The United Republic of Tanzania
Ministry of Water
Dar es Salaam Water & Sewerage Authority

DAR ES SALAAM
WATER SUPPLY AND SANITATION PROJECT

POLICY FRAMEWORK

FOR

RESETTLEMENT OF PROJECT AFFECTED FAMILIES

January 2003

FILE COPY
List of Abbreviations

CIP  Capital Investment Programme
DAWASA  Dar es Salaam Water Supply and Sewerage Authority
DWSSP  Dar es Salaam Water Supply and Sanitation Project
GoT  Government of Tanzania
GRC  Grievance Redress Committee
LA  Land acquisition
MoL  Ministry of Lands, and Human Settlement Development
MoA  Ministry of Agriculture and Food Security
MoR  Presidents Office, Ministry of Regional Administration and Local Government
PAF  Project Affected Family
PAP  Project Affected Person
PGA  Public Granting Authority
PO  Private Operator
RAP  Resettlement Action Plan
ROW  Rights-of-Way
WRDP  Water Resources Development Project

List of Relevant Legal Enactments

Land Act no.4 of 1999
Village Land Act no 5 of 1999
Land Acquisition Act, no.47 of 1967
Land Regulations, 2001 that includes;
Government Notice No.78 published on 4/5/2001 on Assessment of the Value of land for Compensation
Government Notice No.79 published on 4/5/2001 on Compensation Claims

Declaring revocation of land lease by the President of the United Republic of Tanzania to facilitate right of way for essential utilities and services, after due compensation to lease holder.

Water Laws  DAWASA Act of 2001 Section 19 (4)

Restricts any person to erect or inhabit any structure permanent or temporary nature on any parts of the water works and becomes guilty of offence and is liable to a fine of two hundred thousands shillings only and if the structure continues to remain after notice in writing from the Authority for its removal that person shall be liable to a further fine of ten thousand shillings only for each day during which the offence continues.

Compensation Schedule Ministry of Agriculture and Food Security, Lands and Human Settlement City Commission
Policy Framework for Resettlement

Provides three schedules; seasonal crops, permanent crops and forest trees.

Mode of Compensation

Providing for the Manner of Evaluation and Payment, and Mode of Compensation to the Land-Owner or building/crop owner.
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Section 1: Introduction

A. The Dar es Salaam Water Supply and Sanitation Project

1. The Dar es Salaam Water Supply and Sanitation Project (DWSSP), henceforth referred to as the Project, has an overall objective of providing efficient, reliable and sustainable water supply and sewerage services to the residents of the City of Dar es Salaam. This objective can be achieved effectively through divestiture of Dar es Salaam Water Supply and Sewerage Authority (DAWASA) by privatisation of its operations. The Government has initiated the divestiture programme with the assistance from the World Bank. While DAWASA has already been transformed into a Public Granting Authority (PGA), the project has two main facets as follows: (a) Identify and enter agreement with a Private Operator to operate and manage the assets and (b) rehabilitate the assets to provide improved performance. As progress made to date in this programme, the Government is awaiting submission of bids from potential bidders in the first component, and that the Consultant has submitted draft design and tender documents for the rehabilitation of the assets. This policy framework is related to the latter component of the overall project.

2. The Project will contribute to the provision of efficient and reliable water supply and sewerage services to some estimated 2.25 million residents and to major institutions and industries based in the City of Dar es Salaam. The project will also relieve the government from the subsidies it has to provide to DAWASA. The rehabilitation of the assets will enhance capacity and performance of the water supply and sewerage system and reduce an accounted for water and pollution.

3. The physical works comprises of rehabilitation and limited expansion of the water supply and sewerage systems estimated to cost about US $145 million, sub divided into following six main components:

<table>
<thead>
<tr>
<th>Component</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rehabilitation and Extension of Water</td>
<td>19.01</td>
<td>42.93</td>
<td>16.78</td>
<td>13.05</td>
<td>11.57</td>
<td>103.35</td>
</tr>
<tr>
<td>Supply Facilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Rehabilitation and Extension of Sewerage</td>
<td>0.58</td>
<td>5.46</td>
<td>11.08</td>
<td>4.49</td>
<td>0.40</td>
<td>22.00</td>
</tr>
<tr>
<td>and Wastewater Facilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Community Water and Sanitation Program</td>
<td>0.16</td>
<td>1.44</td>
<td>1.45</td>
<td>0.84</td>
<td></td>
<td>3.90</td>
</tr>
<tr>
<td>4. Institutional Strengthening</td>
<td>10.59</td>
<td>6.94</td>
<td>3.92</td>
<td>2.06</td>
<td>1.49</td>
<td>25.00</td>
</tr>
<tr>
<td>5. Future Studies</td>
<td></td>
<td></td>
<td>1.62</td>
<td>2.79</td>
<td>1.18</td>
<td>5.60</td>
</tr>
<tr>
<td>6. PPF Re-financing</td>
<td>1.15</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.15</td>
</tr>
<tr>
<td>Total Project Cost (w/ Contingencies)</td>
<td>31.50</td>
<td>56.77</td>
<td>34.85</td>
<td>23.24</td>
<td>14.64</td>
<td>161.00</td>
</tr>
</tbody>
</table>
This Resettlement Policy Framework (RPF) has been developed to address the resettlement issues emerging from the implementation of this Project. This RPF will guide all decisions regarding resettlement of people affected by the DWSSP and that all people affected by this project will be compensated according to it. A detailed Resettlement Action Plan (RAP) will be prepared prior to the commencement of construction and resettlement activities.

**B. Definitions**

4. The terms used in this document are defined as follows:

(a) “Resettlement Policy Framework (RPF)” refers to the present document, which is the overall Policy Framework for Resettlement of Project Affected Families during the implementation of rehabilitation component of the DWSSP. The Policy Framework describes the process and methods for carrying out resettlement under the Project, including compensation, relocation and rehabilitation of Project affectees.

