will be strengthened and customer management and community liaison will be improved.

Resettlement Policy Framework for LWSP

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 a LWSP 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.

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 Malawian laws 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 LWSP 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.*

Legislative Framework of the RPF

The RPF has been developed based on OP 4.12 and relevant Malawian Laws which include *Constitution of the Republic of Malawi (1994), Land Act (1965), Lands Acquisition Act (1971,*

Town and Country Planning Act (1988), National Land Policy (2002), and Other Relevant Malawi Policies.

Institutional Implementation Arrangements for the RPF Implementation

Lilongwe Water Board (LWB) will prepare (through consultants) project specific ESIA/ESMPs and Resettlement Action Plans (RAPs) and all other safeguards instruments for identified investments during the feasibility study phase of the project following detailed screening. These reports will be reviewed by the LWB's Project Implementation Unit (PIU) before submission to the World Bank. The implementation arrangements of the RPF builds on the arrangements for land take, resettlement and compensation activities required by Malawian Laws. The main executing and accountable agency is the Lilongwe Water Board (LWB) via its PIU.

Valuation and Compensation Framework

Malawian Laws insists that all peoples affected by expropriation must receive fair and just compensation and that the calculation of fair and just compensation are 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 LWSP sub-projects.

Framework for Preparation and Implementation of RAP under LWSP

The steps to be undertaken toward the preparation of each individual RAP under LWSP include 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 processes. 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 LWB.

Framework for Grievance Redress Mechanisms

After preparation and approval of any individual RAP under LWSP, all affected individuals and households will have been informed of the process for expressing dissatisfaction and for seeking redress. The grievance procedure will be simple, and will be administered as far as possible at the local level through Lilongwe District Commissioner, Ministry of Lands, LCC, LWB and Representative of the PAPs. It is recommended in the RPF that the PAPs representative works in collaboration with an independent agency/NGO or person to ensure objectivity in the grievance process. All grievances concerning dissatisfaction with compensation amounts, or seizure of assets without compensation shall be addressed to the Lilongwe District Commissioner and resolved in coordination with LCC, PIU. If not satisfied the PAPs can seek legal redress in the courts.

Disclosure of RPF/RAPs LWSP

Public disclosure of the LWSP RPF will be made nationally and on the World Bank website. Disclosure of RAPs will be made to PAPs and other stakeholders for review and comments on entitlement measures and other issues in the implementation of the RAPs. The purpose of the

disclosure will be to receive comments and suggestions from PAPs and incorporate appropriate suggestions. The LWSP 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 RAPs will be disclosed. LWB shall disclose and post any LWSP RAPs in its website, local newspapers with wide circulation and receive comments. Comments and critiques made on any LWSP RAP by PAPs and other stakeholders will be taken by LWB into consideration. LWB will also conduct a half day workshop in the project areas for the PAPs, stakeholders, representatives of civil societies, local leaders with the objective of disclosing project specific RAPs. The Public disclosure of any RAP will be made in Chichewa and English languages. This could be done through depositing / posting them in a range of publicly accessible places such as, Lilongwe District Council Offices, Schools, Churches and other public places. They will also be disclosed for input from civil societies, academics and other professionals as well.

Monitoring and Evaluation Framework

The arrangements for monitoring the resettlement and compensation activities will fit the overall monitoring program of the entire LWSP, which will fall under the overall responsibility of the PIU, Lilongwe District Council, NGOs in the project area and other interested groups. Periodic evaluations will be made to determine whether: 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 than before. Several objectively verifiable indicators shall be used to monitor the impacts of the compensation and resettlement activities. These indicators will be targeted at quantitatively and qualitatively measuring the physical and socio-economic status of the PAPs, to determine and guide improvement in their social wellbeing. In addition, an independent audit will take place on completion of RAP implementation.

Estimated Budget for the RPF implementation

The estimated cost for the implementation of this RPF is **USD 984,000**. These budget costs will cover stakeholder trainings and consultation forums on RPF; preparation, implementation monitoring and evaluation of individual RAPs; evaluation of livelihood restoration programs and LWSP RAP trainings.

Capacity Building and Training for RPF

Effective implementation of the RPF will require that adequate capacity enhancement for LWSP implementing institutions and other stakeholders.

2. DESCRIPTION OF THE PROJECT AND POTENTIAL INVESTMENTS CAUSING RESETTLEMENT

PROJECT OBJECTIVES

The project development objective is” *to increase access to improved water services and safely managed sanitation in Lilongwe city*

PROJECT COMPONENTS

Component 1–Network Rehabilitation, Expansion and NRW Reduction. This component involves investments in priority network rehabilitation to remove bottlenecks, increase hydraulic capacity of the existing network and reduce losses, and network expansion to increase coverage. Investments include: upgrading of approx. 142km of existing distribution network and creation of pressure zone boundaries; construction of approx. 27km of transmission mains, eight associated pumping stations and four storage reservoirs with a combined storage of 2,600m³; and performance-based water loss reduction through improvements in network maintenance, active leakage control, speed and quality of leak repairs and pressure management. The component will also finance approx. 186km of network expansion to unserved areas.

Component 3–Priority Sanitation Improvements. This component will finance various investments to increase access to safely managed household and public sanitation in Lilongwe. These investments include: rehabilitation and expansion of the sewerage network (approx. 100km); installation of 5,000 new connections; rehabilitation and upgrading of the existing Kauma sewage treatment plant; support to construction of 8,000 improved sanitation facilities targeting the poor and vulnerable households; sanitation marketing campaigns; and construction of improved sanitation facilities in 10 markets and 10 schools.

Component 4–Technical Assistance. This component includes various TA activities designed to (i) support preparation and supervision of all infrastructure investments planned under the project; and (ii) enhance LWB’s capacity to plan future investments and to strengthen the pipeline of investment-ready sub-projects under the Lilongwe Water Program. The TA activities are organized into two sub-components as follows:

Sub-component 4.1 – Technical Assistance for Water Supply. This sub-component will finance the following activities:

- a. Detailed engineering designs, tender documentation and construction supervision of water distribution network rehabilitation and expansion infrastructure planned under the project;
- b. Preparation and/or update of Environmental and Social Management Plans (ESMP) and Resettlement Action Plans (RAPs) for network investments planned under the project;
- c. Development of an ‘investment framework’ to serve as a guide for improving the quality and speed of preparation of future investments under the Lilongwe

Water Program. The framework will outline basic criteria, quality standards and guidelines for planning and preparing projects under the Program, covering technical, financial and economic analysis; social and environmental assessments; institutional issues; risk assessments etc. The framework is envisaged to become an overarching instrument for strengthening the pipeline of projects and will be institutionalized within LWB's planning process for capital projects.

- d. Assessment of the quantitative and qualitative characteristics of the groundwater resources in and around Lilongwe city to map the groundwater potential and vulnerability that will provide a basis for groundwater planning and management;
- e. Preparation of a water supply master plan for Lilongwe City; and
- f. Feasibility studies and engineering designs (including ESIA, ESMPs and RAPs) for priority water supply infrastructure² identified in the master plan.

Sub-component 4.2 – Technical Assistance for Sanitation. This component will finance the following activities: (a) preparation of a sanitation master plan for Lilongwe City; (b) engineering designs, tender documentation and supervision of priority sanitation investments planned under the project; (c) preparation of environmental and social impact assessments, environmental and social management plans and resettlement action plans for priority sanitation investments planned under the project; and (d) feasibility studies for other priority sanitation investment identified in the sanitation master plan.

Component 5–Institutional Capacity Strengthening. This component includes various activities designed to (i) strengthen the capacity of LWB to implement the project and to provide improved water services to its customers; (ii) strengthen the capacity of LCC to implement the sanitation component of the project; operate and maintain the sanitation infrastructure; and support the reforms needed to provide and promote safely managed sanitation services in Lilongwe City. The activities are organized into two sub-components as follows:

Sub-component 5.1 – Institutional Capacity Strengthening of LWB. This sub-component will finance the following activities:

- a. Support to implementation of LWB's institutional capacity development action plan code-named "Pathway to Success Program" (PSP). PSP is a five-year program (2016-2021) to strengthen corporate governance; improve staff productivity; improve customer service; and modernize LWB's internal processes and systems.. The project will build on and support implementation of the program to enhance its impact on the service delivery outcomes that LWB seeks to achieve under this project. Specifically, the project will support the following: (i) design and implementation of an incentive-based performance management system as a driver for both individual and team performance; (ii) staff training and change management in the areas of water distribution network management and NRW reduction; water treatment

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² Excluding dams. Feasibility studies, engineering designs and safeguards instruments have already been completed for proposed dam investments under the Program

process optimization; and management of public private partnership contracts; (iii) executive coaching programs in corporate utility management and finance; (iii) modernization of LWB's operational processes, including development of standard operating procedures and training of staff in their use; development and implementation of quality management systems and preparing LWB for ISO 9000 certification; (iv) development and implementation of water safety plans and business continuity plans for disasters and emergency events; and (v) customer services improvement, including branding and remodeling of zone customer service centers.

- b. Project management support to LWB to successfully implement the project. This includes (i) support for incremental operating costs for the Project Implementation Unit (PIU); (ii) individual consultants to support the PIU on monitoring and evaluation, as well as environmental and social safeguards implementation and monitoring for the entire project; and (iii) support to implementation of citizen engagement and communication plans and gender action plans.

Sub-component 5.2 – Institutional Capacity Strengthening of LCC. This sub-component will finance the following activities:

- a. Equipment and logistical support to the engineering and public health departments of LCC to strengthen their capacity to provide sanitation services in the city, until such a time that GoM takes a decision to transfer sanitation services to LWB. This will include provision of equipment for sewer and plant maintenance, rehabilitation and equipping of the laboratory; other related O&M equipment as well as logistical support including operational vehicles and office space;
- b. Specific technical assistance and training on: (i) sewerage operations and asset management, including development of GIS-based inventory of sewerage infrastructure; (ii) development and implementation of strategy to connect more households to the sewer network; (iii) improved customer service with respect to dealing with sewer blockages and new connections;
- c. Establishment of a revenue stream for sanitation services and implementation of revenue collection strategies to enable gradual recovery of O&M costs for sanitation services. LCC has recently approved a by-law that allows the council to charge fees for sanitation and other related services. However, LCC has no experience in revenue collection for sanitation services. The project will support LCC to implement revenue collection strategies for sanitation services;
- d. Support to on-site sanitation implementation, including hygiene promotion; identification of vulnerable households to be supported under the project; establishment of appropriate partnerships with the private sector and civil society with respect to management of public sanitation facilities, as well as safe collection, transportation, and treatment of fecal sludge from pit latrines, septic tanks or other onsite sanitation system;

- e. Incremental costs associated with coordination and consensus building efforts around a future institutional framework for sanitation services in Lilongwe. A Sanitation Task Force comprising representatives from LWB, LCC, Ministry of Health and MAIWD has been formed to strengthen coordination of sanitation investments in the city and to facilitate dialogue on institutional and policy issues;
- f. Project management support to LCC to successfully implement the sanitation component of the project. This includes (i) incremental operating costs for the engineering and public health departments; (ii) individual consultants to support LCC in managing sanitation activities under the project; (iii) support to implementation of citizen engagement and gender action plans.

RESETTLEMENT IMPLICATIONS OF LWSP

During the implementation of LWSP, specific investments in water supply infrastructure, including transmission and distribution pipelines, reservoirs, pumping stations; treatment plants; and ground water development will likely lead to acquisition of portions of land in project sites. Similar impacts are expected from sanitation infrastructure (rehabilitation of sewer pipelines, rehabilitation of existing sewage treatment plant etc).

Some of the investments will be in densely populated areas of the city, possibly including informal settlements. The project is thus expected to disturb settlements, requiring land acquisition leading to temporary or permanent resettlement, and is likely to disrupt livelihood activities. However, no major resettlement is expected in the project. The disturbances will result into loss of land and property; damage to road pavements; damage to concrete driveway; damage to different building structures; obstruction to passage on the roads; disruption of public service utilities; and temporary loss of business activities.

The impact will vary in degree depending on the nature of investment under the LWSP. For instance, the building of reservoirs, sanitation infrastructures and other structures related infrastructures could result in the partial or total loss of land, assets, and livelihoods of the communities in the project area and may require relocation and displacement. On the other hand, some investments such as water distribution and transmission pipeline even though small could cause land take and resettlement and impact livelihood, and may not necessarily cause physical displacement of a great number of people. At this point, the exact impact of the investments under LWSP is not yet known and it will only be known when investments under LWSP are identified.

The investment specific RAPs, though, need to include detailed baseline census and socio-economic survey information; specific compensation rates and standards; policy entitlements related to any additional impacts identified through the census or survey; description of resettlement sites and programs for improvement or restoration of livelihoods and standard of the living; implementation schedule or resettlement activities; and detail cost estimate. In addition, the RAPs will include a detailed description of the project and its impacts.

