

RP967

BELIZE

MUNICIPAL DEVELOPMENT PROJECT

LAND ACQUISITION AND INVOLUNTARY  
RESETTLEMENT POLICY FRAMEWORK

DRAFT VERSION\*

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\*This document is work in progress. Please send your constructive feedback to the Belize Social Investment Fund.

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## ABBREVIATIONS:

R & R	-	Resettlement & Rehabilitation
PAP	-	Project Affected People
PF	-	Policy Framework
ARP	-	Abbreviated Resettlement Plan
RP	-	Resettlement Plan
PMO	-	Project Management Office
WB	-	World Bank
BSIF	-	Belize Social Investment Fund
OP/BP	-	Operation Policies & Bank Procedures
GRA	-	General Registry Act
HTPA	-	Housing and Town Planning Act
LPA	-	Law of Property Act
RLA	-	Registered Land Act

## GLOSSARY

**“Compensation”** means the reparation at replacement cost as determined in this Policy Framework in exchange for assets acquired by a community project (land, buildings or other assets)

**“Displaced Persons”** means PAPs who are forced to relocate from their previous location because (i) all of their land or buildings are acquired for a community project or, (ii) because the amount of land or buildings acquired renders the remaining portion economically unviable or uninhabitable.

**“Land Acquisition”** means the process of acquiring land for a community project under the legally mandated procedures of eminent domain.

**“Project Affected Person”** (PAP) means the people directly affected by land acquisition for a community project through loss of part or all of their assets whether temporarily or permanently including land, houses, other structures, businesses, crops/trees, or other types of assets.

**“Replacement Cost”** is defined as, in the case of urban areas, the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected and plus the cost of any registration and transfer taxes.

**“Resettlement”** means the relocation of displaced persons into new residential locations.

**“Community Project”** means a specific community infrastructure investment activity, which may comprise several sub-components, carried out with funding from BSIF/World Bank.

## **A. Overview of Implementing Agency**

The Belize Social Investment Fund (BSIF) was established in 1996 as a statutory body under the auspices of the Ministry of Economic Development which is mandated by law to work with the Government of Belize in the implementation of programs and projects aimed at reducing poverty in Belize. The BSIF responds to the basic human needs of the poorest of the poor in Belize in an efficient, transparent, and ethnically sensitive manner utilizing an approach that is participatory, collaborative and demand driven.

BSIF funded community projects comprise a menu of eligible infrastructure investments including projects in the following sectors:

### **EDUCATION**

- Constructing, expanding and rehabilitating primary and secondary schools.

### **HEALTH**

- Constructing and rehabilitating health center/posts.

### **WATER & SANITATION**

- Construct and rehabilitate basic potable water systems in rural areas.

### **ECONOMIC INFRASTRUCTURE**

- Constructing small drainage systems.
- Constructing access roads or pedestrian bridges and walkways linking communities.

### **SOCIAL SERVICES**

- Rehabilitate infrastructure of different types of centers that provide facilities for disadvantaged youths.
- Provide skills training to productive sectors and programs in youth counseling/career guidance.

### **ORGANIZATIONAL STRENGTHENING**

- Provide technical assistance and training to governmental and non-governmental organizations to upgrade skills in project preparation and implementation and to community groups in the management of small scale community based projects.

## **B. Project Introduction**

The objective of the proposed Municipal Development Project is to improve and maintain municipal service delivery in selected towns of Belize. An added benefit of the proposed Municipal Development Project would be the improved planning capacity of the selected cities/towns in which the Project would be implemented, which could, among other things, place them in a better position to absorb people and

activities displaced from Belize City if it is adversely affected by natural disasters to which it is highly vulnerable.

### **C. Project Description**

The proposed project would have the following four main components:

**Component 1: Small Scale Municipal Infrastructure Investments:** these investments for which the major part of the loan would be made available would include primarily investments related to drainage and traffic management (roads and road architecture, but also signage) as well as social infrastructure/facilities, public spaces, parks, tourism enhancements, bridges (smaller, municipal-type), markets, and street lighting, which will improve the environment and the quality of life in the selected towns.

**Component 2: Capacity Building for Town Councils:** the component would help to strengthen the capacity of town councils to govern more effectively. Included in this component would be activities to improve the revenue collection and land administration systems of town councils; to improve environmental and social management and compliance with national law; to increase town council accountability, increase citizen participation, participatory planning, and community counterpart contributions, among others and improve financial management, planning for traffic management, and town planning including disaster risk reduction and mitigation activities.

#### **Component 3: Technical Assistance to Central Government in Municipal Management:**

The component would contribute to the strengthening of the relationship between the central government and the town councils geared toward improving the prioritization and implementation of infrastructure investments and service delivery. This component would include activities such as developing a formula for transfers from the Central Government to town councils; strengthening the title registration/land ownership registration system; strengthening the land use framework,; and strengthening of environmental and social management at the municipal level

**Component 4: Project Management/Administration:** this component would support the implementing agency by financing consultant services, goods, training and operating costs for management and administration as well as monitoring and evaluation of project activities.

## **D. Principles and Objectives**

This Land Acquisition and Involuntary Resettlement Policy Framework (PF) will apply to all BSIF funded community projects including the World Bank Municipal Development Project (1000/WB/G). For BSIF funded community projects, the Policy Framework will supplement existing Belizean law pertaining to land acquisition and resettlement by introducing additional compensation measures to achieve compensation at replacement cost together with implementation and consultation arrangements to minimize land acquisition impacts and obtain the informed consent of those affected by land acquisition.