(b) “PAP” means Project Affected Person, and includes any person or persons who, on account of the execution of the Project, or any of its components or contract packages or parts thereof, would have their:

(i) Right, title, or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or moveable asset acquired or possessed, in full or in part, permanently or temporarily; or

(ii) Business, occupation, work, place of residence or habitat adversely affected; or

(iii) Standard of living adversely affected.

(c) “PAF” means Project Affected Family, and consists of all members of a household residing under one roof and operating as a single economic unit, who are adversely affected by the Project, or any of its components. For resettlement purposes, project affectees will be dealt with as members of Project Affected Families (PAFs).

(d) “RAP” means the detailed resettlement action plans prepared for each contract package to show how any resettlement needed under RPF will be implemented. The RAP will include details of the PAP / PAF to be compensated, the agreed compensation packages, and details of where the PAP / PAF is to be relocated to.

(e) “Land Acquisition” means the process whereby a person is compelled by a public agency to alienate all or part of the land he/she owns or possesses, to the ownership and possession of that agency, for public purpose in return for a consideration.
Policy Framework for Resettlement

(f) "Right-of-Way Easement" means the process whereby the owner or possessor of land is compelled to permit the continued use of a part of his land as a means of transit of persons or services, in return for a consideration, but where the ownership of the land remains unchanged.

(g) "Grievance Redress Committee" means the committee established by the GoT, with the participation of DAWASA and the MoL/MoA/MoR, to hear the complaints and grievances of PAPs regarding resettlement, including acquisition of land, houses and other assets, and loss of livelihoods caused by the Project.

(h) "Property Valuation Committee" means the committee established by GoT, with the participation of DAWASA, MoL/MoA/MoR, PAPs and other local government officials from the areas affected by the respective contract package, for the purpose of determining replacement value of affected properties.

(i) "Replacement Value" means the value determined to be fair compensation for agricultural land based on its productive potential, the replacement cost of houses and structures and the market value of residential land, building materials and labor without depreciation, crops, trees and other commodities as determined by the market value as defined in (o) below.

(j) "Resettlement" means compensation of PAF's property and/or livelihoods in monetary terms.

(k) "Relocation" means the physical relocation of PAFs from their pre-Project place of residence.

(l) "Rehabilitation" means the compensatory measures provided under the Policy Framework other than payment of the replacement value of acquired property.

(m) "Compensation" means payment in cash or in kind of the replacement value of the acquired property.

(n) "Contract package" means each of the contract packages under the Project.

(o) "Market value" means the value of any land and unexhausted improvement that shall be arrived at by use of comparative method evidenced by actual recent sales, within one year of the expected compensation date of similar properties or by use of income approach or replacement cost method where the property is of special nature and not saleable.

C. The Resettlement Action Plan

5. As indicated above, the Resettlement Policy Framework (RPF) sets out the guidelines for compensating PAFs. A Resettlement Action Plan (RAP) will be prepared for each contract package to ensure that any resettlement needed is implemented in accordance with the RPF. The RAP will include details of the PAP / PAF to be compensated, the agreed compensation packages, and details of where the PAP / PAF is to be relocated to.
The Resettlement Action Plan (RAP) will be prepared prior to the commencement of construction and resettlement activities.

The rehabilitation and expansion measures to be undertaken in respect of six contract packages under the Project have been designed to improve the performance and capacity of the existing water supply and sewerage system in the City. Preliminary surveys and design work have shown that little land acquisition will be involved in some of the contract packages. Very little or no relocation of settlements is envisaged at this stage. The proposed method statement to be submitted by the Contractor during the bidding process will be based on preliminary survey design and information. During mobilisation and setting up the Contractor will be required to undertake survey work and to finalise the design of the works. This will also involve finalising his detailed work plan and method statement to suit actual field conditions at the time of construction. The final work method statement will include preparing work plans and methods to minimise/preclude construction activities adversely affecting any properties/families. Every effort will be made by the contractors not to affect the houses. In the event however resettlement does become necessary during the execution of the works, resettlement compensation will be considered when this occurs, land acquisition will be small scale through compensation for Right-of-Way (ROW) easement. The Policy Framework provides the basis to adequately address resettlement of PAFs for such cases.

6. The underlying principle of the Policy Framework is to ensure that all PAFs share in Project benefits, and are compensated and rehabilitated to assist them to improve, or at least maintain, their living conditions and income earning capacity at pre-Project levels. (See paras. 28-29).

7. The Government of the Republic of Tanzania has approved the Policy Framework. It lays down the principles and objectives, legal and institutional framework, eligibility criteria, entitlements and grievance procedures that will guide the resettlement and rehabilitation of the PAPs. The principles, legal and institutional framework, and implementation procedures will be applied to all contract packages included in the Project. Since works for each contract package will be spread over several years, resettlement activities necessitated by each year’s works will be completed by DAWASA prior to the release of funds by the World Bank for works under that section of the respective contract package.

8. Basic instruments for resettlement consist of the census, socio-economic survey, and Resettlement Action Plan. A census and inventory of assets, livelihoods and losses of all Project Affected Families (PAFs) will be prepared by DAWASA for all contract packages. The date of completion of the census survey will be considered the cut-off date for PAF identification purposes. Where the number of PAFs exceeds 100, a sample socio-economic survey would be carried out prior to implementation of resettlement activities to provide more comprehensive baseline data for monitoring of resettlement impact. In contract packages where the number of PAFs is less than 100, collection of socio-economic data may be combined with the census survey.

9. For all contract packages, DAWASA will prepare an operational Resettlement Action Plan (RAP) documenting the implementation arrangements for resettlement, including
Policy Framework for Resettlement

asset acquisition, compensation, relocation and rehabilitation in detail. After preparation of the RAP is required, the same will be submitted to the World Bank for approval along with the socio-economic survey for that contract package prior to implementation. Compensation and resettlement and rehabilitation activities will only commence after the World Bank has found the respective RAP to be acceptable, and the Government of the Tanzania has approved it.

