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**ROADS DIRECTORATE**

**Lesotho Transport Infrastructure and Connectivity Project  
(TIC)**

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**Individual Consulting Services to Prepare the  
Resettlement Policy Framework (RPF)**

**THE RESETTLEMENT POLICY FRAMEWORK  
(RPF) REPORT**

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## TABLE OF CONTENTS

TABLE OF CONTENTS .....	i
LIST OF TABLES .....	iv
ABBREVIATIONS/ACRONYMS .....	v
GLOSSARY OF TERMS.....	vi
EXECUTIVE SUMMARY .....	viii
1.0 INTRODUCTION .....	1
1.1 Background.....	1
1.2 Transport Infrastructure and Connectivity (TIC) Project.....	1
1.3 Likely Adverse Impacts of the TIC Project and Sub-Projects .....	4
1.4 The Resettlement Policy Framework Content .....	5
1.5 Public Disclosure .....	6
1.6 Document Aims and Structure.....	6
2.0 THE RPF PRINCIPLES AND OBJECTIVES .....	7
2.1 Objectives and Principles Governing the RPF.....	7
2.2 Goal/Objectives .....	7
3.0 DESCRIPTION OF THE PROCESS FOR PREPARING AND APPROVING RESETTLEMENT ACTION PLANS .....	9
3.1 Responsibility.....	9
3.2 Identification of Affected Assets and Ownership .....	9
3.3 Assets Inventory-taking and Registration .....	10
3.4 Preparation of RAP/Abbreviated RAP .....	10
3.5 Components of RAP/Abbreviated RAP.....	11
3.6 Review and Approval of a RAP/Abbreviated RAP.....	11
4.0 LAND ACQUISITION AND OCCUPATION .....	13
4.1 Overview of Rural Land Tenure and Transfer Systems.....	13
4.2 Land Acquisition for Public Purpose in the Rural Setting.....	13
4.3 Permanent Land Acquisition Procedures .....	14
4.4 Temporary Land Occupation Procedures .....	14
4.5 Project Occupation of Properties .....	15
5.0 ESTIMATED POPULATION DISPLACEMENT AND LIKELY CATEGORIES OF DISPLACED PERSONS .....	16
5.1 Identification of the Categories of Affected Persons .....	16
5.2 Census and Socio-Economic Surveys of the Affected.....	16
6.0 ELIGIBILITY CRITERIA FOR DEFINING VARIOUS CATEGORIES OF PROJECT AFFECTED PERSONS .....	18
6.1 Eligibility Criteria Determination .....	18
6.2 Relocation Eligibility and Options.....	18
6.2.1 Eligibility for Voluntary Relocation .....	19
6.2.2 Relocation Options .....	19
6.3 Eligibility for Compensation .....	19

6.4	Cut-Off Dates to Entitlements .....	19
7.0	LEGAL, POLICY AND INSTITUTIONAL FRAMEWORKS .....	20
7.1	Legal Framework.....	20
7.1.1	Constitution of Lesotho (1993).....	20
7.1.2	Land Act (2010).....	20
7.1.3	Legal Capacity of Married Persons Act (2006) .....	21
7.2	Lesotho Legal Framework versus the World Bank OP 4.12 Requirements .....	21
7.3	Lesotho Policy and Institutional Framework .....	24
8.0	METHODS OF VALUING AFFECTED ASSETS .....	25
8.1	Asset Identification, Inventory-taking and Registration .....	25
8.2	General Land and Assets Valuation.....	26
8.3	Specific Assets Valuations.....	27
8.3.1	Residential and Business Land .....	27
8.3.2	Cultivation Land .....	27
8.3.3	Standing Crops.....	28
8.3.4	Vegetable Gardens .....	29
8.3.5	Compensation for Buildings and Structures .....	29
8.3.6	Trees and Thickets .....	29
8.3.7	Informal Traders in Road Reserves .....	30
8.3.8	Water Supplies.....	30
8.3.9	Community-Owned Facilities .....	30
8.3.10	Cultural Assets .....	30
8.3.11	Graves .....	30
8.3.12	Institutional Property .....	30
8.3.13	Government-owned Infrastructure.....	31
8.3.14	Public Infrastructure and Services .....	31
8.3.15	Project Occupation of Properties .....	31
8.4	Compensation and Resettlement Entitlements.....	31
8.4.1	Resettlement Entitlements .....	31
8.4.2	Host Communities .....	32
8.5	Special Compensation/Resettlement Provisions .....	32
8.5.1	Livelihood Restoration Initiatives.....	32
8.5.2	Vulnerable Groups and Social Categories .....	33
8.5.3	Mitigation of Construction and Unforeseen Impacts .....	34
9.0	ORGANIZATIONAL PROCEDURES FOR DELIVERY OF ENTITLEMENTS .....	35
9.1	Organisational Procedures for Delivery of Entitlements .....	35
9.2	Implementation Arrangements .....	36
9.2.1	Proposed Improved Structure for the RPF Implementation.....	36
9.2.2	Staff Training and Capacity Building .....	37
9.3	Compensation Agreements and Disbursement Processing .....	39
9.4	NGO Participation .....	39
9.5	Reporting Procedures.....	40
10.0	GRIEVANCE REDRESS MECHANISMS .....	42

11.0	RESETTLEMENT FUNDING ARRANGEMENTS .....	43
11.1	Funding Arrangements .....	43
11.2	Budgeting.....	43
11.3	RPF Direct Budget Estimates .....	43
12.0	COMMUNITY CONSULTATIONS/PARTICIPATION MECHANISMS .....	45
12.1	Approach to Consultation /Participation.....	45
12.2	Some TIC's Envisaged Community Involvement Elements.....	45
12.3	Consultation/ Participation in the Project Cycle .....	46
12.4	Project Preparation and Planning Stage .....	46
12.5	Project Implementation Stage .....	47
12.6	Participation in Monitoring and Evaluation.....	47
13.0	MONITORING AND EVALUATION .....	48
13.1	Monitoring Framework.....	48
13.2	Performance Monitoring.....	48
13.3	Impact Monitoring .....	49
13.4	External Evaluation Panel.....	49
13.6	Reporting Requirements .....	50
14.	ANNEXES.....	51
14.1	ANNEX 1: Legal, Policy and Institutional Framework Review.....	51
14.2	ANNEX 2: Compensation/ Resettlement Entitlement Matrix .....	59
14.3	ANNEX 3: Outline of a Resettlement Action Plan.....	66
14.4	ANNEX 4: Generic Terms of Reference for a Resettlement Plan .....	68
14.5	ANNEX 5: Identification of Affected Assets and Ownership Details Templates .....	71
14.6	ANNEX 6: Impacts Screening Templates .....	88
14.7	ANNEX 7: Extracts From Operational Policy (OP 4.12) .....	92
14.8	ANNEX 8: Terms of Reference (this assignment) .....	95
14.9	ANNEX 9: References.....	98

## LIST OF TABLES

Table 1: Categories of Potentially Affected Persons and Associated Loss Types .....	16
Table 2: Affected Persons Categories and Related Compensation Entitlements .....	18
Table 3: Lesotho Legal Framework versus the WB OP 4.12 Requirements .....	22
Table 4: Assets Likely for Inventory-taking, Valuation and Compensation .....	25
Table 5: Forms of Compensation .....	27
Table 6: RPF/RAP Development and Implementation Activities .....	35
Table 7: Capacity Training Details.....	38
Table 8: Some NGOs with Potential to Participate in RAP Developments .....	40
Table 9: RPF Budget Rate Estimate .....	43
Table 10: Monitoring Framework .....	49

## ABBREVIATIONS/ACRONYMS

ARAP	Abbreviated Resettlement Action Plan
CLO	Community Liason Officer
CRPF	Compensation and Resettlement Policy Framework (of MOPWT/RD)
ESMF	Environmental and Social Management Framework
GOL	Government of Lesotho
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
km	kilometre
LAA	Lands Administration Authority (originally part of LSPP)
LCN	Lesotho Council of Non-Government Organizations
LHDA	Lesotho Highlands Development Authority
LHWP	Lesotho Highlands Water Project
LSPP	Department of Lands, Survey and Physical Planning
MCA-Lesotho	Millennium Challenge Account - Lesotho
MCC	Maseru City Council (Maseru Municipal Council)
MCC	Millennium Challenge Corporation (USA)
M&E	Monitoring & Evaluation
MLGCA	Ministry of Local Government and Chieftainship Affairs
MOPWT	Ministry of Public Works and Transport
NES	National Environmental Secretariat
NGO	Non-Governmental Organisation
OP/BP 4.12	Operational Policy/Bank Policy 4.12: Involuntary Resettlement
OPRC	Output Performance-based Road Contract
RAP	Resettlement Action Plan/ Resettlement Plan
RD	Roads Directorate
RPF	Resettlement Policy Framework
RSA	Republic of South Africa
SEU	Safety and Environmental Unit
SIA	Social Impact Assessment
TIC	Transport Infrastructure and Connectivity Project
TOR	Terms of Reference
WASCO	Water and Sewerage Company
WB	World Bank

## GLOSSARY OF TERMS

- 1) **Affected Household:** a household that stands to temporarily or permanently suffer some assets losses such as homesteads, arable land and trees, as a result of TIC project related construction activities, and for which compensation, and resettlement entitlements where applicable, are due.
- 2) **Assets:** all individual/communal properties such as homesteads, arable lands, trees, resources such as forests, range lands, important cultural sites, commercial premises, tenancy, income-earning opportunities, and activities, for which compensation is due if adversely impacted upon.
- 3) **Assets Inventory:** assembly of specified individual, communal and state assets as determined at a certain point in time through field surveys and the use of aerial photos, mapping, satellite imagery, etc
- 4) **Commercial /business property:** facility or asset used for the purposes of commercial/ business activity.
- 5) **Communal resources:** property such as land and vegetation containing pasture, brushwood, medicinal plants, wild vegetables, and other useful grasses (valuable for roofing, making hats, baskets, mats and variety of handicrafts), and to which rights have traditionally been held by the community and which are currently under the management authority of Community Councils, District Councils or Principal Chiefs in terms of the Local Government Act 1997 as amended
- 6) **Compensation:** replacement of property/assets loss with in-kind or its monetary equivalent or as a payment for loss of usage rights and annual production in the case of communal assets and arable land. It may be payment in cash or in kind for an asset/ resource that is acquired or affected by a project at the time the asset needs to be replaced. It is an entitlement to affected persons, as a policy imperative and/or as decreed by government laws/ regulations in order to replace the lost asset, resource or income.
- 7) **Cultural heritage:** resources (physical and non-physical) with which community members identify as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions.
- 8) **Cut-off date:** date of completion of the socio-economic census and assets inventory-taking of persons affected by the project, or any other mutually agreed date. Any persons who subsequently occupy the project area after the cut-off date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets (such as built structures, crops, fruit trees, and woodlots) established after the date of completion of the assets inventory, or an alternative mutually agreed on date, will not be compensated.
- 9) **Displacement:** the move of a household and property to make way for the project, hence the cause for physical relocation and/or compensation.
- 10) **Entitlement:** range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected persons, depending on the nature of their losses, to restore and improve their economic and social base.
- 11) **Field:** arable land used primarily for cultivation of non-horticultural crops.
- 12) **Host Community:** community residing in or near the area to which the physically displaced people are to be relocated, and who may be affected by the resettlement programme.
- 13) **Household:** a group of persons with one family head bound by blood, marital, legal or any other relationship, living together and operating as a single economic unit in a dwelling (home or homestead).
- 14) **Involuntary Resettlement:** compulsory removal of a household due to project activities and effects such as a project-related land acquisition or restrictions on land use which causes physical displacement (relocation, loss of shelter), economic displacement (loss of land, assets or access to assets, including those that lead to loss of income sources or other means of livelihood), or both. 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.
- 15) **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 rendered unusable or inaccessible. "Land" includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements.
- 16) **Livelihood:** refers to the full range of means that individuals, families, and communities utilize to make a living, such as wage-based income, agriculture, other natural resource-based livelihoods, petty trade, etc.
- 17) **Project:** refers to the activities for which Bank support through Investment Project Financing is sought by the Borrower as defined in the project's legal agreement between the Borrower and the Bank. These are projects to which OP/BP 10.00 Investment Project Financing, applies (as well as other relevant OP/BP safeguard policies such as Environmental Assessment OP/BP 4.01, Physical Cultural Resources OP/BP 4.11, Involuntary Resettlement OP/BP 4.12, etc.).
- 18) **Project-affected Person:** any person who, as a result of project implementation, loses the right to own, use, or otherwise benefit from a built structure, land (residential, agricultural, or pasture), annual or perennial crops and trees, or any other fixed or moveable asset, either in full or in part, permanently or temporarily.

- 19) **Physical displacement:** loss of shelter and assets resulting from the acquisition of land associated with a project that requires the affected person(s) to move to another locations.
- 20) **Rehabilitation:** re-establishing incomes, livelihoods and social systems.
- 21) **Relocation:** rebuilding housing, assets, including production land, and public infrastructure in another location.
- 22) **Replacement Cost:** the market value of the assets plus transaction costs. With regard to land and structures, IFC defines “replacement costs” as follows: 1) agricultural land—the market value of land of equal productive use or potential located in the vicinity of the affected land, plus the cost of preparation to levels similar to or better than those of the affected land, plus the cost of any registration and transfer taxes; 2) land in urban areas—the market value of land of equal size and use, with similar or improved public infrastructure facilities and services preferably located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; 3) household and public structures—the cost of purchasing or building a new structure, with an area and quality similar to or better than those of the affected structure, or of repairing a partially affected structure, including labour and contractors’ fees and any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.
- 23) **Resettlement:** the process of addressing the effects of physical and economic displacement, which incorporates compensation, relocation and livelihood restoration
- 24) **Resettlement Assistance:** support provided to people who are physically displaced by a project. Assistance may include transportation, food, shelter, and social services that are provided to affected people during their relocation. Assistance may also include cash allowances that compensate affected people for the inconvenience associated with resettlement and defray the expenses of a transition to a new locale, such as moving expenses and lost work days.
- 25) **Resettlement Action Plan (Resettlement Plan):** a time-bound action plan with budget setting out resettlement strategy, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
- 26) **Residential Site:** piece of land allocated or leased to a household head or any individual for residential purposes.
- 27) **Security of tenure:** means possession of formal legal rights to the occupied land where the owner cannot be removed except in exceptional circumstances.
- 28) **Socio-economic census:** enumeration of, together with the gathering of information on, all households and other persons occupying the land to be affected by a project and/or whose livelihoods and standards of living are to be adversely affected by project activities - whether through the loss of or access to assets/resources or through physical relocation or any other losses identified during the process of resettlement planning.
- 29) **Stakeholders:** any and all individuals, groups, organizations, and institutions interested in and potentially affected by a project or having the ability to influence a project.
- 30) **Useful grasses:** those which have a practical use value apart from providing fodder for livestock, such as for roofing, making hats, baskets, mats and variety of handicrafts.
- 31) **Voluntary resettlement:** non-compulsory move/relocation of a household after due consideration of survival options or risks in the face of project’s long term effects such as certain degree of isolation, insecurity, inconvenience, loss of or access to resources and/or social facilities, together with any promised benefits or mitigation measures.
- 32) **Vulnerable household:** a household that is headed by a child or a disabled person or an elderly, indigent person.
- 33) **Vulnerable/ Disadvantaged Groups:** people who by virtue of gender, ethnicity, age, physical or mental disability, economic disadvantage, or social status may be more adversely affected by project impacts/ resettlement and/or more limited than others in their ability to claim or take advantage of resettlement assistance and/or related development benefits. Such individuals/groups are also more likely to be excluded from or become unable to participate fully in the mainstream consultation process and as such may require specific measures and/or assistance to do so. This will take into account age e.g. the elderly and minors heading households, the disabled, etc.



## EXECUTIVE SUMMARY

This Resettlement Policy Framework (RPF) preparation exercise by the Government of Lesotho (GOL) is required to meet one of the World Bank's project's pre-appraisal requirements – that of having in place the RPF as an Operational Policy (OP 4.12) social safeguard Instrument meant to guide preparation and implementation activities of the proposed Lesotho Transport Infrastructure and Connectivity (TIC) Project. The proposed TIC project, which is still at preparation (pre-appraisal) stage, is aimed amongst others, at financing physical works for improving road access through application of output and performance based contracts (OPRC) and construction of footbridges so as to improve road connections of population to agricultural markets and tourism sites, and to ensure sustainability of road assets.

The nature of roads and bridges physical works is expected to induce land acquisition and involuntary resettlement impacts, which automatically trigger the World Bank's requirement to have GOL undertake early screening of such projects in order to decide on the most appropriate social mitigating safeguard Instrument, which was found to be the Resettlement Policy Framework (RPF), designed to guide further development activities of the TIC. Furthermore, the RPF is required at this pre-appraisal stage because the proposed number and locations of TIC's sub-projects' (roads for OPRC application and footbridges) have not been yet been determined. Their determination has been left to later stages where once determined, each sub-project's preparation /planning studies would then be carried out to yield information required for resettlement planning, which would in turn, generate the need for preparation of other safeguard Instruments such as the Resettlement Action Plans (RAPs) or Abbreviated RAPs (ARAPs).

