

# **Timor Leste Water Supply and Sanitation Project**

**Director General of Water Supply & Sanitation  
Ministry of Public Works  
Government of Timor Leste**

## **RESETTLEMENT POLICY FRAMEWORK (DRAFT)**

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## **Abbreviations**

ADB	Asian Development Bank
AP	Affected Person
DGAS	Directorate General for Water and Sanitation
DNSA	Portuguese acronym for National Directorate for Water Services
DNSB	Portuguese acronym for Directorate National for Basic Sanitation
JICA	Japan International Cooperation Agency
RF	Resettlement Framework
RP	Resettlement Plan
WB	World Bank

## **Glossary of Terms**

In this Resettlement Policy Framework, unless the context dictates otherwise, the following terms will have the following meanings:

**“Environmental and Social Standards” (ESSs)** set out the requirements for Borrowers/Clients relating to the identification and assessment of environmental and social risks and impacts associated with projects supported by the Bank through Investment Project Financing. Ten ESSs establish the standards that the Borrower/Client and the project should meet through the project life cycle.

**“Project affected persons” (PAPs)** means persons who are impacted by involuntary resettlement as defined below.

**“Involuntary resettlement”** means the involuntary taking of land resulting in direct economic and social impacts caused by:

- a) the involuntary taking of land resulting in:
  - i. relocation or loss of shelter;
  - ii. loss of assets or access to assets; or
  - iii. loss of income sources or means of livelihood, whether or not the PAP has moved to another location.
- b) The involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

**“Land acquisition”** refers to all methods of obtaining land for project purposes, which may include outright purchase, expropriation of property and acquisition of access rights, such as easements or rights of way. Land acquisition may also include: (a) acquisition of unoccupied or unutilized land whether or not the landholder relies upon such land for income or livelihood purposes; (b) repossession of public land that is used or occupied by individuals or households; and (c) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible.

**“Land”** includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.

**“Restrictions on land use”** refers to limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly introduced and put into effect as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources, and restrictions on land use within utility easements or safety zones.

**“Livelihood”** refers to the full range of means that individuals, families and communities utilize to make a living, such as wage-based income, agriculture, fishing, foraging, other natural resource-based livelihoods, petty trade and bartering.

**“Cut-off date”** is the date by which PAPs and their affected assets, as relevant, have been identified and new entrants to the site cannot make claims to compensation or resettlement assistance. Persons whose ownership, use of occupancy prior to the cut-off date can be demonstrated remain eligible for assistance, regardless of their identification in the census.

**“Compensation”** means the payment in kind, cash or other assets given in exchange for the taking of land, loss of other types of assets (including fixed assets) or loss of livelihoods resulting from project activities.

**“Census”** is a complete count of the population affected by a project activity including collation of demographic and property information. This will identify and determine the number of Project Affected Persons (PAP) and the nature and levels of impact.

**“Resettlement Action Plan (RAP)”** is a resettlement instrument (document) to be prepared when project investments locations are identified. RAPs contain specific and legally binding requirements to be abided by to resettle and compensate the affected party before implementation of the project activities causing adverse impacts.

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

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

**“Economic 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 PAPs to improve their living standards, income earning capacity and production levels; or at least maintain them at pre-project levels.

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

**“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 the legislation of the Government of Timor Leste. 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”** is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labor for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety. The valuation method for determining replacement cost should be documented and included in relevant resettlement planning documents. Transaction costs include administrative charges, registration or title fees, reasonable moving expenses, and any similar costs imposed on affected persons. To ensure compensation at replacement cost, planned compensation rates may require updating in project areas where inflation is high or the period between calculation of compensation rates and delivery of compensation is extensive.

**“Security of tenure”** means that resettled individuals or communities are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate. In no event will resettled persons be provided tenure rights

that are in effect weaker than the rights they had to the land or assets from which they have been displaced.

**“Voluntary Land Donation”** - means communities or individuals may agree to voluntarily provide land for sub-projects for desired community benefits. The operative principles in voluntary land donation are “informed consent and power of choice”. Informed consent means the people involved are fully knowledgeable about the project and its implications and consequences and freely agree to participate in the project. Power of choice refers to the people involved have option to agree or disagree, without adverse consequences imposed formally or informally by others.

## Introduction

This Resettlement Policy Framework (RPF)<sup>1</sup> is prepared as part of the Timor Leste Water Supply and Sanitation Project to guide preparation of project investments Resettlement Action Plans (RAPs), as necessary, for the implementation phase of the project in the urban areas of Baucau city.

The Executing Agency for the Timor Leste Water Supply and Sanitation Project (TLWSSP) is the Ministry of Public Works. The Directorate General for Water and Sanitation (DGAS) is the project's main point of contact at the ministry level. The project has three Implementing Agencies that fall under DGAS. The National Directorate of Water Resources Management (DNGRH) that is responsible for holistic water resources management, the National Directorate for Water Services (DNSA) that is responsible for implementing project activities relating to water and the National Directorate for Basic Sanitation (DNSB) is responsible for implementing project activities relating to sanitation.

The Timor Leste Water Supply and Sanitation Project is being prepared as an investment project with a proposed outlay of US\$ 25 million of IDA Credit resources. As a first engagement of the World Bank in the water and sanitation sector in the country, the proposed Project provides an entry point for further work in Timor-Leste. The Project aims at addressing water supply and sanitation related infrastructure gaps in Baucau- the second largest city and supporting the Government to improve water and sanitation service delivery and sustainability of the investments across the country, including in Baucau, through the development and implementation of its sector institutional reform. In addition, the proposed Project will address the climate-related risks of extreme heat, drought and floods.

The proposed Project is also part of a coordinated World Bank effort to support the Human Capital development agenda in Timor-Leste. Along with the Public Expenditure Review (PER) covering Health, Education and Stunting (FY19), the Basic Education Quality Improvement Project (FY19), the Human Capital Development Strategy (FY20), the Nutrition and Stunting Project (FY21) and the Sustainable Agriculture Productivity Improvement AF (FY23), the Project is part of a well-aligned World Bank support to Government of Timor-Leste efforts to improve access to basic services and nutrition.

## 1. PROJECT DESCRIPTION

The Project Development Objective is to improve water and sanitation services in the project area. The proposed Project activities are based on the Water and Sanitation Master Plan prepared in 2016. The World Bank has reviewed the Master Plan and considers it acceptable for the preparation of the Project. The estimated cost for the construction of the water supply infrastructure is US\$22 million including 20 percent contingency, US\$0.5 million for simplified wastewater collecting network and decentralized wastewater treatment systems (DEWATS), US\$0.5 million for the construction of the fecal sludge treatment plant, and US\$1.5 million for the supervision contract. Master Plan technical design and estimated construction costs will be reviewed during the preparation of the detailed engineering designs (DEDs) studies. Infrastructure will be designed and specified considering the impacts of climate change on water supply and demand, aiming to be climate-proof and with durability of materials as a high priority. Preparation of DED is being contracted and financed by the Government of Timor-Leste and the DED is expected to be available in June 2020.

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<sup>1</sup> This document has used the broad outline of the *Socio-Economic Resilience Strengthening Project in Tajikistan: Resettlement Policy Framework* and adapted it to the Timor Leste Water Supply and Sanitation Project.



Implementation of this project will involve the following three components: Component 1: Water Supply and Sanitation infrastructure Development; Component 2: Infrastructure Sustainability Support; and Component 3: Institutional strengthening and Project Management.

### **Component 1: Water Supply and Sanitation Infrastructure Development**

This component will finance the construction and supervision of (i) a water supply system, (ii) a fecal sludge treatment plant and (iii) simplified wastewater collecting network and decentralized wastewater treatment systems (DEWATS) thereby making the residents of Baucau more resilient to heatwaves, droughts, and floods. The design of the infrastructures will be made on the projected population of municipal capital of Bacau, i.e. 32,000 by 2030<sup>2</sup>.

### **Component 2: Infrastructure Sustainability Support**

This component is designed to ensure the sustainability of water and sanitation-related investments funded under Component 1. All related infrastructure sustainability support activities will be included in the construction contract and will be implemented in synchrony during the construction phase and continued over the 2 first years of systems operation. This subcomponent will finance technical assistance and goods to : (i) support the water and sanitation service provider in the municipality of Baucau (currently SMASA, but may be the National Water Utility in the future) to develop its capacity, systems and procedures to manage, operate and maintain the new water supply system and the sludge treatment plant according to international quality standards, (ii) support the municipal authorities to promote and regulate desludging, including the transport and safe disposal of fecal sludge from household, institutional and commercial septic tank sludge, thereby increasing access to safely managed sanitation and (iii) secure community participation in and support project sustainability.

### **Component 3: Institutional strengthening and Project Management**

This component aims to support MPW-led sector stakeholder's collaborative platform to develop and implement the sector institutional reforms to improve sustainable service delivery and sustainability. The component will also finance technical assistance, equipment, and operational costs associated with the implementation of the project. This component is split into two sub-components, as detailed below. Leadership and coordination of the sector reform will be ensured by Ministry of Public Works (MPW) and financing of sector reform related activities will be provided by the World Bank, ADB, JICA, DFAT, UNICEF and MCC and the GoTL. The World Bank will finance inter alia training, knowledge exchange, and technical and operational support, including the diagnostic of the urban water service and the preparation of a priority service improvements plan, as part of *Utility of the Future* World Bank initiative<sup>3</sup>.

### **Anticipated Land Acquisition and Resettlement**

Land acquisition is expected to be required for: (i) new septage management facilities (ii) new boreholes for supply of potable water (iii) new water pumping stations (iv) new or greatly enlarged water storage tanks, (v) new transmission lines for potable water (vi) new distribution lines for

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<sup>2</sup> Population figures based on the national census of 2014 and projected to 2030 based on 5% population increase, as indicated in the census.

<sup>3</sup> *Utility of the Future* is an initiative by the World Bank aimed at knowledge exchange to support new utilities in implementing new innovative approaches for improvement of utilities performance and service provision

potable water, and (vii) replacement of most or all the old transmission and distribution lines that were originally installed by the Portuguese and Indonesian administrations.

The land taking impacts of the proposed investment range between 200-1500 m<sup>2</sup> depending on the technical parameters of the infrastructure. The latter are usually located in the low population density areas, thus the physical relocation impacts are minimized. The total no. of affected Project Affected Persons (PAPs) is likely to be well within 50 and the possibility of physical relocation minimal. A resettlement policy framework (RPF) prepared as part of the ADB supported master plan preparation for the 4 cities including Baucau has been reviewed and is being updated to conform to ESS requirements as the specific extent of land acquisition or restriction on land use related to the proposed project is unknown during project preparation. The RPF will be disclosed prior to Bank appraisal. In addition to general principles and procedures compatible with the ESS5, the framework will also include provisions guiding the land donation practices. Land donation related documentation establishing voluntariness of the donation are essential and will be closely monitored. Once the land is donated it is important that the record be altered to reflect the new entity that will be the owner to avoid disputes in the future. The site-specific RAPs will be prepared once the magnitude of project impact is determined in the DEDs. Since the latter would only be finalized prior to project effectiveness (tentatively September 2020), the site-specific RAPs will be prepared at the early stage of project implementation.