3. METHODOLOGY & AN OVERVIEW OF IMPACTS

This Resettlement Policy Framework (RPF) was prepared using the following approaches and methodologies;

DETAILED AND IN-DEPTH LITERATURE REVIEW

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

- *LWSP Draft Project Appraisal Document (PAD)*
- *Constitution of the Republic of Malawi (1994),*
- *Land Act (1965)*
- *Lands Acquisition Act (1971)*
- *Town and Country Planning Act (1988)*
- *National Land Policy (2002)*
- *World Bank Involuntary Resettlement Operational Policy 4.12.*
- *LWSP existing pre-feasibility and feasibility studies*
- *Other Relevant Malawi Policies*

INTERACTIVE DISCUSSIONS WITH IMPLEMENTING INSTITUTIONS

The proposed LWSP will be implemented using existing organizational structures in line with the constitution.

The Lilongwe Water Board is the executing agency for LWSP and will be responsible for overall project management, and for monitoring. LWB will be supported by LCC on the sanitation activities. However, LWB remains accountable for implementing this RPF.

The implementing agency will prepare project (through consultants) specific ESIA's and Resettlement Action Plans (RAPs) and all other safeguards instruments for identified investments during the feasibility study phase of the project following detailed screening. These reports will be submitted to the World Bank's implementation support and review missions.

As part of stakeholder consultations and engagement process, institutional specific consultations between World Bank, MOAIWD and LWB have been held with relevant key institutional stakeholders related to this project, to integrate their views, opinions and comments regarding this RPF. To this end, individual consultations were conducted 3rd August, 2017 at Lilongwe City Council chamber with key stakeholders. Minutes for the consultation are attached in ***Annex 9***

DEFINITION OF PROJECT AFFECTED PERSONS

According to this RPF, Project Affected Persons (PAPs) are those who stand to lose as a consequence of the project, all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, or important cultural sites, commercial properties, tenancy, income-earning opportunities as well as social and cultural networks and activities. Such impacts may be permanent or temporary.

The RPF under LWSP applies to all economically and/or physically displaced persons regardless of the total number of affected or the severity of impact and whether PAPs have legal title to the land. 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, and other historically disadvantaged groups or other economically and/or physically displaced persons.

PROJECT ACTIVITIES WITH DISPLACEMENT POTENTIAL

The main investments/projects envisaged to have displacement potential are listed below.

However, this list is not exhaustive and other types of investments identified under the LWSP during its implementation. The following works will include both construction and /or rehabilitation of:

- Water distribution pipelines
- Water transmission pipelines
- Storage reservoirs
- Pumping stations
- Sewer pipelines
- Sewage treatment plants
- Public sanitation facilities

IMPLEMENTING AGENCY

Lilongwe Water Board will be the project's main implementing Agency

CATEGORIES OF PAPS

The likely displaced persons (economically or physically) under various LWSP investments are categorized into three groups namely:

- Project Affected Persons (PAPs) are individuals whose assets may be lost and/or affected, including land, property, other assets, livelihoods, and/or access to natural and/or economic resources because of activities related to a given investment under LWSP.
- Project affected households are groups of PAPs in one household and where one or more of its members are directly affected by a given investment/project under

LWSP. These include members like the head of household, male, and female members, dependent relatives and members, tenants, etc.

- Vulnerable groups who could be a member of affected households. The investment/ project will separately identify the vulnerable members, such as those who are too old or too ill; children; those stricken with HIV/AIDS; women; unemployed youth, and orphans; child-headed households; single parents with dependants; elderly headed households; households headed by women that depend on sons, brothers, and others needing support and are especially vulnerable. The vulnerable groups are eligible for additional assistance under this RPF, as it is explained later in the *Entitlement Matrix, Table 3*.

The categories given above may not cover all types of affected persons. In addition, the categories are not mutually exclusive. The LWSP investment activities will have well prepared and comprehensive RAPs that would be specific and comprehensive enough, listing all affected groups and people and the impacts

Affected local community – A community is affected if project activities affect their socio-economic and/or social-cultural relationships or cohesion. For example, project activities could lead into loss of welfare or cultural erosion etc.

VULNERABLE GROUPS

Vulnerable groups³ are special and need special attention. There will be several categories of vulnerability identified in LWSP. Each category of vulnerability indicates some type of circumstance by which the PAP would need special consideration and additional assistance. Details will be provided in the specific census survey that will be used to classify certain PAPs as vulnerable and to sub-categorize them based on the reasons for vulnerability. The following are definitions of possible categories vulnerable heads of household:

- ***Child-Headed Household:*** these are households headed by young children, usually 18 years of age or younger, with no social support;
- ***Single Parent (Female) with Dependent Children:*** these are households headed by women, where there is no husband or partner present (e.g. widows, unmarried women, others) and no other form of support present;
- ***Single Parent (Male) with Dependent Children:*** these are households headed by men, where there is no wife or partner present (e.g. widowers, unmarried men, others) and no other form of support present;

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³ Vulnerability implies 'weakness' or 'defencelessness', and typically used to describe groups that are weak and liable to serious hardship. These are groups that without substantial support may be in severe and chronic poverty, unable to take advantage of profitable opportunities if they emerge, while with limited defences in case serious events or shocks occur. Examples are disabled people, orphans, HIV infected, elderly, ethnic minorities, households headed by widows or deserted women, or headed by children.

- ***Elderly-Headed Households with No Support System:*** these are households headed by an elderly male or female, aged 55 or above, or in some cases, less than 55 but with a lack of any social support services;
- ***Disabled-Headed Households:*** these are households where the head (male or female) have a physical disability;
- ***Extreme Poor:*** these are households where the PAPs do not have a sustainable living and/or access to income generation options, and do not have assets or income sources.
- ***HIV/AIDS/ Chronically-ill:*** Those who HIV positive or chronically ill will also be classified as vulnerable.

Under LWSP, vulnerable PAPs will be eligible for additional support which will help them to manage the resettlement process. Support to PAPs who are identified as vulnerable under LWSP will be provided on an individual basis as needed. Additional monetary compensation for vulnerable PAPs will be considered in project specific RAPs.

The use of gender-friendly technologies during construction will be important to consider and this will be done in close consultation with affected communities. Both men and women will be more concerned about the safety of their children during the construction phase and the risk of accidents that may arise from the depth of the trenches. Therefore, construction methods used will factor in these views and ensure that the risks are minimized.

The Project Implementation Unit, NGOs, Local Authorities, and/or other voluntary or charitable services locally available will be used to provide support to vulnerable PAPs. The exact assistance provided to each PAP will vary on a case-by-case basis to ensure that vulnerable people can access their benefits and use them for the intended purpose and to the intended effect.

Monitoring the treatment of vulnerable people during the compensation and resettlement process will be done as a special, focused activity and preferably sub-contracted through a firm or more local NGOs or CBOs. As with all aspects of the M&E system, care will be taken to keep it as simple as possible. This monitoring is to ensure that requirements are met, and that any shortfalls are identified and covered.

4. PRINCIPLES & OBJECTIVES GOVERNING RESETTLEMENT PREPARATION & IMPLEMENTATION

This RPF applies to all eligible persons regardless of the severity of impact and whether or not they have legal title to land.

THE OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK (RPF):

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

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

The procedures will be carried out throughout preparation and implementation of the projects, and impacts of any potential resettlement will be included in monitoring and evaluation (M&E). When a sub project RAP is required, it will be prepared in accordance with guidance provided in this RPF. The RPF follows the guidance provided in the World Bank Operational Policy on Involuntary Resettlement (OP4.12), as described in *Annex 8* as well as Malawian laws related to land acquisition.

The RPF ensures that any possible adverse impacts of sub project activities are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks. These risks can be minimized by:

- Avoiding displacement of people without a well-designed compensation and relocation process;
- Minimizing the number of PAPs, to the extent possible;
- Holding extensive consultation with project beneficiaries and project affected persons.
- Compensating for losses incurred and displaced incomes and livelihoods; and
- Ensuring resettlement assistance or rehabilitation, as needed, to address impacts on PAPs livelihoods and their wellbeing.

RATIONALE FOR PREPARING THE RPF

Given the nature of the LWSP, few project investments have been identified while others have not been identified at the time of preparation of this RPF. This RPF therefore will be the basis for preparing the project investments 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. The RPF ensures that any possible adverse impacts are addressed through appropriate mitigation measures, in particular, against potential impoverishment risks.

FLEXIBILITY OF THE RPF

Since this RPF is prepared for the duration of the project cycle, it needs to be flexible to respond to the changes which may happen during the life of the LWSP. Such changes will include:

- Changes in relevant legislations; introduction of new acts and legislations;
- Possible reforms in the water and land sector which may affect existing ministerial arrangements,
- Possible adjustments to implementation structures etc.

RPF PRINCIPLES UNDER LWSP

- 1. Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, where it cannot be eliminated.*
- 2. 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.*
- 3. 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.*

Compensation for losses of assets will be provided at full replacement calculated as market value plus transaction costs. PAPs will be meaningfully consulted and will participate in planning and implementing of the resettlement activities.

- 1. 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.*
- 2. 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.*

3. *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.*
4. *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.*
5. *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, 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.*
6. *The implementation of individual RAPs must be completed prior to the implementation of the investments under LWSP.*

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 LWSP 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 LWSP 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.

OVERVIEW OF LAND USES IN MALAWI

Malawi is a relatively small country with one of the highest population density in Southern Africa. The country has an estimated population of 14 million people against land size of about 9.5 million hectares. The average population density is 148 persons per square kilometre. However, the southern half of the country has an average population density of about 350 persons per square kilometre. About 85% of the population live in rural areas and depend on small holder farming while only 15% of the population live in towns where as much as 75% of the urban population live in poor peri – urban and informal settlements.

Agriculture is the main stay of Malawi's economy, accounting about 40% of gross domestic product and about 85% of export revenue. Small holder farming occupies about 4.5 million hectares while estates occupy about 1.2 million hectares of rural land. Some studies indicate that as much as 55% of the smallholder farmers have less than half of a hectare of cultivable land. As a result of this constraint, most rural households face difficulties in producing enough output for food and cash throughout the year. Poverty levels are estimated at 60% and 65% of populations in rural and urban areas respectively. Malawi Social Action Fund 4 project is designed to address such levels of poverty in the country. In context of Malawi situation, community driven interventions pose realistic risks on involuntary resettlements because by design, the preferred choice of sites by the communities happens to be within the vicinity of the beneficiaries themselves. Resettlement activities within highly populated areas generate long term setbacks on agro - based livelihood systems.

Land Tenure Regimes in Malawi

Malawi embraces the capitalistic ideals with regard to land ownership. There are six distinct land tenure classes existing in Malawi. The implementation of the country-wide MASAF 4 programme would likely involve land access to any one of the classes. Furthermore, cases of construction of new sub projects 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 falls into three groups of 3 to 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.

(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 (flood plains), community forests, river Lines, flood plains, wet lands, military sites and others.

ENTITLMENT UNDER RPF

PHYSICAL DISPLACEMENT

If people must move to another location due to the implementation of a sub project under LWSP, the GoM, will offer displaced persons choices among others feasible resettlement options, including adequate replacement housing, land or cash compensation based on the replacement cost where appropriate. In accordance with OP.4.12 (*Annex 8*), displaced PAPs will also be provided full relocation costs above the compensation amount. Attention will be paid to the needs of the poor and the vulnerable, who will be assisted through capacity empowerment during the RAP implementation to adapt to new environments.

In the case of physically displaced persons with recognized or recognizable rights, the project will offer the choice of replacement property of at least equal value, equivalent or better characteristics and equal or better location or cash compensation at full replacement value. Where displaced persons own and occupy structures, the project will compensate them for the loss of assets other than land, such as dwellings and other improvements to the land, at full replacement cost.

Compensation in kind will be offered in lieu of cash compensation based upon mutual agreement between the implementing agency and PAPs as provided for by the Lands Acquisition Act 1971. The Lands Acquisition Act 1971, the legal instrument governing land acquisition and compensation in Malawi, specifies that all PAPs must get just compensation. It is specific in regard to costs related to moving, disturbances, and legal fees for land transactions of the PAPs. This presents a gap where if not properly interpreted may not see the PAPs getting compensation for the above related costs unless the Bank procedures are followed. For that reason, in all instances where compensation will be undertaken, unless the interpretation of just and fair compensation is taken to mean all other related costs of relocation mentioned above then the Bank policies will apply and will require that these costs are fully met (full replacement costs) by the implementing agency.

ECONOMIC DISPLACEMENT

If land acquisition for a given sub project funded under LWSP causes loss of income or livelihood, regardless of whether the affected people are physically displaced, the project will meet the following requirements:

- a) Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;*
- b) 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 cost of transfer and reinstallation of plants, inventory, machinery and other equipment;*

- c) 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;*
- d) 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;*
- e) 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;*
- f) 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.*

In particular, the taking of land and related assets will take place only after full compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and relocation costs have been provided to economically or physically displaced persons.

5. LEGAL AND REGULATORY FRAMEWORK

The implementing agency is committed to conducting its activities with full compliance to the requirements of national regulations and its obligations under international conventions and treaties, giving due consideration to international best practice and policies. This includes issues relating to resettlement.

National Legislation and Practice

Malawi's legislation and practice of particular importance to the RAP are the following:

The Constitution

Principles enshrined in the Constitution of the Republic of Malawi (1994 with amendments to 1999) form the basis to any proposed practice or legislation relating to resettlement aspects of the Project.