In World Bank assisted projects, the Government of Belize (GOB) is expected to take all necessary measures to mitigate adverse social impacts. The general guidelines of this document are to be followed by all components under the Loan involving involuntary resettlement. Where adverse social impacts are identified, resettlement and rehabilitation action plans (RAPs) will need to be prepared based on policies and procedures laid out in this framework.

Every effort will be made to avoid or minimize the need for involuntary land acquisition and resettlement for any components. The principle objective of the PF is to ensure that all Project Affected People (PAP) will be compensated for their losses and provided with rehabilitation measures to assist them to improve, or at least maintain, their pre-project living standards and income earning capacity.

The PAP includes the following persons to be identified by the baseline census:

- (a) The persons whose place of business or employment, and/or land is in part or in total affected (permanently or temporarily) by the subprojects;
- (b) Persons whose houses are in part or in total affected by the subprojects;
- (c) Persons whose business are affected in part or in total (temporarily or permanently) by the subprojects; and
- (d) Persons whose crops, trees and fixed assets are affected in part or in total by the subprojects.

The principles outlined in the World Bank's Operation Policies and Bank Procedures 4.12 have been adopted in preparing this Policy Framework (PF). In this regard the following principles and objectives would be applied:

- (a) Acquisition of land and other assets, and resettlement of people will be minimized as much as possible. Where land acquisition is unavoidable, the project will be designed to minimize adverse impact on the (PAP), especially the vulnerable groups;
- (b) All PAP will be compensated, relocated and/or rehabilitated, if required, so as to improve their standard of living, income earning capacity and production capacity, or at least to restore them to pre-Project levels;
- (c) All PAP residing in, or cultivating land, or having rights over resources within the project area of the socioeconomic survey are entitled to compensation for their losses

- and/or income rehabilitation. Lack of legal right to the assets lost will not bar the PAP from entitlement to such compensation, rehabilitation and relocation measures;
- (d) Replacement house lots, place of business and land will be as close as possible to the land that was lost, and acceptable to the PAP;
  - (e) Land-for-land is the preferred option. Land-for-land may be substituted by cash provided that: (i) land is not available in the proximity of the subproject area; (ii) PAP willingly accept cash compensation for land and all assets on it; and receive full replacement value without any deductions for depreciation; and (iii) cash compensation is accompanied by appropriate rehabilitation measures which together with project benefits results in restoration of incomes to at least pre-subprojects levels;
  - (f) The resettlement transition period will be minimized, land-for-land and/or cash compensation provided to the PAP completed prior to the expected start-up date of works in the respective activities.
  - (g) Resettlement plans will be implemented following consultations with the PAP, and will have the endorsement of the PAP;
  - (h) The previous level of community services and access to resources will be maintained or improved after resettlement;
  - (i) Any acquisition of, or restriction on access to resources owned or manage by PAP as common property will be mitigated by arrangements ensuring access of those PAP to equivalent resources on a continuing basis;
  - (j) Financial and physical resources for resettlement and rehabilitation will be made available as and when required;

## **II. Legal Framework**

### **A. Laws related to land acquisition**

#### **1. Constitution of Belize**

The scope of the power of eminent domain is circumscribed by the Constitution of Belize and set out in the two main laws dealing with the compulsory taking of land. The first such law is the Land Acquisition (Public Purposes) Act, Chapter 184 of the Laws of Belize and the second is the Land Acquisition (Promoters) Act, Chapter 183 of the Laws of Belize.

The Belize Constitution, chapter 4 of the Laws of Belize, is the supreme law and any other law which is inconsistent with the Constitution shall to the extent of the inconsistency be void (section 2 refers). For the purpose of eminent domain, section 17(1) of the Constitution sets the benchmark. Section 17(1) reads as follows:

“17.(1) No property of any description shall be compulsorily taken possession of and no interest in or right over property of any

description shall be compulsorily acquired except by or under a law that-

(a) prescribes the principles on which and the manner in which reasonable compensation therefore is to be determined and given within a reasonable time; and

(b) secures to any person claiming an interest in or right over the

property a right of access to the courts for the purpose of-

(i) establishing his interest or right (if any);

(ii) determining whether that taking of possession or acquisition was duly carried out for a public purpose in accordance with the law authorising the taking of possession or acquisition;

(iii) determining the amount of the compensation to

which

he may be entitled; and

(iv) enforcing his right to any such compensation.”

In the 1991 landmark case of *San Jose Farmers Cooperative Society Ltd v Attorney General*, 3BzLR 1, the Court of Appeal held that provisions (which they set out in their decision) should be inserted into sections of the Land Acquisition (Public Purposes) Act to bring it into conformity with the Constitution. In 1992, by Act 16 of 1992, the law was amended to bring it into conformity with the Constitution. It is to be recalled that the Belize Constitution was enacted in 1981 and the Land Acquisition Act was enacted in 1947 and some of its provisions were not in consonance with the Constitution.