The Bank is committed to supporting Borrowers/Clients in the development and implementation of projects that are environmentally and socially sustainable, and to enhancing the capacity of Borrowers' environmental and social frameworks to assess and manage the environmental and social risks and impacts of projects. To this end, the Bank has defined specific Environmental and Social Standards (ESSs), which are designed to avoid, minimize, reduce or mitigate the adverse environmental and social risks and impacts of projects. The Bank will assist Borrowers in their application of the ESSs to projects supported through Investment Project Financing in accordance with this Environmental and Social Policy for Investment Project Financing (Policy).

ESS5 on Land Acquisition, Restrictions on Land Use and Involuntary Resettlement recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. The proposed activities are not expected to generate serious adverse effects to human health and the social environment. Project-related land acquisition or restrictions on land use may cause physical and economic displacement. To prevent, avoid, mitigate and reduce those risks and to meet ESS5 requirements the present Resettlement Policy Framework (RPF) was developed.

### **Rationale for ESS 5 and RPF Scope**

The World Bank Environmental and Social Framework and the related 10 Environmental and Social Standards (ESSs) set out the requirements for Borrowers relating to the identification and assessment of environmental and social risks and impacts associated with projects supported by the Bank through Investment Project Financing. The Bank believes that the application of these standards, by focusing on the identification and management of environmental and social risks, will support Borrowers in their goal to reduce poverty and increase prosperity in a sustainable manner for the benefit of the environment and their citizens. The standards will: (a) support Borrowers in achieving good international practice relating to environmental and social sustainability; (b) assist Borrowers in fulfilling their national and international environmental and social obligations; (c) enhance nondiscrimination, transparency, participation, accountability and governance; and (d) enhance the sustainable development outcomes of projects through ongoing stakeholder engagement.

Ten Environmental and Social Standards establish the standards that the Borrower and the project will meet through the project life cycle. ESS5 on Land Acquisition, Restrictions on Land Use and Involuntary Resettlement recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. The proposed activities are not expected to generate serious adverse effects to human health and the social environment. However, the project-related land acquisition or restrictions on land use may cause physical and economic displacement. To prevent, avoid, mitigate and reduce those risks and to meet ESS5 requirements the present Resettlement Policy Framework (RPF) is being developed.

The Timor Leste Water Supply and Sanitation Project by design will avoid activities that may involve physical/ economic displacement and/ or loss of structures. Land acquisition is expected to be required for: (i) new septage management facilities; (ii) new intake system for supply of water; (iii) new water pumping stations; (iv) new or greatly enlarged water storage tanks; (v) new transmission lines for potable water; (vi) new distribution lines for potable water and (vii) replacement of most or all the old transmission and distribution lines that were originally installed by the Portuguese and Indonesian administrations. The land taking impacts of the proposed investment range between 200-1500 m<sup>2</sup> depending on the technical parameters of the infrastructure. The latter are usually located in the low population density areas, thus the physical relocation impacts are minimized. The total no. of affected Project Affected Persons (PAPs) is likely to be well within 50 and the possibility of physical relocation minimal. Towards addressing such a situation, the client has prepared a Resettlement Policy Framework, approved by the Bank and disclosed the same.

RPF details the next steps on preparing and implementing resettlement action plans (RAP). The framework clarifies resettlement principles, organizational arrangements, and design criteria to be applied to project investments to be prepared during project implementation. Once the specific project investments are defined and the necessary information becomes available, such a framework will be expanded into a specific resettlement action plan. Project activities that will cause physical and/or economic displacement will not commence until such specific plans have been finalized and approved by the Bank.

### ***Potential Impacts on Assets, People and Livelihood***

Given the planned work under Components 1, the impact on involuntary resettlement will be limited by small scale land acquisition, temporary land acquisition, restriction of access and economic impact. Physical relocation of households is not expected. It is expected that the construction will be carried out within the footprint of existing infrastructure or on available lands that are publicly owned. However, land may be required for small scale project infrastructure such as new or enlarged water storage tanks or water pumping stations in settlements where no infrastructure currently exist, as well as for expansion of water supply systems. The presence of informal users or structures and associated economic impacts covered under ESS5 also cannot be ruled out. While public land is expected to be made available in case of expansion of new infrastructure, the project allows for voluntary land donations by the community or individuals and this process will have to be closely managed during implementation. Individual land donation will be subject to strict scrutiny and approved by the World Bank, prior to accepting donation. Land donation cannot result in a person or household being worse off than pre-project levels and must receive benefits from the project.

Although the detailed impacts under Component 1 will only be known once detailed designs are prepared, the Government of Timor Leste has developed a RPF to address possible impacts related to land acquisition and access restrictions and risks involving potential links to some of the project investments. The RPF identifies the possible impacts from project activities, describe the range of potential impacts (temporary and permanent) to land use/access and structures and describes how compensation rates will be determined and procedures for the same.

Where there is a gap between national and World Bank procedures, the latter will prevail for all activities financed under this project due to the project risk category classified as "Substantial". The RPF will serve as a screening device to ascertain if there will be any impacts resulting from project activities. The RPF is

intended as a practical tool to guide the preparation of safeguards instruments such as Resettlement Action Plans (RAPs) and necessary due diligence for activities during implementation of the comprehensive project. If any impacts are identified, the Government of Timor Leste will develop social risk management instruments for impacts related to each investment based on the guidelines and procedures highlighted in the RPF document.

This RPF will be approved by the Government of Timor Leste and cleared with the World Bank (WB). Once the document has been approved, it will be uploaded to WB's external web-site and be available locally through the public information centre, in compliance with the WB's policy. The RPF will be translated into Tetum and other local languages and further will be distributed in such a way as to be available to central and local government agencies and potential PAPs. Implementation of the planned project investments will only take place following these approvals and information sharing/consultation.

## **Objectives and Principles of Resettlement Planning**

The Resettlement Policy Framework (RPF) aims to describe policies and procedures to ensure that people adversely affected under the Project are adequately consulted with on project activities and receive compensation or assistance that will at least restore pre-project level of livelihoods.

The RPF provides policies and procedures to determine requirements of the World Bank's ESS on Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement (ESS5), to assess potential expected risks and impacts, to identify detailed steps to develop appropriate mitigation measures, including mitigation and compensation for the impact caused under the project including:

- involuntary land acquisition (temporary or permanent);
- loss of, or impact on, assets or access thereto;
- loss of standing crops, trees income source or livelihoods, regardless of whether the project affected persons (PAPs) will be resettled, or not;
- restricted access to natural resources, public places and services,
- legal framework, eligibility criteria of displaced population, valuation methodology, compensation provision, entitlement matrix, implementation process, consultation procedures,
- due diligence procedures in case of project interventions linked to other development activities supported by the Government and other funding agencies
- grievance redress mechanisms, entitlement payment procedures, and monitoring and evaluation procedures for land acquisition and resettlement under this project.

The basic objectives of the RPF are to: (i) guide DGAS, MPW, the national and local self-government ( District, Municipality) in properly identifying, compensating, and restoring the livelihoods of Project Affected Persons (PAPs), (ii) serve as a binding document to ensure payment of compensation and assistance to PAPs, and (iii) provide direction in preparing, updating, implementing and monitoring project investments Abbreviated RAPs and RAPs. The RPF includes measures to ensure that PAPs are (i) informed about their options and rights pertaining to resettlement; (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the Project.

The RPF is based on the following principles:

- Involuntary resettlement is to be avoided or at least minimized.
- PAPs are to be suitably assisted in their efforts to improve, or at least restore, incomes and living standards.
- PAPs are fully informed and consulted on compensation options.

- Lack of formal legal land title is not a barrier to compensation or alternative forms of rehabilitation assistance.
- Particular attention is paid to socially vulnerable groups, such as ethnic minorities, female headed households, elderly households, etc. and appropriate assistance is provided to help them adapt to project-related changes.
- Land acquisition and resettlement is conceived and executed as a part of the project, and the full costs of compensation are included in project costs and benefits.
- Compensation/rehabilitation assistance will be paid prior to displacement and prior to ground leveling, demolition, and in any case, before an impact occurs.
- Compensation is to be paid at full replacement cost to PAPs, without deductions for depreciation or any other purpose.

It should be noted that according to World Bank's ESS5, the term "involuntary resettlement" encompasses more than the 'physical relocation or resettlement' of affected people. It is defined as the direct social and economic impacts of a project that are permanent or temporary and are caused by the involuntary taking of land 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; or
- (iv) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

The ESS5 also applies in case any project investments activities found as 'linked' or 'associated facility'. This ESS requirements and provisions apply 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, i.e. 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.

It should be further noted that no changes to the RPF entitlement matrix, eligibility criteria, compensation rates or other entitlements to assistance can be made without prior approval of the World Bank. Any RAPs prepared on the basis of the RPF will also be subject to prior approval of the World Bank.

## **Legal Framework and Policies Related to Land Acquisition and Resettlement**

### **Customary land ownership:**

There is a wide variety of tenure types and traditional group structures across Timor-Leste. Customary land tenure systems operated in the country before and during the Portuguese colonial era. Local systems regulated the distribution, transfer and exploitation of land, and continue to do so. Despite Portuguese rule and the Indonesian occupation, these local systems have persisted, especially in rural areas of the country. Customary tenure, Portuguese (formal, private tenure system and the concept of State property) and Indonesian (religious land tenure system including State-controlled land based on complex usufruct rights) land systems have co-existed, in varying degrees. The formal Portuguese and Indonesian land registration systems included many different types of land tenure rights, few of which were freehold and mostly included limited use rights. Of an estimated 200,000 land parcels in the country as a whole, less than about a quarter have ever been formally registered.<sup>11</sup> The vast majority of parcels have been held by traditional landowners, mostly communities defined as —origin groups||.<sup>12</sup>

Origin groups define themselves as first possessors of certain areas of land and have authority over land in most parts of rural Timor-Leste. The boundaries of origin group land may be difficult to define and demarcate, sometimes origin group land may not be contiguous.

Origin groups have authority over land allocations, including permission for the clearing and cultivating of new land. Within the system of origin group authority there are highly individuated rights to land. It is not accurate to describe customary land in Timor-Leste in terms of communal or common property only; residential, garden and plantation plots are "owned" by families rather than the group itself, and generally speaking, these plots remain under family control. Members of a subsidiary household have the same basic rights to land as members of the origin group. Their descendants will inherit residential, garden and plantation plots, and they may clear and cultivate new plots with permission from the origin group.<sup>14</sup>

Some land may be described in terms of common property. For example, there are defined areas for annual cultivation of food crops. Any group member (including subsidiary households) can farm this land. At the end of the cultivation period individual claims are relinquished and the land returns to communal property. Also, land may be owned by a family but used by a number of families, effectively as common property '.