Supportive Legislation and Regulatory Requirements

The application of ESIA in Malawi is based upon the legislative requirements of the *Environment Management Act* (EMA) (1996). The EMA outlines an EIA process for Malawi, and requires project developers to comply with that process. The process is managed by the Director of Environmental Affairs (DEA) in the Environmental Affairs Department (EAD). Accordingly, the ESIA and Project activities will be undertaken in strict accordance with the EMA, as well as the EAD's EIA Guidelines. Several Malawi regulatory and policy requirements are applicable to the RAP as provided in *table 1* below.

Table 1: National Regulatory & Policy Requirements

Malawi legislation and policies	
Legislation	
Constitution of the Republic of Malawi (1994)	Fisheries Conservation & Management Act (1997)
Environment Management Act (1996)	Forestry Act (1997)
Land Act (1965)	Public Health Act (1948)
Lands Acquisition Act (1971)	Gender Equality Act (2013)
Local Government Act (1998)	Monuments and Relics Act (1990) CAP 29:01
Town and Country Planning Act (1988)	Public Road Act (1962)
Water Resources Act (2013) & Waterworks Act (1995)	Occupational Safety, Health and Welfare Act (1997)
Irrigation Act (2013)	Employment Act (2000)
National Parks and Wildlife Act (2004)	Labour Relations Act (1997)
Policies and Guidelines	
National Environmental Policy (2004)	Gender Policy (2008)
Guidelines for Environmental Impact Assessment (1997)	National HIV AIDS Policy (2003)
	National Decentralisation Policy (1998)
National Land Policy (2002)	National Environmental Action Plan (2002)
National Water Policy (2005)	National State of Environment Report (2010)
National Irrigation Policy and Development Strategy (2011)	The Second Malawi Growth and Development Strategy (2012)
Malawi National Forest Policy (1996)	Other Relevant Malawi Policies

Table 2: Comparison of Malawi Laws and World Bank Requirements

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the 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 (iii) The right to due process in s.43 which accords with the objectives against forced eviction 	<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>Ensure that resettlement issues are fully recognized and dealt with at the project planning and design stages in order to avoid or minimize displacement. This is particularly important in a context of land scarcity.</p> <p>Ensure that levels of compensation, assistance and benefits are in line with OP 4.12.</p> <p>Ensure that all affected land users receive appropriate assistance and benefits, including unauthorized occupants ("squatters"), labourers and persons affected by the loss of access to resources that support their livelihoods.</p>

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the Gap
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 to land (including customary and traditional rights recognized under the laws of the country); 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 c) Those who do not have recognizable legal right or claim to the land 	<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 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>The WB: OP4-12 standard as to eligibility for compensation under the project can fall within the legal parameters for acquisition of land and 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</p>	<p>Ensure that all users of affected lands (including unauthorized occupants or users, labourers or persons affected by the loss of access to resources) are included as affected parties in the census survey. Implement cut-off procedures based upon the date of the census survey.</p>

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the Gap
			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 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</p> <p>(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</p> <p>(iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to</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 constitutional preconditions to expropriation of property cover items in the OP4-12 requirements.</p> <p>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</p>	<p>Relocation options for displaced persons whose livelihoods are land-based. Affected parties to be fully compensated and relocated PRIOR TO project implementation.</p> <p>Cash compensation to be provided at full, non-depreciated, replacement cost for losses of assets attributable to the project.</p> <p>The valuation process will be performed through the district land offices, with official valuers; the final determination of compensation rates will be done according to the approach of the RAP; actual land and property market assessments will be done prior to determination of final replacement rates</p>

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the Gap
	<p>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 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</p>	<p>The community involvement and grievance mechanism requirement criteria accords s.43 and s. 44(4) Constitution -due processes.</p>	<p>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.</p> <p>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>	

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the Gap
	land preparation, credit facilities, training, or job opportunities.			
Support to Vulnerable Groups including poor	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>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 disabilities and Improve access to loans and credit facilities for income generating activities.</p>	The OP4-12 does not define the vulnerable groups as these would be country or context specific i.e. there is no special eligibility arising from vulnerability of a given category. On the other hand, 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. In this respect, we observe that the provided that it is applied consistently the Op4-12 does not really fall below the Malawi standard by the mere fact that there is no specific mention of women's or children's rights. This is the rights to equality in s.20, to property	Special assistance to be provided to vulnerable persons as per provisions of the RAP, with the assistance of districts and resettlement committees

Theme	WB: OP4-12	Malawi Legislation	Evaluation	Recommendation to address the Gap
			<p>in 28 and 44(4) are, as observed in the compensation criteria, consistent with the Op 4-12 para 3(a) and (b).</p> <p>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>	

6. Eligibility Criteria, Entitlement, Valuation and Compensation

This chapter is a summary description of the category of the affected groups under the LWSP 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.

CATEGORY OF PROJECT AFFECTED PERSONS

Affected groups under LWSP sub-project investments in this RPF will include:

Affected Individual – An individual who suffers loss of land, property, other assets or investments made on land, livelihood, and/or access to natural and/or economic resources as a result of the sub project investments funded under LWSP.

Affected Household – A household is affected if one or more of its members is affected by LWSP sub projects, either by loss of property, land, and access, or otherwise his or her livelihood could be affected in any way by project activities. They include:

- *any members in the households, men, women, children, dependent relatives and friends, tenants;*
- *vulnerable individuals who may be too old or ill to farm along with the others;*
- *relatives who depend on one another for their daily existence;*

Vulnerable Groups and Households – Vulnerable groups, individuals or parts of households may have different land needs or needs unrelated to the amount of land available to them. Vulnerable people include:

- **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. These women should not be resettled in a way that separates them from these sources of support because the very survival of their households may depend on them. Compensation must consider all these factors.
- **People living with disabilities and the elderly:** People living with disabilities and elderly persons are especially vulnerable as they are often dependent on the generosity of family, relatives, friends, and neighbors. Land and any form of asset loss could severely affect their livelihoods.
- **Persons 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.
- **Orphaned children:** 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. These children tend to live in proximity to large towns and cities engaging in any form of economic activity to provide for themselves and their siblings, including selling paraffin or water, artisanal mining, and exploitative employment, among others. Many orphaned children also end up on the streets as street children. Should they be impacted by any subproject, consideration should be made for compensation in the form of rehabilitation and vocational training.

Vulnerable groups will be identified during preparation of investment specific LWSP RAP preparation during the census survey.

Vulnerable Assistance Measures

A Vulnerable Assistance Programme will be developed by LWSP for specific RAP to provide a safety net for vulnerable households. The objective will be to identify, assess, support, remediate, and monitor project-affected households experiencing severe hardship, as part of the overall Livelihood Assistance Package for each household. Vulnerable persons will be specifically identified, registered, and tracked through the following means:

- Analysis of RAP socio-economic survey data and case work on household composition, assets, source of income, and food security
- Community identified households receiving charity
- Analysis of records or case work on each household being compensated

Eligibility for Vulnerability Assistance

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

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

Form of Assistance to Vulnerable Groups

Assistance may take the following forms, depending upon vulnerable persons' requests and needs:

- *Assistance in the compensation payment procedure (e.g., specifically explain the process and procedures, make sure that documents are well understood);*
- *Assistance in the post-payment period to secure the compensation money and reduce risks of misuse/robbery;*
- *Additional cash to enable them restore their livelihood*
- *Counselling in matters such as family and health;*
- *Ensuring that the vulnerable enjoy equal opportunity during employment procedures; and*
- *Where alternative farming land is to be found, ensure it is at the most easily accessible locations.*

ELIGIBILITY TYPE 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 LWSP, 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 assistance if they occupied the land before the entitlement cut-off date. The entitlement cut-off date refers to the time when the assessment of persons and their property in the area is carried out for the preparation of investment specific RAPs. **Table 3** below summarizes the entitlements for each group of affected persons.

Table 3: 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

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>choice. Land for land 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</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			other costs. 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	Owner	Cash compensation for affected building and other fixed assets
	Remaining structures viable for continued use	Rental/lease holder	Cash assistance to cover costs of restoration of the remaining structure 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
			<p>Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project)</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</p> <p>Rehabilitation assistance if required assistance with job placement, skills training)</p>
		Street vendor (informal without title or lease to the stall or shop)	<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 to obtain alternative site to re- establish the business.</p>
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.	<p><i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques,</p> <p><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.</p> <p>Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.</p>
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	Loss of access to these sites,	Communities affected	<i>Consultation:</i> Undertake consultation with affected households to

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
properties such as burial grounds and places of worship, community centres, and social buildings	temporarily or permanently, loss of investment made.		determine appropriate arrangements and compensation if suitable. Replacing the social building such as schools and dispensaries.
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

ESTABLISHMENT OF RESETTLEMENT AND COMPENSATION COMMITTEE (RCC)

For the purpose of this RPF, at every Ward level where investments are likely to be, a Resettlement and Compensation Committee (RCC) will be established to help ensure that all legal processes involving valuation and compensation are followed in a just and transparent manner. This committee is proposed to ensure participation and inclusion of stakeholders.

The RCC will ensure effective communication among affected persons, Ministry of Lands, Housing and Urban Development, Lilongwe District Council and implementing agency. The RCC will include representative of Lilongwe District Council, Ministry of Lands, Housing and Urban Development, representative of implementing agency (LCC and LWB), representative of an NGO, and representative of the PAPs among other members.

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 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 Administration will notify the community leaders and representatives 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 notifications in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

METHODS OF ASSETS 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 LWSP. 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.

Although the type of compensation will be the individual's choice, compensation in kind will be preferred as cash payments raises issues regarding inflation and security. In addition, provision of cash does not ensure that the PAP's income will be restored. For payment of compensation in-kind, the timing and alternative locations will have to be decided and agreed upon by each recipient, in consultation with the individual project RCC.

VALUATION PROCESS OF ASSETS

Development of Standard Valuation Table

Due to the expected investments under LWSP and the localized nature of the majority of project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the course of the implementation of LWSP.

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 registered land valuer who will work closely with RCC, which will be established for the implementation of the RAP in a given project area. It will include a representative of the PAPs. 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 before presenting the figures to the PAPs, the Ministry of Lands, Housing and Urban Development will validate the figures and thereafter 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 4** below describes the forms of compensation.

Table 4. Forms of Compensation

FORMS OF COMPENSATION	
Cash Payments	Compensation will be calculated in Malawi Shillings, based on the replacement cost. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses, structures such as driveways, road sections, 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

LWSP is aware that cash compensation will be the most preferred mode of payment by most PAPs going by previous Government of Malawi projects' compensation records. It is also clear to LWSP that cash compensation leads poor households, who are losing houses and land, to spend on short-term spending leading to longer-term impoverishments of PAPs. Cash also leads to negative impacts for women as payments are generally paid to male households' heads. To mitigate this, LWSP will make it a policy that affected households incorporate women as signatories to their accounts.

For this LWSP will prefer in-kind compensation. 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 RCC.

METHODS FOR VALUING ASSETS IN MALAWI

Valuation is not an exact science. There are, however, certain fundamentals and basic appraisal methods which will enable the valuer to arrive at a logical and supportable estimate of value of property owned by PAPs. Any valuation model to have validity it will have to produce an accurate estimate of the market price. The method will therefore have to reflect the market culture and conditions at the time of valuation.

CALCULATION OF COMPENSATION BY ASSETS

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

Compensation for Land in 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.

Compensation for Agricultural Land

The LWSP 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.

Calculation of Crops Compensation Rate

The compensation of the crops 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. Market value is equivalent to average of last 3 years market value for the mature and harvested crop. 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.

Crop Values Determination

The value of each staple crop affected will be taken as the highest market price (over 3 years) reached during the year. This will be validated from current market prices of crops as kept by Sub-County Agricultural office.

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.

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.*

Voluntary Land Donation

For land donated voluntarily for LWSP 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 will have to 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,

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.

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.

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.

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.

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.

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.

Compensation for livelihood that are not necessarily land base

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 LWSP sub project investment. The RPF proposes full livelihood restoration and support to such vulnerable groups affected by the project activities.

Livelihood Restoration for Economically Displaced:

- Promptly compensate economically displaced persons for loss of assets or access to assets at full replacement cost;
- 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;
- 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;
- 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;
- 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
- 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*, LWSP 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), LWSP will continue the on-going agricultural activity in smaller areas of land in more intensive manner but learn and then use good farming practices to be able to increase crop yield.

7. PREPARING & APPROVING RESETTLEMENT AND COMPENSATION PLANS

This chapter describes how a determination will be made (screening) on whether LWSP sub project investments will lead to physical or economic displacements. If through the screening process, it is determined that displacement 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.

THE SCREENING PROCESS

Screening

Given the diverse types of investments under the LWSP and as a result different severity of impacts, each investment that is proposed to be included under LWSP will be screened by the PIU which will be established under LWB for overall coordination of LWSP related activities, and classified according to its potential social, economic and environmental impacts. Screening will be 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.

If screening determines that resettlement is likely, the next step will be to initiate resettlement planning, consultation and the preparation of a RAP. The steps to be undertaken for each individual Resettlement Action Plan (RAP) include; an identification of Project Affected Persons (PAPs), a socioeconomic census and asset inventory of the area, and consultation. Each RAP when prepared will contain the analysis of alternative sites undertaken during the land screening process.