D. Extent and Scope of Resettlement within the Project

10. DWSSP will be managed as a Sector Investment Loan. Following a program approach, detailed implementation plans for the project during the following year will be prepared and submitted by DAWASA for Bank approval. Census data is not available at appraisal although preliminary data on some contract packages have been provided to assess the extent of resettlement.

11. Based on existing data, the Upper Ruvu Transmission Mains in Contract Package 2 and Kurasini Ponds in Contract Package 4 appear to be the only package sub-components where a RAP may be needed in the event the contractor is not able to modify his method statement. All the farming and the houses along the CP2 – Upper Ruvu Transmission Mains and in the close proximity of the ponds are illegal encroachment. On the whole, the extent of resettlement is very small, and its adverse impact outweighed significantly by the benefits accruing to the PAPs. Table 1 shows the quantity of land affected and the potential numbers of PAFS. In any case, all the PAFs stand to benefit significantly from improvements in the water supply and sewerage systems. Although a couple of houses along the right of way may need to be acquired in the event the contractor is not able to modify his method statement. Their loss will be mitigated through payment of compensation for the house at a standard rate adopted by MoL. All permanent crops and trees will be compensated using the standard schedule of rates adopted by the MoA. Where seasonal crops are involved, the contractor may where possible, postpone the works until the crops are harvested or compensate the farmers at the MoA rates.

<table>
<thead>
<tr>
<th>Contract Package</th>
<th>Sub Component</th>
<th>Extent of land Affected (Ha.)</th>
<th>Potential Number of PAFs</th>
</tr>
</thead>
<tbody>
<tr>
<td>CP2</td>
<td>Upper Ruvu Transmission Mains</td>
<td>2.25</td>
<td>&lt;636</td>
</tr>
<tr>
<td>CP4</td>
<td>Kurasini Ponds</td>
<td>0.17</td>
<td>&lt;114</td>
</tr>
</tbody>
</table>

12. Participation and institutionalised consultations is a common procedure used with the stakeholders in such projects within the City. A notice in the popular radio stations, local newspapers, local posters and etc will be made by DAWASA to all such illegal
Policy Framework for Resettlement

encroachments to abstain from farming. Also meetings with Ward Executive Officers, Ward Councillors and DAWASA Officials will be held for the same purpose. Further consultations will be held with such farmers and house owners in the proposed Project area to obtain their concurrence, and a formal Memorandum of Understanding (MoU) specifying the priorities, rights and responsibilities of DAWASA and the PAF will be signed. DAWASA envisages that with the MoU and continuous participation, no conflict or dissatisfaction will arise between any party during the implementation of the project and during O & M by the PO.

The general procedure to be followed for resettlement, which will be described in detail in the RAP, will be as follows.

- Inform PAFs (using radio, press etc) about the policy provisions
- Identify cut off dates after which any new entrant to the affected area will not be eligible for compensation
- Identify a cut off date when structures will be marked and any new structures built after this date will not be eligible for compensation
- Negotiate and agree compensation packages with PAFs
- Notify PAFs of the timetable to relocate to new areas
- Pay PAFs compensation
- Relocate PAFs
- Commence construction activities in the area from which PAFs have been removed

E. Resettlement Principles and Objectives

13. The principles outlined in the World Bank’s Operational Directive 4.12, being generally consistent with the basic objectives of Tanzanian laws under the Land Act no 4 of 1999, Village Land Act no 5 of 1999 and Land Acquisition Act no 47 of 1967, have been adopted in preparing the Policy Framework. These principles and the resettlement measures stemming therefrom will apply to all contract packages of DWSP, whether or not the scale and complexity of resettlement issues require preparation of a RAP.

(a) Resettlement and land acquisition will be minimized as much as possible. Where land acquisition is unavoidable, the project will be designed to minimize adverse impact on the poorest (those holding less than 1 ha).

(b) PAPs will be compensated, at least to restore them to pre-Project levels.

(c) All PAPs residing in, or cultivating land, or having rights over resources within the Project area as of the date of the census survey are entitled to compensation. All previous claims and unresolved issues related to resettlement or compensation in the area of each contract package, including outstanding claims arising, will be resolved in accordance with applicable Tanzanian laws and regulations, prior to
Policy Framework for Resettlement

initiating any new land acquisition measures on the respective contract package. In all cases World Bank's Operational Directive 4.12 will supersede national law in resolving issues relating to compensation.

(d) The means of resettlement are: compensation at the schedule of rates adopted by the MoL, MoA and MoR which will cover replacement cost for houses and other structures, agricultural land of equal productive capacity, dislocation allowance and transition subsidies, full compensation for crops, trees, other similar agricultural products and other assets at market value taken over within one year of the expected compensation date.

(e) The resettlement transition period will be minimized, and cash compensation provided to the PAPs, prior to the expected start-up date of works in the respective contract package.

Section 2: Institutional and Legal Framework

A. Institutional Framework

14. The responsibility for implementing the principles and objectives of the Policy Framework are as follows:

(a) DAWASA has overall responsibility for planning and implementing all activities under the Policy Framework. DAWASA will guide, supervise and report on progress in the contract packages, and will handle resettlement issues requiring actions and coordination at the central government level. DAWASA has overall control and management of the project resettlement budget.

(b) Funds for the resettlement program will be provided by DAWASA from budgetary allocations for the Project; DAWASA will monitor and supervise the implementation of land acquisition and resettlement activities in the contract packages falling within their jurisdiction. Responsibilities of DAWASA include planning, coordination of field implementation, financial control, information exchange and inter-agency liaison, internal inspection and day-to-day monitoring. Also, there will be independent external monitoring and evaluation as well.