### Project Description and Likely Impacts

The Transport Infrastructure and Connectivity (TIC) project is meant to finance rehabilitation and improvement of the maintenance regime of selected roads through the application of the OPRC system as well as to improve access across some of the rivers through the construction of footbridges. The end-result will give access to social services, agricultural markets and tourism sites and to ensure sustainability of road assets. The proposed TIC related sub-projects will result in some negative environmental and social impacts on some individuals and communities because its physical components (road rehabilitation and maintenance, construction of footbridges and alleviation of accident blackspots) will likely induce land acquisition and trigger the World Bank safeguard policies such as Environmental Assessment OP/BP 4.01, Physical Cultural Resources OP/BP 4.11, and the Involuntary Resettlement OP/BP 4.12. While the most significant expected positive socio-economic impact would be to improve the mobility of people resident within a road's region of influence, and create a potential for diversification of local economic activities, but the negative impacts are expected to occur through the loss of private assets within a road reserve /servitude, disturbances to household subsistence and livelihoods, as well as through less-quantifiable effects on vulnerable social categories and groups such as potential loss of social coherence.

### The Resettlement Policy Framework (RPF) Provisions

#### 1) Guide to Preparation of Resettlement Plans (RAPs) Abbreviated RAPs (ARAPs)

The World Bank's Involuntary Resettlement OP/BP 4.12 mandates preparation of Resettlement Plans (RAPs) Abbreviated RAPs (ARAPs) where land acquisition/ involuntary resettlements (loss of shelter/need for relocation, loss of assets or access to assets, or loss of income sources or means of livelihood, etc.) are identified (through planning studies) as impacts of any newly approved TIC's sub-project. The RPF then provides for guidance on how related RAPs/ARAPs would be developed and implemented. In summary, the identified RAPs/ARAPs, as prepared by the Roads Directorate (RD) directly or through consultancies, will have to be subjected to reviews that include the public, before it can be ultimately approved by the World Bank for implementation as part of the whole sub-projects' package. This Section further provides supporting Annexes to guide users on how to prepare a RAP, starting with FORMs/ Questionnaires for 1) affected assets and ownership identification, 2) Census of the affected, 3) Socio-economic questionnaire, and 4) Assets registration FORM. There is a further Annex for new project impacts screening to determine those requiring mitigation.

## **2) Guide to Land Acquisition (for Public Purpose in the Rural Setting)**

For the TIC's sub-projects to be physically implemented at respective locations, related land acquisition processes have to follow the RPF guidelines and the Lesotho's legal provisions. Each sub-project will require land on permanent basis for roads and bridges, but will also require land on temporary basis for quarries and borrow material (inclusive of access) as well as for camps and site establishments. While in the urban setting, the norm is land acquisition through leasehold system mode overseen by the Lands Administration Authority (LAA), in the rural setting where LAA institution and Land Act 2010 related processes tend to be rare (due to lack of state resources), land acquisition processes for projects like TIC will tend to follow the 'land allocation' mode where acquisition processes are overseen in the main by the Local Authorities (Chiefs, Councillors, and other members of land allocating committees), in strategic collaboration with District Authorities and the Lands Administration Authorities where applicable. The RPF provides for guidelines on how to acquire such land, taking account of social safeguards that include issues of compensation and resettlement.

## **3) Guide to Estimating Population Displacement and Likely Categories of Displaced Persons**

Since the TIC's development is still at preparatory (pre-appraisal) stage where locations of its sub-projects are still to be determined, then the related affected populations could not be estimated. What is only known is that these anticipated roads and bridges construction related sub-projects are likely to require land acquisition and cause involuntary resettlement of unknown magnitude. Once any of those sub-projects' location is decided upon (during pre and post appraisal stages), then project preparation studies would be undertaken to derive resettlement related information which will include estimates of affected populations, numbers in each category of such affected persons, and the need or otherwise for RAPs/ARAP's in terms of this RPF provisions. This RPF provides for guidance on how in the circumstances, data of displacements would be gathered (FORMs/ questionnaires templates for undertaking censuses, socio-economic surveys, assets inventory taking and registration exercises, have been annexed to this report (Annex 5).

## **4) Eligibility criteria for defining various categories of displaced persons**

The World Bank's Involuntary Resettlement OP/BP 4.12 clearly stipulates the need for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance, and has further suggested the classifying of those displaced as: (a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country); (b) those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets--provided that such claims are recognized under the laws of the country or become recognized through a process identified in the resettlement plan; and (c) those who have no recognizable legal right or claim to the land they are occupying. Furthermore, OP 4.12 stipulated that persons covered under (a) and (b) be provided compensation for the land they lose, and other assistance as relevant; but those under (c) be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance as necessary, provided they occupy the project area prior to the established cut-off date. It further stated that all persons included in (a), (b), or (c) be provided compensation for loss of assets other than land. This RPF fully concurs with the above and further defines eligibility criteria for those facing physical relocation (involuntary, voluntary and relocation options) and those requiring compensation only.

## **5) The Legal, Policy and Institutional Framework**

The legal, policy and institutional framework within which the TIC and its sub-projects' related resettlement planning and implementation will occur, has been reviewed and analysed with recommendations provided where necessary, on addressing any identified gaps relating to compliance with the OP 4.12 (Involuntary Resettlement) stipulations. Legal framework analysis reveals minimal gaps, which means minimal compliance hindrance when developing and implementing the TIC and its sub-projects inducing land acquisition and involuntary resettlement. The RPF suggests that the TIC apply extra resources to expedite processes linking rural areas with urban-based offices to make up for under-resourced nature of institutions like the Lands Administration Authority (LAA) that lack capacity to cover the remote rural areas with services. Even the Roads Directorate and the Ministry lack resources with which to ensure efficiency and full compliance of Legal, Policy and Institutional Framework with the OP 4.12 requirements, and the RPF makes some suggestions.

## **6) Guide to Defining Methods of Valuing Affected Assets**

Based on the affected assets identification with ownership (Sections 3 and 5), as part of the Resettlement Plans (RAPs) or Abbreviated RAPs (ARAPs) preparation process per sub-project as mentioned above, that inventory of affected assets then require valuation to determine the compensation type and amount each identified asset owner would be entitled to. Currently RD sources agricultural loss compensation rate from the Government Valuer and utilizes the professional valuers for the rest of assets, and the amounts are used for negotiating with the affected asset owner. This RPF provides the required procedures to be used in alternatively valuing asset losses as detailed by types to determine their replacement cost as well as determining their entitlements to each affected owner. The RPF also provides guidance on how 'Compensation Rates' for the MOPWT/RD should be prepared and established for uniformity, consistency and ease of application.

## **7) Organisational Procedures for Delivery of Entitlements**

This RPF has identified the RD as the one to assume overall responsibility for the commissioning and implementation of RAPs/ARAPs in general and the compensation and resettlement programmes processing in particular. The RPF provides for specific procedures to be undertaken by the RD in fulfilment of Delivery of Entitlements mandate both at RPF and RAP/ARAP levels. It further provides principles and procedures for Compensation Agreements and Disbursement processing. The NGO's participation (NGOs list provided) and conditions under which they could take part in the delivery of entitlements are also suggested. Institutional analysis is undertaken in this Section, with proposed structural improvements as well as capacitation training requirements.

## **8) Description of Grievance Redress Mechanisms**

As most TIC sub-projects will involve land acquisition and induce involuntary resettlement, then grievances and disputes in the execution process will inevitably arise, especially with regard to land acquisition and compensation processes, requiring timely corrective action aimed at attaining the RPF's principle of transparency. The RPF has accordingly provided for Grievance Redress Mechanisms, aligned to those offered in the MOPWT Compensation and Resettlement Policy Framework (CRPF of 2011), which require first stage mechanisms for processing complaints/disputes with four (4) appeal stages and the last taking the matter to the open courts of law.

## **9) Resettlement Funding Arrangements**

The important RPF principle is to ensure that land acquisition/ involuntary resettlement as well as other associated costs (through RAPs/ARAPs) are seen as integral components of the TIC programme. These costs include: 1) costs for the replacement/ compensation of affected assets (direct costs), 2) costs associated with household rehabilitation/support measures; and 3) costs associated with the implementation, management and monitoring of the resettlement process. Such costs will only be known upon completion of each sub-project's preparation phase (including costs of any RAPs/ARAPs), and those costs will be to the account of GOL. The GOL will need to provide contingency fund budgeting in line with preliminary sub-project's overall planning schedule in order to avoid delaying the start of ready to implement projects. GOL can then adjust cash-flow in line with that of the overall contract. The RPF then identifies what itemised budget will contain for inclusion in overall project cost. Furthermore, this Section provides costs estimate for RPF implementation but only at daily rates level since the specifics (quantities) of each sub-project are still unknown.

## **10) Mechanisms for Consultations with and Participation of the Affected**

In the OP 4.12 (Involuntary Resettlement), whether through the RPF or RAP/ARAP instruments, community participation of the affected is a necessity, and in the case of TIC's sub-projects' development, consultation/ participation is required from conception to implementation stages. While participation needs and requirements of each sub-project will be context specific, the RPF prescribes the required types of participation in the project's development cycle starting with 1) project preparation and planning, 2) project implementation, and 3) as part of monitoring and evaluation exercises. The RPF further emphasizes the need to utilize existing local institutions and structures wherever possible, with project-specific consultation forums added to supplement existing structures where necessary. The TIC already envisages participation/ consultation involving needs of children, women and girls, men and boys as well as the elderly in the

development processes, with additional specialist personnel identified to assist with implementation, including dealing with issues of gender, HIV and AIDS, and Community Liaison Committees, etc). The RPF accommodates all of them, and suggest their capacitation training.

### **11) Arrangements for Monitoring and Evaluation**

It will be necessary to monitor and report on the effectiveness of the implementation of the TIC programme and related sub-projects at both programme (TIC) and sub-project RAP/ARAP levels, including physical progress with resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts. This RPF prescribes the three (3) types of monitoring with details specified by each RAP/ARAP as: 1) internal (performance) monitoring, 2) standardised (quantitative) socio-economic monitoring, and 3) participatory (qualitative) socio-economic monitoring. This RPF provides a monitoring framework within which monitoring indicators are given, but with a proviso that each RAP will add to suit its site specifics. Reporting requirements will be as prescribed under Organisational Procedures for Delivery of Entitlements Section 9.5 (Reporting Procedures).

### **Other Required Information Provision**

Further details expounding on the above subject headings are contained in the Annexes. This was done in order to keep the policy part concise. The Annexes are listed as follows: Annex 1) Legal, Policy and Institutional Framework Review, Annex 2) Compensation and Resettlement Entitlements Matrix, 3) Outline of a Resettlement Plan, 4) Generic Terms of Reference for a Resettlement Plan, 5) Identification of Affected Assets and Ownership Details Templates, 6) Impacts Screening Templates, 7) Extracts From Operational Policy 4.12, 8) Terms of Reference, and 9) References. All these Annexures are meant to provide a supplement to guide RPF users in their application work.

## 1.0 INTRODUCTION

### 1.1 Background

The Government of Lesotho (GOL) is in the process of seeking World Bank's financing of its proposed Transport Infrastructure and Connectivity (TIC) project, whose development objective has been stated as: *"to improve access to agricultural markets and tourist sites and promote job creation in targeted areas of Lesotho, whilst supporting improvements in road safety and providing immediate and effective response in the event of an eligible crisis or emergency.* This is to be realized by: (a) improving road access through application of output and performance based contracts (OPRC) and construction of footbridges; (b) improving road safety management capacity and mitigating road safety risks; (c) building capacity and strengthening institutions in the transport sector; and (d) in the event of an Eligible Crisis or Emergency, to provide immediate and effective response to said Eligible Crisis or Emergency (World Bank Aide Memoire – Feb. 14-17, 2017). The TIC project is still at preparation (pre-appraisal) stage, but its nature of containing sub-projects involving roads and bridges construction has automatically classified it as having some land acquisition and involuntary resettlement impacts. The World Bank considers the taking away of people's land or assets by its financed project as a matter of concern that automatically triggers the requirement to have the borrower (GOL in this case) screen such projects for land acquisition and involuntary resettlement impacts, and where found to be the case, then to consequently select the appropriate World Bank social safeguard instrument (the Resettlement Policy Framework (RPF) in this case) to guide further TIC preparation and subsequent development activities.

This Resettlement Policy Framework (RPF) under preparation by GOL forms part of social safeguard instruments of the World Bank entitled Involuntary Resettlement (OP 4.12) and is appropriately required from this pre-appraisal stage onwards for the following reasons: 1) the TIC is a programme for financing many sub-projects which in this particular case, involve roads and foot-bridges construction which naturally contain impacts of land acquisition and involuntary resettlement, 2) the number and locations of those sub-projects are unidentified at the time of preparing the RPF – they will be identified later – most likely at post appraisal stage; and 3) it is only when such sub-projects are individually identified that project planning/preparation studies could commence in order to yield information required for amongst others the resettlement planning to be followed by implementation. The resettlement planning within the RPF framework is expected to generate further social safeguards requirements such as the Resettlement Action Plans (RAPs) or the Abbreviated Resettlement Action Plans (ARAPs) meant to mitigate social impacts of each individual sub-project development activities, from planning to implementation stages. It unlikely that footbridge construction will require RAPs/ARAPs as they are expected to follow a minimal standard design and be located at existing crossing points and the land is thus already allocated to non-productive public use through traditional authorities.

### 1.2 Transport Infrastructure and Connectivity (TIC) Project

As stated above, the Resettlement Policy Framework (RPF) preparation requirement is meant to support the GOL in its quest to secure World Bank financing for its 'under preparation' Transport Infrastructure and Connectivity (TIC) project. Components relevant to the RPF are as follows:

**Component 1: Improving the road infrastructure access.** The first component will comprise the physical works for road rehabilitation and maintenance to improve road connections of population to agricultural markets and tourism sites and to ensure sustainability of road assets:

- **Component 1(a): The introduction of output and performance based contracts (OPRC)** for improvement and maintenance of about 100km of secondary gravel roads in high agricultural production and tourism growth areas. The project envisions supporting the Road Directorate to implement OPRC approach for road maintenance for the first time in the country, taking into account international best practice, as well as regulatory and competitive concerns, and to set the stage for rolling out this approach across the country. This is a new concept for Lesotho, which would make "Road maintenance" a more attractive business for private sector contractors and

provide an opportunity for a more cost-efficient use of public spending in road sector by shifting some of the risks and responsibility for the quality of infrastructure provision to the private sector. This sub-component is intended to promote both short-term (during rehabilitation) and longer-term (during maintenance phase) employment opportunities in road construction industry. The bidding documents and contracts will be designed to include specifications for the contractor to employ the local population in the road works, specifically encouraging women to apply, and provide sufficient training to allow those that are unskilled to have an equal chance; and

- **Component 1(b): The construction of footbridges** to provide the needed all-weather connection over a river or challenging terrain access to education, health services and markets, to the settlements, currently cut off from the nearest road connections. Given that the footbridges are expected to follow a standard design; the allocated budget is expected to cover 18-20 footbridge installations. Specification of employing locally 100 percent of the unskilled labor force for the footbridges works, including at least 25 percent of the local female labor force, will be included in bidding documents and contracts.

This component also includes the cost of the following studies and services:

- a) Consulting services for an assessment study for introduction of Output and Performance-based contracting on a selected number of secondary road networks;
- b) Consulting services to prepare design and Environmental and Social Impact Assessment of the selected footbridges (including the preparation of Resettlement Action Plan if required); and
- c) Consulting Services for monitoring/supervision of the OPRC-contracts.

**Component 2: Improving road safety.** This component will address road safety in a more integrated manner in order to achieve the Government's objective to meet the global decade of road safety aim of halving road deaths between 2010 and 2020. The following activities will be supported under this component:

- a) **Component 2(a): Support for capacity building and institutional strengthening of the Road Safety Department of MoPWT and operationalization of National Road Safety Council (NRSC).** The Road Safety Department is effectively the lead agency for road safety in Lesotho, and provides equipment and support to the traffic police and other government departments. Following the launch of the National Road Safety Council (NRSC)<sup>1</sup>, establishment of which was recommended under the ITP, this Department will become its secretariat. This sub-component will potentially support the following activities: (i) capacity building of the RSD and NRSC (this support is entirely contingent on the full operationalization of the latter and completion of road safety reforms initiated under ITP), (ii) provision of road safety equipment to the RSD and traffic police; and (iii) consulting services to carry out identification and design of accident blackspots;
- b) **Component 2(b): Establishment of an integrated system for licensing drivers and vehicles, including enforcement records.** Whilst principally offering improvement to the management and revenue collection procedures for these services, there will also be road safety benefits from improved driver licensing and vehicle inspection. This sub-component will include support with the implementation of the new Integrated Vehicle Registration and Drivers' Licensing System together with a Traffic Management Information System – entitled the Lesotho Integrated Transport Information System (LITIS), under which vehicle inspections are expected to be contracted out to the private sector. Currently, this responsibility lies with the Ministry of Public Works and Transport through its Department of Traffic and Transport (DTT). Under the ITP, an assessment of vehicle inspection and driver licensing system recommended that the process be privatized (SweRoad, 2014), however, no progress has been made since towards it. The proposed project will address this issue, should the government decide to move forward with this recommendation.

<sup>1</sup> The first meeting of the NRSC Board to formally launch the Council took place on June 30, 2016.

This component also includes the cost of the following studies and services:

- a) Needs assessment and system specification for establishing LITIS.

