

THE UNITED REPUBLIC OF TANZANIA

Bank of Tanzania



THE PROPOSED HOUSING FINANCE PROJECT IN TANZANIA

THE RESETTLEMENT POLICY FRAMEWORK (RPF)

Consultants

Saada K. Juma, JSB Envidep Ltd. 0754/0784 291997

Bashiru Abdul, TRES Consult (T) Ltd. 0782/0713 425442

October, 2009

TABLE OF CONTENTS

| | |
|---|-------------------------------------|
| TABLE OF CONTENTS | II |
| LIST OF ACRONYMS AND DEFINITION OF TERMS..... | III |
| EXECUTIVE SUMMARY | ERROR! BOOKMARK NOT DEFINED. |
| CHAPTER 1: INTRODUCTION | 3 |
| CHAPTER 2: PROJECT DESCRIPTION..... | 6 |
| CHAPTER 3: PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT AND COMPENSATION PREPARATION AND IMPLEMENTATION..... | 10 |
| CHAPTER 4:A LEGAL FRAMEWORK REVIEW OF THE LAWS AND REGULATIONS OF TANZANIA AND THE FIT WITH WORLD BANK POLICY REQUIREMENTS | 14 |
| CHAPTER 5: PROCESS FOR PREPARING AND APPROVING RESETTLEMENT AND COMPENSATION PLANS (RAPS) | 24 |
| CHAPTER 6:LAND ACQUISITION AND LIKELY CATEGORIES OF IMPACTS..... | 28 |
| CHAPTER 7: ELIGIBILITY AND ENTITLEMENT | 30 |
| CHAPTER 8: METHODS OF VALUING AFFECTED ASSETS AND COMPENSATION PAYMENTS..... | 34 |
| CHAPTER 9: ORGANIZATIONAL PROCEDURES FOR THE DELIVERY OF ENTITLEMENTS..... | 38 |
| CHAPTER 10: IMPLEMENTATION PROCESS AND LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS..... | 40 |
| CHAPTER 11: GRIEVANCE REDRESS MECHANISMS..... | 41 |
| CHAPTER 12: ARRANGEMENTS FOR FUNDING RESETTLEMENT AND COMPENSATION | 43 |
| CHAPTER 13: MECHANISMS FOR CONSULTATIONS WITH, AND PARTICIPATION OF DISPLACED PERSONS. | 44 |
| CHAPTER 14: ARRANGEMENTS FOR MONITORING | 45 |
| REFERENCES..... | 48 |
| ANNEX 1: LIST OF INDIVIDUALS/INSTITUTIONS CONTACTED..... | 49 |
| ANNEX 2: DETAILED HFP PROJECT DESCRIPTION AND TOR..... | 50 |
| ANNEX 3A: HOUSING FINANCE - PROJECT MATRIX | 55 |
| ANNEX 3B: HOUSING FINANCE - PROJECT TIMELINE..... | 56 |
| ANNEX 4: METHODS FOR VALUING DIFFERENT CATEGORIES OF AFFECTED ASSETS | 56 |
| ANNEX 5: WORLD BANK POLICY ON INVOLUNTARY RESETTLEMENT (REVISED APRIL 2004)..... | 60 |

LIST OF ACRONYMS

| | |
|----------|---|
| ATIP | Accountability, Transparency and Integrity Project |
| BOT | Bank of Tanzania |
| CRDB | Cooperatives and Rural Development Bank |
| DC | District Council |
| DEC | District Environmental Committees |
| DED | District Executive Director |
| DoE | Division of Environment |
| DSEC | Designated Sector Environmental Coordinators |
| EA | Environment Assessment |
| EIA | Environmental Impact Assessment |
| EISs | Environmental Impact Statement Reports |
| EMO | Environmental Management Officer |
| ESMF | Environmental and Social Management Framework |
| FI | Finance Institution |
| FIRST | Financial Sector Reform and Strengthening Initiative |
| FSP | Financial Sector Support Project |
| FSDP | Financial Sector Deepening Program |
| GOT | Government of Tanzania |
| HFP | Housing Finance Project |
| HIV/AIDS | Human Immune Deficiency/Acquired Immune Deficiency Syndrome |
| HMFF | Housing Micro-Finance Fund |
| IDA | International Development Association |
| IFC | International Finance Corporation |
| LGA | Local Government Authority |
| LGSP | Local Government Support Programme |
| MDAs | Ministries, Departments and Agencies |
| MFI | Micro- Finance Institutions |
| MLHHSDD | Ministry of Land Housing and Human Settlement Development |
| MEO | “Mtaa” Executive Officer |
| NBC | National Bank of Commerce |
| NEMC | National Environment Management Council |
| NEP | National Environmental Policy |
| NGO | Non-Governmental Organization |
| NHC | National Housing Corporation |
| NMB | National MicroFinance Bank |
| NSSF | National Social Security Fund |
| OP/BP | Operation Policy/Bank Policy |
| PAP | Project Affected Person |
| PAT | Project Administration Team |
| PCC | Project Coordination Committee |
| PPF | Parastatal Pension Fund |
| RAP | Resettlement Action Plan |
| REME | Regional Environmental Management Expert |
| RPF | Resettlement Policy Framework |
| SACCOSS | Savings and Credit Associations |
| SEC | Sector Environment Coordinator |
| TA | Technical Assistance |
| TASAF | Tanzania Social Action Fund |

| | |
|------|-------------------------------------|
| TBA | Tanzania Building Agency |
| TMRC | Tanzania Mortgage Refinance Company |
| ToR | Terms of Reference |
| TP | Town Planning |
| URT | United Republic of Tanzania |
| VEO | Village Executive Officer |
| VPO | Vice President's Office |
| WB | World Bank |
| WDC | Ward Development Committee |

DEFINITION OF TERMS

“Census” means a field survey carried out to identify and determine the number of Project Affected Persons (PAP) or Displaced Persons (DPs). The meaning of the word shall also embrace the criteria for eligibility for compensation, resettlement and other measures emanating from consultations with affected communities.

Project Affected Person(s) (PAPs) are persons affected by land use or acquisition needs of the HFP. 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 must move to another location.

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

“Cut-off date” is the date of commencement of the census of PAPs or DPs within the HFP sub-project area boundaries. This is the date on and beyond which any person whose land is occupied for sub-project use, will not be eligible for compensation.

“Displaced Persons” mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the project will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people will have their: standard of living adversely affected, whether or not the Displaced Person must move to another location, lose right, title, interest in any house, 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 or not the Displaced Persons have moved to another location; or not.

“Involuntary Land Acquisition” is the repossession of land by government or other government agencies with or without compensation, for the purposes of a public project against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

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

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

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

“Resettlement Action Plan (RAP)” or “Resettlement Plan” - is a resettlement instrument (document) to be prepared when HFP sub-projects locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and /or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party (Potential Developer) impacting on the people and their livelihoods. RAPS contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the project activities. **RAPs will be site specific** for the HFP and will be prepared in conformity with the provisions of this RPF with the views of the of the PAPs and DPs

“Replacement cost” means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on **Market rate (commercial rate)** according to Tanzanian law for sale of land or property. In terms of land, this may be categorized as follows; (a) “Replacement cost for agricultural land” means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes;

“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 shall include: (a) transporting building materials to the construction site; (b) any labor and contractors’ fees; and (c) any registration costs.

“Resettlement Assistance” means the measures to ensure that Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of resettlement.

“The Resettlement Policy Framework (RPF)” has been prepared as an instrument to be used throughout the HFP implementation. The RPF will be disclosed to set out the resettlement and compensation policy, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the HFP.

EXECUTIVE SUMMARY

The Government of United Republic of Tanzania (GOT) through the Bank of Tanzania (BOT) intends to establish a Housing Finance Project (HFP) with an investment loan in the tune of USD 40 million from the World Bank: funded through the International Development Association (IDA) credit.

The project main objective is to expand access to affordable housing finance for the purchase, construction or upgrading of residential housing. The objective will be achieved through the creation of a mortgage liquidity facility (direct funding \$ 30mil, managed initially by the BOT and later by the Tanzania Mortgage Refinance Company – TMRC) and a housing microfinance fund (Housing Micro-Finance Fund – HMFF initial capital \$ 3mill); and a programme of technical assistance and capacity building (\$ 7mill), addressing issues in the supply of housing, the mortgage market and housing micro-finance. TMRC will provide housing finance mortgage loans to financial institutions while HMFF will provide housing microfinance loans to credit institutions - in both cases for providing housing loans to Developers / Investors in the house construction sector. HFP will be implemented through a number of government agencies, financial institutions and private developers in Tanzania all coordinated by and accountable to the BOT.

The specific locations, components and activities of development of housing units – some of whom are likely to involve involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources - are not known at this stage. The preparation of the RPF is one of the requirements by the World Bank to be fulfilled by the Government of Tanzania before the loan for the proposed HFP is approved. The RPF is strategic (programmatic), providing broad principles and directives to guide the project implementing agencies and Potential sub-project Developers where necessary for more detailed assessments of activities that are likely to have resettlement / land acquisition issues.

The preparation of the document was undertaken as per scope and tasks outlined in the TOR (Appendix 2): involving a review of the relevant literature and a thorough process of consultations with Dar es Salaam stakeholders. The disclosure of the RPF will be both in Tanzania where it can be accessed by the public and at the Infoshop of the World Bank and the date for disclosure must precede the date for appraisal of the project.

Consistent with the World Bank Operation Policy 4.12 on involuntary resettlement this resettlement policy framework establishes the resettlement and compensation principles and objectives governing resettlement of affected people which will be applied in all HFP funded sub-projects and activities. The OP 4.12 principles will be applied in conjunction with Tanzania national laws and regulation guiding compensation and resettlement. In cases where the WB policy and the Tanzania laws are not in full accord, the higher standard and more stringent of the two will prevail as it satisfies the requirements of the lesser standards.

Once impact location is known the Potential Developer will be fully responsible for preparation of individual sub-project RAPs with support of planning authorities and other stakeholders. The HFP implementing institutions and intermediary financial institutions will approve the individual sub-projects and RAP and ensure compliance to requirements of this RPF. Involuntary resettlement planning and implementation will be mainstreamed in the programme of technical assistance and capacity building planned for the HFP.

Prior to implementation of the sub-project, the Potential Developers will need to prepare and implement individual sub-project RAPs during which he/she will establish assets and categories of people and groups that will be affected and their entitlement to compensation. Two general methodologies will be applied to value land and unexhausted improvements: estimation of the market value and/or estimation of the replacement costs. Method for estimating various kinds of allowances will be in accordance with OP 4.12 in conjunction with the Tanzania Land (Assessment of the Value of Land for Compensation) Regulations, 2001. Forms of payments will be in cash, in kind, and/or through assistance. This RPF recommend compensation at full replacement value added with allowances paid to all affected groups - regardless of the legality of land tenure - according to PAPs preference. Mechanisms available to affected people for complaints about aspects of their resettlement treatment will be through mediation and if unsuccessful, affected people will seek recourse/appeal through land tribunals and the court of law system.

The Developer will deliver compensation following entitlements and procedures that takes full consideration of public participation, formal/informal notification and documentation. The taking of land and civil works activities will be effected only after compensation has been paid. HFP will be the source of funds for resettlement related costs. An indicative budget of about \$ 1.5 million is provided the exact cost estimates will only be possible when locations are identified.

Consultations with, and participation of displaced persons in planning, implementation, and monitoring will be on-going throughout the process of preparing RAPs. Local government system shall be main channel of activities.

Evaluation and monitoring shall be fundamental components of the RAP preparation and implementation built into the overall monitoring framework of the entire HFP project; and involving various stakeholders and independent monitoring by a mandated national agency e.g. NEMC.

CHAPTER 1

INTRODUCTION

1.1 GENERAL INTRODUCTION

The Government of United Republic of Tanzania (GOT) through the Bank of Tanzania (BOT) intends to establish a Housing Finance Project (HFP) with an investment loan from the World Bank. The project will be funded through an International Development Association (IDA) credit in the tune of USD 40 million.

The project main objective is to expand the access to affordable housing finance for the purchase, construction or upgrading of residential housing. The objective will be achieved through the creation of a mortgage liquidity facility (Tanzania Mortgage Refinance Company – TMRC; direct funding \$ 30mil) and a housing microfinance fund (Housing Micro-Finance Fund – HMFF initial capital \$ 3mill); and a programme of technical assistance and capacity building (\$ 7mill), addressing issues in the supply of housing, the mortgage market and housing micro-finance. TMRC will provide housing finance mortgage loans to financial institutions while HMFF will provide housing microfinance loans to credit institutions - in both cases for providing housing loans to Developers / Investors in the house construction sector.

Although the specific locations of housing units to be funded under the HFP are not known at this stage, it is envisaged that some investments funded under the auspices of the HFP are likely to involve involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources, issues that must be addressed before the subprojects are approved. The preparation of the RPF is one of the requirements by the World Bank to be fulfilled by the Government of Tanzania before the loan for the proposed HFP is approved. The RPF should be regarded as strategic (programmatic), where broad principles and issues are assessed with a directive provided to guide where necessary more detailed assessments of activities that are likely to have resettlement / land acquisition issues. It is prepared to the standards of the World Bank, OP 4.12. and considerations of Tanzania Government's own policy on resettlement and compensation.

The HFP will cover both Tanzania mainland and Zanzibar. Although this RPF document covers Tanzania mainland, the Bank Resettlement Policy will also guide any resettlement related project activities in Zanzibar. The preparation of the document was undertaken as per scope and tasks outlined in the TOR (Appendix 2).

The document is disclosed as a separate and stand-alone document from the Environment Assessment Framework, by the Government of Tanzania and the World Bank. The disclosure will be both in Tanzania where it can be accessed by the public and at the Infoshop of the World Bank and the date for disclosure must precede the date for appraisal of the project.

1.2. OBJECTIVES OF THE RESETTLEMENT POLICY FRAMEWORK

Since the exact project subcomponents and their sites will only be identified during project implementation, the resettlement framework will be used as practical tools to assist HFP beneficiary institutions - the BOT, other project implementing agencies and especially potential developers/investors in designing and implementing strategies that would assist in appropriately

handling any anticipated issues related to involuntary resettlements, and/or acquisition of land and restriction of access to assets and resources during the implementation of the proposed HFP.

When specific planning information becomes available and the land areas are identified, sub-projects resettlement/compensation plans (RAPs) will be subsequently prepared consistent with this policy framework and will be submitted to the Bank for approval before any land acquisition, resettlement, or any other impact on livelihood occurs.

This RPF establishes the resettlement and compensation principles (chapter 4), organizational arrangements for RAP preparation and approval (chapter 6) and design criteria (chapters 7 – 15) to be applied by HFP implementing agencies and potential Developers/ to meet the needs of the people who may be affected by the project.

1.3 METHODOLOGY USED TO PREPARE THE RESETTLEMENT POLICY FRAMEWORK

1.3.1 Approach

The preparation of the RPF document was based on two main approaches, a review of the relevant literature and a thorough process of consultations with Dar es Salaam stakeholders. Site visits to potential sub-project sites were not undertaken at this point in time, whereby the exact location and nature of sub-projects are not yet known.

1.3.2 Methods

1.3.2.1 Literature review

The preparation of the document entailed a comprehensive review of the literature (see list of references), including that from the following sources:

- *Project documents*

These include project appraisal document and project background briefs – Project Matrix and Project Timeline (Annex 3 and 4). The aim was to obtain background information on project justification and objectives; nature and extent of the proposed HFP - project description and activities; coverage /locations that the project will impact; key actors and institutional arrangements; and an analysis of project components and activities that are likely to trigger OP 4.12.

- *Tanzania land policies, guidelines, regulatory and administrative frameworks*

These include the National Constitution, 1977; Land Policy, 1996; Land Acquisition Act, 1967; Land Acts No.4 and No. 5 of 1999 and associated Regulations; Unit Titles Act, No 16 of 2008; and Local Government Acts of 1982 as well as the Environmental Management Act, 2004); and Acts and regulations pertaining to financial institutions. The aim was to determine the legal requirements relevant to the sub-project under the HFP and the incorporation of the same into the RPF as appropriate. Key among these are land ownership, tenure rights, user rights; taking of land and other assets i.e. valuing assets, compensation procedures, and grievance mechanism.

- *World Bank Safeguards Policies*

Review of the Bank's ten Safeguard Policies was to (i) determine the policies that are likely to be triggered as a result of future sub-project activities under HFP (ii) identify similarities and gaps between the Safeguard Policies and the national legislation and make recommendations as to how

to close these gaps, if any; and (iii) make recommendations as to how to implement the relevant Safeguard Policies in the context of the RPF.

- *RPFs for similar World Bank funded projects*

Existing frameworks particularly those with infrastructure components such the Tanzania Social Action Fund (TASAF II), and the Local Government Support Programme (LGSP), and the Accountability, Transparency and Integrity Project (ATIP) etc. were reviewed and for key lessons.

1.3.2.2 Stakeholders consultations

Comprehensive consultations were conducted with stakeholders at various levels, mainly government and financial institutions officials and the private sector representatives at national offices in Dar es Salaam. Visits to the urban local authority - Kinondoni Municipal Council in Dar es Salaam was undertaken to obtain a broader perspective. During the visits consultation were held with representative staff of various sectors e.g. physical planning, and properties valuation. Interviews of key informants with open-ended questionnaires and focus group discussions were some of the tools used in the consultations. Issues of concerns raised by the stakeholder have been given due considerations in this RPF / future sub-project implementation arrangements. Stakeholders met are presented in Annex 1.