(c) DAWASA, with the assistance of the MoL / MoA / MoR and local councillors, will carry out resettlement activities within the areas of their responsibility, under the supervision of the respective Regional Offices. These entities will be in charge of organizing the various tasks laid out in the Policy Framework including PAP identification, census and socio-economic surveys, dissemination of contract package information to PAPs, establishment of transparent mechanisms for land valuation and grievance redress, and administration of all compensation-related matters.

(d) An independent Grievance Redress Committee (GRC), as described in paragraphs 32 to 34 below, will handle grievances regarding resettlement. The GRC will
attempt to resolve grievances, however, if the attempt fails to resolve the grievance, then the parties may take legal action through the courts to determine the matter as stipulated under Section 156(4) of the Land Act No.4 of 1999.

B. Legal Framework

15. The overall objective of the Policy Framework is derived from the Bill of Rights of the Constitution of the United Republic of Tanzania of 1977.

Article 13 (1): All persons are equal before the law and are entitled, without any discrimination to protection before the law.

Article 13 (4): No person shall be discriminated against by any person or any authority acting under any law or in the discharge of the functions or business of any state office.

Article 24 (1): Subject to provisions of the relevant laws of the land, every person is entitled to own property, and has a right to the protection of his property held in accordance with law.

Article 24 (2): It shall be unlawful for any person to be deprived of property for the purposes of nationalisation or any other purposes without the authority of law which makes provision for fair and adequate compensation.

16. The due process for acquisition of private properties or rights-of-ways thereon for infrastructure and other development projects is found in Land Act no 4 of 1999, Village Land Act no 5 of 1999 and Land Acquisition Act no 47 of 1967. However, according to the current Tanzania law and practice the assessment and payment of compensation for unexhausted improvements, loss of accommodation, loss of profit, disturbance and transport is governed by Land Act No.4 of 1999 and Village Land Act No.5 of 1999 and their respective Land and Village Land Regulations, Supplement No 16 of 2001. The payment of compensation is not only a legal requirement, but a constitution imperative under Article 24 of the Constitution of the United Republic of Tanzania of 1977 as mentioned above.

All compensation will be assessed and agreed upon strictly in accordance with the provisions and procedures set out in the Resettlement Policy Framework for the DWSSP.

17. Section 3 (1)(f) of the Land Act No 4 of 1999 provides that "interest in land has value and that value must be taken into consideration in any transaction affecting land". Thus, acquisition of land will amount to compensate owners for bare land in addition to unexhausted improvements. Sub-paragraph (g) of the same section provides that full, fair and prompt compensation has to be paid to any person whose right of occupancy is affected or interfered with to their detriment. In assessing compensation of the land acquired, the concept of opportunity shall be based on the following; 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 cost loss or
capital expenditure incurred to the development of the subject land and interest at market rate will be charged if payment of compensation is delayed.

18. The Minister may subject to and in accordance with sections 152 and 153 of the Land Act No.4 of 1999 create rights of way, which shall be known as public rights of way. The Ministry or government department or local authority or public authority or corporate body shall make applications for way leave or communal right of way to the Commissioner for Lands. Notice shall be served to all persons, local government authorities and any other interested persons occupying land over which the proposed way leave is to be created.

19. According to Section 156(1) of the Land Act No. 4 of 1999 compensation shall be payable to any person for the use of land of which he is in lawful or actual occupation, as a communal right of way and, with respect to a way leave, in addition to any compensation for the use of land for any damage suffered in respect of trees, crops and buildings as a result of the creation of such way leave. The duty to pay compensation shall lie with the government department of Ministry, local or public authority or corporate body, which applied for the public right of way and that duty, shall be complied with promptly. Refer Section 156(3) of the Land Act No.4 of 1999.

When the parties fail to agree on the amount or method of payment of that compensation, the person entitled to compensation may take legal action through the courts to determine the amount and method of payment of compensation as stipulated under Section 156(4) of the Land Act No.4 of 1999.

20. Sections 157 and 158 of the Land Act No.4 of 1999 empower the court to enforce, modify, and extinguish easements or an analogous right and a public right of way.

21. Also the provisions of Government Notice No.86 of 4/5/ 2001 Part III on compensation and part II on compensation under the Village Land Act No.5 of 1999 will apply depending on the location of the land or property.

22. Besides, in case of conflict or inconsistency between the Land Acquisition Act No.47 of 1967 and Land Act No.4 of 1999, it is the Land Act which takes precedence over any other written law to the contrary as provided under Section 181 of the Land Act No.4 of 1999.

Section 3: Entitlement Policy

A. Eligibility Criteria

23. PAPs will be entitled to compensation based on the status of their occupation of the affected areas. The preliminary DAWASA survey identified PAPs as being landowners, tenants, squatters, and seasonal farmers. DAWASA does not anticipate relocation of PAPs outside their current area of residence. Should any of the resources being affected be owned or managed as common property, all those with an interest in those resources will be entitled to resettlement. All PAPs whose holdings will be affected by the Project
shall have their claims settled in accordance with the provisions and procedures of this Policy Framework.

B. Resettlement Entitlements

24. The entitlements for resettlement are laid out in the Entitlement Matrix, which reflects existing laws and practice within Tanzania while adhering to the Bank’s resettlement principles and objectives. In all cases, first the Schedule of Rates for compensation adopted by the Government in its Ministries of Lands, Agriculture and Local Government will be used provided that they meet the criteria defined in OD 4.12. In absence of appropriate rates, then that alternative compensation listed in the Entitlement Matrix table will be adopted. DAWASA will establish a Property Valuation Committee, with the participation of the MoL/MoA/MoR and the PAPs, for all the contract packages where property is to be acquired. The Property Valuation Committee will review current schedule of compensation rates and determine replacement value for the property and assets to be acquired in accordance with the definition provided in para 4 (i) above.