**Component 3: Implementation support and capacity building.** This component will include the necessary project implementation support, including implementation of citizen engagement mechanisms, HIV/AIDs and gender targeted activities, and capacity building support to the RD and MoPWT to effectively roll out, administer and monitor OPRC contracts and mitigate road safety risks:

- a) Consulting services to prepare the safeguard documents, including the Environmental and Social Management Framework (ESMF), Resettlement Policy Framework (RPF), and Environmental and Social Management Plan (ESMP) for footbridges;
- b) Consulting services to assist the MoPWT in preparation of the National Transport Master Plan (NTMP);
- c) Project implementation support to the MoPWT and Roads Directorate;
- d) Support in implementation of citizen engagement mechanisms and HIV/AIDS and gender targeted activities, including the following: (i) evidence-based interventions to reduce vulnerability of AGYW to HIV and increase their agency through activities involving their families, sexual partners and communities; (ii) behavior change and awareness raising interventions on HIV prevention among beneficiary communities to address the limited knowledge and reduce discrimination and stigma towards HIV affected people; (iii) awareness raising and behavior change training activities among female and male beneficiaries on GBV prevention, care and reporting mechanisms; (iv) establishment of gender-balanced monitoring committees in each beneficiary community to facilitate a continuous dialogue and collaboration between communities, the Roads Directorate and the contractor at campsites; and (v) development of ad hoc mechanisms to allow beneficiaries to report feedback and concerns associated with the implementation of Project activities and collaborate toward its improvement;
- e) Independent technical audits of the civil works implemented under the project; and
- f) Capacity building and training to the staff of RD, RF, and MoPWT in OPRC contract management and road safety measures, etc.

**Component 4: Contingency Emergency Response Component (CERC)** (with an initial zero dollar allocation. In case this component is activated, it will be completed financed with IDA funds). This component is being proposed for incorporation into the project with zero allocation, given that Lesotho remains vulnerable to climate change with rising temperatures and rain deficits. Lesotho has declared a National Emergency as a result of prolonged drought experienced during the 2015/2016 planting season induced by the impact of El Nino. This component allows for the possibility to access resources for eligible expenditures in cases of emergency.

This RPF focuses primarily on the activity issues of Component (1) above, followed by Component 3.

***Output- and Performance-based Road Contract (OPRC)***

Output- and Performance-based contracting for road projects is designed to increase the efficiency and effectiveness of road asset management and maintenance. It should ensure that the physical condition of the roads under contract is adequate for the need of road users, over the entire period of the contract, which is normally several years. OPRC expands the role of the private sector, from the simple execution of works to the management and conservation of road assets.

In traditional road construction and maintenance contracts that are common in Lesotho, a Contractor is responsible for the execution of works which are normally defined by the Road Directorate, and the Contractor is paid on the basis of resources consumed (e.g. \$/m<sup>3</sup> of material), and cost per hour for labor and plant. The results of traditional road contracts are in many cases less-than-optimal, as the Contractor takes very little risk, and usually has the incentive of carrying out the maximum amount of works in order to maximize its turnover and profits. Even if the works are carried out as planned with high level of spending, the overall service quality for the road user will be only as good as the quality of the design provided to the Contractor, and the Contractor is not held accountable for it. And in many cases, the roads start deteriorating faster due to deficiencies in the original design, aggravated by inadequate maintenance.

The OPRC approach addresses the issue of the inadequate incentives. During the bidding process, contractors compete among each other by essentially proposing fixed lump-sum prices for bringing the road to a certain service level and then maintaining it at that level for a relatively long period. It is important to understand that contractors are not paid directly for “inputs” or physical works (which they will undoubtedly have to carry out), but on the basis of the outputs delivered (e.g. cost/km for resurfacing, cost/sq-m of patch) and for achieving specified service levels, i.e., the rehabilitation of the road to pre-defined standards, the maintenance service of ensuring certain service levels on the roads under contract, and specific, all representing outputs or outcomes. Hence, the Contractor takes the risk on the resources involved and the quality of work, but not the quantity of work. A monthly lump-sum remuneration paid to the Contractor will cover all physical and non-physical maintenance services provided by the Contractor, except for unforeseen emergency works, which are remunerated separately. The rehabilitation and improvement works, which have been explicitly specified by the Employer in the contract, are quoted on the basis of measurable output quantities and paid as performed. In order to be entitled to the monthly payment for maintenance services, the Contractor must ensure that the roads under contract comply with the service levels, which have been specified in the bidding document. It is possible that during some months the Contractor may have to carry out a rather large amount of physical works in order to comply with the required service levels and very little work during other months. However, monthly payment remains the same as long as the required service levels are complied with.

**1.3 Likely Adverse Impacts of the TIC Project and Sub-Projects**

The GOL’s aim through the RPF is basically to ensure that appropriate policies and procedures are in place to address any negative social impacts (e.g. asset losses and involuntary resettlement) that may occur on the TIC’s roads and footbridges development. ***The proposed project has been classified (by the World Bank) as an ‘Environmental Risk Category B’ - requiring partial environmental and social assessment.*** The rehabilitation and maintenance of secondary roads and construction of footbridges will likely generate construction related adverse environmental and social risks that are site-specific, largely reversible, and can be readily addressed through known mitigation measures. The anticipated project investments (road rehabilitation and maintenance) are expected to induce land acquisition and trigger the following policies: i) Environmental Assessment OP/BP 4.01; ii) Physical Cultural Resources OP/BP 4.11; and iii) Involuntary Resettlement OP/BP 4.12. Site-specific Environmental and Social Management Plans and Resettlement Action Plans (if necessary) will have to be prepared once the specific site locations and detailed designs for the physical works are ready. Nevertheless, the anticipated positive socio-economic impacts of the project will, in the main be the improvement of mobility of people resident within the roads’ and bridges’ regions of influence, and creation of a potential for diversification of local economic activities, but the negative impacts, albeit mostly short term, are expected to occur through the loss of private and



public assets within road reserves/corridors of impact, disturbances to household subsistence and livelihoods, as well as through less-quantifiable effects on vulnerable social categories and groups.

Most of the road sector development under the MOPWT/RD involve roads that are gazetted, with reserve (servitude) of generally 30 metre-wide for primary roads (mostly tarred) and 20 metre-wide for secondary ones (mostly gravel roads). Primary tarred roads tend to suffer encroachments onto the road reserve, especially by small-scale traders in larger settlements through which they pass, and to a lesser extent the secondary roads serving smaller settlements also tend to proportionately suffer. However, the envisaged TIC related roads (of secondary nature) serving the sparsely populated settlements is expected to experience less encroachment, nevertheless the risk is still there. Lack of enforcement to keep such road reserves clear of encroachers is a challenge facing the Roads Directorate (RD). The general consequences are that roads upgrading and rehabilitation are hence likely to result in the displacement of people, buildings and economic/ subsistence activities from road reserves.

With respect to social impacts, while the project is expected provide mobility and some short-term construction related jobs, and to further benefit women and men, children and the elderly by improving access to markets, health services, and better access to additional social services (school, administration), on the other hand the short and long term adverse impacts are likely include road traffic injuries risk, construction campsites generating conflicts between communities and campsite workers' relations generated by the arrival of a significant male labour, with likelihood of engaging in relations with local women and girls, thus exacerbating the already high incidence of sexual transmitted infections (STIs), including HIV/AIDS, adolescent pregnancy and families' disruptions among others, and requiring preventive interventions as through the RPF and related RAPs.

#### **1.4 The Resettlement Policy Framework Content**

The OP 4.12 (Involuntary Resettlement) describes the purpose of the RPF as 'to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation'. This RPF will guide TIC-level development activities from pre-appraisal stage onwards while the Resettlement Action Plans (RAPs) or the Abbreviated RAPs will subsequently focus on each individual sub-project's development.

The RPF, being a broad framework within which RAPs/ARAPs would be developed, is specifically designed to cover the following topical areas:

- the project (programme) and components for which land acquisition and resettlement are required, including an explanation of why RAP or Abbreviated RAP cannot be prepared at project appraisal;
- principles and objectives governing resettlement preparation and implementation;
- a description of the process for preparing and approving resettlement plans;
- a review of the fit between local (borrower) land acquisition legislation/practices and the Bank's policy requirements, and measures to address any divergence between them;
- population displacement estimates and likely categories of displaced persons (to the extent possible);
- methods of valuing affected assets;
- eligibility criteria for defining various categories of displaced and affected persons;
- the process for preparing and approving subsequent project resettlement plans (RAPs);
- organisational procedures for delivery of entitlements;
- the implementation process, linking resettlement implementation to the civil works;
- arrangements for the funding of resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements;
- grievance redress mechanisms;
- consultation and participation mechanisms during project planning, implementation and monitoring for displaced persons in particular;
- monitoring requirements and arrangements.

The Road Directorate (RD) will be responsible for the TIC's further development guided by this RPF.

## **1.5      Public Disclosure**

In line with the OP/BP 4.12, the Resettlement Policy Framework will be subject to national (stakeholders) consultations and endorsement by the Department of Environment prior to the World Bank's formal clearance and approval.

Upon the RPF's formal approval by the RD and the World Bank, the RD will have the document translated into Sesotho. The English and Sesotho versions of the document will be made available to the public for information via the RD website, with the hard-copies also made available at RD Offices, at the applicable local authority structures (District Councils, Community Councils and Chiefs) as well as through local participation structures (where they exist). Notification about availability of the approved RPF will be made through the media of the National Radio as well as the two (2) major newspapers

## **1.6      Document Aims and Structure**

This Resettlement Policy Framework (RPF) is aimed at ensuring that the involuntary resettlement safeguards are in place to guide TIC and sub-projects' further development activities, including the generation and implementation of RAPs/ARAPs. Specifically, it describes:

- the approach that will be followed in identifying and minimizing adverse socio-economic impacts caused by projects/sub projects under the TIC;
- the principles that will govern the mitigation of unavoidable socio-economic impacts; and
- guidelines for preparing RAPs/ARAPs required for subsequent sub-projects under the TIC.

This RPF document is broadly structured according to the given Terms of Reference (see Appendix 8) and as further outlined in Section 1.4 above - all broadly based on the Involuntary Resettlement (OP 4.12) instruments stipulations. Most Sections' details are covered in the Annexes organized as follows:

- Annex: 1: Legal, Policy and Institutional Framework Review
- Annex: 2: Compensation/ Resettlement Entitlements
- Annex: 3: Outline of a Resettlement Plan
- Annex: 4: Generic Terms of Reference for a Resettlement Plan
- Annex: 5: Identification of Affected Assets and Ownership Details Templates
- Annex: 6: Impacts Screening Templates
- Annex 7: Extracts From Operational Policy 4.12
- Annex: 8: Terms of Reference (this assignment)
- Annex: 9: References

## 2.0 THE RPF PRINCIPLES AND OBJECTIVES

### 2.1 Objectives and Principles Governing the RPF

OP 4.12 (Involuntary Resettlement) safeguard requirements are triggered when a project/sub-project leads to the involuntary taking of land resulting in:

- relocation or loss of shelter;
- loss of assets or access to assets; or
- loss of income sources or means of livelihood, whether or not the affected people must move to another location.

OP 4.12 resettlement safeguard requirements are triggered on this TIC Project because of:

- temporary impacts and disturbances caused during road and bridges civil works construction activities including accesses to borrow and quarry areas and water sources, and to camps and site establishments sites - all causing temporary land/asset losses to owners; and
- permanent acquisition of private and communal land for roads and bridges construction purposes, as well as any required clearances of newly gazetted road reserves, thus causing displacements of land/asset owners.

### 2.2 Goal/Objectives

The overall goal of the RPF is to ensure that the TIC with its sub-projects complies with OP 4.12 (Involuntary Resettlement) requirements, as well as all legal obligations, through the design and implementation of related resettlement programmes that give the affected persons the opportunity to at least restore their livelihoods and standards of living. The Policy Framework promotes the participatory design of compensation, resettlement and livelihood restoration measures for both affected and host communities in the TIC sub-project areas.

Specific objectives are:

- (a) to avoid or minimise the involuntary taking of land by exploring all viable alternative project designs;
- (b) to ensure that affected people and communities are meaningfully consulted on project designs, alternatives and impacts;
- (c) to ensure that affected people are promptly, fairly and fully compensated for their losses;
- (d) to ensure that direct compensation is accompanied by additional measures where necessary to help restore livelihoods;
- (e) to ensure that any relocation of households and businesses is undertaken in a participative, systematic and beneficial manner; and
- (f) to promote the participation of affected people and communities in the planning, implementation and monitoring of compensation and mitigation measures.

In support of the RPF objective, the following principles have been prepared to ensure that the social and economic risks associated with involuntary land acquisition and resettlement are dealt with consciously and consistently while also incorporating local legislation and practices:

**Land acquisition and involuntary resettlement will be minimised.** The overriding principle will be that involuntary resettlement in the TIC will be minimised as far as possible, by exploring all viable alternative project designs. Where land acquisition and involuntary resettlement occur, it will be documented (in the RAP/ARAP) why this is unavoidable. Efforts to reduce the extent of involuntary resettlement will also be demonstrated.

**Ongoing consultation with affected people and disclosure of information will occur.** Affected people have the right: (a) to be informed of Project proposals and implementation schedules; (b) to be consulted on, and participate in, issues pertaining to them such as the identification, selection and development of measures to restore their livelihoods; (c) to be informed of displacement and land acquisition dates

sufficiently in advance of actual implementation; and (d) to have access to relevant Project documents, such as Resettlement Action Plans, at a place accessible to them, and in a form, manner, and language that is understandable to them.

**Land acquisition/ compensation and resettlement planning, budgeting and implementation will be an integral part of each sub-project.** To ensure that land acquisition and involuntary resettlement are integral components of the TIC: (a) land acquisition and resettlement costs will, through any related RAP/ARAP costs as applicable, be built into each sub-project budgets; (b) an institutional framework will be developed within RD to ensure that appropriate social impact management mechanisms are set up and maintained during implementation; and (c) land acquisition and resettlement schedules will be integrated with project civil works schedules, and construction will commence only after acquisition procedures have been successfully initiated and project affected people have been fully compensated and relocated as appropriate.

**Affected persons will be assisted to at least restore, and preferably to improve, their livelihoods:** The pre-project livelihoods of affected persons will be restored, and preferably improved, through: (a) the prompt provision of fair and equitable compensation for the loss of assets directly attributable to a project; (b) the provision of housing support (cash or replacement housing) and residential site support (replacement site or cash) where physical relocation is required; (c) the provision of resettlement support measures where physical relocation is required; and (d) the implementation of other livelihood restoration and development measures as required.

**Vulnerable groups and severely project-affected persons will be specifically catered for.** Particular attention will be paid to collective adverse impacts on groups/social categories (such as the elderly and physically disabled, households below the poverty line and households affected by HIV/AIDS), who because of their social position may be vulnerable to changes brought about by project activities or excluded from its benefits. Members of these groups are often not able to make their voice heard effectively, and account will be taken of this in the consultation and planning processes, as well as in the establishment of grievance procedures. A potentially important vulnerable category is households headed by orphaned children. Where such households are affected, measures will be implemented under the project to ensure that their compensation entitlements and well-being are properly managed and catered for.

**Cultural and religious practices will be respected.** Existing cultural and religious practices will be respected and preserved; inclusive of the physical and non-physical cultural heritage facilities/items and practices.

**Grievance redress and monitoring procedures will be in place.** Accessible grievance procedures will be implemented to ensure that grievances and disputes are promptly addressed. Monitoring procedures will be implemented to assess the effectiveness of land acquisition, compensation and resettlement procedures. Monitoring will be an ongoing activity, employing mechanisms such as internal (performance) monitoring, standardised (quantitative) socio-economic monitoring and participatory (qualitative) socio-economic monitoring.

**Legal obligations will be complied with:** MOPWT/RD will review all other legislations that may have a bearing on TIC and other transport sector projects. Where conflict arises between provisions of OP 4.12 and local legislation; expert judgement and rationalization will be applied such that the better of the two regulatory frameworks is applied. Where local legislation provides higher standards, then those should be retained.

### **3.0 DESCRIPTION OF THE PROCESS FOR PREPARING AND APPROVING RESETTLEMENT ACTION PLANS**

Since this RPF is prepared at the pre-appraisal stage to guide the TIC and its sub-projects' preparation and subsequent implementation activities, and the identities and location of those sub-projects is still to be decided, the issue of preparing the related individual Resettlement Action Plan (RAP) or Abbreviated Resettlement Action Plan (ARAP) for each sub-projects at this stage is premature – it will only start applying once any of those sub-projects' locations are identified and related project planning studies are undertaken to yield required planning information which will amongst others, include RAP/ARAP requirements (or otherwise). The RAP/ARAP is a plan for treating a given set of people affected by a specific project /sub-project, and which is consistent with the principles and requirements of the RPF/OP 4.12. The need for each RAP/ARAP is therefore triggered where land acquisition/ involuntary resettlements (loss of shelter/need for relocation, loss of assets or access to assets, or loss of income sources or means of livelihood, etc.) are identified through each sub-project's planning studies. Each RAP's scope will depend on the extent of such impacts, especially the number of affected persons.

#### **3.1 Responsibility**

It is the responsibility of Roads Directorate (RD) to have RAPs/Abbreviated RAPs prepared. Preparation work will be undertaken either directly by RD or through appointed agency/ consultant. Once any TIC sub-project is identified for start of project preparation activities, the RD will start undertaking amongst others, the following actions:

- determining and assessing the likely extent of land acquisition and resettlement, and considering the viability of alternatives that could reduce forms of displacement. This activity will be undertaken through a social screening exercise during the identification and conceptualization of that particular sub-project, accompanied by the Social Impact Assessment (SIA) studies if required, likely to be part of Environmental Impact Assessment;
- screening such identified sub-project to determine RAP/Abbreviated RAP requirements (some may need neither). RAP/ARAP is required by any takings of land or loss of access to resources under the Project. Compensation for any loss must be completed before project construction. RAP will be required in any instance where more than 200 individuals will be displaced by the Project. An Abbreviated RAP may be used if a smaller number of individuals are affected;
- then preparing a detailed Terms Of Reference for RAP/ARAP preparation where identified, clearly describing the nature and extent of land acquisition and involuntary resettlement (see Appendix 3 template);
- then commissioning the RAP/ARAP preparation exercise, either in-house or through the appointment of consultants; and
- having the completed RAP/ARAP approved for incorporation into the overall sub-project document for financing and consequent integrated implementation.