1.3.2.3 Assessment of the existing environmental and social setups

Sites for future sub-projects have not been identified however, land acquisition initiatives and residential housing construction projects of different sizes and designs are a constant feature in the Dar es Salaam city. Secondary information was obtained from the interviews, and review of existing literature and visit were made to land acquisition projects at Madale, Bunju and Mweni-Mpiji all in Kinondoni Municipal for assessment of the existing social setups. Key parameters assessed include socio-economic characteristics including different categories of people likely to be impacted by the project and other parameters.

1.4 RPF REVIEW AND DISCLOSURE

As per OP 4.12 requirement, this draft RPF will be circulated (by BOT) to interested parties and will also be submitted to key government agencies for review. The final RPF document will be available at the following locations:

- Information center of the National Environmental Management Council;
- Ministry of Lands, Housing and Human Settlement Development
- Offices of BOT
- Infoshop of the World Bank.

CHAPTER 2

PROJECT DESCRIPTION

2.1 GENERAL PROJECT DESCRIPTION

2.1.1 Project Background

Tanzania, like other African countries, suffers from a severe shortage of good quality housing. The shortage is growing every year, compounded by the lack of long-term housing finance, the lack of a formal residential housing construction sector, difficulties with land rights and rapid population growth and urbanization. The passing of the Mortgage Finance (Special Provisions) Act, 2008 has created a lot of momentum in government for the development of housing finance. In addition, the enactment of Unit Titles Act, No 17 of 2008, has significantly improved the prospects for mass housing production and the demand for mortgages.

Many of the banks in Tanzania are in the process of developing a strategy for mortgage lending. The current impetus for the project has come from both the private sector, which needs long-term funding, but also from the government and Bank of Tanzania who want to see increased investment into housing resulting from the new mortgage law. However, long term financing for housing remains scarce at present, in part because lenders do not have reliable access to sources of long term finance. Developing access to housing finance will help improve affordability and construction standards, and encourage the private sector to take a greater role in the provision of housing. The project includes the development of mortgage and housing-microfinance instruments in an effort to cater for different segments of the income distribution.

HFP builds on analytical work carried out over the past three years by the BOT and the Government with the support of the World Bank in the framework of the Financial Sector Support Project (FSP), in particular under the financial markets and long-term finance components of FSP. It has also benefited from reports funded by the FIRST Initiative (Financial Sector Reform and Strengthening Initiative) which were completed by the Urban Institute.

2.1.2 Project Objectives

Project's main objective is to expand access to affordable housing finance under market based conditions for the purchase, construction or upgrading of residential housing. The project intermediary objectives are: (i) to improve access to long-term housing mortgage finance, progressively mobilized through the domestic capital market; (ii) to develop access to medium-term housing micro-finance; and (iii) to expand the supply of affordable housing by private developers.

2.1.3 Project Components and Activities

It is intended that the objective will be pursued, inter alia, through three main components delivered in four phases. This approach will allow the necessary preparatory and capacity building work to be done in each of the 4 phases of the project to ensure success. Details of the individual components are fully described in the TOR (Annex 2).

2.1.3.1 Development of the Mortgage Market

This will involve creation of a long-term housing mortgage finance facility (TMRC) which would provide the long term funds necessary for mortgage lending. IDA will provide the facility with initial funding base which will then be renewed through a follow-on credit depending on the evolution of the domestic capital market. Alongside TMRC, capacity building will be provided including the IFC mortgage toolkit that will provide lenders (financial institutions) with a standardized set of documentation, manuals and process for developing a mortgage product line. In the first phase, (before full operation of TMRC) the BOT will coordinate kick start lending directly to Mortgage Lenders and the capacity building activities.

2.1.3.2 Development of Housing Microfinance

This will involve creation of medium-term housing micro-finance to cater for borrowers not suited to conventional mortgages. In the first 2 phases, focus will be on assessments of prospects and obstacles to development of housing micro-finance, regulatory reforms and capacity building (IFC housing micro-finance toolkit for lenders). The facility for housing micro-finance (HMFF) will be created in the last 2 phases.

2.1.3.3 Expansion of affordable housing supply

The component will be achieved through developing a vibrant private developer market catering to the housing needs of different segments of the income distribution. Initial phases will focus on baseline housing market study to identify gaps and constraints facing the housing market – (i.e. housing and land policies, roles of public agencies in the housing sector). Progressively the project will undertake capacity building measures aimed at i) promoting availability of construction finance for developers to undertake residential development; ii) improving the availability of serviced land for residential development; iii) promoting regulatory measures concerning building codes and planning bylaws; and iv) promoting the use of low cost construction technologies as a way to make housing affordable. In the last phase the project through a private developer/lender will roll- out affordable housing pilot scheme.

2.1.4 Project Location

In terms of target areas / geographical focus the project will not be region specific, as it is more about creating the institutions and environment for housing finance which would apply across the country. However, the demand for mortgage loans, housing micro-finance and for the expansion of housing supply will likely be in urban areas and other centers of economic activities.

2.1.5 Project Coordination and Implementation Arrangements

Project coordination and implementation arrangements are such that HFP will be implemented through a number of government agencies, financial institutions and private developers in Tanzania.

The BOT:

All key players will be coordinated by and accountable to, the BOT as the overall implementing agency. Two other entities linked to BOT to achieve this role are:

- HFP Project Administration Team (PAT) that will be responsible for processing, procurement arrangements and payments on behalf of Implementing Units (BOT/TMRC, FSDP, MLHSD). The PAT will recommend final approval, revision or rejection to the Project Coordination Committee (PCC)
- Project Coordination Committee (PCC) will be the final decision making body on all matters relating to HFP on the Government of Tanzania part.

With regard to this RPF, BOT being the key implementing agency shall take full responsibility in ensuring the requirements of the WB Policy on Involuntary Resettlement are met. The tasks will be delegated to the Project Administration Team (PAT) responsible for day-to-day running of the HFP. To achieve objectives of this RPF, PAT should ensure e.g. mainstreaming resettlement issues in the work and terms of references issued to/by the other implementing agencies; also mainstreaming RPF requirements in the design of payment arrangements to be among the criteria / conditionalities to be met by the HFP Lenders.

HFP implementing entities:

These will be responsible for delivering each of the three project components:

- i) A unit for development of mortgage market within BOT's Banking Supervision Department – (by the TMRC at later stage)
- ii) A unit for development of housing micro-finance and HMFF within BOT's Microfinance Department (by the Financial Sector Deepening Program - FSDP at later stage)
- iii) Unit for expansion of housing supply within MLHHS's Directorate of Housing.

With regard to this RPF, these units will ensure the requirements are met through mainstreaming in the training, technical assistances, regulatory reforms and capacity buildings designed for housing finance lenders.

Various financial and credit institutions:

These are collectively the lender of housing finances under the HFP. These include Commercial Banks and Microfinance institution and government entities (MLHHS). Currently, few banks provide mortgage loans i.e. Azania Bank, National Bank of Commerce, Commercial Bank of Africa, CRDB, Stanbic, Barclays, NMB and Exim Bank. On the other hand, the microfinance sector is well established in Tanzania consisting of large banks (National MicroFinance Bank (NMB), International and Local NGOs and Savings and Credit Associations (SACCOSS). However, there are few MFI involved in housing loans e.g. PRIDE, FINCA, Habitat for Humanity etc.

With regard to this RPF, the role of financial institutions will be to ensure resettlement requirements are met through screening and approval of subproject proposals prepared by the Developers.

The Project Proponent / Potential Developer / Investor –

These are the primary, direct beneficiaries to the HFP. The HFP goal through component 3 is to expand the role of Private Developers in housing construction. Currently relatively medium scale housing construction is done by the public agencies i.e. National Housing Corporation (NHC), security and pension funds (NSSF, PPF) and Tanzania Building Agency (for government buildings). Developer – public or private entities or individual will have overall responsibility for site selection, detailed planning, designing, construction, operation and monitoring of the project. Developer will take full responsibility in the screening project site, planning, assessing, mitigating all impacts related to resettlement through preparation and implementation of RAPs.

2.2. CONDITIONS THAT WOULD LEAD TO POTENTIAL RESETTLEMENT

It is likely that investments in any of the 3 HFP components will involve involuntary resettlement and related issues which will need to be managed through a RPF. In the course of the HFP implementation (phase I through to phase IV) - the components that are capacity building interventions i.e. mainly technical assistance (TA) do not directly trigger any policy. However, upon establishment of the Mortgage Liquidity facility (TMRC) and micro-finance loans (HMFF); increased availability of financing to developers/investors and consequent expansion of housing development may trigger more land acquisition/involuntary resettlement. Most of these impacts may be felt beyond the project period.

Of the three components, the expansion of affordable housing supply is the most likely to directly trigger resettlement through acquisition of land for large-scale housing construction. Within the component, land delivery is likely to directly trigger resettlement because site selection is the stage which determines the physical extension of the project and thus its impact on the sitting landholders. Promotion of construction technologies also in-directly trigger more land acquisition/involuntary resettlement. However a Resettlement Action Plan cannot be done now because the exact subprojects (housing projects), their sites and the people who will be displaced are not known and will only be identified during project implementation.

What can be done at this stage is provide the principles and checklists in this RPF that will be useful instruments in guiding preparation of RAPs for individual sub-projects. Also this RPF will be a tool that will help sub-project implementing agencies in identification of activities that will cause involuntary resettlement and consequent long term severe hardships, impoverishment and environmental damage risks and thus defining scope of the Resettlement Assistance Programme for affected persons.

CHAPTER 3

PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT AND COMPENSATION PREPARATION AND IMPLEMENTATION

3.1 OBJECTIVES OF THE POLICY ON INVOLUNTARY RESETTLEMENT (OP 4.12)

Although the specific project location is not known at this stage, it is envisaged that some investments through HFP are likely to involve involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources issues. The World Bank Operational Policy 4.12, Involuntary Resettlement may be triggered because the project activity causes land acquisition, namely: a physical piece of land is needed and people may be affected because they may have buildings on that land, and in semi-urban and rural setups they may be cultivating on that land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, when the policy is triggered people are compensated for their loss (of land, property or access) either in kind or in cash, of which the former is preferred.

The HFP beneficiary institutions particularly potential developers will be required to follow procedures stipulated by the World Bank OP 4.12 while acquiring land from citizens. This chapter (4) presents objectives and principles set out by the policy on involuntary resettlement (OP 4.12); next chapter (5) is a description of national laws and regulation guiding compensation and resettlement in Tanzania; followed by an analysis of the fit between Tanzania laws and WB resettlement principles.

The objectives of the policy on involuntary resettlement (OP 4.12) are the following;

- To avoid or minimize involuntary resettlement and land acquisition where feasible, exploring all viable alternatives of project location and designs.

Where involuntary resettlement and acquisition of land or other assets is unavoidable -

- To conceive and execute compensation as sustainable development programs, providing sufficient investment resources to give the persons displaced by the project the opportunity to share project benefits.
- To consult with displaced and compensated persons and provide them opportunities to participate in planning and implementing resettlement and compensation programs.
- To assist displaced and compensated persons - regardless of the legality of land tenure - in their efforts to improve their livelihoods and standards of living (income earnings capacity and production levels) 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.

3.2 GUIDING PRINCIPLES FOR RESETTLEMENT OF PEOPLE DISPLACED BY THE PROJECT

As reiterated above, it is likely that investments in any of the 3 HFP components will involve involuntary resettlement and related issues which will need to be managed through this RPF. The policy framework sets out the following principles to guide the resettlement of affected people:

- ***Broad application of the resettlement policy***
 - The policy applies to all components under the HFP project, whether or not they are directly funded in whole or in part by the BOT.
 - The policy applies to all affected persons regardless of the severity of impact and whether or not they have legal title to the land.
 - The policy covers direct economic and social impacts caused by the involuntary taking of land and other assets resulting in i) relocation or loss of shelter; ii) loss of assets or access to assets; iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location.
- ***Resettlement measures planned and implemented according to Resettlement Action Plans (RAPs)***

Because land acquisition has to be done in a way that satisfies the required design standards for any of the housing structure that will be developed using the HFP funds, the people and livelihoods would be impacted, and resettlement cannot be avoided in all cases. The policy requires that the implementation of individual sub-project resettlement and compensation plans (RAPs) are a prerequisite for the implementation of any investment activity causing resettlement, to ensure that displacement or restriction to access does not occur before necessary measures for resettlement and compensation are in place. Where relocation or loss of shelter occurs, the policy requires that measures to assist the displaced persons be implemented in accordance with the resettlement and compensation plan of action.

- ***Consultation and participation of affected communities***

The RPF seeks to ensure that affected persons, communities and local authorities (e.g. municipalities) are regularly and genuinely informed and meaningfully consulted; are encouraged and assisted to participate in the resettlement planning and implementation process; and displaced people are adequately compensated to the extent that their pre-displacement incomes have been restored and that the process is a fair and transparent one.

- ***Provision of resettlement measures to affected persons and entities with recognized property rights***

Resettlement measures shall be provided to persons and entities with recognized property rights in accordance with the country (Tanzanians) land and compensation laws and practices as a minimum. Wherever necessary they will be supplemented with additional measures to meet the WB OP 4.12 requirements. Eligible displaced persons will be provided with such assistance as: moving allowances where physical relocation is involved; and transitional support such as a disturbance allowance and accommodation to enable them to restore their livelihoods and standards of living.

- ***Provision of resettlement measures to affected persons and entities without recognized property rights***

OP 4.12 requires that displaced persons without recognized rights to compensation (“non-land owners” e.g. tenants and unlawful land users or occupiers) should be provided with resettlement measures that are similar to those that lawful landowners are entitled to, although the form of the measures may differ:

- Cash compensation for the loss of permanent structures, trees and crops that belong to them personally;
- Land lords are required to serve tenants with at least three months notice to vacate the premises. In those instances where their tenants has paid rents in advance (e.g. for the coming year) the land lord is required to refund the amount of the unused advance payment. Cases where a land lord refuses to return rental deposits and advance payment to tenants should be handed through the well established community systems involving local leaders. Failing resolution at this level, a tenant will have access to legal assistance as provided in the sub-project RAP; and
- The Developer, through the municipalities, should provide alternative land to genuine “landless” people who are occupying or using private land without authorization. This should be provided well in advance of relocation to ensure that a displaced person has sufficient time to construct replacement structures. Moving assistance should be provided where necessary.

- ***Consideration for the needs of vulnerable groups***

Particular attention should be paid to the needs of vulnerable groups among those displaced; especially those below the poverty line; the landless, the elderly, women and children, indigenous groups and the ethnic minorities or other displaced persons who may not be protected through Tanzania land compensation legislation.

- ***Preference for cash compensation***

Compensation for lost assets can be monetary, in-kind or both. Preference should be given to land-based resettlement (land to land) to PAPs whose livelihood is land-based. Preference shall be to provide displaced persons with compensations in cash for the loss of assets (including land, housing and other structures), for loss of access to assets, for damage caused to assets and for loss of business profits or income earning opportunities. However, displaced persons should be offered replacement plots which they can purchase and develop with the cash compensation received.

- ***Taking of land /displacement take place after completion of compensation and other assistances***

The policy required that resettlement measures include provision of compensation and of other assistance required for relocation and preparation and provision of resettlement sites with adequate facilities (where required) prior to displacement. In particular, the taking of land and related assets or the denial of access to assets may take place only after compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and moving allowances have been provided to displaced persons. No person or entity will be required to vacate acquired land until resettlement entitlements have been delivered.

- ***Compensation determined on basis of market value or replacement cost***

The value of compensation shall be determined on the basis of the markets value or replacement cost and should include necessary additional costs incurred to achieve full restoration.

- ***Participation of project impacted persons in the project activities.***

It is particularly important to neutralize to the extent possible any socio-economic pressures in the communities that are likely to be exacerbated by involuntary resettlement, by facilitating the participation of those impacted in the project activities. Therefore, impacted communities must be consulted and are part of the planning process. Offering opportunity for employment to impacted people during the construction or of providing services such as supplying water or construction materials (e.g. gravel) etc provides an additional income-generating opportunity to a significant number of persons who may be affected in the targeted areas. Therefore, this opportunity for local employment is being taken advantage of in this resettlement policy framework (RPF), by including it for discussion in the consultative process with the affected communities. This RPF prefers to encourage potential Investors /Developers of sub-projects under HFP, contractors and project implementing institutions through the provision of incentives in their contracts to show preference for employing project-affected persons (PAP's) and not through legal provision. One way of promoting this would be for the project to train displaced persons to acquire the skills needed by these contractors.

- ***Availability of complain and dispute registration and resolution mechanisms***

Displaced persons should be informed about their options and rights pertaining to resettlement and about easily accessible complain and dispute registration and resolution mechanisms available to them.