The Land Acquisition (Promoters) Act makes provision for any promoter (which can be a corporation, a company or a person), to acquire land compulsorily for a public purpose upon making an application to the Minister responsible for lands. The minister appoints a person to hold an inquiry and the findings are then submitted to the National Assembly for approval of the acquisition. After the acquisition is approved, a notice of the acquisition is published in the Gazette. However, the notice is not to be published unless and until the promoter has given security to meet the acquisition costs and compensation payable. The promoter is also required to enter into an agreement regarding the terms on which he is to hold the land and the conditions with respect to the works to be done on the acquired land. The provisions of the Land Acquisition (Public Purposes) Act, apply, *mutatis mutandis*, to the powers conferred under that Act in relation to the acquisition.



The Land Acquisition (Public Purposes) Act, chapter 184 of the Laws of Belize is the principal legislation governing compulsory land acquisition. Land can only be acquired for a public purpose. And there is the right of access to the courts to determine whether the acquisition was for a public purpose. Under the provisions of this Act, where the Minister responsible for lands considers that any land should be acquired for a public purpose, he causes a notice of declaration of acquisition to be published in the Gazette. Two notices are required to be published and are to be at an interval of not less than six weeks between each publication. The publication sets out the particulars relating to the land and the public purpose for which the land is required. Upon the second publication of the declaration, the land vests absolutely in the Crown.

As soon as the declaration has been published, the person referred to in the Land Acquisition Act as “the authorized officer” (who is usually the Chief Valuer of the Lands and Surveys Department – but may also be the Lands Commissioner) is required to issue a notice of acquisition, which among other things, requires all persons having any interest in the acquired land to appear, either personally or by attorney or agent, before the said authorized officer and state the nature of their interest in the land and the full particulars of their claim to compensation. Where the authorized officer and the person(s) claiming compensation cannot agree on the amount of compensation, the law sets out the procedure and the rules relating to assessment of compensation.

All questions and claims relating to payment of compensation shall be submitted to a Board of Assessment which is to comprise: (i) the Chief Justice or a judge of the Supreme Court who shall be the Chairman of the Board; (ii) a member (other than a public officer) appointed by the minister responsible for lands; and (iii) a member nominated by the landowner. The Board holds a public inquiry and follows the civil procedure rules of the Supreme Court with respect to the conduct of the inquiry. At the conclusion of the inquiry, the Board decides on the amount of compensation and the apportionment. The decision is a majority decision. In the event the decision of the members differ regarding compensation, the mean between the amount decided upon by the Chairman and that one of the amounts decided upon by the other two members which approximates most nearly the amount decided by the Chairman, shall be deemed to be compensation awarded by the Board. In awarding compensation, the Board may add interest to the compensation and is to be guided by the rates payable by the commercial banks on fixed deposits. An award of the Board is enforced in the same manner as a judgment of the Supreme Court and either party is entitled to appeal the Board’s decision to the Court of Appeal.

Section 19 of the Land Acquisition (Public Purposes) Act spells out the rules for assessment of compensation. Rather than paraphrasing them, they will be set out verbatim. They read as follows:

***“19. Subject to this Act, the following rules shall apply to the assessment and award of compensation by a Board for the compulsory acquisition of***

*land-*

*(a) the value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have realised at the date of the second publication in the Gazette of the declaration under section 3:*

*Provided that this rule shall not affect the assessment of compensation for any damage sustained by the person interested by reason of severance, or by reason of the acquisition injuriously affecting his other property or his earnings, or for disturbance, or any other matter not directly based on the value of the land;*

*(b) the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which the land could be applied only in pursuance of statutory powers not already granted, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government department;*

*(c) where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to, or is detrimental to the health of the inmates of the premises or to public health, the amount of that shall not be taken into account;*

*(d) where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Board is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement;*

*(e) no allowance shall be made on account of-*

*(i) the acquisition being compulsory or the degree of urgency or necessity which has led to the acquisition;*

*(ii) any disinclination of the person interested to part with the land acquired;*

*(iii) any damage sustained by the person interested which, if caused by a private person, would not render such person liable to an action;*

*(iv) any damage, not being in the nature of deprivation of or interference with an easement, servitude or legal right, which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put;*  
*Provided that nothing herein shall prejudice any claim under this Act for damage subsequently sustained in consequence of the use to which the land acquired is put;*  
*(v) any increase to the value of the land acquired likely to accrue from the use to which the land acquired will be put;*  
*(vi) any outlay or improvement of such land which has been made, commenced or effected within twelve months before the publication of the declaration under section 3, with the intention of enhancing the compensation to be awarded herefor in the event of such land being acquired for public purposes.”*

From section 19(a) we see that the market value of the land at the date of acquisition is the determinative factor in arriving at a compensation sum. The usual method of arriving at what is the market value, is the comparative approach – what similar lands in the vicinity sell for.

In the *San Jose Farmers case* there is dicta stating that the provisions of section 19 are a “simple, compendious and sensible way in dealing with the principles which are to be taken into account in assessing compensation.” Since the law has been amended after the *San Jose case* was decided, the caveat expressed in the said case regarding what was then 19(a), is otiose. With respect to the constitutional provision referring to payment of compensation within a reasonable time, the Court of Appeal stated that: “*Compensation within a reasonable time can only mean that payment must be made in full as soon as is reasonably practicable after the amount of compensation due has been finally settled, either before the Board for the compulsory acquisition of the land or on appeal from its decision.*”

The **Housing and Town Planning Act** (HTPA) chapter 182 of the Laws of Belize which was enacted in 1947, is another important piece of legislation to consider as that Act deals with Town and Country Planning and also slum clearance and housing. By virtue of the provisions of part III of the HTPA, the Central Housing and Planning Authority (called the Central Authority) may by a resolution, decide to prepare a scheme which can be with respect to Belize as a whole or with respect to a specified area of Belize. Every scheme must specify and define clearly the area to which it

relates. The third schedule of the HTPA shows that road works and drainage, can be designated as schemes.