The above actions will be taken sequentially as the action steps below.

#### **3.2 Identification of Affected Assets and Ownership**

Identification of affected assets and their ownership is the first step leading to knowing who the affected persons are, how they are affected and then how they will be compensated, most likely through the Resettlement Action Plan (RAP). In this TIC case of roads and bridges, the activity will be triggered once the project required/ affected land has been finally identified or determined with coordinates by the roads/bridges design engineer. The affected land may include quarry and borrow material areas and site establishments. Once the required land has been identified, the following actions/steps by RD will be triggered:

- Step 1 (Preliminary Identification of Affected Assets and Ownership) exercise: a team, consisting of assets survey and consultation staff, accompanied by land surveyor for locating physical marking of the land boundaries, will visit the affected areas, mobilise the villagers (including Chiefs, Councillors,

etc.) to come and help identify the ownership of the affected assets. The information will be filled in the Preliminary Identification of Affected Assets and Ownership FORM (see Appendix 5a). It will be analysed and compiled for subsequent use by the census survey team.

- Step 2: Conducting census of the affected persons: a follow-up team, consisting of the socio-economic census staff will visit all persons identified in Step 1 to administer the census questionnaire and confirm their identity and status (see Appendix 5b FORM). The analysed and compiled information will be used amongst others by the subsequent asset inventory taking and the socio-economic survey teams.
- Step 3: conducting the socio-economic survey: a team of socio-economic census survey involved in Step 2 will revisit the areas in question to administer the socio-economic survey questionnaire (see Appendix 5c) to the affected persons as identified in Step 2. The analysed and compiled information will be used amongst others for RAP preparation and monitoring and evaluation.
- Step 4: Assets Inventory-taking and registration in terms of Section 3.3 below.

### 3.3 Assets Inventory-taking and Registration

The fourth step leading to the RAP/ARAP preparation as identified in Section 3.2 above is that of Assets Inventory-taking and Registration exercise. The RD will, directly or through the appointed consultant, undertake the affected assets inventory taking. The aim of the resettlement assets inventory taking is to verify affected land use and ownership, including any economic activity or encroachment into the area of the proposed sub-project works, identify opportunities to minimise economic and physical displacement, and provide insights into the scope of the identified RAP/ARAP necessary to comply with OP 4.12 resettlement safeguard requirements. The assets inventory will also be used to register such assets, value them, estimate compensation costs, and process related compensation in terms of the RPF provisions.

The process of affected assets inventory taking exercise will require a team of assets survey and consultation staff, accompanied by land surveyor for locating and measuring affected assets, to revisit the affected area and mobilise the asset owners or their representatives and local authorities -- Councillors, Chiefs and members of community liaison committees, to come to the marked areas, reconfirm and witness the measurement-taking of their affected assets, and accordingly sign the related Asset Registration FORM (see Appendix 5d). Asset registration FORM requires proof of asset(s) ownership and of the identity of affected owners, for which both formal (official) and informal (traditional) means of proof will be acceptable, and signing by both spouses in the case of married couples.

All permanent and temporary losses to be incurred by households, enterprises and communities will be recorded. The inventory of affected assets will be differentiated between private/individual assets and communal assets and facilities, and will be aligned to RD's accounting requirements. Photos will be taken of all private assets and coordinates established. As inventories and registers of assets are compiled, owners/ household heads will countersign them, witnessed by Project authorities, local authorities and community representatives.

The draft 'resettlement assets inventory report' will then be prepared, reviewed, finalised and submitted for approval and further resettlement planning process utilisation. Specifically, the assets inventory is required as an input into the design of the appropriate RAP, Abbreviated RAP or no-RAP (just compensation and any SIA management plan measures).

### 3.4 Preparation of RAP/Abbreviated RAP

OP 4.12 provides for the preparation RAPs or Abbreviated RAPs where impacts....? even where the affected people are not physically displaced and/or less than 10% of their productive assets are lost, or fewer than 200 people are displaced. The need for any RAP/ARAP as stated earlier, will be triggered where land acquisition/ involuntary resettlements (loss of shelter/need for relocation, loss of assets or access to assets, or loss of income sources or means of livelihood, etc.) are identified through each sub-project's preparation or planning studies, including the above-mentioned affected assets inventory taking. It is

anticipated that variety of TIC related sub-projects, whose locations are still to be determined at the time of the RPF preparation will, based on preparation outcome of each, generate a mixture of required RAPs, Abbreviated RAPs and no-RAPs. While the resettlement impact, as defined in this RPF, is expected to be small, it is unlikely that the Project will come to a close without any RAP being required as it would require road construction without impacting any land or access to resources.

The overall aim of the RAPs/ARAPs will be to ensure that all economic and physical displacement impacts associated with each sub-project are addressed in accordance with this RPF and OP 4.12 Involuntary Resettlement safeguard requirements. The resettlement planning process shall also include measures to ensure that project-affected persons are:

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

### 3.5 Components of RAP/Abbreviated RAP

The scope of each RAP/Abbreviated RAP as stated above, will depend on the extent of the impact, primarily the number of affected persons. The existence of the RPF requires that any RAPs/ARAPs that may be identified as applicable<sup>2</sup> by any sub-project's preparation studies, need not be that comprehensive, leaving the issues of principles, procedures and processes to the RPF (see Appendix 3 for RAP Outline details), and hence remaining to focus mainly on the detailed issues of:

- information on project-affected people as obtained through project census exercises, socio-economic surveys and other sources as appropriate;
- a description of compensation/resettlement entitlements and any other measures required to restore livelihoods, including specific compensation rates and standards;
- policy entitlements related to any additional impacts identified through the census/ survey;
- a description of the organisational arrangements for the implementation and monitoring of the resettlement programme;
- a detailed cost estimate (where required, values for compensation amounts and other support measures will be adjusted annually, based on the Consumer Price Index); and
- a resettlement implementation schedule linked to the civil works programme.

A typical Abbreviated Resettlement Action Plan (ARAP) content will cover the following minimum elements:

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

Where RAPs/ARAPs are found to be unnecessary, most probably due the small-scale nature of some bridges, the resettlement planning study may recommend the addressing of compensation issues together with those identified by the Social Impact Assessment management plan.

### 3.6 Review and Approval of a RAP/Abbreviated RAP

Each RAP/Abbreviated RAP draft will be reviewed first by RD/MOPWT, with the revised draft then submitted to the Department of Environment to solicit official and public review inputs. The revised draft will also be submitted to the World Bank and other relevant financiers for reviews. The resultant second

<sup>2</sup> Subject to the screening of impacts, some sub-projects may not need any RAPs/ARAPs.

(revised) document will then be subjected to the same and other wider stakeholders' consultations for the final inputs. The resultant document incorporating those final inputs will then constitute the final draft RAP/ARAP document ready to be processed for formal approval by the RD/MOPWT and the World Bank (for implementation purposes).

Upon formal approval of the final RAP/ARAP, the document will be translated into Sesotho. Both the English and Sesotho versions of the document will be made available to the public for information via the RD website, with the hard-copies also made available at RD Offices, at the applicable local authority structures (District Councils, Community Councils and Chiefs) as well as through local participation structures (where they exist. Notification about availability of such RAP/ARAP material made through the media of the National Radio as well as the two (2) major newspapers.



## 4.0 LAND ACQUISITION AND OCCUPATION

### 4.1 Overview of Rural Land Tenure and Transfer Systems

Rural land tenure system and practices are governed by the Land Act of 2010 (predecessor is Land Act 1979). Unlike in urban areas where under facilitation by the Land Administration Authority (LAA), services relating to leasehold and land transactions (transfers, subdivisions, change of use, mortgaging, fore-closures, etc.) for development purposes are readily available, the rural areas where LAA has no presence, land titles tend to mostly consist of land allocations evidenced by Land Act allocation FORM (C). Land allocations prior to the advent of the 1979 Land Act in the rural setting essentially had no existing 'title' evidence, with traditional transactions such as for inheritance, subdivision and transfers only evidenced by affidavit signed and stamped by the Chief. The 1979 Land Act introduced leasehold titles in the urban setting but left the rural settings to the 'land allocation' system unless land owner specifically chooses to transact through the leasehold system in which case the processes of having the land surveyed, having the Chief's affidavit, and with the process taking over 12 months to have a lease application process completed. Most rural people have had no knowledge, energy or time to endure the process.

The process of acquiring land for public purpose such as for roads construction, has historically involved using the traditional rural setting system as opposed to the urban setting leasehold system processes. This means defining the required land (through temporary pegs), bringing valuers to suggest compensation value, negotiating with owner in the presence of the Chief and Land Allocating Committee representatives, compensating the owner as agreed with perhaps cash while the Allocating Committee provides the affected owner with alternative land where feasible (residential land - no problem, but arable land has always be scarce).

With the advent of the Land Act 2010, the situation has not changed much, except that in the rural setting the Community Councils (chiefs represented) now control land allocations, and are in charge of local natural resources utilisation. Therefore, land needed for the TIC in the remote and inaccessible rural setting would essentially involve the above process of defining the required land by engineers, valuers suggesting price, then negotiations held with land owner in the presence of the Councillor(s), and ultimately compensation agreed, papers signed, payments made and required land accessed by the project. Such land acquisition related steps are elaborated below.

### 4.2 Land Acquisition for Public Purpose in the Rural Setting

The TIC sub-projects of roads and bridges development will naturally involve land acquisition and involuntary resettlement when acquiring land required on permanent basis for roads and bridges, but will also require land on temporary basis for quarries and borrow material (inclusive of access) as well as for camps and sites establishment. The RPF /OP 4.12 land acquisition related involvement in the rural setting, and in accordance with the Land Act 2010 provisions will involve the following processes:

- When starting the land/asset acquisition process for each TIC sub project in the rural setting, the Roads Directorate (RD) will follow the regulations and procedures set out in the Land Act of 2010, and act in collaboration with Community Councils including chiefs, and the District Councils as well as the Land Administration Authority (LAA) where applicable for legal acquisition and compensation purposes.
- After the RD's processes of finalising the route and design, the following **resettlement related processes** (from assets inventory taking to compensation disbursement and relocation processes) relating to permanent formal land acquisition process will then commence, targeted at clearing required land of encumbrances and hence accessing such land in line with construction schedule:
  - Required land will be physically marked by RD, and consultations held with the owner and local stakeholders (Chiefs, councillors, any NGOs, etc) in terms of provisions of this RPF;

- Required land would then be cadastrally surveyed, land acquisition FORMs filled and signed by the land owner, witnessed by the Chief and the Councillor and in the presence of other members of land allocating committees, RD;
- Valuation by professional valuer will then be undertaken to derive compensation related value that will be used to negotiate with the owner to arrive at a financial settlement;
- Then the process of vacating land will be undertaken, governed by the nature of the land use (arable or settled) and in line with project schedule and other requirements;
- Any acquisition of settled land (built site) will however trigger the need for a RAP or ARAP, following the processes as provided for under this RPF;
- Where physical displacement of households occurs, the RAP/ARAP must prioritize acquisition of alternative sites in the vicinity of existing the household and then processing for replacement housing development in line with the provisions of the RPF.

The specific legal procedures underpinning the above processes for permanently or temporarily acquired land will be as provided for below.

#### **4.3 Permanent Land Acquisition Procedures**

- (a) Permanent land acquisition for the TIC sub-projects will be processed in terms of Section 50(1) (Expropriation of land for public purposes). Section 52 which stipulates the following:
  - (i) that the Government shall first negotiate with the holder of land rights which are the subject of potential expropriation and resort to expropriation only upon failure of the negotiations;
  - (ii) prior adjudication of the land proposed for expropriation and other lands, whether adjoining or not as may be affected by the expropriation;
  - (iii) payment or settlement of compensation as provided for in the Act and under the regulations;
  - (iv) a party whose land rights are the subject of expropriation by the Government shall have the right to appeal to the Land Court against the decision of the Government in this regard.”
- (b) For Compensation, Section 56 stipulates that compensation for compulsory acquisition of property shall be at market value. Section 58(2) states that “in assessing compensation, regard shall be had:
  - (i) to the value of the property as certified by an odd number of valuers, one of whom shall be the Government valuer, having regard to the present and future replacement value; and
  - (ii) to the expenses incidental to any necessary change of residence or of place of interest.”
- (c) Section 60 stipulates that in all cases of compulsory acquisition compensation must be paid before conclusion of expropriation.
- (d) Full compensation will be paid to eligible households for losses in terms of the compensation entitlements stated in this RPF and detailed in the related RAP.

#### **4.4 Temporary Land Occupation Procedures**

- (a) Temporary land acquisition required by TIC sub-projects for camps and site establishments, quarries and borrow materials, and for related accesses will, after works completion and rehabilitation, be returned to the previous occupants. The following process shall be embarked upon:
  - (i) for temporary occupation of land during construction work, contractors will be required by tender documents to sign ‘temporary occupation contracts’ with affected land owners (individual householder, community through the Chief/Councilor, public sector entity);
  - (ii) all contract agreements for temporary land occupation and compensation amounts for disturbances /damages will be checked and confirmed by the implementing agency and the RD;

(iii) The tender documents will be highly specific in their requirements for reinstatement of temporarily occupied land, giving the contractor and the supervising engineer clear instructions for reinstatement. These actions will also appear in the Bill of Quantities. The supervising engineer will authorise payment of contractor for these items only after a thorough inspection of the site by his own technical and environmental staff, and following formal clearance by RD.

(b) For compensation purposes the following will happen:

- (i) The holders of land occupied temporarily and exclusively by RD or its contractors will be compensated according to the same principles as people whose land is permanently acquired by the project, for the required duration of the exclusive occupation; and
- (ii) The owner of the land will be entitled to compensation for any other disturbances and damages caused to the property during the construction works.

(c) Other conditions:

- (i) Quarries and borrow materials areas are treated as temporary acquisition provided they are rehabilitated at the end, otherwise the acquisition will be treated as permanent; and
- (ii) Major construction related damages to structures and fields (e.g. blasting related) which render those assets unusable for a period of more than a month, will be treated as temporary acquisition for compensation and rehabilitation requirement purposes.

#### **4.5 Project Occupation of Properties**

Where disputing parties have instituted legal proceedings over ownership of an affected property, the property may be accessed by the Project. Any compensation due will be paid once ownership has been confirmed through the legal process.

## 5.0 ESTIMATED POPULATION DISPLACEMENT AND LIKELY CATEGORIES OF DISPLACED PERSONS

### 5.1 Identification of the Categories of Affected Persons

Since the RPF preparation takes place at the TIC Project pre-appraisal stage, and its sub-projects' physical works locations were still to be determined, it is only upon such determination that project preparation studies will be able to provide resettlement planning information that will enable identification of affected persons and their affected properties. Before such sub-projects are identified and approved for preparation studies to commence, only the nature of proposed roads and bridges construction can lead to assumption about the likely categories of persons to be displaced, but population displacement estimates has to await determination of sub-project's location. Nevertheless the processes identified below will lead to acquisition of information that will help identify categories of affected persons, and through identification of affected assets and their ownership, the estimated population displacement could be derived.

The nature of the TIC's sub-projects of roads and bridges construction is expected to affect land/assets owned by category groups made of private, public and community members with their identity determined later upon approval of each sub-projects' location and start of preparation studies, including RAP development processes that entail the following:

- The carrying out of the census and socio-economic surveys of the affected in terms of Sections 3.1-3, as part of resettlement planning process per sub-project; followed by
- The carrying out of affected assets inventory-taking in terms of Section 3.4 which further verifies the identity of those affected as well as measuring their affected assets.

At this sub-project's pre-identification stage, the Table below can only summarise the standard categories of likely affected persons that will require identification through the above-mentioned processes (socio economic and assets surveys).

**Table 1: Categories of Potentially Affected Persons and Associated Loss Types**

Affected Persons Category	Associated Assets Loss Type
Private Individual	Loss of arable land, residential and business plots/sites
	Loss of trees, standing crops and gardens
	Loss of houses and associated structures, rented accommodation (tenants),
	Loss of business/commercial premises - stores/shops/stalls,
	Temporary loss of land or income sources
Community /Individual	Impacts on graves
Community /Public Sector	Loss of rangeland and other useful natural resources
	Loss of schools, churches, community and other buildings, water supply points, amenities
Government (and agencies)	Loss of land used by Government Departments and agencies
	Loss of state owned buildings/ structures and other facilities
Potential Social Effects	Positive/ negative changes to subsistence levels, income earning sources or capacity, and household livelihoods
	Changes to movement patterns; improved or constrained access to services/ facilities.

### 5.2 Census and Socio-Economic Surveys of the Affected

As above, and also in terms of Sections 3.1-4, the carrying out of the census and socio-economic surveys of the affected is a prescribed method of identifying the affected. The census and socio-economic surveys of all persons affected by the newly approved sub-project will cover them all, irrespective of their legal status to the land they are occupying or using. They will be enumerated through census and socio-economic survey questionnaires and FORMs whose samples are appended as Annex 5a-d.

The census and socio-economic studies information will be used for all subsequent resettlement planning processes, including RAP preparations, implementation work, compiling baseline information on affected households and communities, and assist with the assessment of livelihoods and standards of living. The baseline information will provide a set of socio-economic indicators against which to measure, as part of a project's monitoring programme, any changes in the livelihoods and income of affected households.