CHAPTER 4

A LEGAL FRAMEWORK REVIEW OF THE LAWS AND REGULATIONS OF TANZANIA AND THE FIT WITH WORLD BANK POLICY REQUIREMENTS

Tanzania has a good policy, legal and institutional framework for management of social issues related to land and property acquisition and compensation enshrined in the National Constitution, the Land Policy and Land Acts as well as supporting local laws and by-laws. However the operation of the Housing Finance Project will follow the Bank's policies when it comes to OP 4.12 (see section 4.4.1 below)

This chapter (5) presents overview of Tanzania policy, legal and institutional framework of relevance to RPF. Currently there is no specific “resettlement policy” in Tanzania. However, Tanzania has a good policy, legal and institutional framework for management of social issues related to urban development, housing, land and property acquisition and requirements for full, fair and prompt compensation enshrined in the National Constitution, the Land Policy and Land Acts of 1999 as well as supporting laws and regulations – operating at various levels including local laws and by-laws.

4.1. OVERVIEW OF POLICIES AND LAWS GOVERNING LAND AND RELATED MATTERS

The following policy and legal instruments provide guidance for acquisition of land and associated properties and compensation and resettlement procedures in Tanzania.

- *Constitution of the United Republic of Tanzania (1977 - as amended)*

The Constitution also provides for the protection of the rights and interest of citizens in matters concerning their property and acquisition. Under article 24 (1), every person is entitled to own property, and has a right to the protection of his property held in accordance with the law. Sub-article (2) prescribes that it is unlawful for any person to be deprived of property for any purposes without the authority of law, which makes provision for fair and adequate compensation.

- *National Land Policy (1996)*

The overall aim of the National Land Policy among other things is to promote and ensure a secure land tenure system in Tanzania that protects the rights in land for all its citizens. The policy provides that a dual system of tenure, which recognizes both customary and statutory rights of occupancy as being equal in law be established. The Land Policy directs that land be graded as a Constitutional category and that the following basic land policy tenets be entrenched in the Constitution to ensure continuity:

- All land in Tanzania is public land vested in the President as trustee on behalf of all citizen
- Land has value
- The rights and interest of citizens in land shall not be taken without due process of law.
- Full, fair and prompt compensation shall be paid when land is acquired.

The compensation should be paid to any person whose right of occupancy or recognized long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the state and the Acts or is acquired under the Land Acquisition Act Cap 118.

In principle the Minister responsible for land matters is the sole authority in land issues. To address the problem of multiple land allocations, and its resultant disputes, the Commissioner for lands is the delegated sole authority for administration of land. However, the policy stipulates involvement of the public and private institutions whose functions are associated with land i.e. local authorities, communities, non-governmental organizations and community based development organizations – to participate and cooperate with the Minister at different levels during the implementation of the policy and utilization of land.

According to the policy, land in towns is governed by the City, Municipal or Town Councils. The administration of village land is vested in the village councils the councils have to consent before any alienation of village land is effected. In case of land allocations, the village councils should report to respective village assemblies.

- *The National Human Settlements Development Policy (2000)*

The policy promotes the development of human settlement that is sustainable. Among others, the policy objective that is relevant to the HFP is to make serviced land available for shelter and human settlements development in general to all sections of the communities. The policy calls for improvement of the provision of infrastructure and social services for sustainable human settlement development.

- *The Land Acquisition Act, 1967 (Act No 47/1967)*

The Land Acquisition Act of 1967 stipulates the power and procedures for acquiring land and the required degree of compensation. Section 3 and 4 of the Act gives the President of Tanzania powers to acquire any land for any estate or term where such land is required for public purpose such as exclusive government use, general public use, any government scheme, development of social services or commercial development of any kind including declamation. The act makes provision for the procedures and method of compulsory acquisition of land for public purposes whether for temporary or permanent use. The Minister responsible for land may authorize any person to enter upon the land and survey the land to determine its suitability for a public purpose. The Government of Tanzania is supposed to pay compensation to any person who suffers damage as a result of any action. Any dispute as to compensation payable is to be referred to the Attorney General or court for decision.

The Land Acquisition Act does not go beyond compensation. It is not required under the Act to provide alternative land for the affected people by the project. Each affected person entitled to be compensated; on receipt of his/her compensation is expected to move and has no further claim. Once they are promptly and adequately compensated, then the obligations stop there. This act also sets out the legal process for payment of compensation.

- *The Land Act, 1999 (Act No 4/1999)*

The Land Act is the principle land legislation on all land matters. The Land Act signifies that land in Tanzania is public land and remain vested in the President as trustee for and on behalf of all citizens of Tanzania. For the purposes of the management of land under the Land Act and all other laws applicable to land, public land is in the following categories: (1) general land; (2) village land and (3) reserved land. The transfer of land from one category to another is provided in the Act.

The Act specify that an interest in land has a value and that value is taken into consideration in any transaction affecting that interest. The recognized land ownership is the granted right of occupancy and customary ownership. The act states that where

persons with a right of occupancy (including land which is occupied by persons under customary law) are to be moved or relocated, they must be compensated for loss of interest in the land and for other losses. They also have the right to reap crops that are sown before any notice for vacating that land is given.

According to the Land Act, assessment of compensation on land acquired shall be based on the following: i) Market value of the real property; ii) Disturbance allowance; iii) Transport allowance; iii) Loss of profit or accommodation; iv) Cost of acquiring or getting the subject land; v) Any other cost loss or capital expenditure incurred to the development of the subject land, iv) Interest at market rate will be charged,

- *The Village Land Act, 1999 (Act No.5/1999)*

The act provides that the Village Council, the organ upon which the President has delegated powers to manage village land is obliged to ensure that the village prepare an appropriate village land use plan for sustainable development, to enter into agreement with neighbouring villages, to ensure that joint Village Land use plans are prepared for areas which are used jointly. Preparation of such plans among other things includes setting aside areas for community uses including areas for schools, dispensaries, water catchments, water supply utilities, market places, burial areas, offices etc. Therefore, the Land Acts, especially the Village land Act No. 5 provides a basis for ensuring that resettlement is avoided completely or a few people as possible are resettled in the implementation of sub projects. Adherence to the Village Land Act No. 5 will facilitate minimization or avoidance of resettlement problems, costs and grievances.

- *Land (Assessment of the Value of Land for Compensation) Regulations, 2001*

Land (Assessment of the Value of Compensation) Regulations, 2001 were made under section 179 of Land Act no. 4 of 1999. Regulation 3 of the Land (Assessment of the Value of Land for Compensation) Regulations, 2001 and Part III of the Village Land Regulations, 2002 provide for practical guidelines on assessment of compensation. The full and fair compensation is assessed by including all components of land quality and the market value should be used as basis for valuation of land and properties. Presently in assessing the value of the unexhausted improvements for compensation purposes, the law emphasizes that the value should be the price that which the said improvements can fetch if sold in the open market. But this in normal circumstances is lower than the replacement value but higher than the initial construction cost of the said improvements.

According to the regulation, the valuation of the affected properties must be done by a qualified and authorized Valuer.

- *The Land (Compensation Claims) Regulations, 2001*

The regulations apply to all application or claims for compensation against the government or Local authority or any public body or Institution and they also cover compensation which may be claimed by occupier.

- *The Land (Schemes Of Regularization) Regulation, 2001*

Under the Land Act, 1999 Section 60(1) an area can be declared to be a regularization area. Regularization of an area involves the following:

- a) Arrangements for the survey, adjudication and recording of interests in land claimed by those persons occupying land in the regularization area.
- b) Arrangements for the readjustment of boundaries of plots of land.
- c) Better planning and layout of the land including pooling, sharing and redistribution of rights in land.
- d) Arrangements for the involvement of the local authorities having jurisdiction in the regularization area in the implementation of the scheme.
- e) Arrangement for involvement of the people whose land is the subject of the scheme of regularization in the implementation of the scheme.
- f) Arrangement for the assessment and payment of any compensation that may be payable in connection with the implementation of the scheme.

Section 60(3) emphasizes that “For avoidance of doubt, no scheme or regularization shall be implemented until occupation and use of land by those persons living and working in the area have been recorded, adjudicated, classified and registered.”

- *The Unit Titles Act, 2008 (Act No. 16/2008)*

The enactment of this act has significantly improved the prospects for mass housing production and the demand for mortgages. The act enables, Estate Developers to construct high rise and buildings and multi-face structures with a big number of flats (or units) and sell each unit to as many buyers; and each unit buyer is eligible to get a title deed after completing the sales agreement. This act provide for the management of the division of buildings into units, clusters, blocks and sections owned individually of co-owned and use of designated areas; to provide for issuance of certificate of unit titles for the individual ownership of the units, clusters or sections of the building, management and resolution of disputes arising from the use of common property; to provide for use of common property by occupiers other than owners and to provide for related matters.

- *The Land Disputes Court Act. 2002 (Act No.2/2002)*

This act provides the respective courts and their functions. Before implementation of sub projects, any land conflicts existing in the areas shall be resolved through the appropriate land courts to ensure that harmony prevails in the intended undertaking. Project beneficiaries will therefore be bounded by these Acts.

- *The Land Use Planning Act, 2007 (Act No.6/2007)*

The Act provides for the procedures for preparation, administration and enforcement of land use plans; to repeal the National Land Use Planning Commission and to provide for related matters. Clearly the Act has distinctive authorities of land use planning in Tanzania laid down with their functions and powers. The power vested to authorities which give them teeth to bite is to enforce approved land use plans including taking defaulters to court of law.

- *The Urban Planning Act, 2007 (Act No. 8/2007)*

The Urban Planning Act No 8 of 2007 provides power for creating plans in advance of development and a comprehensive system of development control. It provides for the declaration of planning urban areas by the Minister responsible for Urban Planning in consultation with Local Authorities and constituting area Urban Planning committees and procedures for preparation of

schemes and the approval by the Minister. The general planning schemes which came to be known popularly as master plans continued to be the primary planning and management tool for guiding urban development in Tanzania for more than forty years. These provided for overall planning of planning are facilitating preparation of detailed schemes and project plans.

- *Sector Policies and Laws on Access, Use, and Management of Natural Resources*

Land-based natural resources that could be affected by land acquisition include agriculture resources (arable land), forests and contained biodiversity and beekeeping, non-renewable mineral resources (including construction materials such as gravel); surface and underground water resources. Each category is governed by one or a set of laws and regulations but all invariably have taken measures to ensure access to use and enjoyment of all Tanzania citizens.

Others

- The Graveyard Act, 1969 (Act No. 9/1969);
- The Local Government (District Authorities) Act, 1982 (Act No. 7 /1982);
- The Local Government (Urban Authorities) Act, 1982 (Act No. 8 /1982);
- The National Environment Policy, 1997;
- The Environment Management Act, 2004 (Act No. 20 /2004).

4.2 ACTS AND REGULATIONS PERTAINING TO FINANCIAL SECTOR

- *Mortgage Finance (Special Provisions) Act, 2008*

The passing of this act has created a lot of momentum in government for the development of housing finance. The act amended certain written laws with a view to providing further provisions for mortgage financing and enables Estate Developers to access long term loans from the banks to build houses and sell to buyers. The act also intended to help to provide funds for acquisition of low cost housing and not just for mansions and skyscrapers. Formerly the procedure for transfer of mortgaged property was long and cumbersome. Under this act, this process involves only three parties, the mortgagor, the Bank and the Registrar of Titles. All other interested parties, including the Commissioner for Lands are notified by the Registrar after the completion of the mortgage process. Under this act, the bank and the borrower enter into a contract and if the borrower breaches the contract, they are given a notice of 60 days to pay, after which his/her property are sold (to pay back the loan) without involving the court.

- *The Financial Leasing Act, 2008 (Act No. 5/2008).*

This act provide for financial lease transactions and for related matters. The act aims to stimulate capital investment and access to finance, and thereby meet the demands of local and international investors. The act is a step forward to enabling Small and Medium Entrepreneurs (SMEs) to access finance for acquisition of business equipment through periodical rental payments.

4.3 INSTITUTIONAL FRAMEWORK

Tanzania has no policy on involuntary resettlement, but has elaborate policies and acts on acquisition of land, access, use and management of public resources. The acts stipulate the various actors in land and natural resources administration and management. Taking this and requirement of the World Bank OP 4.12 into consideration, three institutional frameworks comes into play in the development and implementation of the RPF:

- ♦ Central Government Ministries, Department and Agencies
- ♦ Local Government Authorities

4.3.1 Ministry of Lands, Housing and Human Settlement Development

The Ministry of Lands and Human Settlement Development is responsible for policy, regulation and coordination of matters pertaining to land in Tanzania. The Ministry administers the various land acts: Land Acquisition Act, the Land Act and the Village Land Act. Land use planning, management and land delivery activities are conducted at the Ministry. The Ministry of Lands, Housing and Human Settlements Development is responsible for land use planning, surveying and demarcating land/parcel/farms, and provision of land ownership and tenancy in both rural and urban areas. The Commissioner of Lands administers most issues to do with land allocation, acquisition, registration and land management in general. All instances of acquisition of land for public purposes and the need for resettlement and/or compensation have to be referred to the Commissioner.

4.3.2 Survey and Mapping Division

The Surveys and Mapping Division also provides land survey services to government agencies, maintains geodetic survey control networks, prepares and maintains cadastral and topographic maps for the entire country. The Director of Surveys is responsible for coordinating all public sector mapping activities and for maintaining records of all maps, plans and land surveys which are conducted by government agencies.

4.3.3 Local Government Authorities

The Local Government system in Tanzania is based on the decentralization policy and is enshrined in the Local Government (District Authorities) Act No. 7, 1982, the Local Government (Urban Authorities) Act No. 8, 1982 and the Regional Administration Act (1997). Administratively, Tanzania is divided into three levels of Local Governments whereby each level has statutory functions with respect to development planning. The three levels are: District /Municipal / City Councils; Town Councils and Ward; and Village/"Mtaa" Councils. Districts are LGA's that are found in rural or semi-rural settings. Each district is subdivided into Wards, that in turn are divided into Villages and these consists of Hamlets ("Vitongoji"). Municipal Councils are subdivided into Municipal Wards followed by sub-wards or "Mtaa".

The District Councils, City Councils, Municipal Councils, and Village Councils are body Corporate responsible for planning, financing and implementing development programmes within their areas of jurisdiction.

- Municipal/District Land Department with sections /units for physical planning, surveying, valuation;
- District functional departments including Community Development (communities mobilization and sensitization); Environmental Management Offices (acts as appendages of national environmental authorities);
- Land Tribunals (District, Ward levels) for handling and resolving land-related disputes and grievances;

- Various multi-disciplinary, multi-sectoral technical teams and committees of Councilors responsible for social issues at local government levels.

Local governments are not replicated at the regional level. Regional authorities provide technical advice and support and exercise supervision to the District councils. Regional and District Commissioners are responsible for co-ordinating and managing central government affairs.

4.3.4 Others

4.3.4.1 Private Service providers in the lands sector

These are individuals or Companies that conduct surveyors, property valuation etc.

4.3.4.2 Natural Resources and Social Management Agencies

- *Vice Presiden's Office (National Environment Management Council (NEMC) and Division of Environment (DoE)*

NEMC is vested with overall responsibility for screening (allocating the appropriate level of the impact assessment) and reviewing big investments and projects of national significance. NEMC constitutes multi-disciplinary, multi-sectoral Technical Review Committees to review adequacies of environmental impact statements (incl. Environmental Social Management Plans/ Environmental Social Monitoring Plans). NEMC issues recommendations to the government for approval of the project. DoE issue approval (EIA Certificates) for the project to proceed. Mitigation of impacts arising from land acquisition and fulfillment of compensation procedures constitute key project approval criteria.

- *Units within Sector Ministries/ Institutions*

These have been established to oversee social matters including supervision and monitoring of implementation of project social management plans, and gender issues.

4.4 COMPARISON BETWEEN LAND LAW IN TANZANIA AND WB OP 4.12

4.4.1 Gaps between Tanzania and WB and ways of bridging them

Whereas the law relating to land administration in Tanzania is wide and varied (section 4.1 above), entitlements for payment of compensation are essentially based on the right of ownership. The Bank OP 4.12 is fundamentally different from this, and states that affected persons are entitled to some form of compensation whether or not they have legal title if they occupy the land by a specified cut-off date. In this regard, OP 4.12 which is the higher of the two standards will be followed in this policy framework, since its procedure also satisfies the requirements of the Tanzania standards.