25. PAFs whose houses are affected by the Project will be provided with cash compensation reflecting the full replacement value of the structure. This will be in accordance with the compensation schedules regulated by the MoL, MoA and MoR. If the residential land and/or structure are only partially affected by the Project, DAWASA will acquire the entire structure with full compensation, as stated above.

C. People’s Participation

26. The PAPs will participate throughout the various stages of the resettlement activities and in the land acquisition process. They will be consulted by the competent authorities and will be invited to participate in public meetings held by the respective DAWASA and/or by the Ministries. These meetings will be an occasion to discuss resettlement issues and will provide a forum for the PAPs to express opinions and offer their suggestions.

27. The PAPs will be publicly informed by the relevant authorities of the details of resettlement activities for the respective contract packages. The information made public and provided to each household will include cut-off dates for each contract package, entitlements, eligibility criteria, modes of compensation, complaints and grievance redress procedures.
ENTITLEMENT MATRIX

In all cases the Schedules of Rates for Compensations adopted by the Ministry of Lands, Housing and Human Settlement Development; Ministry of Agriculture and Co-operatives Development; and Ministry of Regional Administration and Local Government will be used (MoL, MoA and MoR Rates)

<table>
<thead>
<tr>
<th>Types of Loss/Impacts</th>
<th>Definition of Entitlement (MoL, MoA &amp; MoR Rates)</th>
<th>Definition of entitled person/unit</th>
<th>Application Guidelines</th>
<th>Organization(s) Responsible</th>
</tr>
</thead>
</table>
| I. Agricultural land  | 1.1 Replacement value in cash or when acquisition exceeds 20% of the total holding of that PAF,  
1.2 Provision of cash compensation as per the Schedules of Rate adopted by Ministries of Land, Agriculture and Local Government | 1. Landowner a person with an original Certificate of Title, or a Transfer Certificate of Title in case of registered land; and tax declaration for unregistered land | 1.1 Owners losing less than 20% of their total holdings to be compensated in cash. PAPs are to be exempt from capital gains tax against this payment.  
1.2 Owners losing more than 20% land may be provided replacement value in cash if acceptable to the PAFs.  
1.3 Owners losing more than 75% of their land, or whose farm is reduced to an unviable size as a result of acquisition, may ask for the entire farm to be acquired in return for cash | DAWASA |
|                       | 2. Cash compensation as per the schedule of rates adopted by MoL, MoA and MoR | 2. Agricultural Lessee/Tenant a person who personally cultivates land furnished either by the owner, or the legal possessor of the property, and covered by the Land or Agrarian laws | 2. Value of gross harvest calculated on the basis of the average of gross harvests | DAWASA, with the assistance of MoL, MoA and MoR |
|                       | 3. Financial assistance as per the schedule of rates adopted by MoL, MoA and MoR and equal to gross harvest for one year | 3. Person cultivating land under informal or short duration lease, not covered by Land /Agrarian laws. | 3. Gross harvest based on average of last three years | DAWASA, with the assistance of MoL, MoA and MoR |
| II. Permanent improvement on agricultural land | Cash compensation at negotiated market price | Owner or tenant/lessee who made the investment for the land improvement or structural installation | Compensation will be for all assets and structures listed in the census inventory and will be assessed at replacement value without depreciation | DAWASA Office in coordination with other Local Government officers and from MoA and MoL |
### Policy Framework for Resettlement

<table>
<thead>
<tr>
<th>Types of Loss/Impacts</th>
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<th>Definition of entitled person/unit</th>
<th>Application Guidelines</th>
<th>Organization(s) Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>III. Residential land</strong></td>
<td>1 1 Cash compensation at the market value of the real property  1 2 Proportionate cash compensation when only partial acquisition is necessary and PAF is not displaced</td>
<td>1 Owner, a person with a Certificate of Title or tax declaration for the residential land</td>
<td>1 1 Cash compensation  1 2 If 10 or more houses are to be relocated away from own land, a resettlement site will be developed and provided with basic infrastructure and services better or equivalent to original premise</td>
<td>DAWASA</td>
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<td><strong>IV. Residential structure</strong></td>
<td>Full replacement cost for residential structure, without depreciation</td>
<td>Owners of the structure, whether landowners or tenants</td>
<td>Cash compensation</td>
<td>DAWASA</td>
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<tr>
<td><strong>V. Small business establishment</strong></td>
<td>Cash compensation</td>
<td>PAP running a business establishment on property to be acquired</td>
<td>Cash compensation</td>
<td>DAWASA Office</td>
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<tr>
<td><strong>VI. Standing crop</strong></td>
<td>Full market value for the crop</td>
<td>PAP actually farming the land, whether owner-cultivator, lessee or tenant</td>
<td>DAWASA will compensate PAP for the full value of the crop already planted on the land being acquired</td>
<td>DAWASA Office, with assistance of MoL, MoA and MoR</td>
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<tr>
<td><strong>VII. Trees (perenDAWASA)ls)</strong></td>
<td>Full market value for timber/fuelwood</td>
<td>PAP owning the fruit, fodder or timber/fuelwood trees</td>
<td>Cash compensation at the market value of timber and fuelwood, for fruit/fodder trees</td>
<td>DAWASA Office, with assistance of MoL, MoA and MoR</td>
</tr>
<tr>
<td><strong>VIII. Squatters/ unauthorized users</strong></td>
<td>Right to habitation</td>
<td>Illegal squatters who are occupying the premises without legal authority from the owner(s)</td>
<td>Compensation will be in accordance with the provisions and procedures of the RPF and the WB Operational Directive OD 4.12</td>
<td>MOL, MOA and MOR</td>
</tr>
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<td><strong>IX. Common property resources</strong></td>
<td>Continued access to resources owned or managed as common property.</td>
<td>All owners/users of common property resources</td>
<td>DAWASA will ensure that land acquisition does not adversely affect common property If adversely affected, alternative arrangements will be made to ensure that benefits from common property are substituted adequately</td>
<td>DAWASA Office</td>
</tr>
<tr>
<td><strong>X. Temporary loss of assets/ROW easement</strong></td>
<td>10% of replacement value of property and assets acquired</td>
<td>1 Owner  2 Agricultural lessee/tenant</td>
<td>If leased land, compensation will be in monetary value</td>
<td>DAWASA Office</td>
</tr>
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**Notes:**
Cash compensation will include allowance for such things as, replacement value of the real property, transport allowance, disturbance allowance, loss of profit and accommodation, cost of acquiring or getting the land as well as any other cost loss or capital expenditure incurred to the development of the land. This applies to agricultural land owner, residential landowner and small business holders. The compensation rates adopted by MoL, MoA and MoR will not be less than those determined as being the greater of the current undepreciated replacement value or fair market price. In this case, encroachers who have been on the land for a substantial time will get the same compensation package, apart from compensation for land ownership (i.e., they will be compensated for house structure, disturbance allowance, transport allowance, loss of profit and accommodation and other cost loss or capital expenditure incurred to the development of the land. |
Section 4: Baseline Information