### **Legal Framework:**

The Constitution (Article 141) states that the ownership, use and development of land as one of the factors for economic production shall be regulated by law. The first land law of Timor-Leste was promulgated in March 2003 – Law No.1/2003 – which was designed to serve as an umbrella law for the rest of the land and property regime.

The law defined State property of private domain, established the Directorate of Land and Property (DLP) as a legal entity and defined its jurisdiction, and articulated general rules concerning land tenure and property rights to be further developed by ensuing legislation. Moreover, this law established a one-year period for both nationals and non-nationals to register their land claims.

Effectively Law No. 1/2003 vests all land that belonged to the Portuguese state, and all state property acquired or built by the Indonesian regime, in the new state of Timor-Leste. This definition of state property covers a significant amount of land currently claimed by origin groups, and there is uncertainty over the boundaries of state land and overlapping claims of state and customary land ownership. Further, the law currently does not include any implementing regulations.<sup>15</sup>

There are no specific laws or guidelines concerning the details of land acquisition and compensation. Law No. 1/2003 does not provide a legal basis for customary land to be declared as public land belonging to the state of Timor Leste.<sup>16</sup> Article 54 of the Constitution covers the right to private property and includes:

- Every individual has the right to private property and can transfer it during his or her lifetime or on death, in accordance with the law.
- Private property should not be used to the detriment of its social purpose.

It should also be noted that the legal foundation for the ROW for roads has not been established in Timor-Leste. When road works require additional land, the Government negotiates with the owners or

users (including squatters) on a case by case basis. According to usual practice, when land acquisition required for project development, concerned parties under the direction of local authorities (district and sub- district Land and Property Units and village) will negotiate and reach an agreement on compensation rates, total compensation amount, and the procedures or mechanism for compensation and transfer.

A concept paper prepared in October 2008 noted that the Government is aware that such an ad hoc approach is problematic and is hoping to deal with it through forthcoming law and will require technical assistance and institutional strengthening to address the issues through new law, and subsequently for the implementation of regulations to support a new land law. Two new pieces of legislation have been drafted - Land Law (Special Regime for Determination of Ownership of Immovable Property) and the Expropriation Law - but neither has yet been passed by the Parliament until 2017.

### **Relevant Legislation of the Government of Timor Leste on Land expropriation:**

On April 26, 2017, the Timor-Leste Parliament approved the Country's Expropriation' Law (the "Law") by means of Law 8/2017. The new Law, which came into force on 27 April 2017, is an important part of the "Land Law Package" that has been in discussion for almost a decade, and that includes several other significant statutes that are expected to be approved and/or gazetted in the near future. The following sections provide specific details of what is covered by the 2017 Expropriation law.

#### **How does the Law define "expropriation"? What is covered?**

The Law defines expropriation as any legally admissible restriction to private property or related rights or interests, irrespective of the persons or entities to whom they belong.

#### **Does the Law apply to immovable property owned by traditional communities?**

Community immovable property may also be expropriated, subject to the specific terms foreseen in the new statute.

#### **In what circumstances may the State resort to expropriation?**

Expropriation is only admissible in cases of "public interest" (utilidade pública) in the use of the asset. The Law lists the following situations as being of "public interest" for purposes of justifying expropriation:

- (i) National defense and security;
- (ii) Public pathways, roads, tunnels, railroads, and ancillary facilities;
- (iii) Public transportation systems;
- (iv) Reservoirs, dams, infrastructure for the distribution and drainage of water and residues, and irrigation;
- (v) Ports, airports and terminals;
- (vi) Exploitation of petroleum, gas, minerals, and geothermal energy facilities;
- (vii) Public electricity generation and distribution systems;
- (viii) Telecommunications systems;
- (ix) Waste collection and treatment;
- (x) Public hospitals, treatment and diagnostic centers, and other essential infrastructure used for public health services;
- (xi) Public firefighting and civil protection services;

- (xii) Public cemeteries and “Heroes Gardens”;
- (xiii) Public, social and cultural facilities, and green areas;
- (xiv) Preservation and conservation of historic and cultural monuments, whether isolated or inserted in urban or rural centers;
- (xv) Protection of landscapes and sites of special natural beauty;
- (xvi) Infrastructure for protection against landslides, floods, and other mechanisms for protection against natural disasters;
- (xvii) Public housing;
- (xviii) Public education and teaching facilities;
- (xix) Public sports facilities and markets;
- (xx) Other situations provided in special legislation.

**Who does the Law consider as “interested parties” for purposes of intervening in the expropriation procedure?**

The Law has adopted a broad definition of “interested party”, which in part reflects the underlying reality of land tenure and land use in Timor-Leste. The following are considered interested parties for purposes of the Law:

- (i) The holders of “*rights in rem*”<sup>4</sup> over the real estate asset to be expropriated;
- (ii) The holders of contractual rights over the asset, notably leases, rights of way, etc.;
- (iii) The occupiers of the asset at the time of public notice of commencement of the expropriation procedure;

**Who can request and carry out an expropriation?**

Only public entities of the direct administration of the State may be beneficiaries of an expropriation. Public Institutes and State-owned companies, amongst other bodies of the indirect Administration of the State may not do so directly.

**What happens if the property to be expropriated has not yet been registered?**

If the property is not registered, a registration procedure under the general legal framework must be conducted.

**Is the State free to expropriate a given property without studying alternatives?**

Expropriation can only take place on an exceptional basis, when it is not possible to use another asset or redesign the project. The Law requires that alternative solutions be assessed.

**What language should be used when notifying the interested parties under the expropriation procedure?**

All documents delivered to the interested parties must be drafted in the two official languages of Timor-Leste (Tétum and Portuguese) in order to be valid.

**Are the rights of vulnerable persons and groups duly protected?**

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<sup>4</sup> **Rights in rem** are defined to mean the **rights** by the **right**-holder to directly and exclusively control specific things (**property**); it includes ownership **rights**, usufruct and security interests in **property**.



The Law determines that special attention shall be given to the most vulnerable population groups when they are affected by expropriation.

**What happens if instead of expropriating property, the State simply wishes to establish a right of way?**

Constitution of administrative easements (rights of way, etc.) is expressly foreseen, subject to payment of adequate compensation.

**What are the phases of the expropriation procedure?**

The expropriation procedure is divided into the following phases:

- (i) Project planning;
- (ii) Public consultation;
- (iii) Property survey;
- (iv) Negotiation for acquisition of the asset (aquisição por via do direito privado).

**What happens in the planning phase?**

In the planning phase, the expropriating authority shall carry out the environmental licensing and social study of the effects of the project, prepare a relocation program (if applicable), review any possible alternatives for the project, and prepare a statement of the grounds for the public interest in the expropriation.

**What happens next?**

After the planning phase is concluded, the public consultation phase takes place, in which the project is publicized and submitted to any interested parties for comments. Meetings are also held so feedback on the project can be received.

**What is the purpose of the property survey phase?**

The public consultation is followed by a property survey, aimed at registering all the legal and physical characteristics of the property, which may be relevant to determine the fair compensation that will be due to the owner/ holder of rights over the property. A survey report is then prepared and notified to the interested parties.

**What happens after the interested parties receive the report?**

After the report is prepared, a negotiation phase takes place by means of which the expropriating authority attempts to acquire the property under the terms of private law, i.e., by means of a sales and purchase agreement.

**What happens if the owner does not wish to sell the property?**

If the parties cannot reach an agreement, and the negotiation phase is not successful, the expropriation procedure proper will commence, with the issuance of the “declaration of public interest”.

**If the owner does not agree with the grounds of the declaration of public interest, what can it do?**

The declaration may be appealed to the local court of first instance, although without suspension effects, i.e., the appeal does not stop the expropriation.

**If more than one property is required to implement the project, do they all have to be expropriated at the same time?**

Expropriations may be conducted in phases, when the underlying project will also be implemented in phases.

**How does the expropriation procedure work? What happens after the declaration?**

The first step in the procedure is for the authorities to once again make a proposal for the acquisition of the property, thus trying to avoid the costs and bureaucracy of the expropriation.

**What happens if, once again, there is no agreement?**

If the new acquisition attempt fails, then an arbitral phase will commence to determine the fair compensation amount

**How does this arbitration work? Who appoints the arbitrator?**

The arbitration is conducted by a single arbitrator (the “expert”), appointed by the court.

**What is the aim of the arbitration?**

The arbitration’s sole purpose is to decide on the amount of the fair compensation.

**What is the timeframe for the rendering of the arbitration decision?**

The arbitrator/ expert must render a decision within 30 days of his/her appointment.

**Is there any way to appeal the arbitrator’s decision?**

The arbitral decision may be appealed to the local court of first instance, but the appeal does not suspend the expropriation.

**Does the Law explain or contain any rules on how to assess fair compensation?**

The Law contains the basic principles on the assessment of fair compensation due for the expropriation. The specific rules used to determine the value of the compensation shall be approved by Government Decree which has not yet been gazetted.

**Is fair compensation limited to a cash payout?**

The Law gives preference to compensation through attribution of ownership rights over an equivalent property belonging to the State. Relocation is also one of the forms of compensation that is foreseen, when applicable.

**How are the interested parties’ rights to compensation protected?**

The Law approves the creation of a “Real Estate Financial Fund”, with the purpose of paying compensation due by the State as a consequence of determination of ownership rights under the future Land Law, compensation and relocation under the Expropriations’ Law, and other projects including public housing. Additionally, towards the end of each year, the Government must prepare an expropriations’ plan covering all anticipated expropriations for the following year, which must also be budgeted for.

While the law that became effective in 2017 is a positive step in establishing the broad framework for land expropriation in Timor Leste, the detailing of formal systems and procedures is proceeding at a very slow pace. Therefore, for the purpose of the Timor Leste Water Supply and Sanitation Project, this Resettlement Policy Framework (RPF) will be the agreed basis for land taking.

### **The World Bank Environmental and Social Standard on Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement (ESS5)**

The WB’s ESS5 recognizes that project-related land acquisition and restrictions on land use can have adverse impacts on communities and persons. Project-related land acquisition or restrictions on land use may cause physical displacement (relocation, loss of residential land or loss of shelter), economic displacement (loss of land, assets or access to assets, leading to loss of income sources or other means of livelihood), or both. The term “involuntary resettlement” refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement.