Once the decision is made on the location of a given project under LWSP and screening done by the PIU indicate that the project will affect land and/or livelihood, the implementing agency will make a written request to the Ministry of Lands, Housing and Urban Development of the intention for the acquisition of the identified area for the proposed LWSP subproject land. The Ministry of Lands, Housing and Urban Development will inspect the land and grant approval for the land to be acquired for the implementation of the project. With this approval, the Ministry shall then go ahead and make a written notification of the intention to acquire the identified land for public purposes.

This RPF proposes the constitution of a *Resettlement and Compensation Committee (RCC)*, whose membership and functions is comprehensively described in *Chapter 9 of Institutional Arrangement* later:

With this committee in place, the RAP process will be set in motion.

First, the RCC will begin by meeting with the affected community to inform them about the potential project in their area and its possible impacts on land and livelihoods. A RAP shall then be prepared by the qualified consultants contracted by the implementing agency for the identified LWSP investment. The consultants will work closely with the technical design team, PIU Safeguards team and relevant Land Office.

The following procedural guidelines will apply when it is determined that a RAP would be developed.

- All affected individuals will be notified by the Lilongwe District Commissioner directly in the presence of their local leaders;
- All potential PAPs will be identified (through a scoping exercise) and informed about their options and rights pertaining to compensation for land and assets to be acquired by a given project;
- PAPs will be consulted about land acquisition and compensation and offered technical and financial options, including the most economically feasible alternatives;
- PAPs will receive reasonable compensation at full replacement cost for losses of assets and access attributable to the sub-project.
- PAPs will be enabled to restore and preferably improve their living standards compared to pre-project ones.

PREPARATION OF A PROJECT SPECIFIC RAP

As soon as investment/project is approved to be financed under the LWSP, the implementing agency will initiate a consultative and participatory process for preparing the RAP as follows:

- (i) A socio-economic survey/census will be completed to determine scope and nature of resettlement impacts including the number of PAPs, the number and size of the assets, the economic activities, the other socio-economic data, and productive assets to be affected, among others.
- (ii) The socio-economic assessment will focus on the potential affected communities, including some demographic data, description of the area, livelihoods, the local participation process, socio-cultural characteristics of the population. This together with the census will establish baseline information on livelihoods and income, landholding, etc.

Aside from the census and socioeconomic survey, which are the basis for collecting data and information on the PAPs and their assets, the following guidelines will be used when the RAP is being developed.

- (i). Consultation and participatory approaches; A participatory approach will adopted to initiate the compensation process. Consultations will start during the planning stages when the technical designs are being developed, and at the land selection/screening stage. The process therefore seeks the involvement of PAPs throughout the census and socioeconomic study for identifying eligible PAPs and throughout the RAP preparation process.
- (ii). Notification; All eligible PAPs will be informed about the project and the RAP process. A cut-off date will be established as part of determining PAPs eligibility,

which is the date the census or the socioeconomic survey is initiated. In special cases where there are no clearly identifiable owners or users of the land or asset, the RAP team must notify the respective local authorities and leaders. A “triangulation” of information – affected persons; community leaders and representatives; and an independent agent (e.g. local organization or NGO; other government agency; land valuer) – may help to identify eligible PAPs. The RAP team will notify PAPs about the established cut-off date and its significance. They will be notified both in writing and by verbal notification delivered in the presence of all the relevant stakeholders.

- (iii). Documentation and verification of land and other assets; The Ministry of Lands, Housing and Urban Development, together with a contracted registered valuer, and the RCC, will arrange meetings with PAPs to discuss the compensation and valuation process. For each individual or household affected by a given investment/sub-project, the RAP preparation team will complete a Compensation form containing necessary personal information on the PAPs and their household members; their total land holdings; inventory of assets affected; and demographic and socio-economic information for monitoring of impacts. This information will be documented in a report, and witnessed by an independent or locally acceptable body such as RCC or an NGO in the locality. The reports will be regularly updated and monitored.
- (iv). Compensation and valuation. All the types of compensation will be clearly explained to the individual and households involved by consultant, A Ministry of Lands, Housing and Urban Development representative and RCC. This will refer especially to the basis for valuing the land and other assets, which will always be done in the presence of the PAPs or their representatives. Once such valuation is established, the Ministry will produce, in presence of RCC, a Contract or Agreement that lists all property and assets that will be acquired by the project and the types of compensation selected. **Table 4** above provides a sample of entitlements that are eligible for compensation. These options include in-kind (e.g. replacement housing) and cash compensation. All compensation should occur in the presence of the affected persons and the community local leaders. If cash compensation is the preferred choice of the PAPs, the means to provide such cash compensation will be decided by the PAPs, e.g., through a cheque, direct deposit to the PAPs account or direct payment in cash to PAPs given that access to banking is sometimes a challenge in remote environment.
- (v). From this point, the provisions of this RPF will be utilised up to payment of the compensation package including resettlement support where appropriate. The costs associated with resettlement or relocation will be included in the RAP budgets for all sub-projects under LWSP.
- (vi). Payments: The Government of Malawi through the of Office of the President and Cabinet will provide funding to the LCC, which is the overall implementing agency for the LWSP. LCC with the help of RCC will make award to the PAPs.

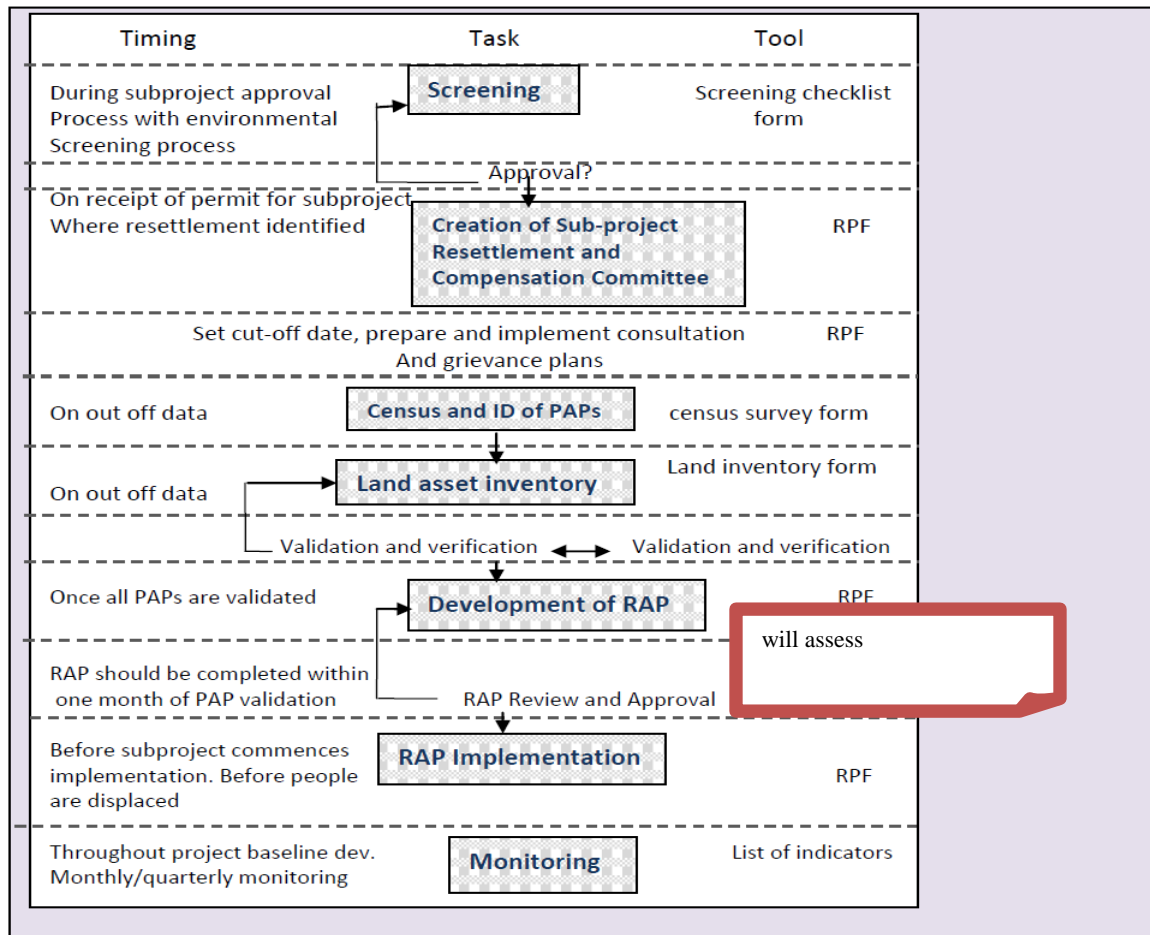
- (vii). Grievance Mechanism: Establishment of grievance mechanism will be one of the key requirements of the RAP processes in every LWSP investment. One of the key roles of the proposed RCC, under individual LWSP investment will be to address disputes. Grassroots based disputes will be dealt by local authorities. All PAPs will be informed by the RCC and LCC on how to register grievances or complaints, including specific concerns about compensation and relocation as well as dispute 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.
- (viii). The Court system will provide opportunity for appeal when a solution will not be found using the established local mechanisms. The court will deal with land and compensation related disputes. Alternative dispute resolution approaches will be given preference and based on customary rules, arbitration or third-party mediation. ADR will be promoted or defended as a resolution to disputes related to resettlement and land.
- (ix). Consultation: Following disclosure of all relevant information through the project communication channels and the independent grievance mechanism, all the LWSP sub-projects will provide for informed participation of affected persons and communities, including host communities, in decision making processes related to resettlement.

APPROVAL OF RESETTLEMENT ACTION PLANS:

All RAPs developed for LWSP project investments will be reviewed by the LWSP/PIU and the World Bank. For quality assurance, it is required that RAPs prepared for specific investments be submitted to the World Bank for review to ensure that they are produced in line with principles of this RPF and safeguards quality control. Gaps in quality shall be addressed through reviewers and the contracted consultants.

Once the individual RAPs are approved, they should be disclosed in the country and on the World Bank's website. In addition, each RAP should be available in the localities where the investments are intended for. The entitlement section of each RAP and the entitlement matrix should be translated into the local language and be distributed among the affected communities.

FIGURE I. RAP SCREENING AND APPROVAL PROCESS



8. INSTITUTIONAL ROLES FOR RAPs PREPARATION AND IMPLEMENTATION UNDER LWSP

The Institutional responsibility for Resettlement Action Plans (RAPs) preparation and implementation, including delivery of entitlements lies with the Lilongwe Water Board.

Responsibilities and roles of key entities

Lilongwe Water Board (LWB) is the lead implementing agency responsible for all aspects of project management, including planning, procurement, contract management, finance management, M&E and safeguards. LWB has an existing Project Implementation Unit (PIU)–under the Directorate of Technical Services (DTS)–which is charged with the responsibility of delivering LWB’s capital projects.

Lilongwe Water Board and its PIU will be responsible for i) screening the project activities for social impacts including activities that will result in land acquisition and involuntary resettlement; ii) hiring of consultancies to prepare RAPs/ ARAPs as needed; iii) facilitating various consultation activities; iv) disclosure of RAP/ARAP in country; v) ensuring the interests of PAPs, particularly vulnerable groups, are taken into account and addressed within the RAPs/ARAPs; vi) ensuring RAPs/ARAPs clearance and approval; vii) ensuring functioning GRMs and response towards resolving related issues; and viii) supervising and monitoring the progress in resettlement preparation and implementation including delivery of entitlements and regular progress reporting. LWB has recently recruited a total of six (6) Project Engineers to the PIU, thus significantly increasing its technical capacity. Other key personnel currently in the PIU include a Projects Manager, Procurement Manager, Procurement Officer and Finance Officer. With regard to safeguards, the PIU will enhance its capacity through the recruitment of environmental and social safeguards staff/consultants to support implementation of this RPF.

Lilongwe City Council will support implementation of the sanitation component of the project, consistent with its current role as the sanitation services provider in Lilongwe City. LCC will form a small, dedicated project unit comprising of deputed staff from both Engineering and Public Health Departments to manage the sanitation component on a day-to-day basis. The unit will be supported by three experts recruited under the project (i.e. sanitary engineer, GIS/Database specialist and institutional development/finance specialist) and three junior civil engineers. **However, overall project implementation responsibility and accountability including for safeguards remains with Lilongwe Water Board.**

LCC will sign a Memorandum of Understanding with LWB that will define the roles/obligations of each entity with respect to project implementation, as well as other joint undertakings related to sanitation services delivery in the city. Finally, a Sanitation Task Force comprising members from MAIWD, Ministry of Health, LWB and LCC will be formed to strengthen coordination of sanitation investments in the city and to facilitate policy dialogue on the future institutional framework for sanitation services in the city.

Responsibilities and roles of other entities

The **Ministry of Finance, Economic Planning and Development (MoFEP&D)** is responsible for: (i) securing and channeling resources to Lilongwe Water Board for the project (ii) allocating financial resources including compensation funds; (iii) approving public sector borrowing and public and private financing arrangements; and (iv) monitoring disbursements (v) economic validation of the project activities and for ensuring that the project activities are in line with the national economic agenda.

The **Ministry of Energy, Mining and Natural Resources, and its Environmental Affairs Department (EAD)** determines the requirements of the environmental and social impact assessment. They will advise on the (i) preparation of Environmental Assessment (EA) terms of reference; (ii) arrangements for public consultations; and (iv) review and approval of the EA through the national EA approval process. This relates to the ESMF and all other ESIAs subsequently prepared for this project and its activities.