Table 4.1: Comparison of Tanzania Law and World Bank OP 4.12 Regarding Compensation and resettlement

| Resettlement Aspect | WORLD BANK | TANZANIA LAWS <i>((Land Acts 1999, and The Land (Assessment of the Value of Land for Compensation) Regulations, 2001 and the Village Land Regulations, 2002)</i> | COMMENTS/BRIDGING GAP |
|---------------------------------------|---|---|---|
| PAP | The PAP include those who have and those with no recognizable legal rights or claim on land they are occupying | Compensation involved those who have titles and squatters | All eligible owners of land and unexhausted improvements are subject for compensation |
| Encroachers | Person who encroaches on the area after the cut off date are not entitled to compensation or any form of resettlement assistance (Para 16) | Person who encroaches on the area are not entitled to compensation or any form of resettlement assistance. Encroaches have to demolish their asset without any compensation, if refuse the authority concern will demolish at their cost. It is strictly prohibited to especially to build a house or to plant permanent trees and crops within the unauthorized areas. | Those who encroaches the area after cut-- off date are not compensated. |
| Livelihood restoration | Resettlement activities based on OP 4.12 is to restore standard of living and preferably improve livelihoods | Payment of disturbance, loss of accommodation, loss of profit and transport allowances help the PAP to improve their livelihoods | Payment of compensation for loss of assets, allowances and other relocation assistance to restore/improve livelihoods |
| Resettlement options and alternatives | PAPs are informed about their options and rights, offered choices, provided with technically and economically feasible resettlement alternatives | PAPs are informed about their rights but have chance to choose alternatives. Compensation on monetary bases provides equal opportunity to all PAPs to restore the assets lost. | PAPs are to be informed about their options and rights, offered choices/alternatives, but also given chance to choose their preferences where to buy new land is easier to implement |
| Forms of payment | Compensation for lost assets can be monetary, in-kind or both. | Compensation is in monetary basis only | Compensation for lost assets can be monetary, in-kind or both. |
| Replacement of lost assets | provided prompt and effective compensation at full replacement cost for loses assets attributable directly to the project | Same | Same |
| Compensation for loss of land | Preference should be given to land- based resettlement (land to land)to PAPs whose livelihood is land-based. | Prompt and fair compensated is paid based on monetary to replace the lost land in the distance not more than 20km from the project place. | The WB policy is good but need more time to implement and more costly. Also there will be an endless Resettlement process. Prompt and fair compensation give room to PAPs to buy alternative land at their most preferable places |
| Absentee property owner | In case of absentee owner, effort should be made to contact the owner and negotiate with them on the terms, type and amount of compensation | The project owner, Valuer and local leaders must take all necessary effort to contact the land owner or the representative during the valuation | Both procedures recognizes the presence of land owner |
| Unknown owner | For unknown owners, sufficient funds to cover the future payments should be reserved. | Local government leaders will represent the interest of the unknown owner and the payments will be retained by district executive director while effort is taken to find the owner | Interest will be paid to the owner if the time lag will be more than six month from the date of acquisition or revocation |
| Disputed compensation | Disputed compensation; no compensation has been made because agreement has not been reached. WB will analyze the processes and procedures and if no feasible option the project owner may consider to redesigning the project | Disputed compensation; chief valuer will analyze the processes, procedures and amount reached. the decision of chief valuer is final unless have to go to the court of law | The final decision on the rights of the land and asset owner will be decided by the courts of law. |
| Dispute | Disputed or unclear ownership need to be resolved by | | |

| | | | |
|--|---|--|---|
| resolution | administrative courts or ministries | Same | No comment |
| Payment mode | WB discourage payments by cash. always insists on using bank accounts | Same | Every land and asset owner are helped to open an bank account to deposit their compensation cheques |
| Banking / transfer fees (if necessary) | The Developer will provide compensation package sufficient funds to cover any banking or transfer fees and transportation to the place of payments. | Same | Ok |
| Timing of project implementation | In particular taking of land and related land and related assets may take place only after compensation has been paid. | Construction of the project can be taking place after all PAPs receiving their money and given a time to vacate the compensated land and assets. | Both recognize the importance of prompt and fair compensation before implementation of the project |

4.4.2 Application of laws/ regulations to compensation of categories of affected people

Table 4.2 is a summary of comparison of Tanzania law and World Bank OP 4.12 regarding compensation for different categories of people.

Table 4.2 Comparison matrix of compensation to PAPs: Tanzania Laws and World Bank OP4.12

| Category of PAPs/ Type of Lost Assets | Tanzania Law (Land Act 1999, and The Land (Assessment of the Value of Land for Compensation) Regulations, 2001 and the Village Land Regulations, 2002) | World Bank OP 4.12 | Bridging the Gaps Comments |
|--|--|--|---|
| Land Owners | Cash compensation is based upon market value of the real property, disturbance allowance, transport allowance, loss of profits or accommodation, cost of acquiring or getting the subject land, any other immediate costs or capital expenditure incurred to the development of the subject land. Compensation should be paid promptly, and if not paid in time, interest at market rate will be charged | Recommends land-for-land compensation. Other compensation is at replacement cost | OP 4.12: when land taken is primary source of income and livelihood, PAP should be provided with land (land to land) Tanz: Prompt and fair compensation give room to PAPs to buy alternative land at their most preferable places Bridge the gap: PAPs given opportunity to choose preferred form of payment: cash or in-kind ; Compensation of structure at replacement cost |
| Land Tenants | Entitled to compensation based upon the amount of rights they hold upon land | Are entitled to some form of compensation regardless of the legal recognition of their occupancy | Bridge the gap: The tenants considered for plot acquisition in resettlement compensated replacement cost of the non-movable property installed with consent of the property owner |
| Land Users | Not entitled to compensation for land, entitled to compensation for crops and may be provided with other land of equal size and quality | Entitled to compensation for crops, may be entitled to replacement land and income must be restored at least to pre-project levels | Bridging the gap: Entitled to compensation for crops not land. PAPs whose livelihood and income is land-based PAPs should be assisted in getting land at resettlement site. |
| Owners of "Non permanent" Buildings | Valuation and disturbance allowance. Cost of putting up an equivalent structure as the one existing at the time of valuation, based on price of the open market | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. | Bridging the gap: In-kind compensation or cash compensation at full replacement cost not market value. Entitled to relocation allowances |
| Owners of "Permanent" buildings | Valuation and disturbance allowance. Cost of putting up an equivalent structure as the one existing at the time of valuation, based on price of the open market. | Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement. | Bridging the gap: In-kind compensation or cash compensation at full replacement cost not market value. Entitled to relocation allowances |
| Perennial Crops | Cash compensation at market value based on historical production records. Compensation rates for each crop are established at the Valuation Division in the Ministry of Lands and Human Settlements Development | As per section Chapter 9 of this RPF once approved by the Bank and disclosed in Tanzania and at the Bank info-shop. | -- |

CHAPTER 5

PROCESS FOR PREPARING AND APPROVING RESETTLEMENT AND COMPENSATION PLANS (RAPs)

It is envisaged that some investments through HFP are likely to involve involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources issues. As the exact locations are not known at the time of project preparation, the Government of Tanzania through the Bank of Tanzania is taking the precautionary measure to prepare a Resettlement Policy Framework in compliance with the World Bank Involuntary Resettlement Operational Policy 4.12. During implementation of the HFP, social impact assessment will be carried out with the objective to identify all those areas and sites where there will be an impact on land, people and property and access to resources. At that stage, OP 4.12 calls for the preparation of individual Resettlement and Compensation Plans that must be consistent with this RPF.

Before planning and implementation of the sub-project RAP commences the Potential Developer/Investor should ensure that a number of preliminary tasks are completed in preparation for the resettlement action planning process. Also to address the impacts under this policy, resettlement and compensation plans must include measures to ensure that displaced persons are:

- (a) informed about their options and rights pertaining to compensation for land acquisition;
- (b) consulted on, offered choices among, and provided with technically and economically feasible alternatives; and
- (c) provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project.

This policy framework will guide the preparation of resettlement action plans for the sub projects, which need land acquisition and resettlement people and/or may impact access to resources. The first stage in the process of preparing the plans is the screening process to identify the land/areas that are causing resettlement. The resettlement and compensation plans will contain the analysis of alternative sites undertaken during the screening process. The organization structures of the project implementing institutions and beneficiary (Developer), generally should be adequate to meet the below screening and RAP preparation processes.

5.1 PRELIMINARY TASKS

5.1.1 Potential Developer mobilize necessary capacity for resettlement planning

The Potential Developer shall be required to have the necessary capacity to comply with the requirements under the HFP. The first task is to ensure availability of personnel with experience in resettlement and compensation to oversee the preparation and implementation of individual sub-project RAPs. The screening process specifically requires the Developer mobilizing planning personnel to the closest level to the affected people.

5.1.2 Site Selection

Site selection is the stage which determines the physical extension of the project and thus its impact on the sitting landholders. The potential Developer in consultation with the Planning Authorities for particular urban area will be responsible for sub-project site selection.

5.2 THE SCREENING PROCESS

5.2.1 Identification of resettlement issues

The purpose of this step is to identify sites which will potentially have resettlement/land acquisition issues. The Potential Developers will be responsible for screening the proposed sub-project by using checklists based on the guidelines set forth in this RPF: identification of likely categories of impacts/loss (Chapters 7) and defining the various categories of affected people (Chapter 8).

5.2.2 Sensitization and Consultations

The sub projects that have potential resettlement issues will then be subjected to comprehensive sensitization and consultations on project impacts and also the mitigation measures designed to address impacts. These consultations should inform the design of individual RAPs.

5.2.3 Potential Developer Decision on the proposed sub-project

The sub-project concept and the outcome of the consultative process would then be analysed by the Potential Developer to confirm, approve, disapprove, refer for further consultation and/or take a final decision on the proposed sub-project.

Carrying out the screening process in this way is designed to give it the integrity and transparency it needs to allow all stakeholders to have confidence in the process.

5.3 PREPARATION OF RESETTLEMENT AND COMPENSATION ACTION PLANS (RAP)

The RAP is to be prepared by all Potential Developers whose investment will result into resettlement or restriction to access to resources. Once sub-projects have been approved to proceed using this consultative process, the chosen locations will be the subject of a study and the preparation of a document as follows:

- i. a socio-economic study (this study will include determination of impacts)
- ii. preparation of individual resettlement and compensation plans.

5.3.1 Socio-economic Study

The socio-economic study will be carried out to collect base line data within the selected sites thereby enabling the social impact assessment of potentially affected populations/communities. The socio-economic impact assessment would focus on the identification of stakeholders (demographic data), the participation process, identification of affected people (including owners and users of land) and baseline information on livelihoods and income, in addition to landholding. The Study Team will use among other survey tools checklists provided in this RPF (identification of likely categories of impacts/loss (Chapters 7) and defining the various categories of affected people (Chapter 8).

5.3.2 Preparation of individual RAPs

On completion of the socio-economic study, a resettlement action plan (RAP) will be prepared for each housing development projects that triggers OP 4.12. The requirements of the RAP are:

- i) Baseline Census;
- ii) Socio-Economic Survey;

- iii) Specific Compensation Rates and Standards;
- iv) Entitlements related to any additional impacts;
- v) Site Description;
- vi) Programs to Improve or Restore Livelihoods and Standards of Living;
- vii) Implementation Schedule;
- viii) Detailed Cost Estimate References.

The Developer will use this RPF as an overall guide among others in the development of the RAP:

- Identification of likely categories of impacts/loss and project affected persons –PAPs under Chapters 7 and 8.
- Defining compensation entitlement to various categories of affected people using entitlement matrix that sets standards for compensations under Chapter 8.
- Methods of valuing affected assets – Chapter 9.
- Organizational procedures for the delivery of entitlements – Chapter 10
- Implementation process – Chapter 11
- Grievance redress mechanisms - Chapter 12
- Arrangements for funding resettlement and compensation - Chapter 13
- Mechanisms for consultations with, and participation of, displaced persons - Chapter 14
- Monitoring and Evaluation – Chapter 15

5.4 RAP REVIEWS AND APPROVAL

5.4.1 Approval by commercial banks / microfinance institutions

Potential Developer submits subproject proposal and RAP to the Lender of housing finances (who is also the direct borrower under the HFP - see section 3.1.5) including Commercial Banks, Microfinance lenders, and other agencies within the HFP implementation framework. Credit departments will appraise and recommend approval, revision or rejection.

5.4.2 Approval by HFP Implementing Institutions

Upon approval of the subproject or group of subprojects and accompanying RAP, the Commercial Banks / Microfinance lenders, will submit financial request to the HFP Project Administration Team (PAT) responsible for processing, procurement arrangements and payments on behalf of Implementing Units (BOT/TMRC, FSDP, MLHSD). The PAT will recommend final approval, revision or rejection to Project Coordination Committee (PCC) which is the final decision making body on the Government of Tanzania part.

This process of identifying sites, consulting people and carrying out socio-economic studies may be an interactive one. If the Potential Developers in close consultation with their respective project implementing institutions i.e. Commercial Banks/Microfinance institutions and Bank of Tanzania determines that the mitigation measures (i.e. compensation levels) are too costly in terms of compensation amounts and the overall number of people impacted, the Potential Developers can propose and investigate alternative sites. However, irrespective of whether the process of identifying potential sites is pursued iteratively or whether a number of sites are examined simultaneously, the selection process must be as described above.

5.4.3 Final review and approval by the World Bank

The final sub-project approved by the project implementing institutions commercial banks/ MFI and Bank of Tanzania the process of selection of the sites, and the RAP are all subject to final review and approval by the World Bank in order to ensure compliance with Bank safeguards. In line with Tanzania's financial management policy, the approval by the World Bank will be for compliance, ensuring that before any housing sub-project is/are approved, individual resettlement and compensation plans are prepared and consistent with this RPF. At its sole discretion the World Bank may delegate through the Government to the BOT this responsibility to ensure compliance with the provisions in this RPF after it is satisfied that effective monitoring of this process is in place. This would be looked at during appraisal and a mechanism worked out that respects Tanzania's financial management mandates and satisfies the World Bank's responsibility to ensure compliance with its safeguards policies.

Table 5.1 Summary of RAP preparation and Approval Process

| STEP | OBJECTIVE | RESPONSIBILITY |
|--|---|--|
| PRELIMINARY TASKS | | |
| Mobilization of requisite personnel and capacity | To oversee the preparation and implementation of individual sub-project RAPs | Potential Developer |
| Site selection | To determine the physical extension of the sub-project | Potential Developer / Planning Authority |
| SCREENING | | |
| Screening selected site using checklist | To identify the land/areas that potentially will cause resettlement. | Potential Developer |
| Consultations and sensitization | To identify potential impacts and mitigation measures | Potential Developer / various Stakeholders |
| Analysis of screening results | To confirm, approve, disapprove, refer for further consultation and/or take a final decision on the proposed sub-project | Potential Developer |
| PREPARATION OF RESETTLEMENT AND COMPENSATION ACTION PLANS (RAP) | | |
| Socio-economic studies | To gather base line data for social impact assessment of potentially affected populations/communities | Potential Developer / Consultants |
| RAP preparation | To resolve issues of involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources | Potential Developer / Consultants / PAP / Stakeholders |
| RAP REVIEWS AND APPROVAL | | |
| RAP approval by HFP borrowers and implementing institutions | To ensure compliance with borrowing conditionalities and RPF | Banks/MFI/other agencies and BOT/TMRC, FSDP, MLHHS. |
| Final review and approval | To ensure compliance with Bank safeguards (OP 4.12). | Bank of Tanzania/World Bank |

5.5 BUILDING CAPACITY FOR RAP PREPARATION AND IMPLEMENTATION

Capacity will be built for the Potential Developers, relevant departments and local government authority/communities through comprehensive awareness raising (generally about the HFP and specifically about RPF/RAP requirements), training and technical assistance to ensure that all stakeholders involved discharge their different responsibilities effectively.

The various assessment planned under first phase of the HSP – e.g. review of housing and land policy to identify constraints to housing supply; assessment of obstacles to microfinance and legal reforms - shall include assessment of constraints that could come into play in the implementation of this RPF and the subsequent sub-project Resettlement Action Plans. Similarly the planned capacity building activities under the HSP shall mainstream RPF requirements.

CHAPTER 6

LAND ACQUISITION AND LIKELY CATEGORIES OF IMPACTS

As a first step in RAP preparation, the Potential Developer will screen a selected site earmarked for location of the housing sub-project to identify the land/areas that potentially will cause resettlement. Impacts of the HFP financed sub-projects will vary in nature and degree depending on the situation at the site. Site screening could encounter various types of potential impacts/loss including social, economic, and administrative or effects on environmental equilibrium as a result of land acquisition. Likely categories of impacts/loss are indicated in the below entitlement matrix.

6.1 TYPES OF LOSS DUE TO LAND ACQUISITION

6.1.1 Loss of Assets or Access to Assets

Loss of land and/or property are the most likely impacts both in urban and rural setups where the Potential Developers will acquire land as in most cases the land in question will be under use of some sort, communally, or individually. Thus, upon the involuntary removal from the proposed project sites people will suffer loss of rights to pieces of land, and/or un-exhausted improvements on the land i.e. built structures and crops.

- **Land**

Land could belong to private individuals, local institutions, village land or public land. The land could either be grown with crops, or built with structures or open land used for recreation or not developed/used. Ownership could mainly be under either statutory rights of occupancy or customary rights of occupancy and the affected people will lose these land rights.

- **House structures**

The built structures could be residential houses, residential cum commercial houses, house annexed structures (e.g. kitchens, fences, pit latrines, house foundations, stores, cottage industries, livestock pens/sheds etc.) or commercial structures.

- **Agriculture**

Farm properties mainly constitute permanent crops, trees, seasonal crops and vegetable gardens.

- **Natural Assets:**

These are unused farmland and natural forests - these sections are usually not inhabited however the benefits accrued will be lost to the communities that use them.

- **Public services and recreational grounds**

These include areas used by people permanently or periodically for activities that do not require built structures.

Loss of structures, residential or business premises may occur in instances where people have intentionally or unknowingly built on land earmarked for housing development for various purposes. However, if the sub project will be located in an area with an appropriate land use plan or other types of physical plans, the resulting impacts may be minimal as the area designated for development of housing project or delivery of serviced plots may be already well determined in the plan, set aside and known to all stakeholders. However, in most areas in Tanzania, there are

no concerted efforts for monitoring land use plans, thus most planned areas especially in urban areas are encroached upon by small by small business and by landless squatters and in /semirural /rural setups by farmers, livestock grazers etc. Thus in the event land is taken up all these uses will be impacted.