A. Census and Inventory of Project Affected Families

28. The initial assessment based on the Consultant’s Design Report and Tender Documents show that there are very few PAFs. Each contract package will nevertheless provide a census of families and persons adversely affected by it. The census will include a complete inventory of all losses to be incurred by each PAF. This information will include at a minimum: (a) number of persons, main occupation and level of income; (b) number, type, and dimension of the houses; (c) number, quality, and area of all the residential plots; (d) number, category, type, and area of agricultural land held and to be lost by each PAF; (e) tenure status of agricultural land and, amount of rent paid by tenant/lessee, where applicable; (e) quantity, category, and dimension of all rent other fixed assets adversely affected; (g) productive assets lost as a percentage of total productive assets; (h) temporary damage to productive assets; (i) quantity, category, and quality of non-agricultural livelihood adversely affected; (j) quantity, type, and quality of community resources to be acquired.

B. Socio-Economic Survey

29. In addition to the census and inventory of affected properties, all contract packages requiring the preparation of a RAP will also include as part of the RAP, a socio-economic survey of the affected population. This survey will be based on interviews of a 20% sample of PAFs not requiring relocation, and include 100% of PAFs whose houses are being acquired.

30. The socio-economic survey will provide data on the existing social structure, tenure arrangements and resource use, access to common property resources, social services and infrastructure facilities by different social groups in the project area, and for the host population at the proposed resettlement site (if relevant), clearly identifying all special interest groups, particularly those who are poor and vulnerable (e.g. farmers with landholdings under 1 ha, tenants, landless labourers, and women-headed households), and describing their special characteristics in relation to the project.

Section 5: Implementation Arrangements

A. Schedule

31. In each contract package, resettlement schedules will be coordinated with construction schedules. All resettlement activities arising out of the works to be implemented in a given year will be completed prior to the scheduled start-up date of those works on the respective contract package, and prior to disbursements out of the proceeds of the Loan for activities related to the respective contract package.
B. Complaints and Grievances

32. GoT will create an independent Grievance Redress Committee. The GRC will handle all grievances related to any aspect of the resettlement process. The GRC will act in an impartial manner and in all cases attempt to resolve the grievance through consensus. The GRC will attempt, in all cases, to circumvent the grievance being taken to the courts.

33. The Committee will include representatives of the local communities affected by the contract package and resettlement activity in question.

34. Should the GRC fail to resolve the matter, the parties may take legal action through the courts to determine the matter as stipulated under Section 156(4) of the Land Act No.4 of 1999.

C. Supervision and Monitoring

35. Resettlement activities in all contract packages will be regularly supervised and monitored by DAWASA. Internal monitoring will be carried out quarterly. The Performance Monitoring Unit and The Customer Relations Unit of DAWASA will periodically carry out internal monitoring and evaluation of resettlement of the contract packages. External monitoring if necessary may be done by an organization such as an academic or research institution, an NGO, or an independent consulting firm {see further para 39 (e)}. Funds for external monitoring will be provided under the Project. They will be identified and recruited by DAWASA during the first year of Project implementation. Reports of the external monitor will be submitted to DAWASA and to the World Bank.

36. Internal monitoring and supervision will:

(a) Verify that there are no outstanding or unresolved land acquisition issues on the contract packages included within the Project, that the census of all PAPs has been carried out, that the RAP and socio-economic survey has been prepared for contract packages where it is required, and that property valuation and resettlement has been carried out in accordance with the provisions of the Policy Framework;

(b) Oversee that all resettlement measures are implemented as approved; and

(c) Verify that funds for implementing resettlement activities are provided in a timely manner, are sufficient for their purposes, and are spent in accordance with the provisions of the Policy Framework.

37. In addition to verifying the reports generated by internal monitoring, the external monitoring agency will carry out the following tasks:

(a) Evaluate the social and economic impact of resettlement on the PAPs;
(b) Verify if the objective of resettlement of the PAPs has been met.

(c) Suggest modifications in resettlement implementation, where necessary, to achieve the principles and objectives set forth in Section 1.E of the Policy Framework.

Section 6: Costs and Budgets

38. Along with the details of program of works and cost estimates for Project activities to be submitted by DAWASA to the Bank every year for activities to be undertaken in the following year, DAWASA will submit a detailed cost of resettlement, with a breakdown by agricultural land, residential land, houses, other assets, and livelihood to be affected. The cost estimates will make adequate provision for monitoring and supervision and for contingencies.