The **Ministry of Agriculture, Irrigation and Water Development (MAIWD)** is responsible for: (i) the development of policies, laws, and strategies for the water sector; (ii) refining implementation arrangements where necessary; (iii) participating in Sanitation Task Force; and (iv) facilitating the development of sanitation management institutional framework for safely managed sanitation services.

The **Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW)** will be responsible for reviewing Resettlement Action Plans (RAPs) to ensure consistency with the RPF – more specifically that compensation and enhancement measures are in place for vulnerable groups.

The **Ministry of Lands, Housing and Urban Development** is responsible for determining the requirements on land take and resettlement. They provide i) guidance on the adherence of instruments to Malawi regulation; and (ii) review and approval of Resettlement Action Plans (RAPs) consistent with the RPF.

9. IMPLEMENTATION SCHEDULE, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

Before any sub project investment is implemented, PAPs will need to be fully compensated by LWB in accordance with the RAPs. For activities involving land acquisition or loss, denial or restriction to access, it is further required that these measures include provision of compensation and of other assistance required for relocation prior to displacement and preparation of resettlement sites with adequate facilities, where required. Taking of land and related assets may take place only after compensation has been paid and where applicable, resettlement sites and moving allowances have been provided to displaced persons. For project activities requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the RPF and individual RAPs.

The schedule for the implementation of activities related to specific RAPs, will be prepared based on the principles of this RPF, and must be agreed between the LWB, RCCs and affected PAPs to give legitimacy to the whole process as outlined in the law.

These will include the target dates for start and completion of civil works, the dates of the possession of land that PAPs are using, dates of the full compensation, dates of transfer of titles, and date of hand over of land to implementing agency. This schedule will be agreed upon by the LWB, RCC, and the PAPs. The consultation process will ensure that RAPs contains acceptable measures agreed upon among all stakeholders that link resettlement activity to civil works under each specific investment in compliance with this policy.

The timing mechanism of these measures will ensure that no individual or affected household would be displaced (economically or physically) due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or homestead affected. Once the RAP completed by the consultant, the individual RAPs will be sent to the PIU and the World Bank for final review and approval.

IMPLEMENTATION SCHEDULE

Given the nature of LWSP, preparing an implementing schedule at moment is not possible. Each investment once identified and screened, if required, will prepare an individual implementation schedule together with PIU which will be included in the RAP for that investment. Therefore, all RAPs will include an implementation schedule for each activity covering initial baseline and preparation, actual relocation, and post relocation economic and social activities. The plan will include a target date when the expected benefits for resettled persons and hosts community, if relevant, would be achieved. Arrangements for monitoring of implementation of the resettlement and evaluating its impact will be developed during the preparation of individual RAPs implementation schedules. The principles for preparation of monitoring and evaluation are discussed in *Chapter 13, Monitoring and Evaluation*. Target dates for achievement

of expected benefits to resettled persons and hosts will be set and the various forms of assistance to the resettled persons will be disseminated to them.

Planning and coordination of the tasks of the various actors involved in the RAP implementation will be key to successful RAPs implementation. To achieve this, workshops will be organized with the stakeholders and other relevant government agencies, at individual project launching and at the commencement of every project investment identified to have adverse social 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 individual tasks in RAP (v) adherence to principles of RPF

The stakeholders will be requested to participate in the decision-making process and provide inputs in the area of their expertise in order to establish a coherent work plan or schedule.

10. GRIEVANCES REDRESS MECHANISMS

Grievance procedures are required to ensure that PAPs can lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. The procedures should also ensure that the entitlements are effectively transferred to the intended beneficiaries. PAPs will be informed of the intention to implement the grievance mechanism, and the procedures will be communicated at the time of the preparation of investments' specific RAPs.

Under LWSP, grievances may arise from members of communities who are dissatisfied with (i) the eligibility criteria; (ii) valuation of assets and compensation, or (iii) actual implementation of RAPs, among others. This chapter sets out the measures to be used to manage grievances.

Overview

A key element of resettlement activities will be the development and implementation of a grievance mechanism in all LWSP investments. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. 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 the project level by Resettlement and Compensation Committee (RCC).

RCC will be established at Ward level for each investment under the LWSP which involves land acquisition and impact on assets. However, the RCC will be different in size depending on the level of impact and specific circumstances of each LWSP investment but at the minimum will include a representative of the LCC, Ward administration, representative of the PAPs, land registrar, an active NGO in the area, and a MOGCDSW officer.

The grievance procedure outlined in this RPF will not replace existing dispute and grievance redress in legal system in the country, which PAPs will be persuaded to use an option of last resort if they feel dissatisfied.

Based on consensus, the procedures will seek to resolve issues quickly to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions that may delay the implementation of a project. If the grievance procedure fails to provide a result, complainants can still seek legal redress.

The overall process of grievance management will be as follows: -

- *During the initial stages of the valuation process, the affected persons will be given copies of grievance procedures as a guide on how to handle the grievances. This will include who to contact (a phone number, address and location, time) as well as type of grievances they can refer to this committee.*
- *The process of grievance redress will start with registration of the grievances to be addressed for reference at the locational level through RCC. In all instances, records will be kept to enable progress updates of the cases.*
- *Traditional local mechanisms will be used and will include local leaders and the affected persons trying to find a solution with the concerned parties.*

- *In cases where a solution cannot be found at the locational level, reference will be made to the RCC.*
- *These will ensure transparency, fairness, consensus building across cases, eliminate nuisance claims and satisfy legitimate claimants at low cost.*
- *The response time will depend on the issue to be addressed but all measures will be put in place to ensure efficiency,*
- *Once the grievance is addressed and agreement reached, the compensation will be paid to the PAPs.*

Should a PAP refuse the compensation suggested, the individual PAP has the right to take his/her case to the civil court for litigation.

GRIEVANCE REDRESS PROCESS

As noted earlier, grievance redress will be the functions of the RCC. All the grievances will be channeled to Resettlement and Compensation Committee. A grievance log will be established by RCC and copies of the records kept by RCC to be used for monitoring of complaints.

The grievance redress mechanisms will be designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution which would otherwise take a considerably longer time.

If a complaint pattern emerges, the implementing agency and RCC will discuss possible remedial measures. The above institutions will be required to give advice concerning the need for revisions of procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. Implementing agencies, RCCs and the local leaders will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

Procedures for grievance management

The procedure for managing grievances under all LWSP investments will be as follows:

The affected person will file his/ her grievance, relating to any issue associated with the resettlement process or compensation, in writing to the project RCC. The grievance note should be signed and dated by the aggrieved person. A selected member of the Committee will act as the Project Liaison Officer (PLO) who will be the direct liaison with PAPs.

The PLO will be working in collaboration with the RCC, and will be a member an independent NGO in the locality to ensure transparency and fairness in the process grievance address. Where the affected person is unable to write, the PLO will write the note on the aggrieved person's behalf. Any informal grievances will also be documented by the Project Liaison officer. The note should be embossed with aggrieved person's signature or thumbprint. A sample grievance form is provided in ***Annex 5***. A copy of this completed form should be submitted by the Project Liaison Officer to RCC.

- 1) The Project Liaison Officer and the RCC will consult to determine the validity of claims. If valid, the Committee will notify the complainant that s/he will be assisted and a response will be given in the due time.*
- 2) The RCC will meet and respond within 14 days during which time any meetings and discussions to be held with the aggrieved person will be conducted. If the grievance relates to valuation of assets, a second or even a third valuation will be undertaken, at the approval of RCC until it is accepted by both parties. These should be undertaken by separate independent valuers than the person who carried out the initial valuation. The more valuations that are required to achieve an agreement by both parties, the longer the process will take. In this case, the aggrieved person must be notified by the Project Liaison Officer that his/her complaint is being considered.*
- 3) If the aggrieved person does not receive a response or is not satisfied with the outcome by RCC within the agreed time, s/he may lodge his/her grievance to the Land Office, also mandated to help resolve such matters. If requested, or deemed necessary by the Project Coordination Unit, the Project Liaison Officer will assist the aggrieved person in this matter.*
- 4) Where the matters cannot be resolved through local routes, the grievance will be referred to courts. The RCC will provide assistance at all stages to the aggrieved person to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible.*

Grievance Log

The 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:

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

Monitoring Complaints

The Project Liaison Officer will be responsible for:

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

II. RPF IMPLEMENTATION BUDGET

The actual cost of resettlement and compensation for each LWSP investment will be determined during each socio-economic study for the preparation of the individual RAPs. The Government of Malawi will finance all the resettlement and compensation costs. The total cost of resettlement under LWSP will depend on the number of investments that will be made.

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

However, when these locations are known, and after the conclusion of the site specific socio-economic assessment, information on specific impacts, individual and household incomes, assets and numbers of affected people and other demographic data will be available, hence a detailed and accurate budget for each RAP will be prepared. PIU together with the relevant implementing agency for a given investment will prepare the detailed resettlement budget, to be financed by the Government of Malawi through the Ministry of Finance. Each RAP will include a detailed budget, using the following template.

Table 5. Illustrative Budget Template for the 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			
Livelihoods restoration			
Training			
Capital Investments			
Technical Assistance			
NGO support			
Monitoring			
Contingency			

Table 6: Explanation of Assumptions on Indicative Budget

#	Item	Costs (in MK)*	Assumptions
1	Compensation for loss of Land	/hectare	For land acquisition purposes, based on cost realized in projects involving similar issues in Malawi.

2	Compensation for loss of Crops	/hectare of farm lost	Includes costs of labour invested and average of highest price of staple food crops as per methods described in this RPF.
3	Compensation for loss of access to pastoralists	N/a	Those affected would be provided with shared access, or alternate routes (decision agreed through consultation and participation of all)
4	Compensation for loss of access to fishing resources.	/fishmonger	Data provided from revised socio-economic study will determine market values of catch, fish products etc. that is produced.
5	Compensation for other livelihoods affected such as gathering medical herbs and plants from the forest, small production such as bee keeper loss of labour income for those dependent on the land taken	n/a	Livelihood restoration program
6	Compensation for Buildings and Structures		This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.
7	Compensation for Trees	/year/tree	Based on methods described in this RPF for compensation for trees.
8	Cost of Relocation Assistance/Expenses	/household	This cost is to facilitate transportation, etc.
9	Cost of Restoration of Individual Income	Say	Assumed to be higher than the GDP/capita.
10	Cost of Restoration of Household Income	Say	Through employment in Program Activities.
11	Cost of Training Farmers, pastoralists and other PAPs		This is a mitigation measure which seeks to involve those affected by the project activities. This figure represents a costs of around MK/person
12	NGO support	Number/years	Administrative support to undertake livelihood restoration or monitoring and evaluation of RAPs implementation
	Cost of restoration of livelihood for vulnerable	/year/	Assumed to be higher than the GPP/capita

The indicative budget for RPF implementation is shown in Table 7 below.

Table 7: Indicative RPF Budget for the Next 5 years

	Indicative Budgetary Item	No.	Unit cost (USD\$)	Total cost (USD\$)
1.	Stakeholders trainings/ consultation forums on RPF	5	3,000.00	15,000
2.	Monitoring and evaluation exercises on the implementation of RAPs under LWSP	5	2,000.00	10,000
3	Compensations for PAPs	sum	sum	900,000
4.	Evaluation of Livelihood enhancement programs under LWSP	1	5,000.00	5,000
5.	LWSP RAP training manual/ RAP Trainings	1	10,000.00	10,000

6	Grievance Mechanisms	sum	sum	30,000
7.	RAP audits	5	10,000.00	50,000
			Sub-total	820,000
			Add 20% contingency	164,000
			Total	984,000

Table 9: Assumptions for the RPF Budget line

Item	Justification
Stakeholders trainings for GOM institutions that will be involved in the implementation of RAPs under LWSP	LWSP implementing agencies and other GOM legal institutions charged with compulsory acquisition will need to be taken through the principles of this RPF. At the moment, we cannot tell the number of meetings that may be needed. However, in the next 5 years we foresee at least one meeting every year. The RPF will be adjusted accordingly depending on the need and changes occasioned by current constitutional reforms.
Compensations for PAPs	Indicative budget estimate for compensations
Monitoring and Evaluation of RAPs under LWSP	To ensure compliance to the principles of RPF, it is expected that the LWSP/PIU will carry out 5 independent studies assessing implemented RAP compliance with RPF principles of various LWSP projects in the implementation of the RAPs. Since LWSP is an investment framework, we foresee at least 5 projects approved under LWSP framework in the next 4 years. The M and E studies will help with the review and subsequent adjustments of the RPF.
Evaluation of livelihood programs under LWSP	As part of economic rehabilitation, LWSP/PIU will assess effectiveness of economic rehabilitation of RAPs implemented under LWSP to ensure lesson learning and improvement of effectiveness of such programs over time.
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 Audits	In view of the dynamism of the on-going reforms, the LWSP PIU shall organize at least one annual meeting for RPF Audit and three with LWB to review the compulsory acquisition procedures in line with lessons learnt built from previous resettlement program.
Grievance Mechanisms	LWB to put in place grievance mechanisms at project and community levels.
20% contingency	Shall support unforeseen contingencies in the implementation of this RPF (including possible increase in number of PAPs) .