The Central Authority may also adopt, with or without variations, a scheme proposed by a local authority. Reference to a local authority means a Town Board or a City Council. The law allows for the Central Authority, with the approval of the Minister, to come to an agreement with a local authority and assign to the local authority the duties and functions of the Central Authority in relation to the enforcement and carrying out the scheme.

After passing a resolution and before the scheme comes into operation the Central Authority may grant permission to develop land or construct, demolish, alter, extend, repair or renew a building within the scheme subject to conditions or it may prohibit any development or construction.

Any person aggrieved by the decision of the Central Authority may appeal to a judge. The judge may dismiss or allow the appeal either unconditionally or subject to conditions.

Where the observation of prohibition or conditions attached by the Central Authority, results in a reduction of the value of any property, the Central Authority is liable to pay compensation.

Sections 60 and 61 of the HTPA set out how land is acquired. Those provisions read as follows:

***“60. The Minister may purchase by agreement any land to which a scheme applies, which is required for the purposes of the scheme, and in particular, but without prejudice to the generality of the foregoing words, he may purchase any such land-***  
***(a) which is required for carrying out the improvement or controlling the development of frontages to, or of lands abutting on or adjacent to, any road, or any proposed road which is to be constructed wholly or partly at the public expense; or***  
***(b) which is required for securing the satisfactory development of any land in accordance with the provisions of the scheme in any case where, by reason of the land being held in plots which are of inconvenient size or shape, or of which the arrangement or alignment is inconvenient, or by reason of the multiplicity of interests in the land, or by reason of the fact that the land is being used in a manner or for purposes inconsistent with the provisions of the scheme, it does not appear to be reasonably practicable to secure such***

*development otherwise than by purchase of the land; or  
(c) which forms the site of a road which is to be used for  
some other purpose under any provision in the scheme; or  
(d) which is required for the purpose of providing  
accommodation for a person whose premises have been  
purchased for the purposes of the scheme.*

***61. Where the Minister is unable to purchase by agreement any land which he is authorised to purchase, he may acquire such land in accordance with the Land Acquisition (Public Purposes) Act.”***

From the HTPA we observe that where land has to be compulsorily acquired, then the Land Acquisition (Public Purposes) has to be employed and assessment of compensation falls to be determined pursuant to that Act. However, if the claim is for compensation which does not stem from compulsory acquisition of land, then the matter is decided by a single judge in accordance with section 70 which states:

***“70.-(1) Any question arising under this Part as to-  
(a) the right of a claimant to recover compensation; or  
(b) the right of the Central Authority to recover any amount  
in respect of an increase in the value of any property, or  
by way of a special charge on any property; or  
(c) the amount and manner of payment of any such  
recoverable compensation or amount as aforesaid,  
shall, unless the Central Authority and all persons concerned  
otherwise  
agree, be referred to and determined by a judge by notice in writing.”***

## 2. Land tenure in the Laws of Belize

Land in Belize is either national lands or private lands. Two types of estates exist: the leasehold interest and the freehold interest. Leasehold is an interest in land for a term or years whereas the freehold interest is what most approximates absolute title and the term can be infinite. And recently, in October 2007, the Supreme Court in consolidated claims 171 and 172 of 2007 ***Aurelio Cal et al v. Attorney General and the Minister of Natural Resources***, recognized the existence of “Maya customary land tenure” in southern Belize.

National lands may be leased, sold or reserved for public use. The National Lands Act chapter 191 of the Laws of Belize, establishes the regime for leasing and disposing of national lands. Any lease of seven years or more is by way of a Minister’s Fiat Lease and when land is sold, the title is by way of a Minister’s Fiat Grant in those areas which are not compulsory registration areas. Where the land being leased or granted falls within a compulsory registration area, then the land leased or granted is

registered pursuant to the provisions of the Registered Land Act chapter 194 of the Laws of Belize and a lease certificate (in case of leases) or land certificate (in case of land sold) is issued by the Land Registry.

Private lands are dealt with in accordance with the General Registry Act (GRA) chapter 327, the Law of Property Act (LPA) chapter 190 and the Registered Land Act (RLA) chapter 194. The LPA sets out the substantive law relating to interests in land and the GRA which deals with the recording of Deeds of Conveyances (otherwise called common law conveyancing) and the registration of titles under the Torrens type system of registration deals mostly with the procedures with respect to the recording of deeds and the registration of titles. The RLA makes a departure from recording deeds and titles to the registering of land. Its approach focuses on keeping the history of a parcel of land and interest in it rather than *inter partes* transactions regarding land. The RLA contains both the substantive and procedural law for dealings in lands falling within compulsory registration areas of Belize. When land is registered pursuant to the provisions of the RLA, the provisions of the GRA and the LPA no longer apply and the controlling legislation is then the RLA.

In the *Aurelio Cal case*, the Supreme Court found that there is in existence, in southern Belize, in particular in the Toledo district, Maya customary land tenure. The nature of the title is communal entitling the members of the community to occupy, use the land for farming, hunting and fishing and utilizing the resources thereon as well as for other cultural and spiritual purposes, in accordance with Maya customary law and usage. Maya customary land tenure, the Supreme Court found, constitutes “property” under the Constitution.