#### **ESS5 Objectives**

- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives;
- To avoid forced eviction;
- To mitigate unavoidable adverse social and economic impacts from land acquisition or restrictions on land use by: (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.
- To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure.
- To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project may warrant.
- To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

This ESS applies to permanent or temporary physical and economic displacement resulting from the following types of land acquisition or restrictions on land use undertaken or imposed in connection with project implementation:

- (a) Land rights or land use rights acquired or restricted through expropriation or other compulsory procedures in accordance with national law;
- (b) Land rights or land use rights acquired or restricted through negotiated settlements with property owners or those with legal rights to the land, if failure to reach settlement would have resulted in expropriation or other compulsory procedures;

- (c) Restrictions on land use and access to natural resources that cause a community or groups within a community to lose access to resource usage where they have traditional or customary tenure, or recognizable usage rights. This may include situations where legally designated protected areas, forests, biodiversity areas or buffer zones are established in connection with the project;
- (d) Relocation of people without formal, traditional, or recognizable usage rights, who are occupying or utilizing land prior to a project specific cut-off date;
- (e) Displacement of people as a result of project impacts that render their land unusable or inaccessible;
- (f) Restriction on access to land or use of other resources including communal property and natural resources such as marine and aquatic resources, timber and non-timber forest products, fresh water, medicinal plants, hunting and gathering grounds and grazing and cropping areas;
- (g) Land rights or claims to land, or resources relinquished by individuals or communities without full payment of compensation; and
- (h) Land acquisition or land use restrictions occurring prior to the project, but which were undertaken or initiated in anticipation of, or in preparation for, the project.

This ESS does not apply to impacts on incomes or livelihoods that are not a direct result of land acquisition or land use restrictions imposed by the project. Such impacts will be addressed in accordance with ESS1.

This ESS does not apply to voluntary, legally recorded market transactions in which the seller is given a genuine opportunity to retain the land and to refuse to sell it and is fully informed about available choices and their implications. However, where such voluntary land transactions may result in the displacement of persons, other than the seller, who occupy, use or claim rights to the land in question, this ESS will apply.

Where a project supports land titling or other activities intended to confirm, regularize or determine land rights, a social, legal and institutional assessment will be required under ESS1. The assessment aims to identify potential risks and impacts, as well as appropriate design measures to minimize and mitigate adverse economic and social impacts, especially those that affect poor and vulnerable groups. This ESS does not apply to disputes between private parties in land titling or related contexts. However, where persons are required to vacate land as a direct result of a project-supported determination that the land in question is state land, this ESS will apply (in addition to the relevant provisions of ESS1).

This ESS does not apply to land use planning or the regulation of natural resources to promote their sustainability on a regional, national or subnational level (including watershed management, groundwater management, fisheries management, and coastal zone management). Where a project supports such activities, the Borrower will be required to conduct a social, legal and institutional assessment under ESS1, in order to identify potential economic and social risks and impacts of the planning or regulation, and appropriate measures to minimize and mitigate them, in particular those that affect poor and vulnerable groups.

This ESS does not apply to management of refugees from, or persons internally displaced by, natural disasters, conflict, crime or violence.

## **ESS5 Requirements**

### *Project design*

The Borrower will demonstrate that involuntary land acquisition or restrictions on land use are limited to direct project requirements for clearly specified project purposes within a clearly specified period. The Borrower will consider feasible alternative project designs to avoid or minimize land acquisition or restrictions on land use, especially where this would result in physical or economic displacement, while

balancing environmental, social, and financial costs and benefits, and paying attention to gender impacts and impacts on the poor and vulnerable.

#### *Compensation and benefits for affected persons*

When land acquisition or restrictions on land use (whether permanent or temporary) cannot be avoided, the Borrower will offer affected persons compensation at replacement cost, and other assistance as may be necessary to help them improve or at least restore their standards of living or livelihoods. Compensation standards for categories of land and fixed assets will be disclosed and applied consistently. Compensation rates may be subject to upward adjustment where negotiation strategies are employed. In all cases, a clear basis for calculation of compensation will be documented, and compensation distributed in accordance with transparent procedures.

#### *Community engagement*

The Borrower will engage with affected communities, including host communities, through the process of stakeholder engagement described in ESS10 on Stakeholder Engagement and Information Disclosure. Decision-making processes related to resettlement and livelihood restoration will include options and alternatives from which affected persons may choose. Disclosure of relevant information and meaningful participation of affected communities and persons will take place during the consideration of alternative project designs, and thereafter throughout the planning, implementation, monitoring, and evaluation of the compensation process, livelihood restoration activities, and relocation process.

#### *Grievance mechanism*

The Borrower will ensure that a grievance mechanism for the project is in place, in accordance with ESS10 as early as possible in project development to address specific concerns about compensation, relocation or livelihood restoration measures raised by displaced persons (or others) in a timely fashion. Where possible, such grievance mechanisms will utilize existing formal or informal grievance mechanisms suitable for project purposes, supplemented as needed with project-specific arrangements designed to resolve disputes in an impartial manner.

#### *Planning and implementation*

Where land acquisition or restrictions on land use are unavoidable, the Borrower will, as part of the environmental and social assessment, conduct a census to identify the persons who will be affected by the project, to establish an inventory of land and assets to be affected, to determine who will be eligible for compensation and assistance, and to discourage ineligible persons, such as opportunistic settlers, from claiming benefits. The social assessment will also address the claims of communities or groups who, for valid reasons, may not be present in the project area during the time of the census, such as seasonal resource users. In conjunction with the census, the Borrower will establish a cutoff date for eligibility. Information regarding the cut-off date will be well documented and will be disseminated throughout the project area at regular intervals in written and (as appropriate) non-written forms and in relevant local languages. This will include posted warnings that persons settling in the project area after the cutoff date may be subject to removal.

To address the resettlement impact, this ESS requires preparation of a RAP for the land acquisition process, once the extent of the direct impact is known. Where an impact is minor (less than 200 people, no person is physically displaced, and less than 10 percent of their productive assets are lost), an Abbreviated RAP can be prepared. For projects with significant impacts, a full RAP is required. The ESS5 requires that special attention is to be paid to the needs of vulnerable groups of the impacted population, especially to the residents living below the poverty line, the residents without land rights, the elderly, women, children, and ethnic minorities.

In principle, the Land Law of the Government of Timor Leste and the World Bank ESS5 both adhere to the objective of compensation at replacement cost, but Government of Timor Leste legislation does not provide for rehabilitation and in practice this has been left to adhoc arrangements made by the Government of the Timor Leste.

To clarify these issues and reconcile eventual gaps between Government of Timor Leste legislation and World Bank Policy, this RPF has been drafted for the Project, ensuring compensation at replacement cost of all items, the rehabilitation of non-titled people and informal settlers, and the provision of subsidies or allowances for PAPs who may be relocated, suffer business losses, or may be severely affected.

The main provisions affording reconciliation of the differences between Government of Timor Leste Land Expropriation related legislation and World Bank's ESS5 include:

- Any PAPs, regardless of title or not, will be entitled to compensation (for structures, crops and trees) and rehabilitation measures under the project. This includes land-less people using land and squatters.
- PAPs and affected communities will be consulted on options and any impacts of land acquisition and resettlement.
- A social screening will be conducted to identify the level of potential impacts and appropriate mitigation measures.
- If land for land compensation is not technically feasible or socially viable, compensation will be in cash at full replacement cost at current market value.
- Compensation for any other assets affected (structures, crops and trees, as well as business/income loss) will be in cash or kind at full replacement cost at current market value. Vulnerable and poor PAPs will be entitled to additional measures as relevant, and gender issues will be addressed.
- Maintenance works will avoid or minimize, as far as possible, the need for land acquisition and resettlement.
- Compensation for temporary loss of land or assets, or for temporary disruption of income will be provided.

It must be especially noted that under the WB ESS5, status of those without legal title is clearly defined. In accordance with this policy, those people who do not possess official legal title or judicial rights for the land use, but still use the state land are entitled to receive compensation, taking into account the investments they made into the state land, their labor and lost assets, but not for land ownership as in the case of a titled owner. Instead, alternative sites are allocated for their use, or other forms of assistance in lieu of land compensation, are provided to those informally using or occupying land prior to the project cut-off date.

In case of disparity of the laws of the Timor Leste with the requirements of the WB ESS5 provisions on involuntary resettlement, the principles and procedures of ESS5 should be applied. This priority of WB norms over the national legislation is required for World Bank financed projects and provided by the national legislation.

### **RAP Preparation, Approval and Disclosure Process**

The first step in the process of preparing a RAP is the assessment to identify land plots and assets that may be affected by the Project. This assessment of land plots affected will be carried out by the DGAS PMU Social Risk Management Specialists in conjunction with the representatives of Baucau district government agencies and will be used to identify the types and nature of potential impacts associated with the activities proposed for implementation under the Project, to adopt respective impact mitigation measures.

This assessment also shows that the prevention or minimization of resettlement is a key criterion in preparation of the RAP prior to implementation of the TLWSSP.

The assessment will be carried out according to the established criteria detailed in Annex 1 and will be documented in the form of a report on screening (see Annex 1-3) of the expected social impacts, following the adoption of main technical solutions or detailed sub-projects.

The design will not be completed until it is clearly established that all attempts have been made to minimize the impacts of resettlement. If the assessment indicates the need for physical displacement, land acquisition, impact on assets or negative impact on economic resources, whether there is physical displacement, the next step will be a social and economic census and inventory of the land resources and assets in order to determine the extent of the need for resettlement. This will be followed by the development of the RAP for the Project, following the steps outlined below.

### **Census, Social and Economic Surveys, Inventory of Losses**

The census and socio economic survey shall be carried out using a structured questionnaire to record the details of the present occupants of land being acquired, their tenure status (primary land user or secondary land user), the extent of land required for the proposed improvements, in order to: (i) assess the magnitude of impact to private assets; and (ii) to assess the extent of physical and/or economic displacement, as well as standard of living, inventory of assets, sources of income, level of indebtedness, profile of household members, health and sanitation, perceived benefits and impacts of the sub-project and resettlement preferences of those who require to relocate. This information would facilitate the preparation of a resettlement action plan to mitigate adverse impact.

The purpose of the baseline socio-economic survey of affected persons is to capture the socio-economic characteristics of the affected persons and to establish monitoring and evaluation parameters. The key socio-economic indicators will be used as a benchmark for monitoring the socio-economic status of project affected persons. The survey shall cover all PAPs and the survey shall also collect gender-disaggregated data to address gender issues in resettlement. As part of socio-economic survey, a wide range of consultations with different impacted groups as well as other stakeholders will be conducted to ascertain their views and preferences. Based on the outcome of these consultations the design changes, if required, and mitigation measures will be incorporated. Consultations will include women and their concerns and reactions, to land tenure, livelihood impacts, delivery of compensation, and resettlement planning, will be addressed through appropriate mitigation.

A cut-off date will be established during the census and will be the date of the population census and enumeration of impacted assets. Following the census, a RAP will be developed based on the collected data of impacts and impacted persons.