12. MECHANISMS FOR CONSULTATIONS AND PARTICIPATION OF DISPLACED PERSONS IN PLANNING, IMPLEMENTATION AND MONITORING

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. The way land administration is undertaken in Malawi today is based on long standing a traditional and cultural practice that makes public consultations with communities, indispensable. Effective and close consultations with PAPs is a pre-requisite for project success. In recognition of this, particular attention will be paid to public consultations with project affected individuals/households/homesteads when resettlement and compensation concerns are involved.

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

Public participation and consultations will take place through meetings, radio programs, request for written proposals/comments, filling in of questionnaires/ application forms, public readings and explanations of project ideas and requirements, making public documents available at the national, local and homestead levels at suitable locations like the official residences/offices of local chiefs/elders. These measures will take into account the low literacy levels prevalent in these rural communities in Malawi by allowing enough time for responses and feedback.

Notwithstanding, the best guarantor for public interest are the traditional and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole.

Particular attention will be given to consultation with vulnerable groups such as the landless, people living in informal settlements, and women to ensure that they are represented adequately in such processes.

Conflicts between hosts and resettled persons may develop as increased demands are placed on land, water, forests, services etc. To mitigate the resettlement's impact on host populations, they will be informed and consulted and included in the planning meetings for the resettlement exercise of affected person and impact mitigation plan for the expansion of services. Any payments due to the hosts for land or other assets provided to resettled persons will be promptly made.

Objectives of LWSP Consultations with PAPs

Specific objectives of the engagement process on LWSP project will be as follows:

- *To share fully LWSP information about the social-economic and environmental impacts of the project with the PAs;*

- *To obtain information about the needs and priorities of the PAPs, as well as information about their reactions to proposed policies and activities;*
- *To inform PAPs about various options for livelihood restoration;*
- *To obtain the cooperation and participation of PAPs and related communities in activities required to be undertaken for RAP planning and implementation;*
- *To discuss compensation rates and eligibility entitlement;*
- *To discuss choice of alternative location of farmland;*
- *To ensure transparency in all activities related to land acquisition, compensation and rehabilitation;*
- *To establish a clear, easily accessible and effective complaints and grievance procedure; and*
- *To establish mechanisms for monitoring and evaluation and for implementing corrective actions.*

Consultation Process With PAPs

Three steps of information and consultation are being implemented:

- ***Initial information:*** *Basic information will be provided to potentially affected people on the LWSP project. This step took the form of public meetings;*
- ***External stakeholder consultation:*** *Other key stakeholders such as National Administration, MOLHUD, MOAIWD, MOGCDSW, traditional authorities, local political leaders, Ward have been consulted for their views, concerns and suggestions regarding RAP; and*
- ***Consultation on draft RAP:*** *once the RAP is available in draft form, it should be discussed with project-affected persons, MOLHUD, MOGCDSW, RCC Committee members and other relevant stakeholders whose comments shall be incorporated into final document.*
- ***Disclosure:*** *The RAP will then be disclosed on MOAIWD/LWB/LCC and relevant websites for comments.*

RCC is expected to play an important role in the consultation process. It will be in close contact with the affected communities and in continuous communication with them about the LWSP projects, their impacts, resettlement and compensation processes, grievances management, among other things. They will also be the ones communicating the cut-off date and other project related issues to the PAPs.

CONSULTATIONS ON THE RPF

Stakeholders consultation on this RPF were held in Lilongwe on August 3rd 2017. Details are included in ***Annex 9***.

DATA COLLECTING PHASE

During the preparation of LWSP RAPs, preliminary public consultations and socio-economic survey study will be undertaken. It will involve active participation of the all PAPs in provision of preliminary data. PAPs will be important information providers, enabling accurate and effective data. Information about proposed project will also be explained to PAPs in the local language that they understand. Besides, PAPs will be

given platform to ask questions about the project, identify impact of the proposed LWSP projects, suggest mitigation measures and alternatives to be considered in the technical design that limit impacts. The RAP preparation consultant will also labour to provide rationale for data collection, discuss data with PAPs and give PAPs feedback on the collected data.

DISCLOSURE OF RPF/ LWSP

Public disclosure of the LWSP RAPs will be made to PAPs and other stakeholders for review and comments on 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 LWSP 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. LWB will disclose and post any LWSP RAP in their websites, local newspapers with wide circulation and receive comments. Comments and critiques made on any LWSP RAP by PAPs and other stakeholders will be taken by these agencies for consideration. LWB and LCC will also conduct a half day workshop in the project area for the PAPs, stakeholders, representatives of civil societies, local leaders with the objective of disclosing project specific RAP. The public disclosure of any RAP will be made in Chichewa and English languages. This will be done through the PIU office; depositing / posting it in a range of publicly accessible places such as, Schools, churches, LCC offices, local newspapers with wide circulation. This RPF also will be disclosed for input from civil societies, academics and other professionals as well.

IMPLEMENTATION OPERATION

During implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount 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.

MONITORING AND EVALUATION PHASE

The PAPs representatives will participate in the project completion workshops, to give their evaluation of the impacts of the project. They will also suggest corrective measures, which may be used to improve implementation of other LWSP supported projects. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as a monitoring and evaluation exercise.

13. ARRANGEMENTS FOR MONITORING AND EVALUATION

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

Overview

The arrangements for monitoring will fit the overall monitoring plan of the entire LWSP, which will be through the LWB. All RAPs will set major socio-economic goals by which to evaluate their success which will include (i) affected individuals, households, and communities being able to maintain their pre-project standard of living, and even improve on it, (ii) the local communities remaining supportive of the project and (iii) the absence or prevalence of conflicts (iv) project affected persons reporting satisfaction with the resettlement operation. In order to assess whether these goals are met, RAPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

The objective of the monitoring will be to determine;

- *If affected people are satisfied with the actual resettlement process.*
- *If affected people have been paid in full, before implementation of any LWSP sub project that is causing resettlement.*
- *If affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it.*

The census and/or the socio-economic survey study which are the basis for the preparation of investment specific RAPs under the LWSP, will be used as the base line for the evaluation of the individual RAPs.

INDICATORS TO DETERMINE STATUS OF AFFECTED PEOPLE

A number of indicators from the above studies will be used in order to determine the status of all affected people under LWSP sub projects.

- *Size of land being used compared to before,*
- *Standard of house compared to before,*
- *Status of income compared to before*
- *Level of participation in project activities;*
- *Access to water, access to schools and health centres as it was before the project*
- *Status of vulnerable people compared to before*

Specific indicators may include the following, which would indicate a change:

- *Access/ distance/ quality of agricultural plots*
- *Quality of, and access to, water*
- *Number of people employed*
- *Number of 'vulnerable' people*
- *Number of grievances and time taken to resolve them. If not resolved, what were the next steps*

- *Status of income of the project affected persons*
- *The local communities remaining supportive of the project.*
- *The local communities reporting satisfaction with project resettlement*

Most of the information for these indicators will be collected through survey, interviews and focus group discussions with the affected communities. The data for these indicators will be collected every six months during the RAP implementation by the implementing agency, RCC and an independent NGO working in the area to ensure triangulation of data.

The pre-project census information will provide most, if not all of the required information to set a baseline against which performance can be tracked.

In addition to the existing baseline data, the following steps will be taken to ensure the proper monitoring of the RAPs:

- *Questionnaire data will be entered into a database for comparative analysis;*
- *Each individual will have a compensation dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received;*
- *RCC specifically the land's office and Ministry of Gender Officer will maintain a complete database on every individual impacted by the sub-project land use requirements.*
- *Regular resettlement status reports submitted by the implementing agency will be reviewed.*

MONITORING OF RPF/RAP IMPLEMENTATION

RCC will assist in compiling basic information related to compensation and send them to the implementing agency as part of the regular monitoring. Some of the information which will be collected at the RCC level will include: time to gauge the performance of the:-

- *Length of time from project identification to payment of compensation to PAPs;*
- *Timing of compensation in relation to commencement of physical works;*
- *Amount of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);*
- *Number of people raising grievances in relation to each project investment;*
- *Number of unresolved grievances.*
- *Number of vulnerable people assisted.*
- *Number of livelihoods restored and types of the livelihood restoration*

The PIU will review the statistics to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to.

Financial records will be maintained by LWB to permit calculation of the final cost of resettlement and compensation per individual or household and they will be included in the monitoring report. The statistics will also be provided to the external independent consultant/agency that will be contracted on an annual basis to monitor the implementation of the RAPs.

ANNEXES

ANNEX 1: GLOSSARY OF TERMS

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

ANNEX 4: COMMUNITY ASSET AND INFRASTRUCTURE

ANNEX 5: SAMPLE GRIEVANCE REDRESS FORM

ANNEX 6: TORS FOR DEVELOPING A RAP

ANNEX 7: OUTLINE FOR THE RAP

ANNEX 8: INVOLUNTARY RESETTLEMENT OP.4.12

ANNEX 9: RPF/ESMF STAKEHOLDERS' CONSULTATIONS

ANNEX 1: GLOSSARY OF TERMS

DEFINITIONS

Unless the context dictates otherwise, the following terms will have the following meanings:

“Replacement cost for houses and other structures” means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labour and contractors’ fees; and (c) any registration costs.

“Resettlement Assistance” means the measures to ensure that LWSP Affected Persons and Displaced Persons under various investments 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.

“The Resettlement Policy Framework (RPF)” is an instrument to be used throughout the LWSP Program implementation. The RPF sets out the resettlement objectives and principles, organisational arrangements and funding mechanisms for any resettlement, that may be necessary during LWSP investments implementation. The RPF guides the preparation of Resettlement Action Plans of individual investments in order to meet the needs of the people who may be affected by the project. The **Resettlement Action Plans (“RAPs”)** for various investments under the LWSP will therefore be prepared in conformity with the provisions of this RPF.

“Census” means a field survey carried out to identify and determine the number of Projected Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts under various investments in the LWSP. The census provides the basic information necessary for determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions (LGIs).

“Cut-off date” is the date of commencement of the census of project affected persons, within various projects areas under LWSP, when those who will move to the area after the time of census will not be compensated.

“Displaced Persons” mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the various investments in LWSP, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location ; lose right, title, interest in any houses, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

“Involuntary Displacement” means the involuntary acquisition 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 the Displaced Persons has moved to another location or not.

“Involuntary Land Acquisition” is when the project affected people need to be relocated or give up their rights to land and other assets as a result of development projects or other reasons which are beyond their control in this case the LWSP PAPs.

“Land” refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the LWSP.

“Land acquisition” means the possession of or alienation of land, buildings or other assets thereon for purposes of the LWSP.

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 LWSP Program Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre- LWSP levels.

Resettlement and Compensation Plan”, also known as a “Resettlement Action Plan (RAP)” or “Resettlement Plan” - is a resettlement instrument (document) to be prepared for each individual investment under LWSP which is prepared based on the principles of this RPF. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. Individual RAPs are prepared by the agencies in charge of the development projects under the LWSP. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of a given investment Under LWSP program activities commences.

“Replacement cost” means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. It includes expenses that a person will incur in order to replace his or her house or land (at market price) which could include taxes and moving allowance. In terms of land, this may be categorised as follows; (a) “Replacement cost for agricultural land” means the pre-LWSP 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 others costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

Program Affected Person(s) (PAPs) are persons affected by land and other assets loss as a result of a number of projects under LWSP program. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.

“Compensation” means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from LWSP activities.

ANNEX 2: SAMPLE RESETTLEMENT SCREENING FORM

Project name:

Project Location

(Include map/sketch): (e.g. Area, Division, Ward, Location, and etc.).

Type of activity: (e.g. new construction, rehabilitation, periodic maintenance)

Estimated Cost:

(Malawian Kwacha)

**Proposed Date of
Commencement of Work:**

Technical

Drawing/Specifications

Reviewed : (circle answer): Yes No

This report is to be kept short and concise.

1. Site Selection:

When considering the location of a project, 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.

Issues	Site Sensitivity			Rating
	Low Medium High	Low Medium High	Low Medium High	
Involuntary Resettlement	Low population density; dispersed population; legal tenure is well-defined.	Medium population density; mixed ownership and land tenure.	High population density; major towns and villages; low income families and/or illegal ownership of land; communal Properties.	

2. 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.

Land and resettlement:	<i>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</i>
Will the project involve loss of land and other resources?	
Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?	
What is the likelihood of land purchase for the subproject?	
How will the proponent go about land purchase?	
What level or type of compensation is planned?	
Who will monitor actual payments?	

Refer to the Resettlement Policy Framework.

Actions:	
List outstanding actions to be cleared before project appraisal.	
Approval/rejection	Yes/No answers and bullet lists preferred except where descriptive detail is essential.