Apart from the provisions to be found in the relevant legislation, via common law principles such as adverse possession (squatting) and proprietary estoppel, a person can acquire interest in land. In the instance of adverse possession, a squatter can actually obtain legal title to a property on application to the court in the case of land governed by the provisions of the LPA or from the Land Registry in the case of lands governed by the LRA on satisfying the criteria relating to prescription.

The Land Acquisition (Public Purposes) Act takes into consideration the interest of persons in possession in that they are deemed to be owners. Section 28, which is the relevant section reads as follows:

***“28. Where any question arises touching the title of any person to any land which may be entered upon or acquired for the purposes of this Act, or touching any estate or interest therein, the person having the ostensible possession or enjoyment of the rents and profits of such land shall, for the purposes of this Act, be deemed to be the owner of the land until the contrary is proved.”***

## **B. Legislation related to resettlement**

## 1. National law

In the HTPA, under the part dealing with slum clearance and housing we see some provisions that contain some social welfare aspects that are designed to give assistance to displaced persons. Most notable examples are sections 19(3) and (4) and section 30. These provide as follows:

*“19 (3) The Minister shall not approve of any scheme unless he is satisfied that-*

*(a) the size of the area is such that the housing conditions therein can be remedied within a reasonable period;*

*(b) in so far as suitable accommodation available for persons who will be displaced by the steps the Central Authority proposes to take for the clearance and development of the area does not exist, the Central Authority will provide, or secure the provision of, such accommodation in advance of the displacements which will from time to time become necessary as these steps are taken.*

*(4) In this section, “suitable accommodation” means, in relation to the occupier of a dwelling-house, a dwelling-house as to which the following conditions are satisfied, that is to say-*

*(a) the house must be a house wherein the occupier and his family can live without causing it to be overcrowded;*

*(b) the local authority must certify the house to be suitable to the needs of the occupier and his family as regards security of tenure and proximity to place of work and otherwise to be suitable in relation to his means; and*

*(c) if the house belongs to the local authority, it must certify it to be suitable to the needs of the occupier and his family as respects extent of accommodation, having regard to the standard specified in this Part.*

*30.-(1) The Central Authority may pay to any person displaced from any dwelling-house or other building in a slum clearance area or a redevelopment area, as the case may be, which has been acquired under this Part as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, such reasonable allowance as it thinks fit towards his expense in removing, and it may also pay to any person carrying on any trade or business in any such dwelling-house or other building, such reasonable allowance as it thinks fit towards the loss which, in its opinion, he will sustain by reason of the disturbance of his trade or business consequent on his having to quit the house or building and, in estimating that loss, it shall*

*have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.*

*(2) The Central Authority may also, in cases of special hardship, pay to the owner of any premises acquired for the purposes of this Part such sum as it considers fair and reasonable in the circumstances.”*

The provision of accommodation to address displacements and payments for relocation and for disturbance in carrying on any business or trade are aspects which could be incorporated into the main piece of legislation dealing with the compulsory taking of land ie the Land Acquisition (Public Purposes) Act. To accomplish this however, would require amendment to the existing legislation. It is also noted that the 1992 amendment following upon the *San Jose Farmers case* never dealt with the issue of compensation within a reasonable time.

#### *Legal recourse for grievance redressal*

As can be seen from the Constitutional provisions, the Land Acquisition Act and the Housing and Town Planning Act referred to above, it is the court system that one ultimately has to turn to for redress. In the case of lands compulsorily acquired for a public purpose however, the process starts with the “Authorized Officer” who is usually the Chief Valuer of the Valuation Unit of the Lands and Surveys Department. Where the Chief Valuer and the person having an interest in land cannot arrive at an agreed compensation, then the matter has to be referred to a Board of Assessment.

#### **C. Survey method to measure loss of assets**

The rules for assessment of compensation as outlined in section 19 of the Land Acquisition (Public Purposes) Act (discussed above) are what give guidance to a Board of Assessment in its exercise at arriving at what is the measure of compensation payable to the landowner for his loss. It is the Board of assessment which is charged with arriving at total measure of compensation payable.

#### **D. Gaps between Belizean laws and Bank’s resettlement policy**

Gaps are evident in the principles outlined in the Bank’s Operation Policies and the laws of Belize however some of the principles though not mandated in the laws are followed. For example, land acquisition is always minimized and this is principally due to acquisition costs, as the Constitution and the Land Acquisition Act require that market value be paid for lands compulsorily acquired. Also, the Land Acquisition Act does not limit compensation to only persons having good or proper documentary title ; an occupier, which can be a person in adverse possession, is entitled to compensation. Land for land is also the preferred option in Belize to deal with compensation for



reasons having to do with the limited annual budgetary allocation to meet claims for compensation and the fact that the government is still a large landowner.