## 6.0 ELIGIBILITY CRITERIA FOR DEFINING VARIOUS CATEGORIES OF PROJECT AFFECTED PERSONS

### 6.1 Eligibility Criteria Determination

The approach to be followed in determining the eligibility criteria for project related compensation, resettlement and support entitlements will involve the foregoing.

Based on the requirements of OP 4.12, the following categories of persons that could be affected by Project activities have been identified:

- those who have formal rights to land (including customary land traditional and religious rights) recognised under Lesotho Law;
- those who do not have formal legal rights to land at the commencement of the census for a sub-project (package) but have a claim to such land or assets, provided that such claims are recognised under the laws of Lesotho or become recognised through a process identified in the RAP/Abbreviated RAP;
- those who lose other economic resources such as trees, agricultural produce on cultivated fields, etc., and/or have their access to these economic resources denied or restricted; and
- those who have no recognisable legal right or claim to the land they are occupying, using or getting their livelihood from.

Persons covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with the RPF and the sub-project RAP/Abbreviated RAP. Likewise, persons in category (c) are compensated for loss of economic resources in accordance with the RPF. Persons in category (d) are to be provided with resettlement assistance in lieu of compensation for the land they use/occupy, as well as other assistance as necessary, if they have occupied the area prior to an agreed cut-off date for entitlements. All persons included in categories (a), (b), (c) and (d) are to be provided with compensation for loss of assets other than land, if applicable.

The Table below presents the Categories of Affected Persons, linking each with related Compensation Entitlements (see Appendix 2: Entitlement Matrix details).

**Table 2: Affected Persons Categories and Related Compensation Entitlements**

Categories of Affected Persons	Compensation Entitlements
Persons with formal legal rights to land or assets, including customary and traditional rights recognised under the laws of Lesotho.	Compensated (including physical resettlement) for each identified land and assets losses, and are further entitled to other assistance as provided for in the RAP/ARAP.
Persons with no formal legal rights to land, but with a claim to such land or assets, provided that such claims are recognised under the laws of Lesotho or become recognised through a process identified in the RAP.	Compensated (including physical resettlement) for each identified land and assets losses, and are further entitled to other assistance as provided for in the RAP.
Persons with no recognisable legal right or claim to the land they are occupying.	Rehabilitation assistance (such as access to livelihood restoration programmes) in lieu of compensation for the land they occupy, as well as other assistance as provided for in the RAP or Entitlement Matrix, if they have occupied such land before declaration of a cut-off date for entitlements.

### 6.2 Relocation Eligibility and Options

Eligibility for physical relocation of affected households will be determined through:

- the systematic identification of all affected people, through the census/socio-economic and asset registration surveys and comprehensive consultation with affected persons, local communities and local authorities; and
- a participatory assessment with affected households and communities, and their local authorities and representatives, to determine such eligibility for relocation

### **6.2.1 Eligibility for Voluntary Relocation**

Factors to be considered in the determination of eligibility for voluntary relocation are:

- Villages/ households whose access to important facilities and resources is severely impaired by the sub-project without satisfactory mitigation measures; and
- Households located outside the road reserve boundaries but the remaining land is not sufficient for the household.

### **6.2.2 Relocation Options**

Relocation options will be finalised with affected households, communities and local authorities during the resettlement planning exercise, based on the following range of options:

- On-site relocation where affected household is allowed to occupy part of the same residential site not required for servitude;
- Local relocation where affected household relocates somewhere in the vicinity of original home, allowing for continued use of unaffected assets.
- Self-relocation where affected household takes individual initiative to relocate to a place of its own choice perhaps due to social and/or economic factors (as opposed to a project resettlement site). For this option, entitlements will be limited to cash payment for direct asset losses and relocation expenses.
- Relocation to a project-designated site selected by implementing agency.

## **6.3 Eligibility for Compensation**

The unit of entitlement for compensation against the loss of privately-held assets will be the owner or household head, including orphaned minors who are entitled to their parents' estate. In the determination of compensation eligibility, RD will ensure compliance with the regulations of the Land Act (2010) and the Legal Capacity of Married Persons Act (2006).

Informed consultations will occur with affected households during the resettlement planning exercise to confirm their compensation preferences and arrangements, especially for arable land losses, to ensure adequate time for the planning and implementation of the selected options. If a person holding rights for which RD is to effect compensation dies before all the compensation measures have been completed, RD will implement the compensation, or any incomplete balance thereof, in favour of the legally recognised heir of the deceased's rights holder. Whether inheritance arrangements are governed by customary or common law will depend on the disposition made by the rights holder.

In terms of the Local Government Act 1997 as amended, management rights to the communal assets that will be acquired by the sub-project are held by Community Councils. Compensation for the loss of communal assets will be used for investment in approved community development ventures.

## **6.4 Cut-Off Dates to Entitlements**

Cut-off dates to entitlements will be established for each sub-project in consultation with affected communities and local authorities, taking account of completion of census surveys of affected people and asset inventory taking and registration exercises. Any subsequent changes to the design/ configuration of a sub-project will be subject to a new cut-off date. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of compensation assistance.

## 7.0 LEGAL, POLICY AND INSTITUTIONAL FRAMEWORKS

This Section deals with the Legal, Policy and Institutional Frameworks within which the TIC sub-projects' resettlement planning and implementation will occur. The RPF has been prepared with reference to GOL legislation and to international best practice, as embodied in the World Bank's policy on involuntary resettlement (OP 4.12). The legal and policy framework within which the TIC and its sub-projects will undergo preparation and resettlement planning and implementation stages consist mainly of:

- Lesotho legislation, in particular the Constitution (1993), the Land Act (2010) and the Legal Capacity of Married Persons Act (2006) – with details and analyses in **Annex 1a**;
- the MOPWT/RD resettlement policy with details and analysis in **Annex 1b**; and
- the institutional framework where MOPWT/RD is the project authority, the Ministry of Local Government and Chieftainship Affairs (MLGCA) for local governance affairs, the Lands Administration Authority (LAA) for land management, and the NGOs and Affected Communities are added as key stakeholders, are all presented in **Annex 1c**.

Below is the Legal framework in the form of key legislations of: 1) the Lesotho Constitution (1993), 2) the Land Act (2010) and 3) the Legal Capacity of Married Persons Act (2006), which are all summarised below (see Appendix 1 for details and analyses).

### 7.1 Legal Framework

#### 7.1.1 Constitution of Lesotho (1993)

The Constitution of Lesotho protects citizens from the arbitrary seizure of property. Article 17(1) states that “no property, movable or immovable, shall be taken possession of compulsorily, and no interest in or right over any such property shall be compulsorily acquired, except where the following conditions are satisfied:

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit;
- (b) the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made applicable to that taking of possession or acquisition for the prompt payment of full compensation.”

Article 17(2) grants a person with an interest in or right over property that is compulsorily acquired “a right of direct access to the High Court for:

- (a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled;
- (b) the purpose of obtaining prompt payment of that compensation.”

#### 7.1.2 Land Act (2010)

The Land Act of 2010 (supported by the Land Regulations of 2011) is the principal legislation governing land ownership and occupation, and the acquisition of property for public and development purposes. Part IX of the Act differentiates between land acquired in the public interest and land acquired for public purposes.

Part X, Section 56 of the Act states that “in all cases in which the implementation of this Act results in compulsory acquisition of property, the person deprived of such property shall be entitled to compensation at market value”. Section 56 will generally not be applicable to compensation for TIC because there is no active or legal market in land, houses or trees in the project rural areas and the concept of market value for such property cannot therefore be applied.



Section 10(1) of the Act confers joint title to property to both spouses married in community of property (under civil, customary or any other law, irrespective of the date on which the marriage was entered into), and equal powers in land transactions.

### **7.1.3    Legal Capacity of Married Persons Act (2006)**

The Act confers equal powers on both spouses married in community of property, giving them equal capacity to dispose of the assets of the joint estate, contract debts for which the joint estate is liable, and administer the joint estate.

## **7.2 Lesotho Legal Framework versus the World Bank OP 4.12 Requirements**

In order to assess the Lesotho legal framework's adequacy and compliance with the World Bank's social safeguards policy requirements, the Table below presents comparative analysis of key principles WB OP 4.12 stipulations in relation to key national legislation. The Lesotho Constitution's human rights inclination as well as the new principles and stipulations in the Land Act of 2010 have all narrowed the differences/gaps between Lesotho laws and the WB OP 4.12 requirements. In fact the overall principles are generally similar, with OP 4.12 defining the principles in more detail for operational/ implementation purposes. Furthermore, practice by large-scale projects that are donor funded with social and environmental safeguards conditions, has ensured that it becomes normal to comply with WB OP 4.12 requirements without any legal hindrance.

A significant difference lies in defining the categories of affected persons entitled to compensation where Lesotho legislation makes provision for compensation based on right of ownership (i.e. allocation/ customary ownership, lease and land titles), while OP 4.12 stipulates that all affected persons are entitled to some form of compensation or resettlement assistance, whether or not they have legal title, provided that they occupy the land by the declared cut-off date to entitlements. This means that project required land would be acquired in terms of Lesotho Laws as well as the WB OP 4.12, however, where there is conflict, OP 4.12 will take precedence to safeguard the welfare of all project affected persons.

The Table below presents such comparison between Lesotho laws and WB OP 4.12, and further addressing the issue of whether any identified gaps could negatively impact on WB OP 4.12 application in the TIC.

**Table 3: Lesotho Legal Framework versus the WB OP 4.12 Requirements**

Items	Lesotho Legislative Provisions	WB OP 4.12 Stipulations/ Requirements	Variance Re WB OP 4.12
Categories of affected persons	Entitlements for payment of compensation based on right of ownership (i.e. allocation/ customary ownership, lease and land titles).	All affected persons are entitled to some form of compensation or resettlement assistance whether or not they have legal title, if they occupy the land at the cut-off date to entitlements.	Lesotho legislation is silent on compensating occupants without land titles, so most in not all externally funded large-scale projects have been compensating in accordance with the OP 4.12 (Involuntary Resettlement) requirements. Accordingly TIC/RPF should similarly comply.
Categories of affected assets	<ul style="list-style-type: none"> <li>Immovable and movable property (Article 17(1), Constitution of Lesotho).</li> <li>Communal natural resources recognised in terms of local authority resources.</li> </ul>	<ul style="list-style-type: none"> <li>Land and fixed assets, including standing crops.</li> <li>Communal natural resources such as rangeland.</li> </ul>	No legal prohibitions regarding definition of assets requiring compensation, so projects like TIC use affected assets registration to identify owners for compensation purposes.
Compensation determination	<ul style="list-style-type: none"> <li>Compensation for compulsory acquisition of property to be at market value, having regard to the present and future replacement value (Article 56, Land Act).</li> <li>Valuation to be done by an odd number of valuers, one of whom must be the Government valuer (Article 58(2), Land Act).</li> <li>Compensation determination must also include expenses incidental to any necessary change of residence or of place of interest (Article 58(2), Land Act).</li> <li>Compensation to be paid for establishment of public servitudes, except (a) where the land which suffers damage has been either replaced or restored; (b) where movable property damaged has been either replaced or restored; or (c) where the works constructed do not interfere substantially with the enjoyment of the land (Article 54(1), Land Act).</li> <li>Compensation for damages to crops on land affected by the exercise of the servitude (Article 54(2), Land Act).</li> </ul>	<ul style="list-style-type: none"> <li>Compensation at full replacement cost.</li> <li>Replacement cost for buildings/ structures defined as: (a) the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure; (b) plus the cost of transporting building materials to the construction site; (c) plus the cost of any labour and contractor's fees; (d) plus the cost of any registration fees and/or transfer duties; (e) depreciation of the asset and the value of benefits to be derived from the project not taken into account.</li> <li>Replacement cost for agricultural land is (a) 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; (b) plus the cost of preparing the land to levels similar to those of the affected land; (c) plus the cost of any registration/transfer taxes.</li> <li>Replacement cost for urban residential/ business land is (a) the pre-displacement market value of land of equal size and use; (b) with similar or improved public infrastructure facilities and services, and located in the vicinity of the affected land; (c) plus the cost of any registration fees and/or transfer duties.</li> <li>For losses that cannot easily be valued or compensated for in monetary terms (e.g., grazing areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.</li> </ul>	<p>WB OP 4.12 and Lesotho Legislations have no gaps that could obstruct WB OP 4.12 application</p> <p>The RD has no established compensation rates and tends to use valuers for its other roads projects, such valuation approach should prevail for the TIC.</p>

Items	Lesotho Legislative Provisions	WB OP 4.12 Stipulations/ Requirements	Variance Re WB OP 4.12
Compensation options	Not directly stated, but inference is that compensation can be either cash or replacement.	<ul style="list-style-type: none"> <li>• Preference to be given to land-based strategies for displaced people whose livelihoods are land-based.</li> <li>• Whenever replacement land is offered, affected persons are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken.</li> <li>• If land is not the preferred option of the displaced people or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for loss of land and other assets.</li> <li>• Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.</li> </ul>	<p>Even though Lesotho Legislation is not prescriptive on compensation options, its silence has enabled the practice of projects like TIC currently using rates or valuations to arrive at agreed compensation value.</p> <p>So the TIC should continue with the existing use of valuers until compensation rates are established.</p>
Compensation disbursement	<ul style="list-style-type: none"> <li>• Agency conducting the expropriation responsible for payment of compensation (Article 57, Land Act).</li> <li>• Prompt payment of full compensation (Article 17(1), Constitution of Lesotho).</li> <li>• Payment of compensation to be made before conclusion of expropriation (Article 60, Land Act).</li> </ul>	<ul style="list-style-type: none"> <li>• Affected people to be provided with prompt and effective compensation for the loss of assets attributable directly to the project, and with assistance during relocation.</li> <li>• The taking of land and related assets may occur only after compensation has been paid, resettlement sites allocated, and moving allowances provided, where applicable.</li> </ul>	<p>WB OP 4.12 and Lesotho Legislations have no significant gaps that could obstruct WB OP 4.12 application, so projects like TIC currently use rates and/or valuations to arrive at agreed compensation values. Promptness of payment has been a challenge requiring addressing. Under TIC, if delay in compensation is delayed for more than a year, the census will need to be redone and compensation levels re-assessed.</p>
Consultation	Holder of land rights to be negotiated with prior to expropriation (Article 50(1), Land Act).	Affected people to be meaningfully consulted and have opportunities to participate in planning and implementing resettlement programmes.	Even here there are no significant gaps that could obstruct WB OP 4.12 application, so projects like TIC currently consult just enough to enable unhindered project implementation.
Grievance/ dispute resolution	Direct access to the High Court/right to appeal to courts (Article 17(2), Constitution of Lesotho; Article 50(1), Land Act).	RAP to specify 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.	There are no significant gaps that could obstruct WB OP 4.12 application, so projects like TIC currently put informal mechanisms that work most of the time.

Source: Adapted from the WASCO Policy Framework for Land Acquisition and Compensation 2012.

Details of relevant legislations including assessment of their relevance, effectiveness, gaps/ shortcomings and recommendations for improvements are in Annex 1. The same Annex 1 also contains assessments of policy and institutional frameworks having a bearing on the TIC, together with recommendations on any identified gaps.

### **7.3 Lesotho Policy and Institutional Framework**

The policy and institutional framework examination, analyses and outcome details are found in the Annexes 1(b) and 1(c).

The summary findings of all the above legal, policy and institutional framework analysis within which the TIC/RPF/RAP (and others) have to operate, reveal minimal gaps that can seriously hinder compliance of the OP 4.12 requirements with Lesotho's legislation and policy provisions. A minor gap involved the issue of carrying out the land acquisition in the rural setting where land administration offices are not present, thereby making it onerous for the affected parties to shuttle between the TIC project area and Maseru or relevant District town. In the urban and lowlands areas which are close to where offices are located, the rural-urban services link has not been a problem, but in remote and inaccessible TIC project areas it is. Hence the suggestion is that the TIC employ resources to expedite the linkage processes so that land acquisition and attendant compensation matters are dealt with expeditiously. The TIC sub-projects' RAPs/ARAPs will address any compliance gap that may be arise due to specific circumstances of a particular project site/ location.

## 8.0 METHODS OF VALUING AFFECTED ASSETS

Valuations of adjudicated and registered assets under each TIC sub-project will be carried out in accordance with the stipulations of the Land Act (2010), allowing for negotiations with affected property owners. Valuations should be certified by LAA. The valuation process will be undertaken in terms of the foregoing.

### 8.1 Asset Identification, Inventory-taking and Registration

As detailed earlier under RAP preparation (Section 3), the Asset Inventory-taking and Registration exercise will identify and compile affected assets and owners, and these will be followed by assets valuation in order to determine compensation due to the owners.

Types of assets likely to be affected, and which are therefore candidates for the above Asset Inventory-taking and Registration exercise, followed by assets **valuation** are given in the Table below.