Section 7: Undertakings by DAWASA

39. In order to ensure the unhindered application of the Policy Framework, DAWASA will:

(a) Resolve any outstanding resettlement issues from prior land acquisition on all contract packages included within the Project in a manner such that all prior disagreements and claims have been settled before soliciting funds from the Bank for rehabilitation of the respective contract package;

(b) Carry out resettlement of the PAP / PAFs in accordance with the provisions set forth in the Policy Framework in a manner satisfactory to the Bank, and for these purposes, in a timely manner, prepare and furnish to the Bank, for its approval, proposed RAPs for carrying out the compensation of the PAP / PAFs under each contract package;

(c) Promptly take all such actions as are necessary, including the adequate provision of funds, to implement the provisions of the Policy Framework and each RAP as approved by the Bank, in a manner satisfactory to the Bank;

(d) Take such actions as may be necessary to ensure that DAWASA has the institutional capacity to implement and undertake regular monitoring of the land acquisition and resettlement process; and

(e) For carrying out external monitoring if necessary, before the commencement of the DWSSP, under terms of reference satisfactory to the Bank, retain the services of an independent entity, with adequate qualifications, experience and staffing acceptable to the Bank.
40. DAWASA shall furnish to the Bank evidence satisfactory to the Bank that:

(a) All resettlement issues from previous land acquisition have been satisfactorily resolved in accordance with the law;

(b) The resettlement measures provided to all the PAPs under the Project, regardless of whether or not they are covered by individual RAPs, have been undertaken pursuant to the provisions of the Policy Framework; and

(c) That all resettlement activities provided for in the Policy Framework, and RAPs (where needed), have been completed for works to be implemented in a given year under each contract package before the commencement of such construction works on the respective contract packages.
Dar es Salaam Water Supply & Sanitation Project

Resettlement Policy Framework

Annex 1
Memorandum of Understanding Between DAWASA & PAF
MEMORANDUM OF UNDERSTANDING WITH PROJECT AFFECTED FAMILIES (PAFS)

AN AGREEMENT made this ... day of ... 2003

BETWEEN Dar es Salaam Water and Sewerage Authority (DAWASA) P.O Box 1573, Dar es Salaam (hereinafter referred to as the "FORMER") of the one part AND Project Affected family "PAF" of P.O Box ............ (hereinafter referred to as the "LATTER") of the other part.

WHEREAS the FORMER is desirous to rehabilitate its infrastructure through Dar es Salaam Water Supply and Sanitation Project (DWSSP) (hereinafter referred to as the "PROJECT")

AND WHEREAS the LATTER will be affected by the said PROJECT hence entitled to compensation.

NOW THEREFORE IT IS HEREBY AGREED as follows:-

1. That the FORMER shall where necessary acquires piece of land for right of way (row) easement from the LATTER and affecting all right falling thereunto.

2. That in consideration for a certain agreed amount of money and mode of compensation adhered to, the LATTER shall surrender all rights of the acquired piece of land to the FORMER.

3. That all compensation will be assessed and agreed upon strictly in accordance with the provisions and procedures set out in the Resettlement Policy Framework.

AND IT IS FURTHER HEREBY STATED THAT this condition is in:


IN WITNESS HERETO the Parties herein have set their hands to this Memorandum in the manner and on the day appearing herein below.

SIGNED AND DELIVERED for and )
On behalf of the said Dar es Salaam )
Water and Sewerage Authority (DAWASA))
By ... ............ ...... ...... ...... ... ...... ) )
In his/her capacity as ... ............ ...... ) )
 this ............ day of ...... ...... 2003 )

C : framework
SIGNED AND DELIVERED BY

.............................. , being ) )
the Project Affected Family (PAF) ) SIGNATURE
this .......day of . . . . . . . 2003 )

C :framework - 22 -
Annex 2
Proposed Resettlement Activity Schedule
### Proposed Resettlement Activity Schedule

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Dar es Salaam Water Supply & Sanitation Project

Resettlement Policy Framework

Annex 3
Comments on Valuation Report
By Ministry of Lands
DRAFT REPORT OF MANAGEMENT SUMMARY

DAR ES SALAAM WATER & SEWAGE AUTHORITY
P.O. BOX 1573
DAR ES SALAAM

VALUATION REPORT OF PROPERTIES LOCATED ALONG
RUUVU CHINI AND RUUVU JUU WATER PIPELINES WAY
LEAVES AND KURASINI OXIDATION PONDS FOR
COMPENSATION PURPOSES

PREPARED BY

VALUATION SECTION,
MINISTRY OF LANDS,
P.O. BOX 2795,
DAR ES SALAAM

NOVEMBER, 2002
REPUBLIC OF TANZANIA
MINISTRY OF LANDS AND HUMAN SETTLEMENTS DEVELOPMENT

Telegram: 'ARDIII'
Telephone: 121241-9

P O Box 9250
Dar es Salaam.

In reply please quote
Ref No VAL/7688/Vol II

13th November, 2002

The managing Director,
DAWASA
P O Box 1578,
DAR ES SALAAM.

RE: VALUATION REPORT OF PROPERTIES LOCATED ALONG RUVU CHINI
AND RUVU JUU WATER PIPELINES WAY LEAVES AND KURASINI
OXIDATION PONDS FOR COMPENSATION PURPOSES

Please refer your letter Ref DAWASA/8V/01/1 of 17/4/2002 and
our letter Ref No VAL/7688/Vol II dated 13/5/2002

Please find attached Draft Report of Management Summary for
your review and amendments where necessary

A P Nyaruahuma
for: COMMISSIONER FOR LANDS
DRAFT REPORT

VALUATION REPORT OF PROPERTIES LOCATED ALONG
RUVU CHINI AND RUVU JUU WATER PIPELINES WAY
LEAVES AND KURASINI OXIDATION PONDS FOR
COMPENSATION PURPOSES

1. Instructions and Purpose of Valuation:

The valuation Section in the Ministry of Lands and
Human Settlements Development has been instructed by
Dar es Salaam Water and Sewerage Authority vide their
letter Ref. No. DAWASA/SV/01/1 dated 17th April 2002.
in carry out valuation of properties belonging to squatters
located along their way leaves from Ruvu Juu, Ruvu
Chini and around Kurasini Oxidation Ponds.