### **III. PREPARATION OF LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT ACTION PLANS**

#### **A. TIMING**

Under the Bank-financed Municipal Development Project, small civil works (sub-projects) will be selected within each municipality, through a consultative process with stakeholders, as investments to be financed under the project's Component 1. Identification of potential impacts should start at the municipal-level at this time, in order to assess the social feasibility each municipalities' sub-projects. Accordingly, sub-projects that avoid or minimize involuntary land acquisition and resettlement will be prioritized. In cases where all alternative project designs have been explored and avoiding involuntary land acquisition is not feasible, the PMO will lead efforts to develop and implement Action Plans to address direct economic and social impacts. This is required only when these impact result from (a) involuntary taking of land resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood, whether or not the affected persons must move to another location; or (b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

Action Plans should be prepared as early in the process as possible to ensure that land is acquired and social and economic conditions are restored **prior to** commencement of civil works. Table 2 details the close link between technical stages of the project and the social feasibility stages that will help the municipal governments ensure the availability of land for the commencement of the civil works in each municipality and sufficient time to effectively implement Action Plan(s).

**Table 2. Synchronization of civil works schedule and land acquisition and involuntary resettlement action plan schedule**

<b>Civil works schedule</b>	<b>Action Plan Checklist</b>	<b>Comments</b>
Sub-project selection	Prioritization of civil works that do not require involuntary taking of land.	Stakeholders and city officials involved in the selection of civil works to be financed should be mindful of the fact that civil works without or with minimal physical or economic displacement will be prioritized with the purpose of avoiding harm to community members as well as costly and complex mitigation measures for the municipalities.
Conceptual design	Creation of task force hired as municipal staff or temporary consultants Preparation of Consultation Strategy Preliminary studies	Any Action Plan must be consulted and validated with the population with the PAP and approved by the World Bank.
Final designs	Physical surveys Tenancy studies Appraisal Social-economic surveys Impact assessments Solution alternatives Preparation of Action Plan Consultation and validation of Action Plan with PAP Approval of plan by World Bank Implementation of Action Plan Monitoring and follow-up	Once definitive designs are available, BSIF can begin technical feasibility studies as well as socio-economic assessment and tenancy study of the land to be acquired and displaced population. These studies will provide the basis for identifying impacts, devising solution strategies and drafting the Action Plan(s).
Bidding and contracting	Implementation of Action Plan Monitoring and follow-up	The action plans will be implemented during the contracting stage in order for the required land to be available for the initiation of the civil works.
Construction	Implementation of Action Plan Monitoring and follow-up Ex-post evaluation of Action Plan	All land and cash-based solutions must be finalized before the commencement of construction.

## **B. ELIGIBILITY CRITERIA, DEGREE OF IMPACT AND ENTITLEMENTS**

### 1. Eligibility

In order to be a beneficiary of an Action Plan, all three of the following eligibility criteria must be met:

- To live in or own a property or carry out a productive business on the land that will be acquired by the Govt. of Belize as a part of a World Bank-funded project; and
- To be a title holder, lease holder, use-rights holder or squatter;
- To be registered in the Action Plan's census.

Regarding tenancy, although a PAP's tenancy status will not eliminate their right to be an Action Plan beneficiary, it will determine their entitlements. Persons with legal titles or claims are entitled to compensation for the land they lose, and other assistance in accordance (see OP 4.12, paragraph 6), while those persons who have no recognizable legal right or claim are provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this framework, if they occupy the project area prior to a cut-off date established by the Government of Belize (PMO) and acceptable to the Bank. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All Action Plan beneficiaries are provided compensation for loss of assets other than land.

### 2. Entitlements according to degree of impact

The entitlement policy aims to enable PAP to replace the assets they have lost on account of the project, to recover and to improve upon their pre-project living standards within the shortest possible time. In general, the resettlement & rehabilitation (R&R) package would consist of (a) provision for replacement assets or its cash equivalent, where replacement is not feasible; (b) rehabilitation grants to compensate for temporary disruption in life and economic activities; (c) either employment or training, capital and enterprise support for income restoration in case of loss of livelihoods, and (d) provision for replacement of community facilities and services for affected communities.

PAP losing land will be entitled to the following types of compensation and rehabilitation measures:

- (a) For the majority of schemes, the land will be reallocated within the town by the town councils which are in charge of the collective land. According to the Land Administration Law, in situations where land reallocation is not possible, the PAP

will be paid a maximum compensation and resettlement subsidy equivalent to the market value of the land.

(b) If land compensation and resettlement subsidies paid are still insufficient to help the PAP needing resettlement to maintain their original living standards, the resettlement subsidies may be increased upon approval by the Minister of Natural Resources or Area Representatives.

(c) PAP will be compensated for the loss of standing crops, fruit or industrial trees, as well as any fixed assets at market prices;

(d) PAP whose land is temporarily taken by the works under the project activity will be compensated for their loss of income, standing crops and for the cost of soil restoration and damaged infrastructures.

PAP losing shelter and auxiliary structures will be entitled to the following compensation and rehabilitation measures:

(a) PAP whose houses are being acquired by the components will be provided replacement housing within easy commuting distance of their existing homes, and the new housing will be equal size/quality of the house lost;

(b) PAP will be provided with compensation at full replacement value, without any deduction for depreciation, for any structures and fixed assets affected by the components;

(c) A pre-determined dislocation allowance according to the prevailing rates of the project areas will also be provided.

If the shelter, house and/or structure are only partially affected by the project activity, the Municipalities may, if it is acceptable to the PAP, acquire the entire structures with full compensation or provide cash compensation for the portion affected as mutually agreed between the PAP and the Bank.

PAP losing business will be entitled to the following compensation and rehabilitation measures:

(a) The mechanism for compensation loss of business will be: (i) the provision of alternative business site of equal size and accessibility to customers, satisfactory to the PAP; (ii) cash compensation to the owner for lost business structure reflecting full replacement cost of the structures, without depreciation and the cost of transfer; and (iii) cash compensation for the loss of income during the transition period.