**Table 4: Assets Likely for Inventory-taking, Valuation and Compensation**

Ownership Category	Likely Assets for Adjudication/ Registration/ Valuation /Compensation
Privately owned /used land	All land permanently or temporarily acquired by the project or affected by project activities, including fallow land (land may have to be surveyed and classified by type)
Private houses and other structures and improvements	<ul style="list-style-type: none"> <li>• Dwellings</li> <li>• Associated shelters/ structures e.g. cooking, outside toilets/pit latrines</li> <li>• Storerooms, garages</li> <li>• Livestock kraals, stables, sheds</li> <li>• Utilities on site (water supply, electricity, telephone)</li> <li>• Gardens, other improvements</li> </ul>
Private enterprises/ Businesses	<ul style="list-style-type: none"> <li>• General dealer/stores, shops/cafes</li> <li>• Commercial stalls</li> <li>• Workshops, factories, mills</li> <li>• Sand mining, brick making enterprises,</li> </ul>
Other private assets	<ul style="list-style-type: none"> <li>• Fruit and fodder trees</li> <li>• Woodlots, thickets</li> <li>• Standing crops</li> <li>• Other fixed assets e.g. fencing, boundary walls, irrigation structures.</li> </ul>
Community /Individual common property	<ul style="list-style-type: none"> <li>• Graves (individual and communal sites)</li> </ul>
Cultural heritage property	<ul style="list-style-type: none"> <li>• Archaeological/Palaeontological artefacts/facilities</li> <li>• Sites of historical importance</li> </ul>
Communal and public structures	<ul style="list-style-type: none"> <li>• Schools</li> <li>• Clinics</li> <li>• Churches</li> <li>• Community facility centres, sports/ entertainment facilities, amenities,</li> <li>• Bus/taxi shelters/ ranks</li> <li>• Water points,</li> </ul>
Communal resources	<ul style="list-style-type: none"> <li>• Rangeland</li> <li>• Forests/woodlands/thickets</li> <li>• Livestock watering points</li> </ul>
Government/state assets	<ul style="list-style-type: none"> <li>• Government Departments and agencies premises/ services centres, buildings, offices/stores, weather stations, other structures</li> <li>• Infrastructure facilities, powerlines/sub stations, water pipelines, communication lines/ centres.</li> </ul>

The related data management system, if non-existent, will be developed to house all TIC sub-projects data that include the affected assets and ownership, related compensation value, disbursements, and monitoring and evaluation of any mitigative measures under implementation.

## 8.2 General Land and Assets Valuation

- (a) Since the MOPWT/RD currently have no established compensation rates for land and assets acquisition (they periodically ask LAA for arable land rate), such rates are urgently required for uniformity and application consistency. It should not be that difficult to establish such rates, considering that fellow large-scale projects developers involving involuntary land acquisition requirements but in the water sector (but having access roads as part of infrastructure), have established such rates e.g. LHWP (1997, 2016), WASCO (2012), and Metolong Authority (2012); in fact the LHWP's new rates for its Phase II were approved 25 August, 2016.
- (b) Should the MOPWT/RD decide to establish such rates, they will require specialised study coordinated by the RD's SEU and involving key stakeholders such as implementing agencies, LAA, representatives from potentially and currently affected communities and existing private land assessors /valuers. Such a study should ensure that such rates accord with the OP 4.12 (Involuntary Resettlement).
- (c) However, in the interim (absence of rates), valuations will be carried out in accordance with the stipulations of the Land Act (2010) and the associated Regulations. All valuations will be certified by LAA., The following valuation related principles will be adopted and followed:
- compensation for land, crops, trees, and other fixed assets should be sufficient to enable affected people to restore their standard of living, based on the principle of market value or equivalent reinstatement where a market value cannot be determined;
  - compensation for structures should cover full replacement cost exclusive of depreciation and inclusive of all fees (such as construction permits and title charges) and labour costs;
  - compensation for dismantled infrastructure or disrupted services should be paid to local government or affected communities at full replacement cost before civil works begin;
  - compensation payments should be made before any acquisition of assets or physical resettlement takes place unless those payments are staggered to enable affected people to begin preparation of new sites;
  - where applicable, compensation for lost earnings should be paid to proprietors and employees for the duration of valid work stoppages resulting directly from the relocation of enterprises, and assessed on a case-by-case basis.
- (d) In the case of urban land and property where land markets exist, valuation will be carried out by an odd number of valuers (as stipulated in the Land Act of 2010), one of whom will be the Government valuer<sup>3</sup>.
- (e) In rural areas, valuation of lost assets will be made at their full replacement cost (equivalent reinstatement).
- (f) In the case of the provision of replacement arable land (land-for-land option), the following principles will apply to the new land:
- it should be equivalent or superior in productive potential to the lost land;
  - it should as far as possible be located in reasonable proximity to where the displaced reside;
  - it should be provided free of any "transaction costs" such as registration fees, transfer taxes, or customary tributes;
  - it should be prepared for productive levels similar to those of the land from which people will be displaced; where the land is fundamentally different from the lost land, the project should provide technical support and appropriate inputs to farmers to bring the land into full productive potential.

<sup>3</sup> Section 42 of the Land Regulations (2011) stipulates that one of the non-Government valuers should be appointed by the affected person and the other by an association of valuers. Where an association is not in existence, the valuer will be appointed by the acquiring authority or the authority in whose favour the land is being acquired or expropriated. The acquiring authority will be responsible for the payment of the work of the two non-Government valuers.

- (e) To ensure fair compensation, determination of compensation rates for individual entitlements will be done not more than six months prior to property acquisition. Rates for compensation items and allowances will be adjusted annually for price escalation, using the Consumer Price Index (CPI).

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

**Table 5: Forms of Compensation**

Cash Payments	Compensation will be calculated in Maloti. Rates will be adjusted for inflation.
In-kind Compensation	Compensation may include items such as land, houses and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.
Assistance	Assistance may include moving allowance, transportation and labour.

### 8.3 Specific Assets Valuations

#### 8.3.1 Residential and Business Land

##### Permanent Acquisition

Landowners of residential and business plots will be compensated for all permanent losses of land. Compensation for land will be due to:

- (a) landowners who hold the land under traditional allocation or a lease agreement, or any other recognised system of land tenure;
- (b) persons with no recognisable legal right to the land they occupy for residential or business purposes but whose status has been legalised either through the history of their occupation of the land or through a process in the RAP/Abbreviated RAP.

The form of compensation for land will be determined by the nature/extent of the loss of land and the need for relocation:

- (a) If continued occupation of the land is no longer possible, or if it is agreed that relocation is needed, compensation for the loss of land will be in the form of the provision of a replacement site. Cash compensation will be considered where an owner who declines the offer of a replacement site of 'equivalent reinstatement' provides acceptable reasons.
- (b) Compensation for the partial loss of land will be in the form of cash compensation.

Where land is sub-leased in terms of a written agreement, or where any other sub-lease agreement can be confirmed, compensation for the land will be paid to the holder or leaseholder of the land, subject to the specifications of the agreement. The holder or leaseholder will be expected to settle any outstanding liabilities with the sub-leaseholder. The sub-leaseholder will be entitled to compensation for any crops or trees grown on the land, or structures erected on the land, by him/her.

##### Temporary Occupation

The holders of land occupied temporarily and exclusively by RD or its contractors will be compensated according to the same principles as people whose land is permanently acquired by the Project, for the required duration of the exclusive occupation. Where private land is required by the Project for a period of less than three months, the holder of the affected land rights will be compensated in the form of a lump sum payment. The land will, as far as reasonably possible, be fully restored to its original condition before it is returned to the holder. authorities.

#### 8.3.2 Cultivation Land

##### Permanent Acquisition

The full or partial loss of productive or fallow cultivation land required for the Project will be compensated. Fallow land includes land that remains unproductive for up to three successive seasons. Ownership of abandoned cultivation land (defined in the Land Act as land that has not be cultivated for at least three years) will be confirmed with local authorities and compensation (if any) will be in accordance with the provisions of prevailing land legislation.

Compensation for cultivation land losses will be in the form of cash compensation or where possible, the provision of replacement land. The form of payment of cash compensation for agricultural land losses will be considered on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members.

Where the acquired land is less than 1,000m<sup>2</sup>, compensation will be in the form of a once-off lump-sum cash payment only. Where agricultural land greater than 1000m<sup>2</sup> is acquired and the owner wishes to be provided with replacement land, or where the provision of replacement land is considered to be in the best interests of the affected household, the project authorities will endeavour to secure acceptable replacement land.

If the land in question was cultivated according to a sharecropping arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Sharecroppers will be given advice on alternative subsistence and livelihood strategies, and assisted (through the Ministry of Agriculture and Food Security) to gain access to poverty alleviation/social welfare programmes if required.

With the exception of cultivators as defined in paragraph (a) below, encroachers using public land for the cultivation of crops at the time of a sub-project's socio-economic census survey will not be entitled to compensation for land losses:

Households cultivating land in a road reserve that have traditionally belonged to them will not be considered as encroachers, and will qualify for compensation for land losses, if (i) the reserve was never officially declared and the household informed of this, or (ii) if the land was never officially expropriated, or (iii) if there are no records of the reserve having been declared and the land expropriated.

Cash compensation will also be paid for any crops on the land to be permanently acquired, based on the rates determined for the RPF. If the land in question was cultivated according to a sharecropping or lease arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement.

#### Temporary Occupation

Temporary occupation of land by RD or its contractors will be compensated according to the same principles as people whose land is permanently acquired by the Project, for the required duration of the exclusive occupation. All temporary occupied agricultural land will be restored to its original condition by the Contractor, under the supervision of RD or the Resident Engineer. The Resident Engineer will ensure that topsoil is properly stockpiled and replaced so that the affected land can be restored to its pre-Project productive potential. RD will monitor the development process to ensure that these mitigation/ restoration measures are properly implemented.

#### **8.3.3 Standing Crops**

Civil works will as far as possible occur during the non-agricultural season. However, cash compensation will be paid for impacts on/disturbances to agricultural fields that are actively under cultivation at the time of its temporary occupation by the Project, based on the rates determined for the RPF. This entitlement will also be applicable to agricultural fields that have been ploughed but not yet planted, or where the owner of the field is prevented from cultivating the field (and therefore from harvesting a crop) because of the occupation of his/her field. It will not be applicable to fallow fields not scheduled for cultivation.



If the land in question was cultivated according to a sharecropping or lease arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement.

#### **8.3.4 Vegetable Gardens**

These are planted with vegetables and ingredients for daily use. Until a replacement garden starts to bear, the affected household will have to purchase these items in the market. Related compensation rates for permanent acquisition and temporary occupation will be based on the rates determined for the RPF (after consulting the Ministry of Agriculture and Food Security).

#### **8.3.5 Compensation for Buildings and Structures**

Compensation for houses and structures will be paid to:

- (a) owners of houses and structures who hold the land under traditional allocation or a lease agreement or any other recognised system of land tenure;
- (b) owners of houses and structures in informal settlements where land regularisation and the registration of leases are yet to occur;
- (c) tenants who have constructed their own house on land rented from another person and who will receive cash compensation for full or partial loss of the housing structure, subject to any agreement between the two parties.

Owners of structures on public land (e.g. in the reserves of existing roads) at the time of a sub-project's socio-economic census survey will not be entitled to compensation for their structures unless:

- (a) they occupy a road reserve with approval from a local authority; or
- (b) the road reserve has never been officially declared, or there is no proof that the clearance of the reserve has been enforced and eviction orders previously served on them.

Building and structures will be replaced by an equivalent structure, cash and/or credits, based on replacement costs. Compensation will be paid by replacing structures such as huts, houses, farm outbuildings, latrines and fences.

Compensation will be made for structures that:

- (a) exist on land which will be acquired for project purposes; or
- (b) are directly damaged by construction activities.

Compensation will be based on the valuation procedures as stipulated in the Land Act, allowing for negotiations with the affected owner. The valuation will be based on:

- (a) drawings of individual houses and all its related structures and support services;
- (b) average replacement costs of different types of buildings and structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. bricks, rafters, bundles of straw, doors etc.);
- (c) prices of these items collected in different local markets;
- (d) costs for transportation and delivery of these items;
- (e) estimates of construction of new buildings including labour required.

#### **8.3.6 Trees and Thickets**

Trees are important as a source of food for families, market income in some areas, and shade.

Compensation for the lost production from individually owned fruit-bearing and non-fruit-bearing trees, as well as thickets, that are mainly used for own consumption, will be at net present value based on the total loss of production over the whole productive life of trees.

If commercial orchards are affected, they will be compensated at commercial rates, based on historical production records.

Privately-owned trees that are felled (e.g. timber/fuel wood) will remain the property of the owner.

Where community thickets are affected by project activities, the Ministry of Forestry and Land Reclamation will be requested to assist with the implementation of mitigation measures.

### **8.3.7 Informal Traders in Road Reserves**

Informal traders on public land (e.g. road reserves) do not qualify for compensation for the land they occupy. However, if they were enumerated prior to the cut-off date they will be provided with temporary relocation assistance to continue with their trading activities to areas identified through the local authorities.

### **8.3.8 Water Supplies**

a) Where the Project is the cause of a reduction in the supply of water from an established source, natural or artificial, to a community or an individual household, RD shall reinstate that source or replace it with another of at least equal yield, quality and convenience. This will be provided as part of compensation to all affected people and host communities to Water and Sanitation (WATSAN) standards.

### **8.3.9 Community-Owned Facilities**

a) Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities.

b) Permanent or temporarily impeded access will be restored or mitigated through the provision of an acceptable practical alternative.

### **8.3.10 Cultural Assets**

a) Cultural assets such as rock-art and historical and heritage sites will be recorded, documented and, where feasible, rescued before commencement of civil works at the concerned sites.

b) Paleontological artefacts found during construction activities will be rescued and stored in a suitable facility.

### **8.3.11 Graves**

- An overall principle of the RPF is that graves should as far as possible be avoided to the extent possible. However, where graves are affected and replacement is unavoidable, they will be treated in a culturally sensitive way, in accordance with the wishes and preferences of the affected families and the local authorities. Compensation of next-of-kin for the re-internment of graves is of a personal and sensitive nature and will accordingly be fully discussed and negotiated on an individual basis and local authority norms basis. Graves can either be re-interred in a designated cemetery or at a site as identified in consultation with the local authorities.
- Exhumation and re-internment will be carried out with all due ceremony as agreed with the surviving relatives and the local authorities. All costs associated with exhumation and reburial, including all associated and traditional ceremonies, will be borne by the Project.
- No area will be occupied by a sub-project until all graves have been removed or treated according to the wishes of the surviving relatives or local authorities where relatives cannot be found.

### **8.3.12 Institutional Property**

a) Institutional land and/or buildings owned by churches or NGOs that are displaced by the project will be compensated depending on the choice of the institution by means of either:

- a lump sum payment covering the replacement value of the property; or

- replacement in an area identified in consultation with the relevant institution and the regulating government authority where relevant (e.g. the Ministry of Education in the case of church schools).

### 8.3.13 Government-owned Infrastructure

- b) Government-owned infrastructure and public amenities (such as woolsheds, dips and clinics) affected by Project activities will be repaired to their previous condition or replaced in areas identified in consultation with the relevant authority.
- c) Environmental and physical planning considerations will be taken into account in the repair, replacement and siting of affected infrastructure.

### 8.3.14 Public Infrastructure and Services

Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities. Consultation and coordination will occur with government ministries regarding any impacts on government assets/public utilities.

### 8.3.15 Project Occupation of Properties

Where disputing parties have instituted legal proceedings over ownership of an affected property, the property may be accessed by the Project. Any compensation due will be paid once ownership has been determined through the legal process.

## 8.4 Compensation and Resettlement Entitlements

The related compensation and resettlement related entitlements based on the above affected assets valuation are contained in Annex 2 (Compensation and Resettlement Entitlements Matrix), but below are special entitlement provisions.

### 8.4.1 Resettlement Entitlements

The resettlement programme will provide displaced/relocating persons with assistance prior to, during and following their physical relocation, including provision of relevant information, replacement housing (where required), relocation expenses, transitional financial support, income restoration assistance (where required) and provision of social infrastructure (where required).

#### *(a) Relocation Allowances*

In addition to compensation for asset losses, the following relocation related allowances will be paid to eligible persons:

- (i) households other than tenants who are required to relocate will receive a **Housing Displacement Allowance**, the value of which will be determined in consultation with the concerned persons;
- (ii) owners of commercial enterprises who are required to relocate will receive a **Business Displacement Allowance**, the value of which will be determined in consultation with the concerned persons;

#### *(b) Evacuation Allowance*

Apart from informal traders, squatters on public land and tenants, the project will cover the costs of the physical movement of people, livestock, and property. This will be in the form of:

- (i) **evacuation allowance** (e.g. for households electing “voluntary self-relocation” to new residential sites identified by themselves, as common on road developments in urban areas), or
- (ii) the **provision of transport and physical relocation** by the project (e.g. for households relocated to a designated resettlement site).

**(c) Rehabilitation Assistance**

- (i) **Rental Allowance** - paid to displaced tenants of rented accommodation in a project displacement area. An enumerated tenant who voluntarily vacates his/her rented accommodation more than three months prior to the implementation of a project's physical relocation programme will not qualify for this entitlement; a tenant who occupies bona fide (adjudicated) rented accommodation in a project displacement area after the census, but not less than three months prior to the implementation of the relocation programme, will be eligible. Mechanisms will be put in place on each project to discourage opportunistic claims to this entitlement.
- (ii) **Cultivation Disruption Allowance** - paid to non-displaced households whose productive assets are severely affected by land acquisition. These households will be determined in consultation with community representatives and local authorities.
- (iii) **Income Support Grant** - paid to a worker whose employment is terminated due to the business where he/she is employed being forced to close permanently by the implementation of a transport sector project, provided that he/she is (a) of working age and (b) was enumerated as a worker of the affected business during the project's socio-economic census survey. An enumerated wage employee who leaves his/her employer prior to the implementation of a physical relocation programme will not qualify for the grant.

**8.4.2 Host Communities**

**(a) Resettlement Impacts on Host Communities**

- (i) Resettlement will be planned to avoid impacts on other communities. Impacts on communities living in, or with resources in the area to which the resettlers are moved however occur frequently.
- (ii) Increased pressure on social services (schools particularly) and the communal natural resource base frequently arise in host communities as resettlement impact.