Recommendations:

☐ e Requires a RAP to be submitted on date: _____

☐ ff Does not require further studies

Reviewer: _____

Name: _____

Signature: _____

Date: _____

ANNEX 3: CENSUS AND LAND ASSET INVENTORY FORM

Socio-economic Household Datasheet of PAPs

<i>Name of Interviewer</i>		<i>Signature</i>
<i>ID Code</i>		
<i>Name of Supervisor</i>		<i>(after verification of interview)</i>
<i>ID Code</i>		

<i>Cell Name</i>		<i>Number of Concession in Village</i>	
<i>ID Code</i>		<i>(GPS Coordinates)</i>	

Date:
Day Month Year

<i>Name of Head of Extended Family :</i>	
<i>Number of Nuclear Families in Extended Residential Group (including household of head of extended family)</i>	

Household Interview

Name and Surname	Relationship to Head of Family	Sex		Place of Birth	Age	Marital Status	Residence Tenure	Ethnic Group	Religion	Educational Level	Income Earner		Economic Activities	
		M	F								Yes	No	Primary	Secondary
1.														
2.														
3.														
4.														
5.														
6.														
7.														

Relation to Head of Family : 1 HoH; 2 Spouse of HoH ; 3 Child of HoH; 4 Spouse of child of HoH ; 5 Grandchild of HoH; 6 Parent of HoH; 7; 8
9 Other (specify) ; 0 No Answer.

Marital Status : 1 Married ; 2 Widowed ; 3 Divorced ; 4 Unmarried; 0 No Answer.

Residential Status: 1 PRP (Permanent Resident) ; 2 RA (Resident absent) ; 3 Member of non-resident HH; 4 Visitor; 9 Other (specify) ; 0 No Answer.

Occupations: -

Principle Occupation: 1. Farmer ; 2 Shepherd; 3 Household ; 4 Merchant; 5 Religious leader, teacher ; 6 Artisan ; 7 Transport ;

8 Unemployed; 9 Other (specify) ; 0 No Answer Secondary Occupations: idem.

Educational Level : 1 Illiterate ; 2 Three years or less; 3 Primary School ; 4 Secondary School ; 5 Technical School ; 6 Religious School;
0 No Answer

Religion: 1 Christian (specify denomination) ; 2 Muslim ; 9 Other (specify) ; 0 No Answer

Land asset inventory for Project Affected People

Village: _____

Date: _____

Cell: _____

Survey no.	Name of Head of Household	No. of Persons in household	Total land holding of Hhold (m2)	Land to be acquired (m2)	Land Use Type *	Loss of % total	Loss of assets				Loss of crops			Loss of other assets	Other losses		
							Structures Permanent	Structures temporary	Area of residential	Fruit trees	Agricultural land lost	Other (specify)	e.g. graveyards,	Residence (rented)	Business lost	Income loss	

	<i>(m²)</i>	<i>(m²)</i>	<i>land lost (m²)</i>	<i>lost type and number</i>	<i>(m²)</i>	<i>wells, etc. (type and no.)</i>
--	------------------------	------------------------	--------------------------------------	---	------------------------	---

* Land types are as follows (please fill in the types of land for Malawi)

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

Entitlements of Project Affected People

Location: _____

Village: _____

Date: _____

[illegible]

ANNEX 4: COMMUNITY ASSETS AND INFRASTRUCTURE
Complete one form for each community asset

1. Village/town/city					
2. Location					
3. Camera and Photograph Number					
4. Type of structure or asset					
01	School	08	Well	15	Water Supply
02	Clinic	09	Public Latrine	16	Sewerage
03	Church, Mosque or Temple	10	Public Laundry	17	Garbage Site/Dump
04	Shrine	11	Play ground	18	Fish Pond
05	Town Hall	12	Cemetery	20	Other
06	Meeting Hall	13	Electric	If other(please Specify)	
07	Well	14	Public Telephone		
4. Name of structure					
5. Formal owner of the structure					
01	Sub-County Government				
02	Community or Voluntary Organization				
03	Private Individual				
04	Other(please Specify)				
6.Name and Address of owner (Please state name and address of responsible chairman or secretary if the structure is owned by a community organization or by government)					
6. Plot Number					
7. Telephone Number					
8. Number of users of structure per month					
9. Plot Dimensions			ectiv		M
10. Plot Area			M ²		
11. Land value per m²			KES		
12. Land Value (no.s 11x12 from Above)		KES			
13. Estimate of building area		M ²			
14. Building materials					
a. Floor		b. Walls			ss of econ
1.	Earthen	1.	Earthen	1.	Earthen
2	2Cement-plastered earthen walls	2.	Cement-p	2.	Cement-plastered earthen walls
3	Straw or bamboo	3.	Straw or bamboo	3.	Straw or bamboo
4	Unbaked brick	4.	Unbaked brick	4.	Unbaked brick
5	Baked Brick	5.	Baked Brick	5.	Baked Brick
6	Cement block	6.	Cement block	6.	Cement block
7	Galvanized tin	7.	Galvanized tin	7.	Galvanized tin
8	Tile	8.	Tile	8.	Tile
9	Other (Specify)	9.	Other (Specify)	9.	Other (Specify)
15. Building Value per m²		M ²			
16. Building Value (no.s 14x16)					

Signature of owner of structure	
Print name (Block Capitals)	
Signature of Valuation Surveyor	
Print name (Block Capitals)	
Date	

ANNEX 5: SAMPLE GRIEVANCE REDRESS 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: DRAFT TORS FOR THE DEVELOPMENT 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 LWSP, 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; LWSP objectives and strategy; the investment/project objectives; the main objectives of the resettlement program as apply to the subprojects, 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; the alternatives considered to avoid or minimize resettlement, and the mechanisms established to minimize resettlement to the extent possible during implementation.

c) 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;

d) 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.

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 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

The institutional framework generally covers:

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

(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 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 provided with enhancement measures to assist 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) Resettlement Measures: A description of the compensation and other resettlement measures that will assist each category of eligible PAPs to achieve the objectives of OP4.12. Aside from compensation, these measures should include programs for livelihood restoration, grievance mechanisms, consultations, and disclosure of information.

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) 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 consider the availability of judicial and legal services, as well as community and traditional dispute settlement mechanisms.

p) 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.

q) 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 after the resettlement activities have been completed are also presented.

r) 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.

s) 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 7: OUTLINE OF RESETTLEMENT ACTION PLAN

Introduction

- It briefly describes the project.
- Lists project components including associated facilities (if any).
- Describes project components requiring land acquisition and resettlement; give overall estimates of land acquisition and resettlement.

Minimizing Resettlement

- Describes efforts made to minimize displacement.
- Describes the results of these efforts.
- Describes mechanisms used to minimize displacement during implementation.

Census and Socio-economic Surveys

- Provides the results of the census, assets inventories, natural resource assessments, and socioeconomic surveys.
- Identifies all categories of impacts and people affected.
- Summarizes consultations on the results of the various surveys with affected people.
- Describes need for updates to census, assets inventories, resource assessments, and socio economic surveys, if necessary, as part of RAP monitoring and evaluation.

Legal Framework

- Describes all relevant local laws and customs that apply to resettlement.
- Identifies gaps between local laws and World Bank Group policies, and describe project-specific mechanisms to address conflicts.
- Describes entitlement policies for each category of impact and specify that resettlement implementation will be based on specific provisions of agreed RAP.
- Describes method of valuation used for affected structures, land, trees, and other assets.
- Prepares entitlement matrix.

Resettlement Sites

- Describes the specific process of involving affected populations in identifying potential housing sites, assessing advantages and disadvantages, and selecting sites.
- Describes the feasibility studies conducted to determine the suitability of the proposed sites, including natural resource assessments (soils and land use capability, vegetation and livestock carrying capacity, water resource surveys) and environmental and social impact assessments of the sites.
- Demonstrates that the land quality and area are adequate for allocation to all of the people eligible for allocation of agricultural land.
- Provides data on land quality and capability, productive potential, and quantity.
- Give calculations relating to site requirements and availability.
- Describes mechanisms for: 1) procuring, 2) developing and 3) allotting resettlement sites, including the awarding of title or use rights to allotted lands.
- Provides detailed description of the arrangements for site development for agriculture, including funding of development costs.
- Have the host communities been consulted about the RAP? Have they participated in the identification of likely impacts on their communities, appropriate mitigation measures, and preparation of the RAP?

- Do the host communities have a share of the resettlement benefits?

Income Restoration

- Describes if there are compensation entitlements sufficient to restore income streams for each category of impact?
- Describes additional economic rehabilitation measures are necessary?
- Briefly spell out the restoration strategies for each category of impact and describe their institutional, financial, and technical aspects.
- Describes the process of consultation with affected populations and their participation in finalizing strategies for income restoration.
- Explains if income restoration requires change in livelihoods, development of alternative farmlands or some other activities that require a substantial amount of training, time for preparation, and implementation?
- Describes how the risks of impoverishment are to be addressed?
- Describes the the main institutional and other risks for the smooth implementation of the resettlement programmes?
- Describes the process for monitoring the effectiveness of the income restoration measures.
- Describes any social or community development programmes currently operating in or around the project area.
- If programmes exist, do they meet the development priorities of their target communities? Are there opportunities for the project proponent to support new programme or expand existing programmes to meet the development priorities of communities in the project area?

Institutional Arrangements

- Describes the institution(s) responsible for delivery of each item/activity in the entitlement policy
- Describes the Implementation of income restoration programmes; and coordination of the activities associated with and described in the resettlement action plan.
- States how coordination issues will be addressed in cases where resettlement is spread over a number of jurisdictions or where resettlement will be implemented in stages over a long period of time.
- Identifies the agency that will coordinate all implementing agencies. Does it have the necessary mandate and resources?
- Describes the external (non-project) institutions involved in the process of income restoration (land development, land allocation, credit, and training) and the mechanisms to ensure adequate performance of these institutions.
- Discusses institutional capacity for and commitment to resettlement.
- Describes mechanisms for ensuring independent monitoring, evaluation, and financial audit of the RAP and for ensuring that corrective measures are carried out in a timely manner.

Implementation Schedule

- Lists the chronological steps in implementation of the RAP, including identification of agencies responsible for each activity and with a brief explanation of each activity.
- Prepares a month-by-month implementation schedule of activities to be undertaken as part of resettlement implementation.

- Describes the linkage between resettlement implementation and initiation of civil works for each of the project components.

Participation and Consultation

- Describes the various stakeholders.
- Describes the process of promoting consultation/participation of affected populations and stakeholders in resettlement preparation and planning.
- Describes the process of involving affected populations and other stakeholders in implementation and monitoring.
- Describes the plan for disseminating RAP information to affected populations and stakeholders, including information about compensation for lost assets, eligibility for compensation, resettlement assistance, and grievance redress.

Grievance Redress

- Describes the step-by-step process for registering and addressing grievances and provide specific details regarding a cost-free process for registering complaints, response time, and communication methods.
- Describes the mechanism for appeal.
- Describes the provisions for approaching civil courts if other options fail.

Monitoring and Evaluation

- Describes the internal/performance monitoring process.
- Defines key monitoring indicators derived from baseline survey. Provide a list of monitoring indicators that will be used for internal monitoring.
- Describes institutional (including financial) arrangements.
- Describes frequency of reporting and content for internal monitoring.
- Describes process for integrating feedback from internal monitoring into implementation.
- Defines methodology for external monitoring.
- Defines key indicators for external monitoring.
- Describes frequency of reporting and content for external monitoring.
- Describes process for integrating feedback from external monitoring into implementation.
- Describes arrangements for final external evaluation.

Costs and Budgets

- Provides a clear statement of financial responsibility and authority.
- Lists the sources of funds for resettlement and describe the flow of funds.
- Ensures that the budget for resettlement is sufficient and included in the overall project budget.
- Identifies resettlement costs, if any, to be funded by the government and the mechanisms that will be established to ensure coordination of disbursements with the RAP and the project schedule.
- Prepares an estimated budget, by cost and by item, for all resettlement costs including planning and implementation, management and administration, monitoring and evaluation, and contingencies.
- Describes the specific mechanisms to adjust cost estimates and compensation payments for inflation and currency fluctuations.

- Describes the provisions to account for physical and price contingencies.
- Describes the financial arrangements for external monitoring and evaluation including the process for awarding and maintenance of contracts for the entire duration of resettlement.

Annexes

- Copies of census and survey instruments, interview formats, and any other research tools.
- Information on all public consultation including announcements and schedules of public meetings,
- Meeting minutes, and lists of attendees.

ANNEX 8: OP 4.12 - INVOLUNTARY RESETTLEMENT

Revised February 2011

1. Bank experience indicates that involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. This policy includes safeguards to address and mitigate these impoverishment risks.

Policy Objectives

2. Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following:

(a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.

(b) 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. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.

(c) 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.

Impacts Covered

3. This policy covers direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by

(a) the involuntary taking of land resulting in

(i) relocation or loss of shelter;

(ii) loss of assets or access to assets; or

(iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or

(b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

4. This policy applies to all components of the project that result in involuntary resettlement, regardless of the source of financing. It also applies to other activities resulting in involuntary resettlement, that in the judgment of the Bank, are

(a) directly and significantly related to the Bank-assisted project,

(b) necessary to achieve its objectives as set forth in the project documents; and

(c) carried out, or planned to be carried out, contemporaneously with the project.

5. Requests for guidance on the application and scope of this policy should be addressed to the Resettlement Committee (see [BP 4.12, para. 7](#)).

Required Measures

6. To address the impacts covered under para. 3 (a) of this policy, the borrower prepares a resettlement plan or a resettlement policy framework (see paras. 25-30) that covers the following:

(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.

(b) If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are

(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.

(c) Where necessary to achieve the objectives of the policy, the resettlement plan or resettlement policy framework also include measures to ensure that 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.