### **Preparation of Resettlement Action Plans**

RAP will be prepared after the social and economic census and the identification of project affected parties. The RAP will be drafted in consultation with the project affected parties. Consultations will be held on compensation entitlement, as well as on emerging obstacles to economic and livelihood activities, on assessment methods, compensation, possible assistance, PAPs inspirations, grievance mechanisms, as well as on the timeline for implementation. The final version of the RAP will incorporate PAP's remarks/comments. The key RAP elements indicated in ESS5 are listed below. More detailed guidance on RAP preparation is available on the World Bank website or in the World Bank's Involuntary Resettlement Sourcebook<sup>5</sup>. The RAP contents are also outlined in the Annex 5. The level of Project impact on individual

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<sup>5</sup> The sourcebook is available through the following link:

affected people is not expected to be significant (i.e., the PAPs are not likely to be physically displaced or lose their productive assets). It is expected that the number of affected people under any single infrastructure investment will be less than 200 people. In such cases, an abbreviated RAP can be prepared. If the number of affected people exceeds 200, a full RAP will be developed. However, as stated earlier, no intervention will lead to physical or economic displacement of 200 or more persons.

The abbreviated RAP will include several standard sections, such as: description of project impact and valuation of affected assets, description of affected people and of their basic socioeconomic and demographic characteristics, institutional arrangement and implementation procedures, compensation and assistance to be provided to affected people; results of consultations, monitoring and evaluation procedures, timeline and budget, at minimum. The data on the project-affected households are considered as an important component of the RAP; however, due to respect for privacy, the information relating to individuals and households shall not be subject to public disclosure. Data collected at the beginning of the RAP process can then be used as a baseline to ensure affected persons and households are able to maintain, or preferably improve, their standard of living to pre-project levels.

Where a full RAP needs to be developed, it should include the following at minimum: (i) baseline census and socioeconomic survey information; (ii) specific compensation rates and standards; (iii) policy entitlements related to any additional impacts which are not identified in this RPF but which are identified through the census or survey during implementation; (iv) programs for improvement or restoration of livelihoods and standards of living; (v) implementation schedule for resettlement activities; (vi) and detailed cost estimate.

### **Disclosure and approval**

The following steps should be followed after full/ abbreviated RAP preparation:

- The draft RAP shall be subject to discussion with PAPs who will receive a copy of the RAP a week before the discussion. Public consultations shall be attended by PAPs, district government representatives, DGAS PMU representatives, and NGO representatives.
- After the discussion, comments and proposals shall be reflected in the RAP.
- The RAP shall include a section of the consultation process with the matrix of comments and proposals for the inclusion and implementation thereof.
- The Social Risk Management Specialists shall submit the RAP to the Project Coordinator for approval.
- After inclusion of the comments received as a result of disclosure of the RAP and after approval thereof by the Project Coordinator, the RAP shall be officially sent to the WB for review and confirmation on the compliance with ESS5 and other applicable policies/procedures.
- Once the World Bank confirms the acceptability of the quality of each RAP, it shall be disclosed on the WB website, published as a final RAP on the DGAS/MPW website and re-shared with all stakeholders. Private information about PAPs shall not be made publicly available.

No changes shall be made to the compensation entitlement matrix, eligibility criteria, compensation rates, or provisions for assistance without the prior World Bank's consent.

### **Eligibility Criteria and Procedures for Various Categories of Project Affected People**

This section sets out eligibility criteria, which are necessary to determine who will be eligible for resettlement and benefits, and to discourage claims of ineligible people.

### **Principles**

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The involuntary taking of land results in relocation or loss of shelter; and loss of assets or access to assets or loss of income sources or means of livelihood, whether the PAPs must move to another location. Meaningful consultations with the affected persons, local authorities and community leaders will therefore allow for establishment of criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance.

### ***ESS5 Eligibility Classification***

Affected persons may be classified as persons:

- (a) Who have formal legal rights to land or assets;
- (b) Who do not have formal legal rights to land or assets, but have a claim to land or assets that is recognized or recognizable under national law; or
- (c) Who have no recognizable legal right or claim to the land or assets they occupy or use.

Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF.

Persons covered under (c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this RPF, if they occupy the project area prior to a cut-off date established by the project authorities in close consultation with the potential PAPs, local community leaders and the respective local authorities and acceptable to the World Bank.

Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (a), (b) or (c) above are to be provided with compensation for loss of assets other than land. It is therefore clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for assistance if they occupied the land or had use of it, before the entitlement cut-off date.

Eligibility for assistance under World Bank ESS5 also applies for project affected persons even if it is deemed that Timor Leste legal provisions provide for temporary or permanent acquisition of private land immediately adjacent to existing public roads without compensation.

### **Eligibility Criteria and Entitlements**

The RPF stipulates eligibility and provisions for compensating all types of losses (land, crops/trees, structures, business/employment, and workdays/wages). All PAPs including non-titled or informal dwellers will be compensated for lost assets (crops, structures, trees and/or business losses) and will receive (i) compensation (as required, to match replacement value), and/or (ii) replacement land, structures, seedlings, other resettlement assistance such as shifting allowance, assistance with rebuilding structures, compensation for loss of workdays/income.

The criteria for eligibility is based on PAPs belonging to one of three groups: (a) those who have title or formal legal rights to land; (b) those who do not have formal legal rights to land at the time of the Inventory of Losses (IOL)/Detailed Measurement Survey (DMS) or 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 RAP<sup>6,8</sup> and, (c) those who have no recognizable legal right or claim to the land they are occupying (i.e. non-titled users or informal settlers).

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<sup>6</sup> This includes people who have not yet completed registration and who are considered as "legalizable" users (this will be identified as a form of land tenure in the IOL), they will be entitled to compensation as if they are legal/titled owners of land. The RAPs prepared will establish that continued facilitation of the registration process will be undertaken as part of livelihoods/wellbeing restoration under the Project's resettlement process.

The PAPs who are entitled to compensation under the Project include:

- Persons whose structures are in part, or in total, affected temporarily or permanently by the Project;
- Persons whose residential or commercial premises and/or agricultural land (or other productive land) is in part, or in total, affected (permanently or temporarily) by the Project;
- Persons whose businesses are affected in part, or in total, (temporarily or permanently) by the Project;
- Persons whose employment or hired labor or share-cropping agreement is affected, temporarily or permanently, by the Project;
- Persons whose crops (annual and perennial) and/or trees are affected in part, or in total, by the Project;
- Persons whose access to community resources or property is affected in part, or in total, by the Project.

Where land is to be acquired, titled or legalizable PAPs will receive compensation for land acquired by the Project at replacement cost. This will be in cash at replacement value or land-for-land with a combination of productive potential, location advantages, and other factors of which is at least equivalent to the advantages of the land taken to the satisfaction of the PAP (of equal size and/or productive value and be satisfactory to the PAP). Non-titled PAPs are not eligible for compensation for land but will receive compensation for assets attached to land and other assistance as required, in lieu of land compensation.

Households headed by single women with dependents and other vulnerable households will be eligible for further assistance to fully mitigate project impacts. Table below presents the Project's entitlement matrix, based on potential losses.

Compensation eligibility will be limited by a cut-off date to be set for each project investments and PAPs who settle in the affected areas after the cut-off date will not be eligible for compensation. They, however will be given sufficient advance notice, requested to vacate premises and dismantle affected structures prior to project implementation. Their dismantled structures will not be confiscated, and they will not pay any fine or sanction. Forced eviction will only be considered after all other efforts are exhausted.

### Entitlement Matrix: Eligible PAPs, Assets and Compensation Guidelines

Project Impact	PAP Category	Asset Affected	Compensation Guide
Permanent acquisition of land for works such as construction of small infrastructure facilities (schools, water pipelines, energy sub-stations etc.)	Primary land user	Land	Replacement land of equivalent market value as priority option within 3 km radius. Failing availability of land, cash compensation at replacement cost. If over 10% of land is acquired, an additional 5% of replacement value will be paid (increasing to 10% if over 20%) as a severe impact subsidy. If the remainder of the plot is not economically viable the entire plot will be purchased/compensated
Temporary acquisition of land for works, or construction.	Primary land user	Land	Rental estimated value of land based on market rates and restoration of land and all assets thereon to former status. In the case of loss of income, disturbance allowance set on the basis of minimum wage for each

			week (7 days) of disturbance calculated on a pro rata basis.
Temporary acquisition of land for works, or construction	User/occupier without certificate	Land	Restoration, replacement or compensation of all assets damaged or removed. In the case of loss of income, disturbance allowance set on the basis of minimum wage for each week (7 days) of disturbance calculated on a pro rata basis.
Permanent acquisition of land for works such as construction of small infrastructure facilities.	Land renter or share-cropper	Land	In addition to land user compensation. Re-imburement of rent for remainder of contract period, plus 3 months of rent or 3 months of market price of share-cropping produce as disturbance allowance.
Permanent acquisition of land for works associated with the construction of small scale infrastructure.	User/occupier without certificate	Land	Compensation equal to 3 months of rent/share-cropping benefit as disturbance allowance.
Permanent acquisition of land for works associated with the construction of small scale infrastructure.	Primary land user	Crops	In addition to land compensation, will be allowed to take standing crop and cash compensation for 2 seasons or annual crop yield depending on the crop.
Permanent acquisition of land for works associated with the construction of small scale infrastructure facilities.	Tenant farmer, share-cropper or informal user/occupier	Crops	In addition to land compensation, allowed to take standing crop and cash compensation for 2 seasons or annual crop yield depending on the crop.
Permanent acquisition of land for works associated with the construction of small scale infrastructure facilities.	Owner	Business	In addition to land compensation, owner will be paid for the lost income during the transition period, calculated on the basis of average daily /monthly income. Further, an additional payment equivalent to three month's income will be paid to restart the business in the new location

Permanent acquisition of land for works associated with the construction of small scale infrastructure.	Renter	Business	The renter will be reimbursed the rent for the remainder of the contract. Further, an additional payment equivalent to three month's income will be paid to restart the business in the new location.
Temporary acquisition of land for works, or construction.	Owner	Business	Rental value of land based on market rates and restoration of land and all assets thereon to former status. In addition, owner will be paid for the lost income during the transition period, calculated on the basis of average daily / monthly income.
Temporary acquisition of land for works, or construction.	Renter	Business	In addition to the reimbursement of rent during the transition period, the renter will be paid for the lost income during the transition period, calculated on the basis of average daily /monthly income.
Common Property uses such as Grazing	User	Grazing land	Grazing can continue. No expected impacts on grazing land.
Destruction of fruit tree (mature)	Owner	Fruit tree	Allowed to take standing crop. Price of a sapling and associated cost (fertilizer, water, labor) and cash compensation for the value of a mature tree harvest multiplied by number of years it will take for the sapling to reach maturity
Commercial tree Owner	Owner	Commercial trees	Price of a sapling and cash compensation for the market value of the commercial tree. Any costs associated with planting of saplings in the new plot.
Permanent acquisition of legal structure.	Owner of structure	Any structure including house, fence, or sanitation structure etc.	Replacement structure or cash compensation at replacement value of a new structure plus full compensation for all fees needed to make replacement structure legal. Affected buildings/ structures should be compensated in their entirety.
Permanent acquisition of illegal structure	Owner of structure	Any structure including house, fence, or sanitation structure etc.	Replacement structure or cash compensation at replacement cost. Affected buildings/ structures should be compensated in their entirety.
Temporary acquisition of legal structure	Owner of structure	Any structure including house, fence, or sanitation structure etc.	Structure restored to original condition. If inconvenienced then build a temporary replacement structure to service the affected person.
Temporary	Owner of structure	Any structure	Structure restored to original condition with

acquisition of illegal structure		including house, fence, or sanitation structure etc.	alternatives for legalization. If inconvenienced then build a temporary replacement structure to service the affected person.
Vulnerable people	Identified on the basis of the socio-economic survey and criteria developed such as income level, disability, household size, etc. Vulnerable people may include the disabled, pensioners, widows, female-headed households, and impoverished households) and only if project renders them vulnerable.		In addition to compensation for assets lost, a lump-sum equivalent to 3 month of average salary payments could be paid depending on the impacts. Any additional impacts to be identified and compensated, for example logistical support may be required for moving, and assistance in the restoration of livelihoods may be required.