**(b) Mitigating Resettlement Impacts on Host Communities**

- (i) Host communities will be considered as project-affected parties and will therefore be compensated according to the same principles as resettlers for any losses incurred as a result of resettlement activities.
- (ii) Impacts on host communities will be mitigated through the Resettlement (Action) Plan, which will describe mitigation proposals for additional social infrastructure and services and the implementation of programmes to improve the production capacity and management of the natural resource base.
- (iii) Formal consultation mechanisms involving representatives of the host and resettler communities will be institutionalised to promote social integration.

**8.5 Special Compensation/Resettlement Provisions**

**8.5.1 Livelihood Restoration Initiatives**

- (a) The RAP/ARAP will detail the support measures required in the period immediately following relocation, as well as the measures necessary for the restoration of livelihoods.
- (b) Compensation for land and assets, as well as other resettlement support measures are important components in the restoration of affected livelihoods. For some categories of affected persons these measures will be sufficient; for others, additional measures to support the restoration of their livelihoods will be necessary. People's livelihood-earning preferences are bound to change as they witness the implementation of the project and resettlement activities, and as new opportunities emerge - to which the project must be responsive. These opportunities will create additional avenues for the participatory design of livelihood restoration measures that are fair to displaced households, appropriate to the local socio-economic context, and beneficial to the project as a whole.

- (c) It is anticipated that livelihood restoration initiatives, which will be investigated and planned during the resettlement planning exercise, will focus on:
  - (i) land-based livelihoods;
  - (ii) wage-based livelihoods;
  - (iii) enterprise-based livelihoods.
- (d) Livelihood restoration options will be identified in consultation with affected communities and households. Where considered viable, these options will be subjected to detailed feasibility studies, after which detailed planning, design, costing and funding options will be undertaken of selected options.
- (e) Livelihood restoration initiatives should be undertaken within the framework of sustainable development and emerging income-generating opportunities so that individuals and communities can continue with improved income-earning activities after withdrawal of project inputs and support.

### 8.5.2 Vulnerable Groups and Social Categories

- (a) Particular attention will be paid to adverse impacts on groups/social categories who because of their social position may be vulnerable to changes brought about by project activities or excluded from its benefits. Persons and groups that may be considered as vulnerable groups are female-headed households, households victimised by HIV/AIDS, child-headed households, households whose members are impoverished, and households made up of the aged or handicapped. These persons are often not able to make their voices heard effectively, and account will be taken of this in the consultation and planning processes, as well as in the establishment of grievance procedures.
- (b) An important vulnerable social category may be households headed by orphaned children. Where such households are affected, measures will be implemented under the project to ensure that their compensation entitlements and well-being are properly managed and catered for. This would include registering their compensation entitlements with the Registrar of the High Court.
- (c) RD will, in consultation with affected communities and their local authorities, identify and register all vulnerable households that are physically or economically displaced by project activities. In all cases, proper socio-economic baselines will be established for these households to confirm impoverishment levels, eligibility and parameters for subsequent monitoring. To promote the restoration of their livelihoods, vulnerable households should be fully involved in decisions affecting their lives.
- (d) Support measures to identified vulnerable social categories should specifically be included in all compensation and resettlement programmes. To promote the restoration of their livelihoods, vulnerable groups should be fully involved in decisions affecting their lives. Consideration should also be given to the following:
  - (i) criteria and process for identifying vulnerable individuals /households /groups;
  - (ii) responsibility of government to these groups; and
  - (iii) agreement on monitoring procedures.
- (e) Support measures to vulnerable social categories will include:
  - (i) a vulnerable household rehabilitation grant;
  - (ii) skills training opportunities as applicable;
  - (iii) income-generating/alternative livelihood earning opportunities (subject to detailed feasibility studies);
  - (iv) assistance to get access to any available poverty alleviation/social welfare programmes;
  - (v) advice regarding project impacts, compensation alternatives and risks, and resettlement options (where required); and

- (vi) advice on alternative subsistence and livelihood strategies, and assistance to gain access to poverty alleviation/social welfare programmes.

### **8.5.3 Mitigation of Construction and Unforeseen Impacts**

- (a) MOPWT and their implementing agencies will ensure that appropriate measures are implemented to manage construction impacts. This will be achieved through the commissioning of project social impact assessments and resettlement plans (RAPs/ARAPs), the incorporation of social impact management measures into civil works documentation.
- (b) Procedures will be implemented to ensure that any damages to buildings and structures resulting from construction activities (e.g. blasting and subsidence) are repaired.
- (c) All other unforeseen impacts that occur during the construction /implementation of a project will be assessed and appropriate mitigation or compensation measures prepared.

## 9.0 ORGANIZATIONAL PROCEDURES FOR DELIVERY OF ENTITLEMENTS

### 9.1 Organisational Procedures for Delivery of Entitlements

As the coordinating authority, RD will assume overall responsibility for the RPF/TIC resettlement related development and implementation functions starting at that programme level and going down to the lower sub-project level of the commissioning and implementation of RAPs/ARAPs. At the programme level, actions tend to be establishment and procedures related, while at the lower activity level they widen coverage to operational areas with activities relating to: asset acquisition and compensation disbursements, physical resettlement where applicable, rehabilitation and livelihood restoration, and effective consultation and participation.

RD will accordingly undertake amongst others the RPF/TIC level and sub-project RAP/ARAP level activities specified in the Table below, either directly or through outsourced agencies:

**Table 6: RPF/RAP Development and Implementation Activities**

	<b>RPF Level Actions/Activities</b>	<b>RAP Level Actions/Activities</b>
1.	Design and implementation of procedures to minimise adverse social impacts (acquisition of land and buildings) throughout the project cycle.	RPF related training including RAP's development skills
2.	Taking the lead in each sub-projects' resettlement planning, RAP development, approvals and financing, implementation and reporting.	Taking the lead in each sub-projects' RAP development study activities.
3.	Integration of main works construction with land acquisition and compensation activities per sub-project.	Undertaking public/stakeholders' meetings/ consultations /information dissemination in relation to each newly approved sub-project's development, including resettlement planning and related RAP developments.
4.	Establishment of required implementation related institutional structure(s).	Establishment of participation/ consultative forums where required.
5.	Appointment of staff and provision of logistical support to resettlement officials.	Implementation of information dissemination campaigns on an ongoing basis.
6.	Training and capacity-building of RD and MOPWT relevant staff for RPF implementation including RAPs developments, to be followed by establishing and capacitating mechanisms for effective participation of other GOL departments /agencies and NGOs in the RAPs development as well as in the delivery of compensation, mitigation and other support measures.	Implementation of capacity-building measures for stakeholders' effective participation in the RAPs development including in the delivery of compensation, mitigation and other support measures.
7.	Development of compensation, grievance and other resettlement related operational procedures.	Disbursements of compensation payments.
8.	Establishment of procedures for the recording of all project-affected persons by means of census and socio-economic surveys and by asset inventory-taking and quantification exercises per RAP.	Implementation of procedures for recording of all project-affected persons by means of census, socio-economic surveys and by asset inventory-taking and quantification exercises per RAP.
9.	Establishment of the compensation management system with inter-linked databases of affected persons, compensation entitlements, disbursements and monitoring.	Training in the use of compensation management system for data entry, manipulation, and use for RPF/RAP development purposes.
10.	Establishment of procedures for the RPF's monitoring and evaluation undertaking, reviews of projects progress reports, production of monitoring and evaluation and other required reports.	Implementation of monitoring and evaluation systems, reports reviews, production of monitoring and evaluation and other required reports.
11.	Establishment of procedures for tracking compliance to RPF and RAP requirements as well as for prompt implementation of corrective actions and the resolution of grievances.	Implementation of procedures for tracking compliance to RPF and RAP requirements as well as for prompt implementation of corrective actions and the resolution of grievances.

	RPF Level Actions/Activities	RAP Level Actions/Activities
12.	Overseeing physical resettlement processes where they occur to ensure timely acquisition of land required for project purposes.	Acquisition of alternative land for relocating households /persons.
13.	Compilation/submission of regular and ad hoc reports	Construction of replacement housing /structures and related infrastructure.
14.		Replacement of communal/ public/ government facilities, infrastructure and services.
		Physical relocation of displaced persons.
		Provision of assistance to resettlers.
		Compilation/submission of regular and ad hoc reports

The above activities will form the basis for developing implementation monitoring and evaluation indicators (Section 13). They will also inform the design of the related institutional set-up as discussed below.

## 9.2 Implementation Arrangements

The overall TIC project is envisaged to be implemented by two agencies of the MOPWT, the RD and the Planning Unit. The Planning Unit is to focus on the components 2 and 3, while the RD will focus on Component 1. It has been determined that the Planning Unit will require project management and fiduciary capacities strengthening through the hiring of Project Coordinator, Financial Management Specialist, and Procurement Specialist. On the other hand, the RD's capacity to undertake implementation of all the civil works and related activities under component 1, has been found adequate.

Established by the Roads Directorate Act No 16 of 2010, the Roads Directorate's mandate deals primarily with construction, upgrading, rehabilitation and maintenance of primary, secondary, tertiary and other roads and footbridges throughout Lesotho. The Network Planning Division, under which the RPF (through the SEU) falls, is responsible for preparation of project briefs, appraisal of new projects, negotiations with potential financiers, requesting for proposals for consultancy services, evaluation of proposals, carrying out topographic surveys of roads and bridges, design of roads and bridge structures for construction, upgrading and rehabilitation of roads and bridges and tender documentation. The Safety and Environment Unit (SEU), which houses the RPF, was created in 2010 as one of the 6 Sections of the Network Planning Division with a mandate for supervision of environmental management and monitoring, for processing social and resettlement/compensation activities, for road safety, and for road transport statistical data collection.

With regard to the RPF nature and requirements, the Safety and Environment Unit (SEU) ensures that all the roads and bridge works are constructed in compliance with the provisions of Lesotho laws and the MOPWT Compensation and Resettlement Policy and Procedures (CRP) of 2012, based on the the World Bank's OP 4.12 (Involuntary Resettlement) which has been implemented for general roads sector since then. However, faced with the additional work associated with the TIC and RPF, the SEU is currently too small a unit, with an original establishment list of 4 professionals (1) Manager - Road Safety and Environment, 2) Valuation Officer, 3) Road safety Engineer, and 4) Sociologist), and currently the last one (Sociologist) is vacant. The SEU's capability is limited by the fact that the RD's programmes have expanded rapidly since the institution's establishment (2010), making it difficult for the 3 officers to adequately service the existing projects as well as the new ones under various stages of development. Furthermore, they lack support structure fully devoted to or based in the field, which then results in valuable time consumed by time-consuming trips. In fact footbridges are not attended to at all. In general, there is still a low appreciation of the World Bank's safeguard policies in general within the RD.

### 9.2.1 Proposed Improved Structure for the RPF Implementation

To address the above-mentioned shortcomings the new position of Social Specialist is envisaged (in addition to the Environmental Specialist) to add to the existing SEU structure in order to oversee implementation of the RPF (both the bridges and the roads under the OPRC). Furthermore, the Social Specialist will: i) mainstream social and gender aspects related to the TIC project development and its sub-



projects' design and implementation; ii) serve as the interface between the RD, the local Community Liaison Officers (CLOs), the gender officers appointed under any Districts and the Local Government structure that will be appointed for the grievance mechanisms to ensure that beneficiaries' needs assessments and feedback mechanisms are constantly and timely provided; and iii) oversee the relation between the CLOs and campsite managers, facilitating dialogue and interchange among them and providing monthly report on this to the RD. The CLOs are envisaged to be employed directly by the OPRC contractor(s) but will also constitute and participation representatives the RPF/SEU.

The SEU structure overseeing implementing the RPF will, through capacitating /training, be in a position to support the following functions of the OPRC's contractors/ engineers (as specified in their contract documents:

- (a) **Screening requirements for social impacts including RAP requirements:** which is to be carried out through the OPRC contractor (working together with local chiefs/councils and local participation structures (including CLOs) in terms of Section 3.1-4: Description of the Process for Preparing and Approving Resettlement Action Plans as applicable).
- (b) **RAP preparation:** which is to be carried out through the OPRC contractor. Capacity to undertake the functions requires the OPRC contractor to have within his core project staff, 1 resettlement specialist and 1 environmental specialist. In the event of the contractor lacking sufficient RAP preparation skills (based on client/WB review of skills), such contractor should cater for hiring external consultant. The composition for RAP team will be agreed with RD and a no objection will be sought from the World Bank team before the RAP study can commence.
- (c) **Monitoring:** there will be Supervision/Monitoring consultant to monitor adequacy of RAP preparation process and its implementation.
- (d) The RD social safeguards staff/ consultant will provide supervisory oversight and ensure reports are submitted timely.
- (e) Upon completion of RAP implementation, the RD will hire an external independent consultant to conduct an audit of RAP implementation.
- (f) WB safeguards specialist will support the RD social safeguards staff/consultant and conduct 2-3 implementation support missions annually in conjunction with the RD.

## 9.2.2 Staff Training and Capacity Building

Since the OPRC is being introduced for the first time in Lesotho, plenty of training on its nature and operational requirements is needed. Specifically, capacity building and training to the staff of RD, RF, and MOPWT in OPRC contract management and road safety measures is needed, so as to enable them to effectively roll out, administer and monitor OPRC contracts and mitigate road safety risks. The TIC, within which the OPRC is but one of its 4 components, also requires same staff training to be understood and embraced. The RPF which is meant to guide physical development activities of the TIC, also requires same staff training to be understood and its role supported. Staff training is also required on understanding and supporting the TIC support sub-components dealing with implementation of citizen engagement mechanisms, HIV/AIDS and gender targeted activities, as well as provisions of independent technical audits of the civil works and RAPs.

The Social Specialist in particular, will need to receive focused training to enable him/her to act as resettlement, compensation and consultation officer, to procure and manage consultancies relating to resettlement planning and RAP studies as well as their implementation, monitoring and evaluation and implementation audits as well as reporting. These are in addition to training in capability to: i) mainstream social and gender aspects related to the development of the project, design and implementation of the infrastructures; ii) serve as the interface between the RD, the CLOs, the gender officers appointed under any districts and the local government structure that will be appointed for the grievance mechanisms to ensure that beneficiaries' needs assessments and feedback mechanisms are constantly and timely provided; and iii) oversee the relation between the CLOs and campsite managers, facilitating dialogue and interchange among them and providing monthly report on this to the RD.

Capacity-building/ training sequencing will start with the exposure of the SEU staff (Valuation Officer, Road safety Engineer, Sociologist, etc.) together with those of the RD, RF, and MOPWT to the WB's social safeguard requirements, including project cycle and resettlement planning. The follow-up training will concern the rest of the same, including other project team officers to undergo all TIC related components training. CLOs will also require training to enable them take their community liaison functions effectively. Furthermore, the SEU environmental and social management staff will further be capacitated to ultimately take charge of the sub-projects' phases of project development cycles, which will include RAPs development, implementation and reporting.

The Table below summarises the details of the above proposed training.

**Table 7: Capacity Training Details**

S/N	Training /Capacity Building Course	Participants	Duration (days)
1.	Exposure (introductory training) of participants to the TIC project components with the related WB's RPF and other safeguard requirements, including project cycle and resettlement planning.	SEU staff (Valuation Officer, Road safety Engineer, Sociologist, Social Specialist, Environmental Specialist, etc.) with staff from the RD, RF, and MOPWT (Planning Unit)	3
2.	Follow-up detailed training of the same participants on the OPRC contract management within project cycle to enable them to roll out, administer and monitor OPRC contracts, within the RPF and other safeguards frameworks.	SEU staff, and staff from the RD, RF, and MOPWT (Planning Unit).	4
3	Deeper training and capacity strengthening of the same participants on more detailed RPF implementation requirements, to enable them to ultimately take charge of new projects' development cycles phases, including RAPs development, implementation and reporting.	SEU staff, and staff from the RD, RF, and MOPWT (Planning Unit).	5
4	Capacitation training on mechanisms for effective participation of other stakeholders in the RAPs development, delivery of compensation, mitigation and other support measures.	SEU staff with others from other GOL departments /agencies, from NGOs, CLOs and participation committees.	4
5	Capacitation training to enable participants to implement newly developed compensation, grievance and other resettlement related operational procedures.	SEU staff with staff from RD and MOPWT (Planning Unit), from other GOL departments /agencies, NGOs, CLOs and participation structures.	4
6	Capacitation training to enable participants to learn about and implement newly developed procedures for recording project-affected persons through socio-economic and census surveys as well as asset inventory-taking and quantification exercises per RAP or project area.	SEU staff with those from the RD and MOPWT (Planning Unit) and the CLOs and representatives of participation structures.	4
7	Capacitation training in the use and management of the newly established compensation management system; learning about data entry, manipulation, and use for disbursements, monitoring, and other purposes.	SEU staff together with those from the RD, RF, and MOPWT (Planning Unit).	4
8	Capacitation training on implementing newly established procedures for the RPF's M&E undertaking (socio-economic surveys /impact, participative), including production of M&E and other required reports.	SEU staff with those from the RD and MOPWT (Planning Unit) and the CLOs and representatives of participation structures.	4
9	Capacitation training on procedural system for provision of replacement housing /structures and for provision of communal/ public/ government facilities, infrastructure and services compensation.	SEU, RD and MOPWT (Planning Unit) staff and the CLOs and representatives of participation structures.	3
10			

Training will be carried out by specialists in each field, and the budget costs rates have been provided in Section 11 (Resettlement Funding Arrangements).