6.1.2 Loss of Rental Accommodation or Loss of Business Premises

Residential or business tenants will incur loss of rental accommodation or loss of business premises as in many places in Tanzania especially in urban area people rent premises for business or residential purposes.

6.1.3 Loss of Structures only (not land)

Encroachers and squatters may suffer loss of fixed structures but not land on which they are built.

6.2 PROJECT AFFECTED PEOPLE (PAPs)

Since the exactly locations of the sub-project that may cause resettlement are not yet known, at this stage it would not be possible to attempt to quantify the estimated likely number of people who may be affected due to the implementation of the HFP project. The likely project affected people (PAP) can be categorized into five groups, according to the nature of their loss namely;

- i) **Affected Property Owners** – are owners of land or owner of structures for business, residential or other purpose.
- ii) **Affected Tenants:** these are people who do not own property but rent house, premises or land for the respective purposes; This category of PAPs is classified in different sub-categories including residential tenants, business tenants, or farm tenants
- iii) **Affected Encroachers and other opportunistic land occupiers** – are persons who do not own land that they occupy or use and non-bone fide occupants and intruders of lands reserved for public or other uses. Encroachers in rural area occupy land for agriculture while in urban area may occupy land for residential / commercial purposes.
- iv) **Affected Squatters** - include persons or groups who have settled in place or in urban area, with and without official title to their land.

The affected properties, people and entities will be further detailed in the RAP once HFP sub-project activity and location are specifically known.

CHAPTER 7

ELIGIBILITY AND ENTITLEMENT

7.1 ELIGIBILITY FOR COMPENSATION AND RESETTLEMENT ASSISTANCE

After identification of types of losses due to land acquisition and corresponding project affected persons, the Developer will need to define compensation entitlement to various categories of affected people using criteria and entitlement matrix that sets standards for compensations.

Individual sub-project RAPs will need to further elaborate on amount of losses, ownership status, tenancy status, and any other relevant information.

7.1.1 Eligibility Criteria for Defining Various Categories of Project Affected People

According to the W Bank's OP 4.12 defines three criterions for eligibility:

- a) People or other entities who occupy or use land and have formal titles/ legal rights to assets and land recognized under the Laws of Tanzania - whether granted right of occupancy (Statutory Rights of Occupancy;) or a deemed right of occupancy based on customary laws and practices (Customary Rights of Occupancy); or proven and bona fide long standing occupation
- b) PAPs who have no legal rights or claim to land they occupy or use; and
- c) PAPs who have no formal legal right but own, use or occupied the land before the entitlement cut off date set during the RAP process.

It is the policy of the Tanzania to pay compensation or offer resettlement assistance to people whose land or property are affected by projects being undertaken. To achieve the objectives of WB OP4.12 and principles set out in this RPF. Those covered under a) and b) above are to be provided compensation for land they lose, and other assistance in accordance with the policy. Persons covered under c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy or use, and other assistance, as necessary. All persons included in a), b) or c) above are to be provided with compensation for loss of assets other than land.

7.1.2 Categories of displaced persons eligible for compensation

The OP. 4.12 further categorizes the displaced people eligible for compensation and resettlement assistance into four groups:

- a. Affected Individual who suffers loss of land, assets or investment, and property or access to natural or economic resources as a result of the project activities.
- b. Affected Household: in case any of its members is affected by the project activities either by loss of property, of access or otherwise affected in any way by project activities.
- c. Affected local community: If the project activities affect their socio – economic and/or social – cultural relationships or cohesion.

- d. Vulnerable Households: having different resettlement needs from most households or needs unrelated to the amount of land available to them such as un-married women, elderly, chronically ill persons and orphans.

7.1.3 Eligibility for Community Compensation

Local communities (villages, ward, districts, towns, etc.) permanently losing land and/or access to assets under customary rights will be eligible for compensation.

Therefore, it is clear that all affected persons and entities irrespective of their status or whether they have formal titles, legal rights or not, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date. Individual sub-project RAPs will need to further elaborate on amount of losses, ownership status, tenancy status, and any other relevant information.

7.2 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, i.e. the time when the project area has been identified and when the socio-economic study is taking place. Thereafter, no new cases of affected people will be considered. Persons who encroach the area after the socio-economic study (census and valuation) are not eligible for compensation or any form of resettlement assistance.

Method to Determine the Cut – Off Dates

When the Potential Developers approves the site screening results and decides to proceed with RAP preparation, she/he will meet with the Planning Authority (Local Government Authority) to discuss and agree on a programme of implementation of the RAP preparation exercise. They will also choose tentative cut-off dates. The dates would then be communicated to the community through their respective representatives in the Village/Mtaa Councils (i.e. Chairperson or Executive Officers) or District/Municipal Councils (i.e. Councilors).

It will be important to set a cut-off date early on in the RAP preparation process in order to avoid speculation and spurious claims. An appropriate cut-off date will possibly be the time when the tentative location of sub project is identified on the ground and when the baseline survey and the site-specific socio-economic study is undertaken. Persons occupying the project area after the cut-off date are not eligible for compensation or resettlement assistance. Similarly, fixed assets—such as built structures, crops, fruit trees and wood lots—established after the date of completion of the assets inventory, or / and alternative mutually agreed on date, will not be compensated. District/Municipal land officers and Mtaa /Village governments will play a crucial role in identifying users of land since most of them would have acquired their statutory or customary rights to use the land from the land office or their local customary heads or Village Government.

7.3 ENTITLEMENT

7.3.1 Categories of people entitled to compensation

WB OP4.12 requires the affected persons who suffer losses or are negatively impacted by the acquisition of land - irrespective of their status be eligible for resettlement entitlement or some kind of assistance.

Property Owners – Landowner who suffers loss of that land and property and/or access to natural and/or economic resources as a result of the sub projects activities and to whom compensation is due. Property owner may include individuals, households (one or more of its members) and vulnerable persons/groups who have built a structure for business, residential or other purpose on land that may be required by the project.

Residential Tenant – Are tenants of houses or structures, located on the project implementation area. Therefore there is likelihood that in some areas residential tenant’s will incur loss of rental accommodation or loss of business premises.

Business Tenant - is a non-property owner and workers of the business whoever operates the business activities in the area of a property owner who may be affected by the project.

Squatters, Encroachers and other opportunistic land occupiers- These are people who do not own land that they occupy or use; rather take advantage of undeveloped public or private land to erect permanent or semi-permanent structures without permission of the owner. They occupy land with no formal legal right or claim to the land. Encroachers and others may incur losses but are presently not considered eligible for compensation under the Tanzania law. Particular efforts are to be made not to negatively impact these people where possible, because this category of affected persons without official title is likely to be the larger group in urban area.

Other specific entities

- **Grave owners**

Individuals or households whose land contains graves that will be affected by the project are recognized for compensation.

- **Affected Community**

Communities who incur loss of property or asset owned by the community at large or are restricted use or access to resource will be compensated for the loss.

7.3.2 Standard Entitlement Matrix

The severity of impact, determines what the resettlement measures will be. Based on analysis of the impact of the project and eligibility policies, an entitlement matrix has been developed based on categories of affected persons according to losses and their entitlement benefits. The matrix proposes eligibility and payments for all kinds of losses. The entitlement matrix presented here below sets standards for compensations:

Table 7.1 Standard Entitlement Matrix

| CATEGORY of Project Affected People (PAP) | TYPE OF LOSS | ENTITLEMENTS | | | | |
|---|---|---|--|--|--|---|
| | | Compensation for Loss of Structures | Compensation for Loss of Assets | Compensation for Loss of Income | Moving Allowance | Other Assistance |
| Property Owners | Loss of land | --- | Replace land / pay compensation at market value; | Crops at market cost in scarce season | None | Land replacement at new site (for land-based income and livelihood). Disturbance Allowance |
| | Loss of structure residential or business; standing crops and trees | Compensation at full replacement value not depreciated | Permanent crops or trees at market cost in scarce season | For lost rental income Lump sum cash payment of 6 months rent per tenant Loss of business income: payment of half of turnover for 6 months | Actual cost of transporting 12t of goods by road for 20km | Disturbance Allowance Accommodation allowance |
| Residential Tenant: | Loss of rental accommodation | No loss of structure, no entitlement to housing at new site | Replacement cost for non-movables if installation was agreed with owner | No loss of income | Free moving if notification before deadline Actual cost of transporting 12t of goods by road for 20km | 6 months rent equivalent for disturbance |
| Business Tenant | Loss of rental business premises | No loss | Replacement cost for facilities that cannot be moved | For loss of business income, payment of half of turnover for 6 months | Free moving if notification before deadline Actual cost of transporting 12t of goods by road for 20km | |
| Encroachers (using land) | Loss of land | --- | Relocation to resettlement site of choice, with payment of rental fee for land. For crops, fences and wells, as above for owners | --- | --- | Food from Government during construction of new site |
| Squatters (living on site) | Loss of shelter | Compensation at full replacement value for structure | None | Payments in lieu of wages while rebuilding | | Disturbance Allowance |

CHAPTER 8

METHODS OF VALUING AFFECTED ASSETS AND COMPENSATION PAYMENTS

8.1 COMPENSATION ITEMS

The Bank policy on resettlement and compensation requires varying types of compensation provisions to displaced persons the nature and extent of which differ according to their legitimate claims, the type and extent of negative impacts incurred. OP 4.12 makes no distinction between statutory and customary rights. Thus under this RPF not only assets and investments will be compensated for, but also land. Thus compensation items include:

- value of the land;
- value of unexhausted improvements (dwelling house, other house structures, trees, crops, hedges/fences and other properties).

Compensation will be effected for any loss of interest on land and includes various kinds of allowances: disturbance, transport, accommodation and loss of profit.

Incidences requiring compensation include:

- Compulsory acquisition under the Land Acquisition, 1967.
- Transfer of categories of land under section 4(7) & 5(7) of the Land Act, 1999.
- Where land is declared to be hazardous land under section 7(8) of Act No. 4 of 1999
- Where land is declared to be under regularization as per section 60(7)(f) & 60(3)(b) of the Act No. 4 of 1999.
- Where revocation of a Right of Occupancy under section 49(3) of Act No. 4 of 1999.

8.2 METHODS OF VALUING AFFECTED ASSETS

The following general methodologies are applied to value losses:

- a. Estimation of the market value when it is known and/or
- b. Estimation of the replacement costs.

The calculation of compensation and other resettlement allowances for displaced property owners is based on directives of the Land Act, 1999 and Land (Assessment of Value of Land for Compensation) Regulations, 2001. The Act / Regulations stipulate compensation to be paid is the market value of the affected land, structure or asset (direct comparison method) and standing crops (earnings approach) as determined by the valuation assessments. This generally is in agreement with resettlement measures required by the WB OP4.12 which recommends compensation at full replacement value (not depreciated) and replacement of land for land where appropriate. In this RPF recommended compensation is full replacement value added with allowances.

Valuations methods for affected land and assets would depend on the type of asset. The land asset types identified under Tanzania law in this policy framework are:

- State Land (not within the jurisdiction of a village)
- Village Land, (including customary rights of villagers)

8.2.1 Methods for Valuing State Owned Land

State owned land if not in use would be allocated free (perhaps except for surveying and registration fees). However, the Developer of the HFP housing sub projects would be expected to

pay to acquire land in this category in cases where the state-owned land is being used by another user. This is because, although state owned, the land may be used by individuals and/or community. The guiding principle is that whoever was using the land to be acquired by the sub project would be provided other land of equal size and quality.

8.2.2 Methods For Valuing Assets Held Under Customary Rights On State Owned Land

Assets held under customary rights on state owned land would have to be valued according to the following method and compensation paid: the respective Planning Authorities (LGA) will value and the Potential Developers will duly compensate for assets and investments, including land, labor, crops, buildings, and other improvements, according to the provisions of the resettlement and compensation plan. Compensation rates will be market rates as of the date and time that the replacement is to be provided. The current prices for cash crops would have to be determined. Compensation would be based on valuation at or before the entitlement cut off date in compliance with this policy.

8.2.3 Valuation of Various Categories of Assets and Relocation Assistance

The Valuer should conduct market survey to determine the current replacement costs and open market values. For this RPF, the Valuer adopt the Replacement Cost Method i.e. cost of replacement or selling the affected property (e.g. cost of construction materials, price of buying and selling land and transportation costs, labour) at the date of valuation. To this various allowances will be added according to legitimate claims, and the type of loss incurred. Valuation shall be undertaken using the following methodology details of which are found in Annex 4. The Valuation Division in the Ministry of Lands and Human Settlement Development has developed guidelines on methodologies for valuing properties and compensation rates for crop including various fruits

9.2.3.1 Market value of the real property (i.e. value of un-exhausted improvement and land).

These will have been arrived at either on:

- Market Value Basis- by Direct Comparison Valuation Technique
- Earnings Approach
- Cost Approach.

- ***Buildings***

Replacement cost - entail re-building a similar building to one displaced by the project (same design and layout, specifications, standard of workmanship. Allowance for factors affecting property market value is considered as adjustments but not depreciation factor.

- ***Land***

Values are assessed based on the average price of land at specific area.

- ***Crops***

Use the crop compensation rates including various fruits developed by the Valuation Division in the Ministry of Lands and Human Settlement Development; also available at Region/District Valuation office.

9.2.3.2 Relocation allowances

- ***Disturbance allowance:***

This is transitional assistance - provided to eligible property owners paid in addition to the compensation value of the affected assets/properties. Disturbance is paid in the following situations:

- In the case of an individual property/land owner whose property/land is being acquired for the proposed project or
- Where an earmarked project site has been subsequently abandoned in favor of another site and the landowner of the abandoned site was required to relinquish his interest over the land.
- Where during the course of executing the proposed project an individual's interest in land suffered proven physical damage/disturbance. Disturbance shall be assessed as a percentage of the value of the property acquired as provided by the Land Act No. 4 of 1999.

The Valuer calculate disturbance allowance accordingly by multiplying the assessed value of the affected "estate" (i.e. land not assets) by the average percentage rate of interest offered by commercial banks on twelve month fixed deposits. These amounts, in cash, are to be paid to each property owner.

- ***Accommodation allowance***

This is cash allowance provided to displaced people who lose houses and other structures. The allowance will enable them to cover cost for renting similar houses or structures for a period of three years while re-establishing themselves elsewhere. The Valuer calculate accommodation allowance by multiplying the assessed monthly market rent (applied value bands based on a market survey of rental properties in the respective project coverage areas) for the affected building or part of the building by 36 months (i.e. Rent/p.m. x 36 Months).

- ***Transport allowance:***

Provided to eligible property owners who will need to relocate (even if only over a very short distance) their movable properties and assets – furniture, equipment, and business goods to a new location. The transport allowance paid in cash – only to PAPs who are to physically move, is the equivalent of the prevailing cost of hauling 12t of goods by rail or road over a distance of 20km from the point of displacement. Transport allowances shall be actual cost of transporting 12tons of luggage rail or road (whichever is cheaper) within 20 Kilometers from the point of displacement (i.e. 12tons x Actual Cost/ton/km x 20km).

- ***Compensation for loss of income (rental accommodation, business profit, crops):***

Payment to displaced person the loss of profit allowance whereas a business or income generating operation is affected by land acquisition. The regulation require the loss of profit allowance to be calculated as the net monthly profit of the business carried out on the affected property, as evidenced by audited accounts, where available, multiplied by 36 months (i.e. Net Profit/p.m. x 36 Months).

Another alternative payment modes is payment of half of turnover for 6 months. Whereas the property owner lose rental income (due to displacement of house or business premise tenants), he/she is paid lump sum cash payments of 6 months rent per tenant.

NOTE:

- Many of the affected businesses could be small enterprises without proper records so the Valuer could substitute the loss of profit allowance with loss of accommodation allowance.
- Loss of income or food sources in respect of small plot farmers could be covered by cash compensation paid for standing crops and trees.

- ***Calculation of total compensation figure/ inflation premium for 6 months delay***

Property replacement cost (calculated differently for houses, structures, crops and trees) + land values + accommodation allowance + transport allowance + disturbance allowance (+ loss of profit where applicable). Thus, a customary landowner or land user on state-owned land, will be compensated for land, assets, investments, loss of access etc. at market rates at the time of the loss. If payment is delayed by more than six months, an inflation premium, equal to 1% plus the official rate of inflation (using consumer price index, CPI), will be added to the agreed upon sum.

NOTE:

- Transport, Accommodation and Loss of profits allowances shall not be paid for unoccupied land.
- Accommodation and Loss of profit shall not be paid concurrently in respect of the same property except where the property is used for both residential and business purposes.
- Accommodation and Loss of profit shall only be paid to the property owner and not tenant(s).

8.3 FORMS OF COMPENSATION PAYMENTS FOR VARIOUS ELIGIBLE PAPS

The project may affect a variety of properties and assets which should all be screened as for their value and their eligibility for due compensation. To settle compensation payments for the loss of assets, in accordance with OP.4.12, compensation may be made any and/or more of the following forms:

- a. Cash payments – compensation calculated and paid in Tanzania shillings
- b. In kind-compensation may include item such as land, houses/other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
- c. Assistance – to include moving allowance, transportation and Labour.