7. In projects involving involuntary restriction of access to legally designated parks and protected areas (see para. 3(b)), the nature of restrictions, as well as the type of measures necessary to mitigate adverse impacts, is determined with the participation of the displaced persons during the design and implementation of the project. In such cases, the borrower prepares a process framework acceptable to the Bank, describing the participatory process by which

(a) specific components of the project will be prepared and implemented;

(b) the criteria for eligibility of displaced persons will be determined;

(c) measures to assist the displaced persons in their efforts to improve their livelihoods, or at least to restore them, in real terms, while maintaining the sustainability of the park or protected area, will be identified; and

(d) potential conflicts involving displaced persons will be resolved.

The process framework also includes a description of the arrangements for implementing and monitoring the process.

8. To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children,¹⁵ or other displaced persons who may not be protected through national land compensation legislation.

9. The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restriction of access does not occur before necessary measures for resettlement are in place. For impacts covered in para. 3(a) of this policy, these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons. For impacts covered in para. 3(b) of this policy, the measures to assist the displaced persons are implemented in accordance with the plan of action as part of the project (see para. 30)

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based. These strategies may include resettlement on public land (see footnote 1 above), or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the displaced persons, the provision of land would adversely affect the sustainability of a park or protected area, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost. The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing; or (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

13. For impacts covered under para. 3(a) of this policy, the Bank also requires the following:

(a) Displaced persons and their communities, and any host communities receiving them, are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement. Appropriate and accessible grievance mechanisms are established for these groups.

(b) In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities. Alternative or similar resources are provided to compensate for the loss of access to community resources (such as fishing areas, grazing areas, fuel, or fodder).

(c) Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.

Eligibility for Benefits

14. Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project (see the [Annex A, para. 6\(a\)](#)), to determine who will be eligible for assistance, and to discourage inflow of people ineligible for assistance. The borrower also develops a procedure, satisfactory to the Bank, for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance. The procedure includes provisions for meaningful consultations with affected persons and communities, local authorities, and, as appropriate, nongovernmental organizations (NGOs), and it specifies grievance mechanisms.

15. *Criteria for Eligibility.* Displaced persons may be classified in one of the following three groups:

(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country);

(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 (see [Annex A, para. 7\(f\)](#)); and

(c) those who have no recognizable legal right or claim to the land they are occupying.

16. Persons covered under para. 15(a) and (b) are provided compensation for the land they lose, and other assistance in accordance with para. 6. Persons covered under para. 15(c) are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the borrower and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in para. 15(a), (b), or (c) are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation, and Monitoring

17. To achieve the objectives of this policy, different planning instruments are used, depending on the type of project:

(a) a resettlement plan or abbreviated resettlement plan is required for all operations that entail involuntary resettlement unless otherwise specified (see para. 25 and [Annex A](#));

(b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified

(c) a process framework is prepared for projects involving restriction of access in accordance with para. 3(b) (see para. 31).

18. The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, or a process framework (the "resettlement instruments"), as appropriate, that conform to this policy. The resettlement instrument presents a strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement. Borrower commitment to, and capacity for, undertaking successful resettlement is a key determinant of Bank involvement in a project.

19. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument, and the information required to prepare the resettlement component or subcomponent. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement. In preparing the resettlement component, the borrower draws on appropriate social, technical, and legal expertise and on relevant community-based organizations and NGOs. The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

20. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

21. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

22. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument which conforms to this policy, and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop. After the Bank has approved the final resettlement instrument, the Bank and the borrower disclose it again in the same manner.

23. The borrower's obligations to carry out the resettlement instrument and to keep the Bank informed of implementation progress are provided for in the legal agreements for the project.

24. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument. The Bank regularly supervises resettlement implementation to determine compliance with the resettlement instrument. Upon completion of the project, the borrower undertakes an assessment to determine whether the objectives of the resettlement instrument have been achieved. The assessment takes into account the baseline conditions and the results of resettlement monitoring. If the assessment reveals that these objectives may not be realized, the borrower should propose follow-up measures that may serve as the basis for continued Bank supervision, as the Bank deems appropriate (see also [BP 4.12, para. 16](#)).

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal (see [Annex A, paras. 2-21](#)) for projects referred to in para. 17(a) above. However, where impacts on the entire displaced population are minor, or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower (see [Annex A, para. 22](#)). The information disclosure procedures set forth in para. 22 apply.

Resettlement Policy Framework

26. For sector investment operations that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the borrower submits, prior to appraisal, a resettlement policy framework that conforms to this policy (see [Annex A, paras. 23-25](#)). The framework also estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

27. For financial intermediary operations that may involve involuntary resettlement, the Bank requires that the financial intermediary (FI) screen subprojects to be financed by the Bank to ensure their consistency with this OP. For these operations, the Bank requires that before appraisal the borrower or the FI submit to the Bank a resettlement policy framework conforming to this policy (see [Annex A, paras. 23-25](#)). In addition, the framework includes an assessment of the institutional capacity and procedures of each of the FIs that will be responsible for subproject financing. When, in the assessment of the Bank, no resettlement is envisaged in the subprojects to be financed by the FI, a resettlement policy framework is not required. Instead, the legal agreements specify the obligation of the FIs to obtain from the potential subborrowers a resettlement plan consistent with this policy if a subproject gives

rise to resettlement. For all subprojects involving resettlement, the resettlement plan is provided to the Bank for approval before the subproject is accepted for Bank financing.

28. For other Bank-assisted project with multiple subprojects that may involve involuntary resettlement, the Bank requires that a draft resettlement plan conforming to this policy be submitted to the Bank before appraisal of the project unless, because of the nature and design of the project or of a specific subproject or subprojects (a) the zone of impact of subprojects cannot be determined, or (b) the zone of impact is known but precise sitting alignments cannot be determined. In such cases, the borrower submits a resettlement policy framework consistent with this policy prior to appraisal (see [Annex A, paras. 23-25](#)). For other subprojects that do not fall within the above criteria, a resettlement plan conforming to this policy is required prior to appraisal.

29. For each subproject included in a project described in para. 26, 27, or 28 that may involve resettlement, the Bank requires that a satisfactory resettlement plan or an abbreviated resettlement plan that is consistent with the provisions of the policy framework be submitted to the Bank for approval before the subproject is accepted for Bank financing.

30. For projects described in paras. 26-28 above, the Bank may agree, in writing, that subproject resettlement plans may be approved by the project implementing agency or a responsible government agency or financial intermediary without prior Bank review, if that agency has demonstrated adequate institutional capacity to review resettlement plans and ensure their consistency with this policy. Any such delegation, and appropriate remedies for the entity's approval of resettlement plans found not to be in compliance with Bank policy, are provided for in the legal agreements for the project. In all such cases, implementation of the resettlement plans is subject to ex post review by the Bank.

Process Framework

31. For projects involving restriction of access in accordance with para. 3(b) above, the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before enforcing of the restriction, the borrower prepares a plan of action, acceptable to the Bank, describing the specific measures to be undertaken to assist the displaced persons and the arrangements for their implementation. The plan of action could take the form of a natural resources management plan prepared for the project.

Assistance to the Borrower

32. In furtherance of the objectives of this policy, the Bank may at a borrower's request support the borrower and other concerned entities by providing

(a) assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sectoral level;

(b) financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;

(c) financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and

(d) financing of the investment costs of resettlement.

33. The Bank may finance either a component of the main investment causing displacement and requiring resettlement, or a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment that causes the displacement. The Bank may finance resettlement even though it is not financing the main investment that makes resettlement necessary.

ic rehabilitation of RAPs under KWSCRП to ensure lesson learning and improvement.

A consultant will be recruited to prepare a RAP training manual for easier implementation of the KWSCRП RAPs

⁴ An annual audit will be carried out with the engagement of the stakeholder. The amount is the cost of the each audit meetings

	97
LWSP Resettlement Policy Framework- RPF	97
	97

ANNEX 9: RPF/ESMF STAKEHOLDERS' CONSULTATIONS (AUGUST 3RD 2017)

Participants List

No	NAME	ORGANIZATION
1	Jorlex Kamtokoma	Lilongwe City Council (LCC)
2	Bernard Mphepo	TSP
3	Alickson Msukwa	LCC
4	George Mwakasungula	CICOD
5	Griffin Phiri	OSF
6	Tanazio Bauti	LUPPEN
7	Jolly Kenan	WaterAid
8	Lloyd Mtalimanja	WaterAid
9	Jabulani Thadzi	MoAIWD
10	Handricks Mgodie	Ministry of Health (MoH)
11	Edna Mlanjira	LCC
12	Chifundo Matabwa	Waste & Hygiene
13	Asayire Kapira	WES Network
14	Charles Kachingwe	Lilongwe Water Board (LWB)
15	Stephen Phiri	LCC
16	Virginia Manda	CYDO
17	Max Howard Mgala	CYDO
18	Francis Sande	Habitat for Humanity Malawi
19	Chisomo Madula	Habitat for Humanity Malawi
20	Chimwemwe Mlongoti	Plan International Malawi
21	Philemon Chimbalu	PCO
22	Catherine Kunje	Dpt. Director. HCOWS
23	Lackson Chingana	LCC
24	Thokozani Mkaka	LCC
25	Lonisah Mphepo	LCC
26	Malano Keledo	LCC
27	Dorah Banda	LCC
28	Alphonso Phalula	LCC
29	E. Longwe	LCC
30	Matanje Kusamba	LCC
31	Gloria Guazani	MoH
32	Eva Phiri	Pump AID
33	Phyllis Mkezalamba	LCC
34	Bright Mtambasha	LCC
35	Yankho Nankwenya	LWB
36	Allan Kwanjana	LCC
37	Jimmy Tung'ade	LCC
38	Simon Mbilizi	LCC
39	James Banda	LCC
40	Alfred Sanudi	LCC

AGENDA FOR THE MEETING

The meeting was called for with the following agenda;

- Lilongwe Water Board Project with funding from World Bank

The meeting was called to order at 10:15am with opening remarks whereby the agenda of the meeting was introduced to the members by the Chairperson (Acting Director of Planning and Development).

PRESENTATIONS;

1. Lilongwe Water Board Project with funding from World Bank

The Sewerage Engineer made a Presentation of behalf of the Director of Engineering Services for Lilongwe City Council. He indicated that there is a project on Water Supply and sanitation by Lilongwe Water Board to be done jointly with Lilongwe City Council with funding from World Bank. He further explained that the Water Project has a Sanitation component which will be coordinated by Lilongwe City Council while the water supply component will be coordinated by Lilongwe Water Board, and the project total funding is 325 million US dollars and is for three years.

The funding arrangement is going to be done in phases with an initial phase of 100 million US dollars, of which Lilongwe City Council will utilize 20 million US dollars for sanitation component. The proposed activities to be covered under the sanitation components are; extending the sewer line, upgrading the treatment process capacity at Kauma sewerage treatment plant, onsite sanitation, construction of 10 public toilets in market places and another 10 in schools.

The Environmental and Social Management Framework (ESMF) has been prepared to incorporate environmental and social issues into the Lilongwe Water and sanitation program sub components during the preparation and planning stages of the project. This will also promote transparency and accountability through extensive consultation with different stakeholder groups that include relevant ministries, NGOs involved in water and sanitation activities, local communities in the project area and civil society organizations.

The ESMF will spell out environmental and social safeguards, institutional arrangement and capacity required to make use of the ESMF. The will ensure the project sub components under the water and sanitation components meet the requirements of the National and World Bank's environmental and social requirements triggered by the project.

The Resettlement Policy Framework for water and sanitation program has also been prepared because the extent and location of all the water and sanitation program sub components are not known at the moment. The RPF creates resettlement objectives and principles, organisational arrangements, entitlements matrix and eligibility criteria for any resettlement operation that the water and sanitation program may trigger during project implementation. Local laws and policies related to land acquisition and compensation and World Bank operational policy 4.12 has been referred to. The legal and framework in Malawi over land management and administration, land tenure and land expropriation are outlined.

Comments and Questions:

A representative from Plan Malawi requested the Implementation Unit to share the documentation of the project to the Committee.

In reaction to the first query raised on the sharing of the information of the project inform of the documentation, the Chair told the members that the ESMF and RPF are being developed and will be shared to the stakeholders once through.

A representative from Water Aid also wanted to know, as to who is or will carry out the ESIA for such a big project. In reaction to this the Representative from Lilongwe Water Board indicated that, the stage to do that is not there yet, and it will be determined after the areas for project implementation are known and also designs and actual activities to be done have been concretized. Each project will then go through the screening process in order to determine the category whether to do full ESIA and RAP or ESMP.

The Acting Director of Health wanted to find out the project components details, as to how they are taking care of the issue of Community participation, to ensure buy in by the community. In response to this, it was communicated that there is going to be more

consultation meetings during the project design phase as by that time project implementation areas will be known.

Another representative from Water Aid questioned the sustainability of the additional 10 toilets, considering the worrisome condition of the current public toilets. It was responded that Lilongwe City Council will be capacitated from the same project to manage and sustain such challenges. The representative from Lilongwe Water Board added that the project has a component of rehabilitating existing infrastructures.

Being no other business the meeting was closed at 12:30 pm

Hastings Mumba
Chairperson

Thokozani Mkaka
Secretary