In none of these cases, the PAPs will be liable for any taxes and eventual transaction fees; these will be paid by the implementing agency from the resettlement budget to be contributed by the Government of Timor Leste. Besides, the amount to cover bank service fees will be added on top of the amount of cash compensation to be received by PAPs at the banks.

### **Voluntary Land Donation**

In case of small sections of land required for pipeline or small distribution structures, the project may seek support from the community to donate lands. However, the community members have the right to contribute their land or other assets without seeking or being given compensation at full replacement value. Voluntary contribution is an act of informed consent. District authorities must assure that voluntary contributions are made with the affected person's full and prior knowledge of the availability of other options (including compensation at replacement cost) and are obtained without coercion or duress. Also, voluntary donations are allowed only if the affected people are direct beneficiaries of the investments that cause such impact. Proposals including voluntary contributions will not be submitted for approval where they would significantly harm incomes or living standards of individual owners or users (the size of land contributed on a voluntary basis should not exceed 5% of that individual's total land holding).

Specifically, the following protocol will govern voluntary contributions under the project:

- Voluntary contributions are an act of informed consent and affected people are not forced to donate land or other assets with coercion or under duress or misled to believe that they are obliged to do so, without regard to the legal status of their land occupancy.
- Land alienation should not result in physical or economic displacement.
- The impacts must be minor. the households contributing land or other assets are direct beneficiaries of the sub-project; the impact is less than 5% of the total productive assets owned by said household.
- The facilities requiring land should not be site specific.
- The land in question must be free of squatters, encroachers, or other claims or encumbrances.
- Voluntariness will be ascertained by District level agency with due signing by a higher level official. A process to this effect will be formulated by the District level agency and shared with the Bank for approval.

- Verification of the voluntary nature of land donations must be obtained from each of the persons/ household donating land. This should be in the form of signed statements.
- District level agency will also create awareness among the community to devise mechanisms to express a sense of gratitude to those households donating lands. These will find a place in the statements.
- Other things being equal, land donations will not be accepted by Female Headed Households and elderly people.

The affected people are fully informed that they have the right to refuse to donate land or other private assets, and instead receive compensation at replacement cost, and that a grievance handling mechanism is available to them through which they can express their unwillingness to donate. Furthermore, people are encouraged to use the grievance handling mechanism if they have questions or inquiries, either in writing or verbally.

### **Methods to Determine Cut-Off Dates**

Once the design of an activity has been finalized and legal procedures completed, a RAP will be prepared for the activity. As part of the RAP, a census will be undertaken to identify all the PAPs and the related levels of impact. The date when the census begins is the cut-off date for eligibility for resettlement and compensation. Hence, it is important that this date is fully communicated to all potential PAPs, including through local and national mass-media in the project affected area with sufficient time for these people to ensure their availability for the census.

This communication will be done through DGAS PMU, and in line with the consultation procedures outlined in this document. The potential PAPs will be informed through both formal notification including through local and national mass-media, in writing and by verbal notification delivered in the presence of the community leaders or their representatives.

### **Methods of Valuating Affected Assets**

This section sets out the guidelines for determining the value of affected assets.

### **Type of Compensation Payments**

Compensation for all land use and assets in kind or cash as guided by the entitlement matrix will be required for the following:

- Land;
- Residential buildings, structures and fixtures;
- Cultivated crops (both cash and food crops) and trees; and
- Business houses like shops and restaurants.

In addition, disturbance allowance, storage of goods, replacement of lost services and other assistance will be given, as outlined in the Entitlement Matrix above. However, this is *for guidance only and it is essential that at the time of detailed RAP preparation current market values and replacement cost values are used to establish actual compensation*. All cash amounts will be adjusted to reflect any economic changes and buying power of currency since the preparation of this RPF. The DGAS PMU will evaluate the compensation amounts recommended in the RAP and ensure that they reflect market reality and that it is consistent with Republic of Timor Leste laws as long as it meets the requirements of WB ESS5.

### **Preparation of Asset Inventory**

During the survey, each asset will be enumerated and inscribed on an inventory and a valuation of the asset carried out using the principles and guidance of the RPF. The total list of affected assets and their assigned values including any additional compensatory measures will be recorded in a register and shown to the affected person for agreement. The register will be signed, and a copy given on the spot to the affected person. The document will indicate when the affected person will be notified, and that the inventory will not be official until a second signed copy, verified by project supervisory staff, is returned to the affected person. At this time, a copy of the grievance procedure will also be given to the affected person as stated in the grievance redress mechanism.

## **Valuation Method**

### **Compensation for Land**

In the event of permanent land acquisition of titled land, the first premise is provision of replacement land. In the case where no alternative land is available within a reasonable distance such as to minimize disruption to other aspects of socio-economic life, cash compensation at full replacement value should be provided. This should be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality. In addition, any associated costs of purchasing the land i.e., taxes, registration fees will need to be included in the compensation.

In addition, the PAP will be compensated for any permanent improvements made to the land (for instance irrigation structures). This will be calculated based on the price of making the permanent improvement at current prevailing market rates for labor, equipment and materials.

Where land lost is only a small proportion of total land owned by the PAP (as per discussion with the Government officials in Dushanbe, this will be likely the case with most of the land users), but renders the remaining land as unusable, the compensation provided should be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land).

Where land is temporarily acquired, standing crop will be compensated at fully matured market rate or government rate, whichever is higher. The compensation will be paid to the tiller rather than the owner, where the tiller is not the owner (e.g. tenant or share cropper). There will hence be no adjustment in the terms of the rent of share cropping agreement. Aside from the payment for standing crop, the project will ensure that the land is returned to its original form so it is suitable to resume its former use.

### **Calculation of Crops and Fruit Trees Compensation Rate**

The current prices for the crops will be determined considering the Government recommended rate and the highest market price, whichever is higher. Where land is rented, 2 seasons or annual crop estimate, depending on the crop will be compensated. Where land is owned, aside from the replacement land or cash compensation for land, the owner will also get compensation for 2 seasons or annual crop estimates depending on the crop. The crops used will be the ones that are currently or have most recently been cultivated on that land. In addition, PAPs will be encouraged to harvest their produce before loss of land. In order to ensure that this is possible, and that appropriate market prices are received for yields, there needs to be sufficient consultation beforehand so that harvesting can be properly planned.

The value of the labour invested in preparing agricultural land will be compensated at the average wage in the community for the same period. The rate used for land compensation should be updated to reflect values at the time compensation is paid.

Fruit trees will be compensated to the owner based on the price of a replacement sapling along with the annual value of the fruit produced by that tree for the number of years it will take the sapling to reach full maturity, using Government or highest market price, whichever is higher.

## **Compensation for Structures**

The preferred option is to provide alternate structures (latrines, storage facilities, fences etc.) of at least equal quality and of improved quality where possible. The second option is provision of cash compensation at full replacement value.

Replacement values will be based on:

- Measurements of structures and detail of materials used.
- Average replacement costs of different types of household buildings.
- Structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).
- Prices of these items collected in different local markets.
- Costs for transportation and delivery of these items to the acquired/ replacement land or building site.
- Estimates of construction of new buildings including labor required.
- Compensation will be made for structures that are (i) abandoned because of relocation or resettlement of an individual or household, or (ii) directly damaged by project activities.

## **Compensation for Community Assets**

Compensation will be provided for community assets identified through the socio-economic survey. In all cases these will be provided in kind and new facilities will be provided even if there are existing facilities at the new location.

## **Compensation for Sacred Sites**

This policy does not permit the use of land that is defined to be cultural property by the Bank's Environmental and Social Standard 8. Sacred sites include but not restricted only to museums, altars, initiation centres ritual sites, tombs and cemeteries. It includes other such sites or places/features that are accepted by the legislation of the Republic of Timor Leste (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities, the use of sacred sites for any project activity, is not permitted under this project. Relevant clauses will also be inserted in the civil works contracts.

## **Compensation for Loss of Businesses**

Any structures will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income and production during the transition period (time lag between losing the business and re-establishment). This will be estimated based on the daily or monthly income of the affected parties.

## **RPF and RAP Implementation Arrangements and Procedures**

### **Overview of the process flow**

Overall, activities for the TLWSSP will be predicated on the principles of transparency, inclusiveness and responsive citizen engagement throughout the Process cycle. Citizen engagement values the right of citizens to have an informed say in the decisions that affect their lives. It is based on a two-way interaction



and dialogue with government and emphasizes the sharing of power, information, and a mutual respect between government and citizens.

With regards to RPF implementation, DGAS PMU will be supporting the Baucau district agencies (i) to implement social screening and evaluation of project infrastructure investments eligibility from the social risk management point of view; (ii) to communicate and coordinate with relevant government authorities (Land Administration Agency and its branches); (iii) to ensure proper implementation of the RPF, requirements as well as social due diligence tasks during the project investments realization; (iv) to address complaints and feedback from project stakeholders and the public, including grievances regarding environmental/social impacts of project investments; (v) to supervise mitigation measures stipulated in the RAP implementation; (vi) to monitor social impacts as part of overall monitoring of the project investments and their implementation; and (vii) to report on social impacts originated during implementation of project investments and analyzing the efficiency of mitigation measures applied to minimize negative consequences. Together with project investments implementors and beneficiaries, DGAS PMU and the JPCs are responsible for the implementation of above safeguards activities.

For successful implementation of the RPF, the following project staff and structures will be required:

- ☐ DGAS PMU/PMU project team – 1 engineer, 1 social development specialist, 1 M&E Specialist

To implement the RPF the project team will follow the below described Process Cycles by the components and at the project investments level.

### **Monitoring and Evaluation Arrangements**

Component 3 will support Monitoring and Evaluation (M&E) activities to track, document, and communicate the progress and results of the project. An M&E team within DGAS PMU will be responsible for overall compilation of progress and results. This Component will finance DGAS PMU to prepare project reporting—semi-annual reports and quarterly unaudited IFRs—that will be submitted to the World Bank. This Component will also finance an MIS, which DGAS PMU will establish and utilize for project monitoring, automatic generation of project reports, project transparency (sub-project information will be publicized on maps), and citizen feedback.