(b) PAP will also be provided compensation at full replacement cost, without depreciation for any other fixed assets affected in part or in total by the subprojects.

## **C. CONTENT**

The Action Plan will, at minimum, include the following components:

1. Description of the specific activities under a community project that require and, together with the different means used to obtain this land (see OP 4.12 Section VI)

2. A census of persons affected/displaced by involuntary land acquisition including an inventory of lost assets and valuation of these, and socio-economic data (see Annex 2 and OP 4.12 Section XII, Annex 8 and 9);
3. Description of the compensation and other resettlement assistance to be provided (see OP 4.12 Section X);
4. Description of the consultations with affected/displaced persons about acceptable alternatives (see OP 4.12 Section VII);
5. Institutional responsibility for implementation and procedures for grievance redress (see OP 4.12 Section VIII);
6. Arrangements for monitoring and implementation (see OP 4.12 Section XII);
7. A time-bound implementation plan and budget.

**D. VERIFIABLE INDICATORS FOR MONITORING AND EVALUATION IMPLEMENTATION OF RAPS.**

<b>Monitoring</b>	<b>Evaluation</b>
Percentage of individuals selecting cash or a combination of cash and in-kind Compensation	Proposed use of payments
Payment of compensation to PAPs in various categories	Conformance to compensation policies described in the RAP
Number of grievances	Timeliness and quality of decisions made on grievances
Delivery of technical assistance, relocation, payment of transitional subsistence and moving allowances	Facilitation of access to technical and development assistance and transitional allowances
Delivery of income restoration and development assistance	Ability of individuals and households to re-store sources of income
Public information dissemination and consultation procedures	Timeliness, quality, and effectiveness of consultation and information disclosure
Completion dates of the RAP activities	Actual completion of resettlement activities compared with the RAP time schedule

## E. Public Consultation and Disclosure

During the preparation phase and upon the identification of the activities that will necessitate IR, public meetings should be held in the areas where resettlement and displacement may take place to introduce to the affected communities, and other primary stakeholders, general information on the project and resettlement policies and procedures. Information will be given to the PAPs and other stakeholders on:

- Project components
- Project impacts
- PAPs' legal rights and entitlements
- Compensation policies
- Resettlement activities
- Grievance and redress Mechanism
- Implementation schedule
- Public consultation and disclosure of information.
- Organizational responsibilities.

It is crucial that the PAPs and other primary stakeholders are involved in the sub-project from the very early stages, and that relevant and adequate information about the project and its activities is provided to them in a timely manner, since this would:

- ☞ Help to identify the sub-project impacts and the affected individuals, households, and communities (especially the most vulnerable groups)
- ☞ Allow for the collection of more accurate data for the socio-economic survey
- ☞ Make the delivery of entitlement and services more transparent
- ☞ Reduce the potential for conflicts and minimize the risk of sub-project delays
- ☞ Support the formulation and design of resettlement programs and rehabilitation measures that meets the needs and priorities of the affected people

Following the preliminary introductory meeting, the PAPs will be again consulted during the process of conducting the socio-economic survey where they will be interviewed and asked to present their ideas, concerns, and preferences on issue regarding land acquisition and replacement, resettlement sites, compensation, and income restoration measures.

If the project is approved, the PAPs should be involved in the actual formulation of different options for the RAP. After the finalization of the RAP it shall be publicly disclosed to all PAPs and other relevant stakeholders in a meeting. The stakeholders' points of views will be taken into consideration upon the actual implementation of the RAP. The PAPs will gave a chance to express their concerns with the implementation

of the RAP through the grievances and redress mechanism mentioned above. It will be amongst the main objectives of the monitoring and evaluation phase to ascertain that the PAPs complaints have been addressed and that they have been informed about the organizational procedures for resettlement throughout the entire process.

## **F. GRIEVANCE REDRESS MECHANISMS**

A grievance mechanism should be devised in order for the PAPs to be able to voice their concerns, complaints, or dissatisfaction with any part of the compensation process and seek redress. Simply, complaints can be made concerning the non-fulfillment of contracts, compensation entitlement, types and levels of compensation, compensation policy, acquisition / destruction of land or assets, resettlement, or development or transitional assistance. Grievance redress will be approached both proactively and reactively:

### Proactive approach:

- a) Widespread disclosure of project background
- b) Clarification of criteria for eligibility for assistance under the RPF framework
- c) Establishing a local mediation committee (made up of community leaders, people assembly members, religious persons etc), to review any grievances that may result from the project.