Thus, Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice although every effort will be made to instill the importance and preference of accepting in kind compensation if the loss amounts to more than 20 percent of the total loss of subsistence assets.

Making compensation payments raises some issues regarding inflation, security and timing that must be considered. One purpose of providing in-kind compensation is to reduce inflationary pressures on the costs of goods and services. Local inflation may still occur, thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The question of security, especially for people who will be receiving cash compensation payments needs to be addressed by the Potential Developers and respective Local Planning Authorities. The time and place for in-kind compensation payments will be decided upon by each recipient in consultation with the Potential Developers and Planning Authorities.

CHAPTER 9

ORGANIZATIONAL PROCEDURES FOR THE DELIVERY OF ENTITLEMENTS

Entitlement for project affected people would range from cash payments and/or building materials to the provision of new land, new homes and compensation for other lost properties in accordance with the identification of the impact on their property to which they will have needed to agree. The delivery of compensation could involve a number of agencies, the government, and the Potential developer.

9.1 PAYMENTS FOR THE VARIOUS ENTITLEMENTS TO DISPLACED PERSONS

Payment of compensation and other entitlement to project affected people will be the responsibility of the Developer of the housing sub-project under its administrative and financial management rules and manuals. If the Developer so wishes, compensation (and resettlement) will be funded like any other activity eligible under the Housing Finance Project (HFP) or the Developer can use own resources to effect compensation payment. Funding for compensation would be processed and effected like other items in the subproject project proposal submitted by the Developer to the lender (Commercial Bank, MFI, other agencies). Consequently compensation /resettlement funds could also be part of the financial request submitted to the HFP Project Administration Team responsible for processing, procurement arrangements and payments on behalf of Implementing Unit (BOT/TMRC, FSDP, MLHSD). The Team will comply with the financial arrangements agreed upon at project appraisal.

9.2 KEY ASPECTS IN THE PROCESS ENTITLEMENT DELIVERY

The compensation process will involve several steps and would be in accordance with the individual project resettlement and compensation plans, significantly;

(i) Public Participation

For some of the residential buildings and other active land-uses that require resettlement and compensations, the Potential Developers would initiate the compensation process as part of an ongoing process that would have started at the land selection/screening stage and at the time the socio-economic impact assessment is being carried. This would ensure that no affected individual/household is simply “notified” one day that they are affected in this way. Instead, this process seeks their involvement and wishes to inform communities in a participatory approach with the project, from the beginning.

(ii) Notification of land resource holders

The Potential Developer involved in identifying the land will notify the respective District/Municipal Council, Ward Development Committee (WDC), Village/Mtaa Council and community inhabitants who will help to identify and locate the property users. There will be both formal and informal notification. In addition the local leaders: Community Executive Officers MEO/VEOs, Village/Mtaa Committees and individuals who control land will accompany the survey teams to identify sensitive areas.

(iii) Documentation of Holdings and Assets

The Potential Developer in collaboration with Village/Mtaa officials and District/Municipal Officers will arrange meetings with affected individuals and/or households to discuss the compensation process. For each individual or household affected, the District Land Officer/Valuer will complete a compensation dossier containing necessary personal information on the affected party and those that she/he claims as household members, total landholdings, inventory of assets affected, and information for monitoring their future situation. This information is confirmed and witnessed by the Local leaders and District /Municipal Officials. Dossiers will be kept current and will include documentation of lands surrendered. Each individual will be provided a copy of the dossier at the time of negotiations. This is necessary because it is one way in which an individual can be monitored over time. All claims and assets will be documented in writing.

(iv) Agreement on Compensation and Preparation of Contracts

All types of compensation will clearly explained to the individual or household. The Developer draws up a contract, listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind compensation - an order form, which will be signed and witnessed. The compensation contract will be read aloud in the presence of the Developer and the affected party, District officials (Land, Valuation), Village/Mtaa officials and other local leaders prior to signing.

(v) Compensation Payments

All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party and the Mtaa/village/Ward officials.

9.3 COMMUNITY COMPENSATION PAYMENTS

Community compensation will be in-kind only for a community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent better standard to that being removed to give way to the HFP sub projects. Examples of community compensation include;

- School building (public or religious)
- Public toilets
- Well or pump
- Market place
- Road
- Storage warehouse

No sub project will be approved that requires the displacement of additional persons for compensation or relocation.

CHAPTER 10

IMPLEMENTATION PROCESS AND LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS

Before any HFP sub-project activity is implemented, people who are affected and have been determined to be entitled to compensation will need to be compensated in accordance to the policy and the resettlement policy framework. In particular, the 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.

Sub-projects involving land acquisition: 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.

Sub-projects activity requiring relocation or loss of shelter: Measures to assist the displaced persons be implemented in accordance with the sub project's resettlement plan of action.

The measures to ensure compliance with this policy directive will be included in the resettlement and compensation plans that will be prepared for each land involving resettlement or compensation. When the Potential Developers present their resettlement and compensation plans to the Commercial Banks / MFIs and other Financing entities under the HFP and finally to the Implementing Agencies (BOT/TMRC, FSDP, MLHHS) part of the screening process that the Borrower /project implementing institutions will use to approve recommended sites will be to confirm that the resettlement and compensation plans contain acceptable measures that link resettlement and compensation activity to civil works in compliance with this policy.

The timing mechanism of these measures will ensure that no individual or affected household will be displaced due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or household affected. Once the resettlement and compensation plan is approved by the project implementing institutions, the resettlement and compensation plan, will, at the discretion of the Bank, be sent to the World Bank for final review and approval.

CHAPTER 11

GRIEVANCE REDRESS MECHANISMS

During consultation processes and at various fora, the extent of damages to properties should be made known. When the amount of compensation to be paid is made known, the affected people have the right to appeal if not satisfied. The grievances could be various but commonly concerning:

- Non-fulfillment of contracts;
- Levels of compensation i.e. inadequacy of compensation paid; or
- Seizure of assets without compensation
- Etc.

11.1 MEDIATION THROUGH COMMITTEES AT LOCAL AND DISTRICT LEVELS.

When grievance entails any of the above, the grievance procedure shall be simple, administered as far as possible at the local level to facilitate access, flexible and open to various proofs taking into cognizance of the fact most people are illiterate and poor requiring a speedy, just and fair resolution of their grievances. The Local Government Authorities system not being a party to the contracts would be the best offices to receive handle and rule on disputes.

All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by first notifying the their Local Government and Ward offices. If not resolved the matter would be sent to higher local authorities - the District Commissioner (DC) and/or the Municipal/District Executive Director (DED). The DC/DED may constitute a valuation/compensation committee that will consult with the Developers and respective local governments (Ward/Village/Mtaa), the Value assessors and other records to determine claims validity. If valid, through the local government administration will notify the complainant and she/he will be settled.

If a complaint pattern emerges, involving several cases the DC/DED and the valuation/compensation committee will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once the District level leadership has agreed on necessary and appropriate changes, then a written description of the changed process will be made. The lower level government offices (Ward and Village/Mtaa) will be responsible for communicating any changes to the population.

Local NGO's could be engaged by the Potential Developers to mediate disputes.

11.2 APPEALS THROUGH TRIBUNALS / COURT SYSTEM

Failure of the Councils to settle the disputes will be addressed to the existing tribunals and/or local courts system of administration of justice in the Districts.

If the complainant's claim is rejected, then the matter will be brought before the Land Tribunals and/or the local courts for settlement. If the matter cannot be settled by the local courts and/or the Ward/District Land Tribunals, the matter will go the High Court for resolution. The Court of Appeals of Tanzania will be the highest appellate "judge" in this system and its decision would be final.

All effort should be made to ensure decisions are reached within a full growing season after the complaint is lodged.

11.3 TIME FRAME

In the local cultures it takes people time to decide that they are aggrieved and want to complain. Therefore, the grievance procedures will give people up to the end of the next full agricultural season after surrendering their assets to set forth their case.

CHAPTER 12

ARRANGEMENTS FOR FUNDING RESETTLEMENT AND COMPENSATION

12.1 SOURCES OF FUNDS

Funds for carrying out the socio-economic baseline and inventory assessments as well as all resettlement related costs (land acquisition, relocation, training, consultations etc) will be provided to the Developer under the HFP request for fund to implement the sub-project as a whole.

12.2 COST ESTIMATES

Detailed estimates for the surveys and resettlement component will be available following the socio-economic baseline and inventory assessment, including information on specific impacts, individual and household incomes and numbers of affected people. At this stage, it is not possible to estimate the likely number of people who may be affected since the exact locations of the sub projects have not yet been identified. When these locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data would be available, thus facilitating the Developer in preparation of a detailed and accurate budget for resettlement and compensation.

12.3 PAYMENT PROCEDURES

Payment will be made in a manner that complies with the administrative and financial procedures of the Lender (e.g. Commercial Bank) and those of the HFP implementing agencies BOT/TMRC, FSDP. The budget in the resettlement and compensation plans will be subject to the approval of the Bank of Tanzania.

12.4 INDICATIVE BUDGET

At this stage however, all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features that the budget must contain, inter alia, as follows;

Table 12.1: Tentative Budget*

| Budget item | Amount (USD) |
|--|---------------------|
| Preparation of RAPs | 60,000 |
| Compensation for land | 300,000 |
| Compensation for immobilization and other assets | 800,000 |
| Assistance for transportation and other allowances | 120,000 |
| Cost of supervision | 70,000 |
| Cost of independent audit | 50,000 |
| Contingencies | 100,000 |
| Total estimated budget | 1,500,000 |

*This budget is indicative and will be adjusted as needed during implementation and in accordance with the results of the surveys and socioeconomic studies that will be conducted for the RAPs.

CHAPTER 13

MECHANISMS FOR CONSULTATIONS WITH, AND PARTICIPATION OF DISPLACED PERSONS

13.1 RATIONALE FOR CONSULTATION WITH DISPLACED PERSONS

Consultation with affected persons is the starting point for all activities concerning resettlement. As a matter of strategy, public consultation shall be an on-going activity taking place throughout the entire project cycle. The justifications for consultations are:

- In principal, the socioeconomic situation in Tanzania makes public consultation with the communities, indispensable.
- The land in question will be under use of some sort, communally, or individually.
- It is the local communities who will be host communities for the displaced people
- Local communities have a wealth of knowledge of local conditions - an invaluable assets to the Developer.

In recognition of this, particular attention would be paid to public consultation with potentially affected individuals/households when resettlement and compensation concerns are involved.

13.2 KEY ASPECTS REQUIRING CONSULTATIONS

Consultation with displaced persons will take place early in the process of RAP preparation. The participation strategy would evolve around the provision of a full opportunity for involvement. This process would not be an isolated one because of the very nature of the project, which through its implementation and design ensures continuous public participation and involvement at the local level. For example, public consultation would also occur during

- Initial site selection and
- Preparation of the socio-economic study;
- Resettlement and compensation plan and
- Drafting and reading of the compensation contract.

13.3 MEANS AND CHANNELS

Public participation and consultation would take place through meetings, radio programs, request for written proposals/comments, filling in of questionnaires/forms, public readings and explanations of project ideas and requirements, making public documents available at the District, Town, Division, Ward and Mtaa/Village levels at suitable locations like the Municipal Hall, District Council Hall, official residences/offices of local leaders. These measures would take into account the low literacy levels prevalent in these communities by allowing enough time for responses and feedback.

Notwithstanding, the best guarantor for public interest are Local Councilor who are responsible members of their local communities and can inadvertently be part of the potentially displaced individuals/households either in part or in whole.

Monitoring of this process would be through the Potential Developer Coordinators and District Environment Management Officer³ as part of the individual resettlement and compensation plans and overall the monitoring and evaluation mechanism of the entire project. This requirement is line in with the Bank policy on disclosure.

³ The National Environment Management Act Cap 191 requires all Local Government Authority to appoint or designate District/Mtaa/Kitongoji Environment Officers to oversee environmental and relocation and related matters within their area of jurisdiction

CHAPTER 14

ARRANGEMENTS FOR MONITORING

14.1 OBJECTIVES OF RESETTLEMENT MONITORING

The purpose of resettlement monitoring is to measure whether the objectives of this resettlement framework (through development and implementation of sub-project RAPs) have been met. The design of a resettlement monitoring framework in a RAP will include:

- (i) Mechanism to alert project authorities to the necessity for land acquisition in a subproject,
- (ii) Mechanism to provide timely information about the valuation and negotiation process,
- (iii) Reporting on grievances that require resolution, and
- (iv) Documentation of timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary losses, as well as unanticipated, additional construction damage.

14.2 ARRANGEMENTS FOR MONITORING

The arrangements for resettlement monitoring will be built into the overall monitoring framework of the entire HFP project, which will be through the Bank of Tanzania. The Potential Developers and Banks/MFIs will be responsible for periodically transferring the information compiled at Regional and District level to the Project Administration Unit at the Bank of Tanzania so that it is alerted in a timely manner to any difficulties arising at the local level.

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

- (i) if affected people have been paid in full and before implementation of the housing sub-projects ,
- (ii) if the people who were affected by the sub-projects have been affected in such a way that they are now living a higher standard than before, living at the same standard as before, or they are actually poorer than before.

14.3 MONITORING INDICATORS

14.3.1 General Monitoring

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

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

In order to access whether these goals are met, the resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.

14.3.2 Measuring Resettlement and Compensation Plans Performance

For example the following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance;

- Questionnaire data will be entered into a database for comparative analysis at the Developers office
- 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.
- The Developer will maintain a complete database on every individual impacted by the HFP financed housing projects land use requirements including relocation/resettlement and compensation, land impacts or damages
- Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
- Proposed use of payments
- The number of contentious cases out of the total cases
- The number of grievances and time and quality of resolution
- Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
- Number of impacted locals employed by the civil works contractors
- Seasonal or inter-annual fluctuation on key foodstuffs
- General relations between the project and the local communities

The following indicators will be used to monitor and evaluate the implementation of resettlement and compensation plans;

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

Financial records will be maintained by the Developer to permit calculation of the final cost of resettlement and compensation per individual or household. Each individuals receiving compensation will have a dossier containing;

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

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

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

Each time land is used by the project; the dossier will be updated to determine if the individual or household is being affected to the point of economic non-viability and eligibility for compensation/resettlement or its alternatives. These dossiers will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received, and signed for.

It is normal that some compensation procedures and rates may require revision at some time during the project cycle. The Developer will implement changes, using feed back from:

- Indicators monitored by the Local government offices to determine whether goals are being met, and
- A grievance procedure for the local community to express dissatisfaction about implementation of compensation and resettlement.

14.4 INDEPENDENT MONITORING

This framework is suggesting that the office of the National Environmental Management Council (NEMC), in Tanzania is structured into the whole monitoring and evaluation component of the project. This would give NEMC the mandate to carry out independent monitoring of the implementation of the resettlement and compensation plans at periodic intervals of quarterly or half yearly (as circumstances dictate) during the project life. Their report would then be sent to the project implementing institutions – Bank of Tanzania and become part of the official documents of the project.