While community monitoring will be supported under Subcomponent 1B, the DGAS PMU M&E team will quality of the community mobilization and other inclusion, voice, and agency activities with communities will be measured through community scorecards, which will be discussed and verified, along with financial records and project implementation records, in social audit meetings. Feedback and grievances received through the Beneficiary Feedback Mechanism will also be included in the semi-annual reporting. DGAS PMU's M&E team will collate and analyze these semi-annual assessments of outcomes and perception-based results and enter them into the MIS and include them in semi-annual reports.

Results measurements will focus primarily on the outcomes defined in the results framework and the set of output indicators defined in the POM. This Component will also finance midline and endline project monitoring surveys to assess the PDO-level results indicators. DGAS PMU will be responsible for producing a completion report which draws on the MIS data and surveys prior to project completion.

### **Monitoring Plans**

The social issues included within the mitigation measures are monitored and supervised by the local specialists appointed by the DGAS PMU. Although the social impacts are expected to be low, the

potential negative social impacts are planned to be prevented or mitigated during the construction and operation stages.

Environmental and social monitoring system starts from the implementation phase of the project through the operation phase in order to prevent negative impacts of the project and observe the effectiveness of mitigation measures. This system helps the WB and the Client to evaluate the success of mitigation as part of project supervision and allows taking an action when needed. The monitoring system provides technical assistance and supervision when needed, early detection of conditions related to mitigation measures, follows up on mitigation results, and provides information of the project progress.

Environmental and social monitoring to be implemented by the DGAS PMU/PMU must provide information about key environmental and social aspects of the project investments, particularly the project environmental and social impacts and the effectiveness of taken mitigation measures. Such information enables to evaluate the success of mitigation as part of project supervision and allows corrective action(s) to be implemented, when needed. In this regard the Monitoring Plan identifies monitoring objectives and specifies the type of monitoring, and their link to impacts and mitigation measures. Specifically, the monitoring section of the RAP provides: (a) a specific description and details of monitoring measures, including the parameters to be measured, methods to be used, sampling locations, frequency of measurements; and, (b) monitoring and reporting procedures.

### **Monitoring and Reporting Responsibilities**

The DGAS PMU will be responsible for RPF/Resettlement Plans reporting and will:

- Record and maintain the results of project supervision and monitoring throughout the life of the project. It will present summary progress reports on RPF/Resettlement Plans implementation and the safeguards aspects of project investment on a semi-annual basis to the World Bank,
- Prepare biannual reports on the progress of implementation of measures proposed by the RPF/Resettlement Plans for selected sub-projects, and as part of this reporting, provide updates on any TLWSSP related as grievances/feedback that was received, that has been addressed and that may be pending;
- Prepare biannual reports on the social impacts originated during implementation of sub-projects and analyze the efficiency of mitigation measures applied to minimize negative consequences;
- Prepare outlines and requirements for Contractors' reports on resettlement mitigation measures, and review Contractor's monitoring plan and reports
- Present the impact of mitigation and environmental and social protection measures for general public via specific publications or/and by annual public seminars.

### **Community Monitoring**

Communities will continue to be engaged throughout the construction and/or procurement process through active monitoring and oversight roles. A separate arrangement for community monitoring and social accountability will be developed to ensure there is no conflict of interest between implementers and monitors. Community monitoring will focus on (i) verifying compliance with requirements on environmental and social safeguards and (ii) evaluating beneficiary satisfaction with project

implementation and the quality of service provision. It will also serve as a useful approach to capture experiences and lessons learned from completed project investments cycles and make recommendations for the next project investments cycle, if applicable.

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

Compensation will be paid to individual PAPs only after a written consent of the PAPs, including both husband and wife.

### **Implementation Budget**

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

project. However, when these locations are known, and after the conclusion of the site-specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, detailed and accurate budgets for each RAP will be prepared. Each RAP will include a detailed budget, which will provide costs of the following:

- Compensation may include, for example: costs for land, structures, crops; restoring structures; community structures and services.
- Relocation costs may include, for example: costs of resettling PAPs, administrative costs of resettling PAPs.
- Income restoration costs may include, for example: temporary income support for PAPs.
- Administrative costs may include, for example: staff costs, training and capacity building costs, monitoring and evaluation.

DGAS PMU is responsible for implementing the Resettlement Policy Framework and RAP, including payment of compensation, provision of other types of assistance, implementation of the grievance redress mechanism to be covered through the resettlement budget to be contributed by the Government of Timor Leste.

### **Grievance Redress Mechanism**

There are two options for Project stakeholders and citizens to submit complaints regarding the TLWSSP, i.e. the Project Grievance Redress Mechanism (GRM) and the World Bank Grievance Redress Service (GRS).

### **Objectives of the project-based GRM**

The GRM in TLWSSP is incorporated into a broader beneficiary feedback mechanism to be established by DGAS at the central and local levels of the institution. The project-based GRM is intended to serve as a mechanism to:

- ☐ Allow for the identification and impartial, timely and effective resolution of issues affecting the project;
- ☐ Strengthen accountability to beneficiaries, including project affected people, and provide channels for project stakeholders and citizens at all levels to provide feedback and raise concerns.

Having an effective GRM in place will also serve the objectives of: reducing conflicts and risks such as external interference, corruption, social exclusion or mismanagement; improving the quality of project activities and results; and serving as an important feedback and learning mechanism for project management regarding the strengths and weaknesses of project procedures and implementation processes.

## **GRM Overview and Structure**

*Who can communicate grievances and provide feedback?* The GRM will be accessible to a broad range of Project stakeholders who are likely to be affected directly or indirectly by the project. These will include beneficiaries, community members, project implementers/contractors, civil society, media—all of who will be encouraged to refer their grievances and feedback to the GRM.

*What types of grievance/feedback will this GRM address?* The GRM can be used to submit complaints, feedback, queries, suggestions or compliments related to the overall management and implementation of the TLWSSP, as well as issues pertaining to sub projects that are being financed and supported by the TLWSSP, including:

- ❑ Mismanagement, misuse of Project Funds or corrupt practices.
- ❑ Violation of Project policies, guidelines, or procedures, including those related to child labor, health and safety of community/contract workers and gender violence.
- ❑ Disputes relating to resource use restrictions that may arise between or among affected communities.
- ❑ Grievances that may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation of community energy investments or socio-economic infrastructure.
- ❑ Issues with land donations, asset acquisition or resettlement specifically for TLWSSP supported sub projects.

The GRM for the TLWSSP will be based on the Laws of the Republic of Timor Leste “On Citizens’ Appeals” and “On Civil Service” as well as the Instructions of the Government of the Republic of Timor Leste “On the Procedures of Records Management on the Appeals of Citizens”.

The GRM’s functions will be based on the principles of transparency, accessibility, inclusiveness, fairness and impartiality and responsiveness.

*Standards.* The TLWSSP GRM will establish clearly defined timelines for acknowledgment, update and final feedback to the complainant. To enhance accountability, these timelines will be disseminated widely to Project stakeholders. The timeframe for acknowledging receipt of a feedback will not exceed 7 days from the time that it was originally received; if an issue is still pending by the end of 30 days the complainant will be provided with an update regarding the status of the grievance and the estimated time by which it will be resolved; and all grievances will be resolved within 45 days of receipt.

*Structure.* The structure of the Feedback system/GRM for the TLWSSP will be comprised of four levels, from the level of the mahalla through the central PMU level.

Village Level. To ensure that the GRM is accessible to people at the community level, they will have the option to report their complaint/feedback to VPC designated member who will also serve as the *grievance focal point (GFP) at the village level*. Community members are entitled to contact JPC directly to file a complaint.

District Level. *Grievance Management Committee* will be established in each SUCO to address and resolve complaints in collaboration with GMC and DGAS PMU within 30 days of receiving complaints. DGAS district

and SUCO level GFPs will be responsible for maintaining feedback logs, and if needed, for liaising with other local government structures. If the issue cannot be resolved by GFPs at the DGAS district office, then it will be escalated to the central DGAS GFP.

Central/PMU Level. If there is a situation in which there is no response from the SUCO level GFPs, or the DGAS GFPs at the branch offices, or if the response is not satisfactory then complainants and feedback providers have the option to contact the DGAS/PMU directly to follow up on the issue. The DGAS/PMU GFP will be responsible for complaints and issues related to all districts and components. The DGAS Director will make a final decision after a thorough review of the investigation and verification findings.

The timeline for complaint resolution at the central DGAS level will be 15 days upon receipt of the complaint. The complainant will be informed of the outcome immediately and at the latest within **5 days** of the decision.

*Appeal Mechanism.* If the complaint is still not resolved to the satisfaction of the complainant, then s/he can submit his/her complaint to the appropriate court of law.

## **GRM Communication & Process**

*Communication.* Information about the TLWSSP's GRM will be publicized as part of the initial feedback consultations in the participating SUCOs. Brochures will be distributed during consultations and public meetings, and posters will be displayed in public places such as in government offices, project offices, village notice boards, community centers, etc. Information about the GRM will also be posted online on the DGAS/MPW website.

*Process.* The overall process for the GRM will be comprised of 6 steps: (1) uptake (2) sorting and processing (3) acknowledgment and follow up (4) verification, investigation and action (5) monitoring and evaluation and (6) feedback.

**Step 1: Uptake.** Project stakeholders will have the opportunity to provide feedback and report complaints through several channels (in-person, mail, telephone, project website) at different levels (SUCO, district agency office and the DGAS/PMU).

**Step 2: Sorting and Processing.** To consolidate, monitor and report on information related to grievances, complaints and feedback related to the TLWSSP will be documented upon receipt/communication at each level of the GRM, and will be classified and prioritized in order to manage the grievance redress process more effectively. Feedback/complaints regarding environmental or social issues related to the TLWSSP activities will be logged and documented.

**Step 3: Acknowledgement and Follow-Up.** Within 15 days of receiving complaint/feedback, the GFP will inform the complainant about the timeframe and the likely course of action. At the 30-day mark, if a complaint/question is still pending, the GFP in charge of the complaint at that point should provide an update about the status of complaint/question to the person who submitted it and provide an estimate of how long it will take to resolve the grievance or respond to the query.

**Step 4: Verification, Investigation & Action.** Verification and investigation involves gathering information about the grievance to determine its validity and to generate a clear picture of the circumstances surrounding the issue under consideration. This process normally includes site visits, document reviews, a meeting with the complainant (if known and willing to engage) and meetings with individuals and/or entities who can assist with resolving the issue. Potential actions include responding to a query or comment, providing users with a status update, imposing sanctions, or referring the grievance to another level of the system for further action.