### Reactive approach:

- a) Settle disputes amicably
- b) If disputes arise, they should be addressed by local level municipal authorities. The above mediation committee will focus on ensuring that PAPs, particularly those belonging to vulnerable groups get fair treatment.
- c) If compensation-related disputes cannot be solved at the local level, they will follow additional tiers of appeal as described below:

Tiers of Grievance Redressal Mechanisms	Responsible party	Mechanism	Timeframe to address grievance
First tier	Local authorities in consultation with local level mediation committee	Written grievance (free of cost)	1 week
Second tier	Land Valuation Unit	Oral or written grievance (free of cost)	2 weeks
Third tier	Board of Assessment	Case submission (free of cost)	2 weeks
Fourth tier	Ombudsman	Case submission (free of cost)	2 weeks
Fifth tier	Judicial system	Contracting a lawyer	Lengthy process

		(high cost)	and long delays to commencement of civil works (to be avoided by First through Third tier mechanisms)
Assistance for aggrieved persons belonging to vulnerable groups for accessing legal recourse.	Legal Aid Office in Belize City. List of other pro bono lawyers in Belize will be provided for low-income population who can not afford legal council.	Low cost option	Lengthy process and long delays to commencement of civil works (to be avoided by First through Third tier mechanisms)

It is important that these tiers be established prior to the implementation of any RAPs. Disputes can arise even before the preparation of the projects, as people are curious about any new projects and rumors might be aroused. Hence, the mediation mechanisms should be available to cater for claims, disputes and grievances at this early stage.

#### **G. INSTITUTIONAL ARRANGEMENTS AND SOURCES OF FUNDING**

The following institutions share the responsibility of planning and implementing the abbreviated land acquisition and involuntary resettlement plans triggered during the implementation of the present project. Their roles and responsibilities are as follows:

<b>Institution</b>	<b>Responsibilities</b>	<b>Source of funding</b>
Project Management Office (Social Investment Fund)	<ul style="list-style-type: none"> <li>i. Provide support and training to municipal task forces on how to prepare Action Plans and required consultation processes</li> <li>ii. Enforcement of present Framework</li> <li>iii. Drafting of Terms of Reference for Socioeconomic Study, Census and Physical survey.</li> <li>iii. Disclosure of Action Plans on official website.</li> <li>iv. Provide guidance to third-party monitors</li> </ul>	Earmarked project budget allocation
Municipalities	<ul style="list-style-type: none"> <li>i. Avoiding land acquisition and involuntary resettlement in selection of subprojects</li> <li>ii. Assembling a task force to prepare and implement an Action Plan per municipality when one or more cases of land acquisition and/or involuntary resettlement arises. The task force can be made up of municipal staff members or hired consultants.</li> </ul>	Municipal funds and/or Earmarked project budget allocation
Lands Valuation Unit, Lands and Surveys Department	Calculation of replacement cost of land and assets to be acquired.	Department budget
Board of Assessment (i) the Chief Justice or a	The Board holds a public inquiry and follows the civil procedure rules of the Supreme Court	No additional budget



judge of the Supreme Court who shall be the Chairman of the Board; (ii) a member (other than a public officer) appointed by the minister responsible for lands; and (iii) a member nominated by the landowner.	with respect to the conduct of the inquiry. At the conclusion of the inquiry, the Board decides on the amount of compensation and the apportionment.	
National Ombudsman	Provide a check on government activity in the interests of the citizen, and to oversee the investigation of complaints of improper government activity against the citizen. If the ombudsman finds an appeal to be substantiated, an ombudsman report is published making recommendations for change.	Own budget
World Bank	i. Guidance to PMO and municipalities regarding preparation and implementation of action plans. ii. Review and approval of action plans prepared by municipalities. iii. Disclosure of action plans online and in World Bank library through the <i>Infoshop</i> .	WB funds
Civil society organizations and/or university	External monitoring of the plan	Own funding
Project affected people	i. Collaborate with socioeconomic survey, census and other studies ii. Participation in consultations in good faith.	---

Although the primary responsibility for enforcement of the PF and implementation of the R&R rest with the component sponsors, such as specific line agencies or local communities as the construction units who are responsible for implementation of the respective project components, the oversight responsibility shall rest with the PMO and the local PMOs.

First of all, the PMOs are fully responsible for the project plan and implementation. If any change in project design measure or construction site imply land acquisition and/or resettlement, the PMOs and governments at each level will take joint responsibilities with local land management authorities in regard to: (i) directing and guiding construction units in the formulation of a land acquisition and resettlement plan in line with the Framework; (ii) assisting the construction units in arranging and settling compensation funds; (iii) assisting the land management authority to solve problems between the construction units and the affected people; (iv) supervising implementation of resettlement plan; (v) preparing implementation progress reports.

In addition, the PMOs will appoint people to be responsible for review and management of sub-project land acquisition. If the construction of sub-project has to involve land acquisition and/or resettlement, the construction unit should formulate a specific plan which has to be submitted to the higher level PMO and the local land authority at the same level.

Land management authority at each government level should review the scope, quantity of land acquisition, carry on land acquisition registering, handling land acquisition procedures and supervise compensation by local governments.

The PMOs shall also carry out regular monitoring as required by the World Bank, to ensure that the provisions of the PF are satisfied. In the meantime, the PMOs will arrange special training for the relevant project staff as locally needed, on this Policy Framework, and on the planning and implementation of land acquisition and resettlement mitigation measures.

The costs associated with mitigation of adverse social impacts on project affected people, such as relocation of affected persons or restoration of livelihoods will be met by the Municipalities in which the project is being carried out.

Compensation of land is based on the value of the land based on the market value. The value of the fix assets is estimated according to the replacement cost.

The land acquisition and resettlement compensation are sourced from the project funds. All the funds shall be paid to the PAP before the land is taken and the house is demolished. In the case of large-sized construction, the compensation funds will be paid by the land user to the Lands Department at the municipal level, after the verification of its land acquisition plan by the Lands Department and PMO. The Department is responsible for allocation of the compensation payments for land to the land owners, and the compensation for private assets to individual owners, coordinated by the PMO.