REFERENCES

1. NEMC, (1997), The EIA Procedure and Guidelines
2. URT, (1967), The Land Acquisition Act No 47 of 1967
3. URT, (1977), The Constitution of the United Republic of Tanzania of 1977
4. URT, (1982), The Local Government (District Authorities) Act. No. 7 of 1982
5. URT, (1982), The Local Government (Urban Authorities) Act. No. 8 of 1982
6. URT, (1994), The National Environmental Action Plan
7. URT, (1996), The National Land Policy, 1996
8. URT, (1997), The National Environmental Policy
9. URT, (1999), The National Land Act, Cap 113
10. URT, (1999), The Village Land Act, Cap 114
11. URT, (2001), The Land Act No. 4 Regulations 2001 subsidiary Legislation (Supp. No. 16 of 4th May 2001)
12. URT, (2001), The Village Land Act, No 5, 1999 and Subsidiary Regulation of 2001.
13. URT, (2002), The Land (Assessment of the Value of Land for Compensation) Regulations, 2001 and the Village Land Regulations, 2002
14. URT, (2002), The Land Disputes Court Act. 2002 (Act N0.2 of 2002)
15. URT, (2003), The Environmental and Social Management Framework and Resettlement Policy Framework for the Local Government Support Programme (LGSP), 2003.
16. URT, (2003), The Participatory Agriculture Development and Empowerment Project (PADEP), Resettlement Policy Framework: February 2003
17. URT, (2004), TASAF II Resettlement Policy Framework, TASAF, 2004.
18. URT, (2004), The Environment Management Act 20 of 2004
19. URT, (2007), The Land Use Planning Act of 2007
20. URT, (2007), The Urban Planning Act of 2007
21. URT, (2008), The Financial Leasing Act, 2008 (Act No. 5/08).
22. URT, (2008), The Mortgage Finance (Special Provisions) Act, 2008
23. URT, (2008), The Unit Titles Act, No 17 of 2008,
24. World Bank (2004), Involuntary Resettlement Policy OP 4.12 (Revised April 2004),
25. World Bank (2009), Project Appraisal Document For a Tanzania Housing Finance Project, September 16, 2009

ANNEX 1: LIST OF INDIVIDUALS/INSTITUTIONS CONTACTED

| Date | Name of institution | Name of person met & Contact | Position/Title |
|-------------------------|---|--|---|
| 29 th /9/09 | Bank of Tanzania Strategic Planning Performance Review | Mr. Joseph M. B. Massawe (0684783346, jmmassawe@hq.bot-tz.org) | Director |
| 29 th /9/09 | Bank of Tanzania Technical Assistance Coordination Manager | Mr. Marcus Mbawalla (0754-596755, 0684-596755) | Manager |
| 30 th /9/09 | Ministry of Lands Housing & Human Settlement Development | Mr. Charles Mafuru (0784-662955,0713262955, mafurucm@yahoo.co.uk , mafurucm@ardhi.go.tz) | Assistant Director Housing Finance |
| 30 th /9/09 | Kinondoni Municipal Council | Ms. Nuru Teddy Kinawiro (0715-377287,) | Municipal Town Planner |
| 30 th /9/09 | Kinondoni Municipal Council | Mr. Einbard Chidaga (0754-635198,0788-245145, einard_norbert@yahoo.com) | Principal Valuer |
| 01 st /10/09 | National Housing Corporation | Mr. Antony A. Komba (022 2851439/0754880863) akomba@nhctz.com | A.g. Managing Director/ Director of Finance and Administration |
| 01 st /10/09 | National Bank of Commerce | Mr. Yohane I. Kaduma (0767 210360) yohanek@nbctz.com | Head of Corporate Banking |
| 02 nd /10/09 | CRDB Bank Limited | Mr. Obed Paul Warikoi 0752 009009/0787 498787 obedwarikoi@yahoo.com | Manager Credit |
| 02 nd /10/09 | NMB | Mr. Richard M. Mwakalukwa 0784 616181 Richard.mwakalukwa@nmbtz.com | Head, Credit Risk Department |
| 02 nd /10/09 | NMB | Noelah Miriam Bomani 0767033510/0778033510 Noelah.bomani@nmbtz.com | Executive Personal Assistant CEO Office |
| 02 nd /10/09 | Azania Bank Limited | Mr. Jackson Lohay (MTIQS) 2118010/110784 313284 jlohay@azaniabank.co.tz | Principal Credit Officer |

ANNEX 2: DETAILED HFP PROJECT DESCRIPTION AND TOR

CONSULTANCY SERVICES FOR PREPARATION OF RESETTLEMENT POLICY FRAMEWORK FOR THE PROPOSED HOUSING FINANCE PROJECT IN TANZANIA

1. Introduction

These Terms of Reference (ToR) are for the preparation of a Resettlement Policy Framework (RPF) for the proposed Housing Finance Project (HFP) in the United Republic of Tanzania. Project financing is expected to come from the World Bank as an investment loan to the United Republic of Tanzania through the Bank of Tanzania (BOT) as an implementing agency. The project's main objective is to expand access to affordable housing finance under market based conditions for the purchase, construction or upgrading of residential housing. The project intermediary objectives are: (i) to improve access to long-term housing mortgage finance, progressively mobilized through the domestic capital market; (ii) to develop access to medium-term housing micro-finance; and (iii) to expand the supply of affordable housing by private developers.

Although the specific project location is not known at this stage, it is envisaged that some investments through HFP are likely to involve involuntary resettlement, and/or acquisition of land and restriction of access to assets and resources issues that must be addressed before the subprojects are approved. The preparation of the RPF is one of the requirements by the World Bank to be fulfilled by the borrower (the government of Tanzania) before the loan for the proposed HFP is approved. Since the exact project subcomponents and their sites will only be identified during project implementation, a RPF has to be prepared to assist the BOT in designing and implementing strategies that would assist in appropriately handling any anticipated issues related to involuntary resettlements, and/or acquisition of land and restriction of access to assets and resources during the implementation of the proposed HFP. The RPF will therefore define the scope of the Resettlement Assistance Programme interventions.

2. Background Information

Tanzania, like other African countries, suffers from a severe shortage of good quality housing. The shortage is growing every year, compounded by the lack of long-term housing finance, the lack of a formal residential housing construction sector, difficulties with land rights and rapid population growth and urbanization. Developing access to housing finance will help improve affordability and construction standards, and encourage the private sector to take a greater role in the provision of housing. The project includes the development of mortgage and housing-microfinance instruments in an effort to cater for different segments of the income distribution.

The passing of the Mortgage Finance (Special Provisions) Act, 2008 has created a lot of momentum in government for the development of housing finance. In addition, the enactment of Unit Titles Act, No 17 of 2008, has significantly improved the prospects for mass housing production and the demand for mortgages. Many of the banks in Tanzania are in the process of developing a strategy for mortgage lending. The current impetus for the project has come from both the private sector, which needs long-term funding, but also from the government and Bank of Tanzania who want to see increased investment into housing resulting from the new mortgage law. However, long term financing for housing remains scarce at present, in part because lenders do not have reliable access to sources of long term finance.

HFP builds on analytical work carried out over the past three years by the BOT and the Government with the support of the World Bank in the framework of the Financial Sector Support Project (FSP), in particular under the financial markets and long-term finance components of FSP. It has also benefited from reports funded by the FIRST Initiative (Financial Sector Reform and Strengthening Initiative) which were completed by the Urban Institute.

2.1 Preliminary Project Description

The project has three components which will be delivered in four phases (Appendix I and II). This approach will allow the necessary preparatory and capacity building work to be done in each phase of the project to ensure success. The three components are as follows:

I - Development of the Mortgage Market – This component focuses on the creation of the mortgage liquidity facility (MLF), which would provide the long term funds necessary for mortgage lending. It would also include a ‘kick start’ phase where the World Bank loan would be used to directly fund banks, to build up a critical mass of mortgages in the system before the liquidity facility can start its operations. The World Bank loan will provide the facility with its initial funding base, which could then be renewed through a follow-on loan depending on the evolution of the domestic capital market. As domestic capital market conditions permit, World Bank lending to the facility would be phased out and initial bond issuance by the facility could be supported by a World Bank partial credit guarantee (PCG). Alongside the mortgage liquidity facility, capacity building would be provided including the IFC mortgage toolkit. The toolkit will provide lenders with a standardized set of documentation, manuals and processes for developing a mortgage product line.

II - Development of Housing Microfinance – Income levels across most of Tanzania remain low and housing-microfinance may be better suited than conventional mortgages to the needs of many borrowers. An initial study would assess the potential to develop this product and look at how the liquidity facility could help in providing longer term funds to allow loans for up to 5 years or longer to be granted. Regulatory reform and capacity building around this product will also be necessary to foster a safe lending environment. Phases 3 and 4 of this component will involve a housing microfinance pilot scheme, as well as practical support to lenders intent on developing their portfolios.

III - Expansion of affordable housing supply – Work will be undertaken to help develop a vibrant private developer market catering to the housing needs of different segments of the income distribution. A range of measures will be taken including improving the availability of serviced land for residential development, and construction finance for developers; promoting the use of low cost construction technologies; and regulatory measures concerning building codes and planning bylaws.

Of the three components, the expansion of affordable housing supply is the most likely to trigger resettlement through acquisition of land for large-scale housing construction.

2.1 Target areas/Geographical focus

The project itself will not be region specific, as it is more about creating the institutions and environment for housing finance which would apply across the country. However, the demand for mortgage loans, housing micro-finance and for the expansion of housing supply will likely be in urban areas and other centers of economic activities.

2.2 Project coordination and implementation arrangements

HFP will be implemented through a number of government agencies, financial institutions and private developers in Tanzania, all coordinated by and accountable to, the BOT as the implementing agency. Essentially, expansion of affordable housing supply will involve four major activities, namely, (1) the financing, which will be administered through the BOT; (2) land delivery, including (planning, land surveying, payment of compensation; installation of infrastructure and conveyance), (3) issuance of building permit, and (4) construction.

The Planning Authorities for particular urban area in consultation with the potential developer will be responsible for project site selection. This is the stage which determines the physical extension of the project and thus its impact on the sitting landholders. Town planning drawing incorporating the proposed projects site will be prepared and submitted to the responsible Committee Urban Planning for endorsement and finally approved the Ministry of Lands.

In case involuntary relocation is unavoidable and upon receiving the planning consent by the government agencies, the sub borrower will have the obligation present his/her relocation policy to seek for the consent of the BOT prior to making further financial commitments for the proposed housing scheme. It will be the responsibility of the BOT to ensure that the requirements of the RPF are implemented.

3. Context and Objectives of the RPF

These ToR are for the preparation of RPF to deal substantively with the policy requirements for Involuntary Resettlement (OP/BP 4.12). The application of this policy will depend on how land will be acquired for subprojects implementation. It is likely that investments in any of the 3 Components will involve involuntary resettlement and/or land acquisition or restriction of access to resources which will need to be managed through a RPF. Critical to the Project, the policy covers not only physical relocation, but any loss of land or other assets resulting in: (i) relocation or loss of shelter; (ii) loss of assets or access to assets; and (iii) loss of income sources or means of livelihood, whether or not the affected people must move to another location. Although Component 3 might be mainly a technical assistance (TA) that does not directly trigger any policy, as a result of the technical advice provided, it may indirectly involve involuntary resettlement and/or land acquisition.

The Framework should identify all possible socioeconomic issues that may arise as a result of the implementation of the proposed HFP that if unmitigated would give rise to severe economic, social and environmental risks. These include: dismantled production system; people facing impoverishment when their productive skills may be less applicable and competition of resources is greater; community institutions and social networks that are weakened; kin groups dispersed, and cultural identity, traditional authority and the potential for mutual help diminished or lost. The identification of all these risk would assist in defining the scope of the Resettlement Assistance Programme for affected persons.

In view of the above, the proposed HFP would be consistent with the objectives of OP 4.12 as outlined below:

- Avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs.
- Assist displaced persons in improving their former living standards, income earning capacity, and production levels, or at least in restoring them.
- Encourage community participation in planning and implementing resettlement.
- Provide assistance to affected people regardless of the legality of land tenure.

4. Scope of Work

This study will cover both Tanzania mainland and Zanzibar. The Consultant will be required to undertake desk research, interviews and some field work needed to develop:

- (i). A detailed **description of the project**. Provide more detail of those components and/or activities which trigger OP/BP 4.12, especially those requiring land acquisition, resettlement, and/or restricts access to assets and natural resources. Explain why a Resettlement Action Plan (RAP) cannot be done at this time.
- (ii). **Legal Frameworks**. Review relevant national laws especially with regards to land ownership and tenure rights, taking of land and other assets, access to resources, as well as any other items worth noting. Make this section as extensive as is warranted by the Project in question. Summarize what laws and regulations may apply to different categories of affected people. Set out any requirements of the World Bank for resettlement those apply to the types of cases that may arise in the Project. Analyze all gaps between national and World Bank requirements, and say how such gaps may be bridged.
- (iii). **Establish Possible Categories of People and Groups that might be Affected**. Include groups that might be impacted, categories of impacted people and degree of impact. This will be further detailed in the RAP once activity and location are specifically known.
- (iv). **Eligibility Criteria for Various Categories of Affected People**
Determine the method for setting a cut-off date for eligibility for compensation. RAPs will need to further elaborate on amount of losses, ownership status, tenancy status, and any other relevant information. Identify who and how impacted persons will be impacted, who will determine eligibility, and how process will work. What measures will be put in place to bridge any gaps. If there are discrepancies between World Bank requirements and government requirements, World Bank policies will prevail.
- (v). **Valuing of Possible Assets to be Affected**. Describe method(s) by which assets will be valued and deemed eligible for compensation. Explain methods for inventorying assets, assigning values to each type of asset, and terms of agreements for affected persons and groups. Provide, if possible, a table showing expected types of people impacted, types of losses, compensation actions and estimated amounts.

- (vi). **Procedures for Preparing RAP.** Describe process by which RAPs will be prepared, approved, and monitored once impact location is known. In essence, this section should describe the process by which individual RAPs for subprojects will be prepared and submitted to Project authorities, considered and approved, and how entitlements will be delivered. It involves specifying whether some or all RAPs should be reviewed by the Bank, and how it will happen.
- (vii). **Consultation with, and Participation of, Affected People:** Describe how people affected by particular subprojects will be consulted throughout the process of preparing RAPs.
- (viii). **Schedule for Implementing Resettlement Provisions**
Set out the schedule by which resettlement will arise and be treated, both in terms of the overall management of the Project and the flow of subprojects. Describe how activities trigger safeguard policies and what actions will be taken to ensure due process. Include how RAP will be implemented, how compensation will be paid, and other implementation related activities.
- (ix). **Delivery of Compensation.** Describe organization and procedures for delivery of compensation including responsible agencies.
- (x). **Grievance Redress Mechanisms.** Describe the mechanisms available to affected people for complaints about aspects of their resettlement treatment. Show how the mechanism will be accessible (include: language, distance, and cost) to affected people, and what recourse/appeal from the local grievance mechanism may be available.
- (xi). **Funding.** Describe how compensation will be funded.
- (xii). **Supervision and Monitoring Arrangements.** Describe how RAPs will be implemented and monitored. Describe how subproject and overall Project resettlement activities will be monitored through the annual ESMF reviews. Show how the results of monitoring will be fed back into overall Project implementation. Where appropriate, set up monitoring checklists or templates to focus the work of local monitors.

5. RPF Report

The final report will be written in English (and a translated executive summary in Kiswahili) and shall be submitted in hard and soft copies.

Basically the RPF report format will follow the tasks outlined in section 4 (Scope of Work) above but, will also include the following:

- (i). Cover page
- (ii). Table of contents
- (iii). List of acronyms
- (iv). Executive summary (English and Swahili)
- (v). Introduction
- (vi). Project description
- (vii). Objectives of the RPF
- (viii). Methodology used to prepare the RPF
- (ix). Overview of Tanzania's policies, laws, procedures, regulatory and administrative frameworks on involuntary resettlements
- (x). Overview of the World Bank's Resettlement Policies
- (xi). The RPF itself (*some of these may cover separate chapters*):
 - (a) Possible Categories of People and Groups that might be Affected
 - (b) Eligibility Criteria for Various Categories of Affected People
 - (c) Valuing of Possible Assets to be Affected
 - (d) Procedures for Preparing RAP
 - (e) Consultation with, and Participation of, Affected People
 - (f) Schedule for Implementing Resettlement Provisions
 - (g) Delivery of Compensation
 - (h) Grievance Redress Mechanisms
 - (i) Funding
 - (j) Supervision and Monitoring Arrangements
- (xii). Technical annexes including:
 - Provide matrix of entitlement.
 - List all Consultations: Who was consulted? When were they consulted? What issues were raised? How were these issues addressed and incorporated into planning process?

- If the Resettlement policy is triggered and once sub-component activities and locations are known, sub-component RAPs will need to be prepared. These RAPs must follow procedures set forth in this RPF. Additionally, RAPs will include:
 1. Baseline Census;
 2. Socio-Economic Survey;
 3. Specific Compensation Rates and Standards;
 4. Entitlements related to any additional impacts;
 5. Site Description;
 6. Programs to Improve or Restore Livelihoods and Standards of Living;
 7. Implementation Schedule; and
 8. Detailed Cost Estimate References.

6. Consultant(s) Qualifications and Team Composition

- (a) A demonstrated experience in successfully accomplishing resettlement related consultancy assignments in the United Republic of Tanzania.
- (b) The Consultant will be knowledgeable of World Bank resettlement policy requirements (RPFs and RAPs), and similar requirements in Tanzania.
- (c) It is expected that the Consultant team will consist of at least one specialist (e.g. a specialist in asset evaluation (for determining methods)).
- (d) Ability to produce high quality reports and presentations.
- (e) Understanding of the financial sector policies and regulations in Tanzania

7. Services, Facilities and Materials to be Provided by the Client

A wide range of services, facilities and materials will be provided to the Consultant by the BOT including:

- Relevant draft Project documents;
- Relevant background documentation and studies and publications;
- Making all necessary arrangements for facilitating the work of the Consultant and to provide access to government authorities, and other Project stakeholders.

8. Schedule and Deliverables

The consultancy assignment is expected to be completed within a maximum of 4 weeks from contract signature (between September and Early October 2009). The table below is an illustrative presentation of the consultancy schedule and deliverables.

| Week | Main Activities | Deliverables and Timing |
|----------------|--|---|
| 1 | • Preparation of the inception report and detailed work plan | • Inception report and work plan to be submitted within three days after commencement of the assignment |
| 2&3 | • Draft report writing | • Draft report, to be submitted within two weeks after commencement of the assignment |
| 4 | • Final report writing | • Final report to be submitted 7 th October 2009 |

9. Submission and Presentation of Inception Report

Selected Consultant(s) will be required to prepare, submit and present an inception report that:

- (a) Demonstrates that the Consultant understands the overall scope and nature of the RPF preparation work, and what will be required to respond satisfactorily to each component of the TOR;
- (b) Demonstrates that the Consultant and his proposed team have relevant and appropriate experience to carry out all components of the TOR. Detailed *curriculum vitae* for each team member must be included;
- (c) Describes the overall methodology for carrying out each component of the TOR, including desk and field studies, and data collection and analysis methods; and
- (d) Provides a detailed initial plan of work, outputs, and staff assignments with levels of effort by task.

10. Reporting:

The Consultant(s) shall report to the Governor of the Bank of Tanzania or any designated representative.