The purpose of the valuation is to determine
compensation value that will enable DAWASA
Management to make decisions on the amount of Money
that would be required if squatters on the said way leaves
are to be compensated in order to pave a way five (5)
meters either sides of the pipes and five (5) meters from
the end of the ponds.

2. Properties Valued:

We have valued properties along the three areas namely

- Ruvu Chini Water Pipe Line Way Leave
- Ruvu Juu Water Pipe Line Way Leave
- Kurasini Oxidation Ponds

3. Valuation Methodology:

The Land Act 1999 requires assessment of value for
compensation purpose be based on market value. We
have therefore adopted market approach in our

2
valuation. We have in addition given allowances where applicable, namely Transport Allowance, Loss of Profit, Loss of Accommodation and Disturbance allowances. These have been calculated as stipulated in Compensation Regulations GN 78 (2001).

Land Value has also been taken into account. This however has been implicitly built into the market rates applied in the actual valuation of property.

The valuation of the graves is based on Comparison to recent projects of removal of graves.

4. Property Reference Numbers/Coding:

We have referred to properties by assigning a reference number to every property. Typical example is

1. DWS/RJ/01
2. DWS/RC/01
3. DWS/KS/01

Where - DWS implies the name of organisation
- DAWASA
- RJ implies the main location Ruuu Juu
- RC implies main location Ruuu chini
- KS implies the main location Kurusini
- 01 implies a running number

5. Limitation of the Report:

We have not taken photographs of properties because we were made to believe that DAWASA staff did the same recently and that the cost of repeating would not be borne.

We have not been able to establish the number of graves at Kurusimi. Their valuation is estimate only. Our estimate is around fifty (50) graves.
We have allowed ten percent (10%) of the total value for any changes that we may make in the valuation and any contingencies that may arise on payment of the checking the compensation including any interest stipulated by law that may be called due to delay of payment.

6. Date of Valuation:

The date of valuation is November 2002.

7. Valuation Summary:

- Ruvu Juu - T.Shs 744,742,300
- Ruvu Chini - T Shs 27,093,400
- Kuasini - T Shs 348,906,000
- Allowance for contingencies 10% - T Shs 112,074,200
  Total - T Shs 1,232,815,900

A.P. Nyaruhuma

For: COMMISSIONER FOR LANDS
Annex 4
Comments by the Ministry of Water & Livestock Development
In reply please quote:
Kumb. No EA 352/362/01/41

2nd December, 2002

RE: COMMENTS ON THE DRAFT POLICY FRAMEWORK FOR RESSETLEMENT OF PROJECT AFFECTED FAMILIES IN DAR ES SALAAM.

Please refer to your letter Ref. No. FB115/379/01/50 of 19th November, 2002 on the above subject.

We have read your Draft Policy Framework for Compensation and Resetlement of Families Affected by the Dar es Salaam Water Supply and Sanitation Project and have the following comments:

(a) Some corrections – Land Ordinance Cap 113 was repealed in 1999 and replaced by Land Act No. 4 and Village Land Act No. 5 of 1999. There is not any piece of legislation called Village Land Act No. 7 of 1999. Replacement value is only one method of Valuation. There are others, for example, the Market Value which is preferable under the open free market economy as adopted by Tanzania.

(b) According to the current Tanzania Law and practice the assessment and payment of compensation for unexhausted improvements, loss of accommodation, loss of profit, disturbance and transport is governed by Land Act No. 4 of 1999 and Village Land Act No. 5 of 1999 and their respective Land and Village Land Regulations of May, 2001. The payment of compensation is not only legal requirement, but a constitution imperative under Article 24 of the Constitution of Tanzania. You have already mentioned Section...

We believe that DAWASA or the Ministry of Water have their own sectoral laws and Regulations for protection of Right of Way or Easement for water supply infrastructure. For example, in your Policy Framework on page 9 you categorically state "all illegally encroaching PAPS will not be compensated". Of course this depends on whether DAWASA gazetted its land reserves for water works and how the Courts will interpret encroachment if the persons affected decided to take their case to the Courts.

(c) In the Policy Framework Paper there is repeated references to Land Acquisition Act No. 47 of 1967. This is still the current piece of law for Land Acquisition and compensation. However, in case of conflict or inconsistency between the Land Acquisition Act and Land Act No. 4 of 1999, it is the Land Act which takes precedence over any other written law to the contrary as provided under Section 181 of the Land Act No. 4 of 1999.

(d) With regard to Resettlement of Displaced Persons, you should have recourse to the policy statements of the National Human Settlements Development Policy of year 2000. In it you will find out there is little of helpful guidance to you. Unfortunately we do not yet have clear policy and specific legal provisions for Resettlement of Displaced Population in Tanzania compared to the stringent World Bank guidelines which DAWASA is required to meet as a conditionality to the approval and funding of the Project.

In the Resettlement Plan Para 7, Page 7 you state that the Government of Tanzania has approved the Policy Framework. If this is the case what then is the use of our comments at this stage?
Finally we would like to draw your attention to Section 3 (f) and (g) of Land Act No. 4 of 1999 that "interest in land has value and that value must be taken into consideration in any transaction affecting land". This means if you acquire land you will have to compensate owners for bare land in addition to unexhausted improvements contrary to the provisions of Land Acquisition Act No. 47 of 1967. Full, fair and prompt compensation has to be paid to any person whose Right of Occupancy is affected or interfered with to their detriment. If payment of compensation is delayed interest at Commercial Bank's rate will be charged. The amount of compensation payable will be determined by a Registered Professional based on the market value of the land or property. It is necessary for you to follow strictly these provisions of the law to avoid contested disputes.

For: PERMANENT SECRETARY