Step 5: Monitoring & Evaluation. Monitoring refers to the process of tracking grievances and assessing the extent to which progress is being made to resolve them. Ultimately, the DGAS PMU will be responsible for consolidating, monitoring and reporting on the total number of complaints, enquiries and other feedback for the TLWSSP that has been received, resolved and that is pending at the jamoat and district levels, as well as feedback pertaining to the DGAS. Information compiled by the DGAS will be essential for reporting on progress on grievance indicators included in the Project Results Framework, and to compile information for semi-annual reporting.

Step 6: Providing Feedback. This step entails informing GRM users and the public at large about the results of investigations and the actions taken. GFPs will provide feedback by contacting the complainant directly within a 45-day period of receiving the feedback/complaint. The DGAS will make quarterly reports available to the World Bank team on the implementation of the Project GRM. In addition, data on grievances and/or original grievance logs will be made available to World Bank missions upon request.

### **Grievance Logs**

The Grievance Focal Points will maintain local grievance logs to ensure that each complaint has an individual reference number and is appropriately tracked and recorded actions are completed. When receiving feedback, including grievances, the following is defined:

- Type of appeal
- Category of appeal
- People responsible for the study and execution of the appeal
- Deadline of resolving the appeal.
- Agreed action plan

The Project Social Development Specialist will ensure that each complaint has an individual reference number and is appropriately tracked and recorded actions are completed. The log should contain the following information:

- Name of the PAP, his/her location and details of his / her complaint.
- Date of reporting by the complainant.
- Date when the Grievance Log was uploaded onto the project database.
- Details of corrective action proposed, name of the approval authority.
- Date when the proposed corrective action was sent to the complainant (if appropriate).
- Details of the Grievance Committee meeting (if appropriate).
- Date when the complaint was closed out.
- Date when the response was sent to the complainant.

### **Monitoring and Reporting on Grievances**

The DGAS social development specialist will be responsible for:

- o Collecting and analyzing the qualitative data from GFPs on the number, substance and status of complaints and uploading them into the single project database;
- o Monitoring outstanding issues and proposing measures to resolve them;
- o Submitting quarterly reports on GRM mechanisms to the DGAS M&E Specialist at PMU.

Quarterly reports to be submitted by DGAS shall include Section related to GRM which provides updated information on the following:

- Status of GRM implementation (procedures, training, public awareness campaigns, budgeting etc.);

- ☐ Qualitative data on number of received grievances \ (applications, suggestions, complaints, requests, positive feedback), highlighting those grievances related to the WB ESS 5 and number of resolved grievances;
- ☐ Quantitative data on the type of grievances and responses, issues provided and grievances that remain unresolved;
- ☐ Level of satisfaction by the measures (response) taken;
- ☐ Any correction measures taken.

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- Category of appeal
- People responsible for the study and execution of the appeal
- Deadline of resolving the appeal.
- Agreed action plan

### **World Bank Grievance Redress System**

Communities and individuals who believe that they are adversely affected by a World Bank (WB) supported project may submit complaints to existing project-level grievance redress mechanisms or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address project-related concerns. Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate Grievance Redress Service (GRS), please visit

[http://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service.](http://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service) For information on how to submit complaints to the World Bank Inspection Panel, please visit [www.inspectionpanel.org](http://www.inspectionpanel.org).

## Outline of the Resettlement Action Plan and Abbreviated Resettlement Action Plan

**Table of content Resettlement Action Plan** The scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan.

1. *Description of the project.* General description of the project and identification of the project area.

2. *Potential impacts.* Identification of

- (a) the project component or activities that give rise to resettlement;
- (b) the zone of impact of such component or activities;
- (c) the alternatives considered to avoid or minimize resettlement; and
- (d) the mechanisms established to minimize resettlement, to the extent possible, during project implementation.

3. *Objectives.* The main objectives of the resettlement program.

4. *Socioeconomic studies.* The findings of socioeconomic studies to be conducted in the early stages of project preparation and with the involvement of potentially displaced people, including

- (a) the results of a census survey covering
  - (i) current occupants of the affected area to establish a basis for the design of the resettlement program and to exclude subsequent inflows of people from eligibility for compensation and resettlement assistance;
  - (ii) standard characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population;
  - (iii) the magnitude of the expected loss--total or partial--of assets, and the extent of displacement, physical or economic;
  - (iv) information on vulnerable groups or persons as provided for whom special provisions may have to be made; and
  - (v) provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their displacement.

(b) Other studies describing the following:

- (i) land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area;
- (ii) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project;
- (iii) public infrastructure and social services that will be affected; and
- (iv) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g., community organizations, ritual groups, nongovernmental organizations (NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.



5. *Legal framework.* The findings of an analysis of the legal framework, covering

- (a) the scope of the power of eminent domain and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment;
- (b) the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available alternative dispute resolution mechanisms that may be relevant to resettlement under the project;
- (c) relevant law (including customary and traditional law) governing land tenure, valuation of assets and losses, compensation, and natural resource usage rights; customary personal law related to displacement; and environmental laws and social welfare legislation;
- (d) laws and regulations relating to the agencies responsible for implementing resettlement activities;
- (e) gaps, if any, between local laws covering eminent domain and resettlement and the Bank's resettlement policy, and the mechanisms to bridge such gaps; and
- (f) any legal steps necessary to ensure the effective implementation of resettlement activities under the project, including, as appropriate, a process for recognizing claims to legal rights to land--including claims that derive from customary law and traditional usage .

6. *Institutional Framework.* The findings of an analysis of the institutional framework covering

- (a) the identification of agencies responsible for resettlement activities and NGOs that may have a role in project implementation;
- (b) an assessment of the institutional capacity of such agencies and NGOs; and
- (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for resettlement implementation.

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

8. *Valuation of and compensation for losses.* The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets.

9. *Resettlement measures.* A description of the packages of compensation and other resettlement measures that will assist each category of eligible displaced persons to achieve the objectives of the policy (see ESS5). In addition to being technically and economically feasible, the resettlement packages should be compatible with the cultural preferences of the displaced persons, and prepared in consultation with them.

10. *Site selection, site preparation, and relocation.* Alternative relocation sites considered and explanation of those selected, covering

- (a) institutional and technical arrangements for identifying and preparing relocation sites, whether rural or urban, for which a combination of productive potential, locational advantages, and other factors is at least comparable to the advantages of the old sites, with an estimate of the time needed to acquire and transfer land and ancillary resources;
- (b) any measures necessary to prevent land speculation or influx of ineligible persons at the selected sites;
- (c) procedures for physical relocation under the project, including timetables for site preparation and transfer; and
- (d) legal arrangements for regularizing tenure and transferring titles to resettlers.

11. *Housing, infrastructure, and social services.* Plans to provide (or to finance resettlers' provision of) housing, infrastructure (e.g., water supply, feeder roads), and social services (e.g., schools, health services); plans to ensure comparable services to host populations; any necessary site development, engineering, and architectural designs for these facilities.

12. *Environmental protection and management.* A description of the boundaries of the relocation area; and an assessment of the environmental impacts of the proposed resettlement<sup>3</sup> and measures to mitigate and manage these impacts (coordinated as appropriate with the environmental assessment of the main investment requiring the resettlement).

13. *Community participation.* Involvement of resettlers and host communities,

(a) a description of the strategy for consultation with and participation of resettlers and hosts in the design and implementation of the resettlement activities;

(b) a summary of the views expressed and how these views were taken into account in preparing the resettlement plan;

(c) a review of the resettlement alternatives presented and the choices made by displaced persons regarding options available to them, including choices related to forms of compensation and resettlement assistance, to relocating as individuals families or as parts of preexisting communities or kinship groups, to sustaining existing patterns of group organization, and to retaining access to cultural property (e.g. places of worship, pilgrimage centers, cemeteries); and

(d) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.

14. *Integration with host populations.* Measures to mitigate the impact of resettlement on any host communities, including

(a) consultations with host communities and local governments;

(b) arrangements for prompt tendering of any payment due the hosts for land or other assets provided to resettlers;

(c) arrangements for addressing any conflict that may arise between resettlers and host communities; and

(d) any measures necessary to augment services (e.g., education, water, health, and production services) in host communities to make them at least comparable to services available to resettlers.

15. *Grievance procedures.* Affordable and accessible procedures for third-party settlement of disputes arising from resettlement; such grievance mechanisms should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

16. *Organizational responsibilities.* The organizational framework for implementing resettlement, including identification of agencies responsible for delivery of resettlement measures and provision of services; arrangements to ensure appropriate coordination between agencies and jurisdictions involved in implementation; and any measures (including technical assistance) needed to strengthen the implementing agencies' capacity to design and carry out resettlement activities; provisions for the transfer to local authorities or resettlers themselves of responsibility for managing facilities and services provided under the project and for transferring other such responsibilities from the resettlement implementing agencies, when appropriate.

17. *Implementation schedule.* An implementation schedule covering all resettlement activities from preparation through implementation, including target dates for the achievement of expected benefits to resettlers and hosts and terminating the various forms of assistance. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.

18. *Costs and budget.* Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.

19. *Monitoring and evaluation.* Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of the impact of resettlement for a reasonable period after all resettlement and

related development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

### **Table of Content for Abbreviated RAP**

An abbreviated plan covers the following minimum elements<sup>9</sup>:

- (a) a census survey of displaced persons and valuation of assets;
- (b) description of compensation and other resettlement assistance to be provided;
- (c) consultations with displaced people about acceptable alternatives;
- (d) institutional responsibility for implementation and procedures for grievance redress;
- (e) arrangements for monitoring and implementation; and
- (f) a timetable and budget.

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<sup>9</sup> In case some of the displaced persons lose more than 10% of their productive assets or require physical relocation, the plan also covers a socioeconomic survey and income restoration measures.

## Voluntary Land Donation Criteria and Form

Province:					
Local Authority:					
Village/Suco:					
Infrastructure Investment:					
Date of Public Meeting					
Name of land title owner:		Land Title Number:		Beneficiary of the sub-project: Y/N	
Sex:		Age:		Occupation:	
Address:					
Description of land that will be taken by the sub-project:		Area affected:	Total landholding area:	Ratio of land affected to total land held:	Map code, if available:
Description of annual crops growing on the land now and project impact:					
		Details		Number	
Trees that will be destroyed					
Fruit trees					
Trees used for other economic or household purposes					
Mature forest trees					
...					
Describe any other assets that will be lost or must be moved to implement the project:					
Value of donated assets:					
Will the donated land/asset is less than 5% of the land/property owned?					
Gratitude by the SUCO:					

By signing this form, DGAS representative here by affirm that land donations are voluntary and that it confirms to the protocol agreed with the World Bank.

By signing this form, SUCO committee (representative) hereby affirm that land donations are acknowledged and agreed on extending the gratitude as described above.

By signing this form, the land user or owner agrees to contribute assets to the project. The contribution is voluntary. If the land user or owner does not want to contribute his/ her assets to the project, he or she should refuse to sign or provide thumb print and ask for compensation instead.

Date:.....

DGAS representative's signature

Date:.....

Affected persons' signatures (both husband and wife)

Date:.....

SUCO representative's signature