ANNEX 3A: HOUSING FINANCE - PROJECT MATRIX

| | Phase I | Phase II | Phase III | Phase IV |
|---|--|--|--|--|
| Mortgage Market Development | <ul style="list-style-type: none"> • Creation of Working Group • Kick Start lending directly to Mortgage Lenders • Roll out of IFC Mortgage Toolkit to lenders • Review of prudential regulation for mortgage lending • Review proposal for legal structure and ownership | <ul style="list-style-type: none"> • Establishment of Liquidity Facility and start of refinancing operations • Preparation for a Corporate Bond Issue • Implementation of new prudential standards for mortgage lending | <ul style="list-style-type: none"> • First Bond Issuance by Mortgage Liquidity Facility supported by partial credit guarantee from MoFEA, BoT or World Bank | <ul style="list-style-type: none"> • Issuance of 'stand-alone' corporate bond by Mortgage Liquidity Facility • Consider ways of helping mortgage lenders go down-market eg setting up of employer mortgages schemes for police, nurses, teachers |
| Housing Micro-finance | <ul style="list-style-type: none"> • Comprehensive assessment of prospects and obstacles to development Housing Micro-finance | <ul style="list-style-type: none"> • Development of regulatory framework for Housing Micro-finance • Preparation of a Housing microfinance pilot scheme • Roll out of IFC Housing Micro-finance Toolkit to lenders | <ul style="list-style-type: none"> • Development of a refinancing or guarantee window at the Liquidity Facility for housing Micro-finance • Roll out of a housing microfinance pilot scheme | <ul style="list-style-type: none"> • Start of operations to provide guarantee or refinancing for Housing Micro-finance. |
| Expansion of Affordable Housing Supply | <ul style="list-style-type: none"> • Assessment of housing and land policy → identification of Housing Supply Constraints | <ul style="list-style-type: none"> • Review roles of NHC and TBA • Building Code and Planning Regulation reform • Roll out of IFC Construction lending Toolkit • Design of Capacity building program | <ul style="list-style-type: none"> • Design of affordable housing pilot scheme with a private developer/lender • Capacity building on housing policy/urban policy for Local and Central Government | <ul style="list-style-type: none"> • Roll out of affordable housing pilot scheme with a private developer/lender |

ANNEX 3B: HOUSING FINANCE - PROJECT TIMELINE

| | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|--------------------|------|------|---|---|--|--|
| Phasing | | | Phase I | Phase II | | Phase III |
| Description | | | I – Direct provision of long term funds to lenders to enable build up of portfolios. Diagnostic work for Housing Microfinance and Housing supply components | II – Setting up of Mortgage Liquidity Facility and start of refinancing operations. Roll out of capacity building and regulatory TA for housing microfinance and housing supply | III – Tapping of capital markets by liquidity facility with credit enhancement. Expand refinancing activities to housing microfinance. Continued scaling up of housing and mortgage market | IV – Facility to operate as private entity with ability to raise funds on its own in capital markets. Push towards more affordable solutions for lower income groups |

ANNEX 4: METHODS FOR VALUING DIFFERENT CATEGORIES OF AFFECTED ASSETSCompensation for buildings and structures (annexed)

Compensation will be made for any built-up structure that needs to be demolished because of resettlement of an individual, household, or business and/or directly damaged by construction activities. Replacing fixed structures and annexed buildings like kitchen, storage sheds, verandas, latrines, wells and fences, are subject to valuation and compensation payment similar to dwellings (i.e. residential houses, huts). The currently valid local market prices for construction materials will be determined and the replacement cost assessed. Allowance for factors affecting property market value e.g. incomplete structures, workmanship is considered as adjustments but depreciation factor is not considered.

Any homes lost will be rebuilt on acquired replacement land, however cash compensation would be available as a preferred option for structures (i.e. extra buildings) lost that are not the main house or house in which someone is living. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure. The project will survey these prices for administrative purposes on an ongoing basis.

Compensation will be made for structures that are:

- Abandoned because of relocation or resettlement of an individual or household, or
- Directly damaged by construction activities.

Replacement values will be based on:

- Drawings of individual's household and all its related structures and support services,

- 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. bricks, rafters, bundles of straw, doors etc.)
- For vulnerable groups identified in earlier section of this RPF replacement values will be based on actual replacement cost.
- 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 labor required.

Land Measurements

Land is defined as an area. For the purpose of measuring land, the unit of measurement used is metres. It is assumed that this mode of measure is also the most intelligible to local people. This measure has been used widely in other valuation processes in Tanzania, suggesting that it is readily applicable for land features and for assessing natural assets. Traditionally, the people use location of trees, stumps and unmovable pegs to demarcate the owned /affected land and to measure distances in metres.

Compensation for Land

Where it is necessary to take land the values are assessed based on the average price of land at specific area. In case the land is cultivated (being prepared for cultivation or cultivated during agricultural season), the compensation will cover the market price of labour invested times and the actual (or standard) amount of time required spent preparing a plot equivalent to that taken. The compensation will cover all investments that a land owner has made.

Compensation for Land under Agriculture

Compensation is intended to provide a farmer whose land is acquired and used for project purposes with compensation for the land, labor and crop loss. For this reason, and for transparency, “land” is defined as an area: in cultivation, being prepared for cultivation, or cultivated during the last agricultural season. This definition recognizes that the biggest investment a farmer makes in producing a crop is his or her labor. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labor put into the land each year by the farmer. As a result, compensation relating to land will cover the market price of labor invested times the amount of time spent preparing a plot equivalent to that taken. (The market price of the crop lost is considered separately, below).

The labor cost for preparing replacement land is calculated on what it would cost a farmer to clear and create replacement land. This value is found by adding together the average costs of clearing, plowing, sowing, weeding twice, and harvesting the crop. Labor costs will be paid in Tanzania shillings, at the prevailing market rates.

All agricultural labor activities are included for two reasons. First, because of the need for transparency, all land labor will be compensated for at the same rate. Second, it is difficult to forecast when during the growing season a farmer might need to give up his/her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may be provided to land users in addition to compensation payments, for example, if the farmer is notified that his/her land is needed after the agriculturally critical date, when s/he will no longer

have enough time to prepare another land without help. Assistance will be provided in the form of labor-intensive village hire, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. The farmer will still continue to receive his/her cash compensation so that /s/he can pay for sowing, weeding and harvesting.

Calculation of Crops Compensation Rate (Permanent) Crops

The prices for cash crops will be determined as the average value over the previous year, corrected for inflation. The prices for subsistence crops will be determined as the highest value over the previous year, corrected for inflation. Crop values will be determined based on:

- A combination of staple foods and cash crops. Specifically, the 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances s/he would lose food crop rather than a cash crop income.
- The value of staple crops to be taken as the highest market price reached during the year, in recognition of these factors:
 - Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
 - Farmers most often purchase cereals when they have run out, during the “hungry season” when prices are high. Compensating at a lower value might put the individual or household at risk.
 - Averaging the highest price of staple foods yields a high per hectare value that reimburses for the vegetables and other foods that are commonly inter-cropped with staples, but are almost impossible to measure for compensation.

Compensation for Horticultural, Floricultural and Fruit Trees

For horticultural and fruit trees, these will be compensated on a combined replacement/ market value. Those which are used for commercial purposes will be compensated at the market value based on historical production records.

These are planted with vegetables and ingredients for daily use. Until a replacement garden starts to bear, the family displaced as a result of the project land will need to purchase these items in the market. Only the loss of vegetable gardens is subject to compensation, not the likely production. 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.

Large fruit/trees are important as a source of subsistence food for families, petty market income in some areas, and shade. Given their significance to the local subsistence economy, fruit trees will be compensated on a combined replacement /market value. If households chose to resettle, they will be compensated for the labor invested in the trees they leave behind. The compensation rate will be based on information obtained from the socio-economic study. From this study, a compensation schedule for trees can be developed incorporating the following goals:

- Replace subsistence production yields as quickly as possible.
- Provide subsistence farmers with trees to extend the number of months of the year during which fruit is produced and can be harvested as a supplemental source of food for their families during their “hungry season”.
- Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits at off-season periods.

- Provide cash payments to farmers to replace pre-infrastructure projects income derived from the sale of excess production until replacement trees produce the equivalent (or more) in projected cash income.
- The compensation schedule is based on providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income.

No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated on the basis of the number of square metres of surface area removed. The total surface area of the tree will be calculated using the following formula: $(\frac{1}{2} \text{ diameter of canopy})^2 \times 3.14$.

It should be pointed out that the Valuation Division in the Ministry of Lands and Human Settlement Development with effect from 2002, through the Chief Government Valuer maintains on annual basis, a Crop Compensation Schedule that lists all possible crops and their respective population per ha and the compensating rate per ha or crop. Displaced people have to be issued with landforms, 59 and 70, which allows them to indicate what they expect to be compensated.

Beehives are placed in various locations in the bush by some individuals that specialize in honey gathering. If such hives would be disturbed by the project activities, or access to hives is denied, beekeepers can move them, and the bees will adapt to the new locations. Beekeepers would 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.

A compensation schedule for trees was applied according to market value. The Valuer used the crop compensation rates including various fruits developed by the Valuation Division in the Ministry of Lands and Human Settlement Development.

Other Domestic Cash Crops and Fruit Trees

These trees have recognized local market values. Depending upon the species and age. Individual compensation for wild trees "owned" by individuals, who are located in lands as defined in this policy, will be paid. Note that wild, productive trees belong to the community when they occur in the true bush as opposed to a fallow land. These trees will be compensated under the umbrella of the village or community compensation.

Compensation for Sacred Sites

Sacred sites include but are not restricted only to altars, initiation centers, ritual sites, tombs, and cemeteries. They include other such sites, places or features that are accepted by practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities, the use of sacred sites for any HFP funded sub- project activity is not permitted under this RPF.

ANNEX 5: WORLD BANK POLICY ON INVOLUNTARY RESETTLEMENT (REVISED APRIL 2004)

Note: OP and BP 4.12 together replace OD 4.30, *Involuntary Resettlement*. This OP and BP apply to all projects for which a Project Concept Review takes place on or after January 1, 2002.

1. Bankⁱ 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.ⁱⁱ
 - 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 personsⁱⁱⁱ displaced by the project to share in project benefits. Displaced persons should be meaning fully 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 the beginning of project implementation, whichever is higher.^{iv}

Impacts Covered

3. This policy covers direct economic and social impacts^v that both result from Bank-assisted investment projects^{vi}, and are caused by
 - a) the involuntary^{vii} taking of land^{viii} 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^{ix} 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).^x

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^{xi} for losses of assets^{xii} 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^{xiii}.
- 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;^{xiv} 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, indigenous peoples,^{xv} ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.
9. Bank experience has shown that resettlement of indigenous peoples with traditional land based modes of production is particularly complex and may have significant adverse impacts on their identity and cultural survival. For this reason, the Bank satisfies itself that the borrower has explored all viable alternative project designs to avoid physical displacement of these groups. When it is not feasible to avoid such displacement, preference is given to land based resettlement strategies for these groups (see para. 11) that are compatible with their cultural preferences and are prepared in consultation with them.
10. 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, 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,^{xvi} 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 landbased but the land taken for the project is a small fraction^{xvii} of the affected asset and the residual is economically viable; (b) active markets for land, housing, and labor 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 pre-existing communities and groups are honored.

Eligibility for Benefits^{xviii}

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 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; and^{xix}
 - 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^{xx} 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^{xxi}. 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;
 - b) a resettlement policy framework is required for operations referred to in paras. 26-30 that may entail involuntary resettlement, unless otherwise specified; and
 - 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^{xxii}. 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^{xxiii}.
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.

Resettlement Instruments

Resettlement Plan

25. A draft resettlement plan that conforms to this policy is a condition of appraisal paras. 2-21) for projects referred to in para. 17(a) above^{xxiv}. However, where impacts on the entire displaced population are minor^{xxv}, or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower. 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. 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. 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^{xxvi} 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. 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 to 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.
34. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities.

ⁱ "Bank" includes IDA; "loans" includes credits, guarantees, Project Preparation Facility (PPF) advances and grants; and "projects" includes projects under (a) adaptable program lending; (b) learning and innovation loans; (c) PPFs and Institutional Development Funds (IDFs), if they include investment activities; (d) grants under the Global Environment Facility and Montreal Protocol, for which the Bank is the implementing/executing agency; and (e) grants or loans provided by other donors that are administered by the Bank. The term "project" does not include programs under adjustment operations. "Borrower" also includes, wherever the context requires, the guarantor or the project implementing agency.

ⁱⁱ In devising approaches to resettlement in Bank-assisted projects, other Bank policies should be taken into account, as relevant. These policies include OP 4.01 *Environmental Assessment*, OP 4.04 *Natural Habitats*, OP 4.11 *Safeguarding Cultural Property in Bank-Assisted Projects*, and OD 4.20 *Indigenous Peoples*.

ⁱⁱⁱ The term "displaced persons" refers to persons who are affected in any of the ways described in para. 3 of this OP.

^{iv} Displaced persons under para. 3(b) should be assisted in their efforts to improve or restore their livelihoods in a manner that maintains the sustainability of the parks and protected areas.

^v Where there are adverse indirect social or economic impacts, it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse economic and social impacts, particularly upon poor and vulnerable groups. Other environmental, social, and economic impacts that do not result from land taking may be identified and addressed through environmental assessments and other project reports and instruments.

^{vi} This policy does not apply to restrictions of access to natural resources under community-based projects, i.e. where the community using the resources decides to restrict access to these resources, provided that an assessment satisfactory to the Bank establishes that the community decision-making process is adequate, and that it provides for identification of appropriate measures to mitigate adverse impacts, if any, on the vulnerable members of the community. This policy also does not cover refugees from natural disasters, war, or civil strife (see OP/BP 8.50, *Emergency Recovery Assistance*).

^{vii} For purposes of this policy, "involuntary" means actions that may be taken without the displaced person's informed consent or power of choice.

^{viii} "Land" includes anything growing on or permanently affixed to land, such as buildings and crops. This policy does not apply to regulations of natural resources on a national or regional level to promote their sustainability, such as watershed management, groundwater management, fisheries management, etc. The policy also does not apply to disputes between private parties in land titling projects, although it is good practice for the borrower to undertake a social assessment and implement measures to minimize and mitigate adverse social impacts, especially those affecting poor and vulnerable groups.

^{ix} For the purposes of this policy, involuntary restriction of access covers restrictions on the use of resources imposed on people living outside the park or protected area, or on those who continue living inside the park or protected area during and after project implementation. In cases where new parks and protected areas are created as part of the project, persons who lose shelter, land, or other assets are covered under para. 3(a). Persons who lose shelter in existing parks and protected areas are also covered under para. 3(a).

^x The *Resettlement Sourcebook* (forthcoming) provides good practice guidance to staff on the policy.

^{xi} "Replacement cost" is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account (for a detailed definition of replacement cost, see [Annex A](#), footnote 1). For losses that cannot easily be valued or compensated for in monetary terms (e.g., access to public services, customers, and suppliers; or to fishing, grazing, or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures

necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided under other clauses of para. 6.

^{xii} If the residual of the asset being taken is not economically viable, compensation and other resettlement assistance are provided as if the entire asset had been taken.

^{xiii} The alternative assets are provided with adequate tenure arrangements. The cost of alternative residential housing, housing sites, business premises, and agricultural sites to be provided can be set off against all or part of the compensation payable for the corresponding asset lost.

^{xiv} Such support could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements

^{xv} See OD 4.20, *Indigenous Peoples*.

^{xvi} See OP 4.04, *Natural Habitats*.

^{xvii} As a general principle, this applies if the land taken constitutes less than 20% of the total productive area.

^{xviii} Paras. 13-15 do not apply to impacts covered under para. 3(b) of this policy. The eligibility criteria for displaced persons under 3 (b) are covered under the process framework (see paras. 7 and 30).

^{xix} Such claims could be derived from adverse possession, from continued possession of public lands without government action for eviction (that is, with the implicit leave of the government), or from customary and traditional law and usage, and so on.

^{xx} Resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate.

^{xxi} Normally, this cut-off date is the date the census begins. The cut-off date could also be the date the project area was delineated, prior to the census, provided that there has been an effective public dissemination of information on the area delineated, and systematic and continuous dissemination subsequent to the delineation to prevent further population influx.

^{xxii} For projects that are highly risky or contentious, or that involve significant and complex resettlement activities, the borrower should normally engage an advisory panel of independent, internationally recognized resettlement specialists to advise on all aspects of the project relevant to the resettlement activities.

^{xxiii} The size, role, and frequency of meeting depend on the complexity of the resettlement. If independent technical advisory panels are established under OP 4.01, *Environmental Assessment*, the resettlement panel may form part of the environmental panel of experts. See BP 17.50, *Disclosure of Operational Information* (forthcoming) for detailed disclosure procedures.

^{xxiv} An exception to this requirement may be made in highly unusual circumstances (such as emergency recovery operations) with the approval of Bank Management (see BP 4.12, para. 8). In such cases, the Management's approval stipulates a timetable and budget for developing the resettlement plan.

^{xxv} Impacts are considered "minor" if the affected people are not physically displaced and less than 10% of their productive assets are lost.

^{xxvi} For purpose of this paragraph, the term "subprojects" includes components and subcomponents.