### 9.3 Compensation Agreements and Disbursement Processing

With respect to the issues of Compensation Agreements and Disbursement processing, the following will apply:

- (a) To ensure gender equity, Compensation Agreements, based on the asset inventory taking and valuation (Section 3.1-4) will be signed between RD and affected owners/households, which will describe all the entitlements and forms of payment. Where persons are married in community of property (under civil, customary or any other law), the stipulations of the Legal Capacity of Married Persons Act (2006) and the Land Act (2010) pertaining to the administration of joint estates and immovable property will be adhered to in the signing of the Agreements.
- (b) Where ownership of a property/asset is under dispute, the compensation will be held by RD for disbursement to the rightful owner as determined through court proceedings. Where the compensation offer/award is disputed by the beneficiary, the compensation will be held by RD until a judgement is made through court proceedings after which the compensation as confirmed by the judgement will be awarded.

For each sub-project's RAP/ARAP implementation, the RD will manage and disburse resettlement and compensation related entitlements in line with the following principles:

- (a) A timetable shall be prepared for the disbursement of compensation entitlements and timely access to the land required by the Project. Affected persons shall be given advance notice of the date, time and place of payments through the Project's participation structure, local authorities, public announcements and other suitable methods.
- (b) RD shall not take possession of any private property prior to the signing of Agreements and the delivery of entitlements as per the Agreement.
- (c) Households electing and qualifying for "self-relocation" to new residential sites identified by themselves shall be paid their full compensation entitlements sufficiently in advance of their relocation dates to allow them to evacuate their property on or before agreed evacuation dates. The same arrangement shall apply to households who resettle to a designated resettlement site if they opt to construct their own replacement housing. Where they opt for the provision of replacement housing by the Project, they shall not be moved until their new housing is ready for occupation.
- (d) Compensation and (where required) occupation certificates will be issued to each entitled person, who will be required to sign an acknowledgement of their acceptance of the compensation amount as full and final payment for their losses.
- (e) Any government taxes and duties related to the acquisition and registration of affected and new assets will be the responsibility of the project.
- (f) The payment of compensation will be monitored and verified by representatives of the affected communities and NGOs.
- (g) RD will ensure that all relocated households are provided with land titles (security of tenure) on their replacement land according to the provisions of the Land Act of 2010.
- (h) Co-ordination will be undertaken with other government line departments/ agencies and to ensure effective delivery of compensation, mitigation and other support measures<sup>4</sup>.

### 9.4 NGO Participation

On projects with significant social impacts, RD will assess the possibility of involving suitably qualified and experienced NGOs in aspects of the resettlement and rehabilitation activities. RAP development study will identify the NGO's participation need, roles and any capacitation requirements. Where their

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<sup>4</sup> Key stakeholder departments include the following:

- (a) Lands Administration Authority (LAA - land titling)
- (b) Department of Lands and Physical Planning (LSPP – land allocation, physical planning);
- (c) Department of Local Government (Local Authorities/ Councils); and
- (d) Ministry of Environment / National Environment Secretariat (NES).

participation is deemed appropriate, NGOs will be appointed (and paid out of project funds) to assist amongst others with:

- (a) project information campaigns to ensure transparency of procedures;
- (b) community-level consultations about entitlements, reinvestment of compensation and alternative income-generating opportunities;
- (c) enabling affected persons to gain access to government and non-governmental poverty alleviation and development programmes; and
- (d) participatory monitoring and evaluation exercises.

Below is a list of some existing NGOs which the RAP development would assess and decide on those which can qualify to have a participative role and their capacity enhancement requirements:

**Table 8: Some NGOs with Potential to Participate in RAP Developments**

S/N	NGO's NAME	DESCRIPTION/AREA OF INTEREST
1.	Lesotho Council of NGOs Located in Maseru	It is an umbrella body of NGOs and CBOs in Lesotho. Has member NGOs divided into 6 themes of: i) Human Rights (HR) & Democracy advocacy NGOs (TRC, DPE, etc); ii) Health/HIV&AIDS; iii) Agric & Environment; iv) Women & Children, v) Economics, vi) Justice. Its offices are in Maseru.
2.	Transformation Resource Centre (TRC) Located in Maseru.	It is also a Human Rights (HR) and Democracy advocacy NGO. It is well known for focussing on issues of rights of people affected by large-scale developments, especially water resources developments (dams) and mines.
3.	Development for Peace Education (DPE). Based in Maseru.	It is a Human Rights (HR) and Democracy advocacy NGO. Currently working in 6 of the 10 Lesotho Districts, usually in remote parts where they mobilise people to 'participate' in development and question policies that seem not to answer human rights and development needs of the people.
4.	Action Aid International Lesotho. Based in Maseru	An international NGO working in the Leribe and Thaba-Tseka districts. It is involved in child sponsorship and advocacy for health and education.
5.	Lesotho Network of AIDS Service Organisations (LENASO) (Based in Maseru).	It coordinates all AIDS groups and CBOs in Lesotho.
6.	Touch Roots Africa (TRA).	Provides training in psychosocial support and child protection for NGOs/CBOs to respond to needs of children and young people affected by HIV&AIDS and other social issues.
7.	Blue Cross Thaba-Bosiu Based in Thaba Bosiu (15km outside Maseru City).	Drugs and Rehabilitation centre. Also implements community projects of the same
8.	Skillshare Based in Maseru	A UK based international volunteer organisation focusing on skills development..
9.	Lesotho Red Cross (LRCS) Based in Maseru	It is a humanitarian organisation, with several clinics supported by Health Ministry and runs AIDS/OVC programmes and addresses other social issues such as emergency response in strife and natural disasters.
10.	GROW Based in Mokhotlong	It is an agricultural support project but of late, addresses other social issues.
11.	Rural Self Help Development Association (RSDA).	Also an agricultural NGO working in rural areas to strengthen food security
12.	World Vision Lesotho Based in Maseru.	Rural development oriented NGO.
13.	Catholic Relief Services (CRS). Based in Maseru.	A Relief organisation of the Catholic church dealing with social issues.

## 9.5 Reporting Procedures

Resettlement Action Plan (RAP/ARAP) implementation processes and activities will comply with the World Bank's procedures and reporting requirements as summarised below.

- (a) The RD will request approval from World Bank (WB) to initiate construction activities on a sub-project with completed preparatory activities. WB will then review the status of RAP implementation and its compliance with the approved RAP to determine if the RD has sufficiently completed the key resettlement activities.
- (b) The RD will report to WB on a regular basis during RAP implementation on the status of the resettlement programme.
- (c) WB will provide its approval that a RAP has been sufficiently implemented for a given area and that construction activities may proceed once the RD has certified and provided evidence that:
  - substantially all of the project-affected persons identified in the RAP have received their compensation according to terms of the negotiated agreement;
  - any unresolved cases do not require physical relocation or taking of land critical to maintaining livelihoods;
  - the RD is actively attempting to resolve the cases and/or have referred the cases to the appropriate government entities for resolution;
  - key parties involved with the unresolved cases have received written notice from the RD entity or the government that the affected assets in question will be taken by the government for use in implementation of a project and that sufficient funds have been set aside to cover compensation once the case has been resolved; and
  - sufficient funds to cover future payments for unresolved cases have been reserved in the Detailed Financial Plan and appear as such under the title of “Resettlement Contingency Fund”.

At the end of implementation of each RAP, the RD will cause the carrying out of the implementation audit to assess whether the resettlement activities had been carried out in accordance with the plan, including adherence to the principles of OP 4.12 and other applicable policies and agreements.

## 10.0 GRIEVANCE REDRESS MECHANISMS

Since most TIC sub-projects are expected to involve land acquisition and involuntary resettlement, grievances and disputes will inevitably arise, requiring improved grievance redress mechanisms to allow afford the persons better opportunities to raise any project related concerns, especially with regard to land acquisition and compensation processes as they arise and, if necessary, for corrective action to be taken timeously, with the aim of achieving the project's principle of transparency. The resolution of all grievances and disputes will be according to applicable national legislation.

The following approach, based on the existing MOPWT Compensation and Resettlement Policy Framework (CRPF of 2011) approach is recommended with regard to disputes over land acquisition and compensation processes and other involuntary resettlement related matters:

- **Stage 1:** Any person aggrieved by compensation payments made or not made by Roads Directorate in connection with the acquisition of his/her land, housing or other assets or rights by any TIC sub-project shall lodge a written grievance to the Roads Directorate Environmental and Social Management Unit (ESMU) desk. The sub-project's community consultation structure may be brought in as necessary to assist in the resolution process, including Local authority representatives (e.g. Traditional Authority, Community Councillors). If the grievance is successfully solved, a confirmation form will be signed by the aggrieved person, the RD and local authority representative (e.g. Chief/Community Councillor) as necessary. The entire grievance resolution process will be recorded, and a copy made available to the aggrieved person.
- **Stage 2 – first appeal stage (RD level):** if the grievance is not resolved at this level, the claimant may bring his/her grievance to the office of RD's Chief Executive.
- **Stage 3 – second appeal stage (MOPWT level):** if the dispute is not resolved at this RD level, the aggrieved person may lodge an appeal with the MOPWT level (Principal Secretary's office).
- **Stage 4 – third appeal stage (Ministerial level):** should the grievance not be resolved at this Ministry administrative level, the aggrieved person may lodge an appeal with the Minister of Public Works and Transport.
- **Stage 5 – fourth appeal stage (courts of law level):** if the aggrieved person is not satisfied at this ministerial level attempt, then the grievance may be brought to Lesotho's courts of law. Legal costs will be apportioned /paid according to applicable national practice and procedures. Lesotho's Legal Aid Department offers free legal representation to those who cannot afford their own lawyers

A written record of all grievances raised and dealt with will be ultimately kept by RD. The grievance log will include the following information:

- date of submission;
- details of aggrieved person and nature of grievance;
- details on agreed corrective actions;
- the date that the grievance was closed; and
- outstanding actions for grievances that have not been resolved.

## 11.0 RESETTLEMENT FUNDING ARRANGEMENTS

### 11.1 Funding Arrangements

The important RPF principle is to ensure that land acquisition/ involuntary resettlement as well as other associated costs are seen as integral components of the TIC programmes' individual sub-project. Such costs will only be known upon completion of each sub-project's preparation phase (including costs of any RAPs/ARAPs). These costs include:

- costs for the replacement/compensation of affected assets (direct costs);
- costs associated with household rehabilitation/support measures;
- costs associated with implementation, management and monitoring of resettlement process.

All the above costs are the responsibility of GOL, which will provide contingency budget in line with preliminary schedule of sub-project preparation activities. Such a contingency budget is required to be at hand to avoid delays that could arise when sub-project preparation activities including those of RAP/ARAP (or otherwise), are finalised and consequently implementation commences outside of GOL's budgeting cycle. The GOL could subsequently adjust budget cash-flows align with the signed contract.

### 11.2 Budgeting

Each project/sub-project's RAP or Abbreviated RAP will contain an itemised budget indicating the costs associated with implementation of resettlement activities. The budget will provide for:

- compensation for affected assets;
- household rehabilitation /livelihood restoration measures;
- tables showing itemised cost estimates for all resettlement activities, including provision for inflation and contingencies;
- timetables for expenditures/flow of funds;
- a description of the compensation disbursement timeline/ procedure
- a clear statement of financial responsibility and authority (GOL will be responsible for all compensation and resettlement costs);
- management and administration;
- contingencies; and
- monitoring and evaluation requirements.

The RAP will indicate the funding sources for each item, and the RAP budget will be included in the overall project cost.

Values for compensation amounts and other support measures will be adjusted annually, based on the Consumer Price Index (CPI).

### 11.3 RPF Direct Budget Estimates

Since the details of sub-projects are not yet known, the RPF related costs estimates cannot be determined at this stage. On the rates (daily) can be estimated so that quantities could be applied once determined.

**Table 9: RPF Budget Rate Estimate**

RPF Related Key Cost Elements	Unit Measure	Unit Cost/ Rate/ Day (LSL '000s)	Unit Cost/ Rate/ Day (US\$ '000s)
1. Social Specialist engagement	Remuneration (gross)	15	1.07
2. 4 Short term specialists (1) Resettlement, 2) Consultation, 3) Data Management), 4) Operational Procedures Development,	Remuneration /specialist	16	1.14
3. Exposure (introductory training) of participants to the TIC project components with the related WB's RPF and other safeguard requirements, including project cycle and resettlement planning (outsourced).	Training costs/day	82	5.86

RPF Related Key Cost Elements	Unit Measure	Unit Cost/ Rate/ Day (LSL '000s)	Unit Cost/ Rate/ Day (US\$ '000s)
4. Follow-up detailed training of the same participants on the OPRC contract management within project cycle to enable them to roll out, administer and monitor OPRC contracts, within the RPF and other safeguards frameworks (outsourced).	Training costs/day	82	5.86
5. Deeper training and capacity strengthening of the same participants on more detailed RPF implementation requirements, to enable them to ultimately take charge of new projects' development cycles phases, including RAPs development, implementation and reporting.	Training costs/day	82	5.86
6. Establishing and capacitating mechanisms for effective participation of other GOL departments /agencies and NGOs, participation committees and CLOs in the RAPs development, delivery of compensation, mitigation and other support measures and carrying out related staff training (outsourced).	Training costs/day	82	5.86
7. Support resources provision for the carrying out of support to citizen engagement, gender and other participation targeted activities.	Person-day	16	1.14
8. Development of compensation, grievance and other resettlement related operational procedures and carrying out related training (outsourced consultancies).	Person-day	16	1.14
9. Development of and training on and implementation of procedures for recording of all project-affected persons by means of census, socio-economic surveys and by asset inventory-taking and quantification exercises per RAP (key activities outsourced).	Costs/day	16	1.14
10. Establishment of the resettlement/ compensation related Management Information System (outsourced)	Lump-sum	295	21.07
11. Training in the management and use of compensation management system for data entry, manipulation, and use for disbursements, monitoring, and other purposes (outsourced).	Training costs/day	16	1.14
12. Establishment of procedures for the RPF's M&E undertaking, including related internal staff training and production of M&E and other required reports (outsourced).	Person-day	16	1.14
13. Implementation of other M&E systems (socio-economic surveys /impact, participative, audit and external) (outsourced).	Costs/day	56	4.00
14. Establishment of and training on procedural system for provision of replacement housing /structures and related infrastructure and related training on resettlement implementation (outsourced).	Person-day	16	1.14
15. Establishment of and training on procedural system for provision of compensation for communal/ public/ government facilities, infrastructure and services (outsourced).	Person-day	16	1.14
16. Supervision/Monitoring consultant to monitor adequacy of RAP preparation process and its implementation (outsourced).	Person-day	17	1.21
17. Upon completion of RAP implementation, the RD will hire an external independent consultant to conduct an audit of RAP implementation (outsourced).	Person-day	17	1.21
18. Provision of required equipment, transport, communication, etc. to support the above actions.	Cost-rate/ day	12	0.86
	Lump-sum	86	6.14

Used Dollar/Loti exchange rate: 1:14



## 12.0 COMMUNITY CONSULTATIONS/PARTICIPATION MECHANISMS

### 12.1 Approach to Consultation /Participation

In the OP 4.12 (Involuntary Resettlement), whether through the RPF or RAP/Abbreviated RAP instruments, community participation is central to all those projects involving land acquisition/ involuntary resettlement like in the case of the proposed TIC's major sub-projects involving the OPRC based roads development (with long-term maintenance component), from conception to implementation stages. To that end and through the RPF, the RD shows commitment to an approach that considers project-affected communities as key stakeholders, and places a premium on transparency and equity. Guided by the following principles, the RD accordingly shall:

- work with affected communities and their local authorities to set up consultation structures and disclosure mechanisms;
- ensure that affected people are kept fully informed of their rights and responsibilities by having easy access to understandable information;
- ensure that affected communities are placed in a position to participate in the resettlement planning and implementation process; and
- ensure that the outcome of the consultation process is properly recorded and incorporated into the decision-making process.

Information disclosure and consultation with stakeholders is an ongoing process, and will be conducted and adjusted as required throughout the project cycle, forming its key components of development, implementation and operation phases.

The consultation methods to be used will include:

- individual interviews with project-affected persons during RAP preparation (e.g. census and socio-economic surveys) and implementation (compensation negotiations);
- community meetings/pitos to discuss project impacts and mitigation measures;
- small-group meetings with specific stakeholder groups (e.g. women) as required;
- consultation with other key project stakeholders (e.g. Community and District Councils); and
- dissemination of project information to affected persons and other key stakeholders (e.g. via fact sheets).

Consultation with affected persons and communities will take account of the requirements of gender, legal and policy stipulations to ensure equitable representation of women, men and youth, as the TIC's envisaged elements below would show.

### 12.2 Some TIC's Envisaged Community Involvement Elements

The proposed TIC project in general, and the OPRC roads provision (with maintenance) in particular, envisages a community involvement in road construction/ rehabilitation and maintenance planning and implementation as one of major priorities. To that end the OPRC contracts are planned to include provision of equal hiring opportunities for both men and women to support women's participation in the road works. Community engagement activities are designed enable affected communities to take control of their road networks and become involved with local-level planning decisions. Such activities will, amongst others include: (i) consultations in all beneficiary communities every 6 months carried out by the Community Liaison Officers (CLOs) selected in each community by the OPRC contractor. The CLOs will serve as community monitors, provide monthly updates regarding the planned works in their communities, and report any issues or problems associated with the implementation of these works on the ground, including any possible concerns resulting from the influx of workers into construction camp sites; (ii) implementation of the community monitoring system to inform the beneficiaries of the status of rehabilitation works and other project-related activities complemented by a grievance redress mechanism that will be operated by RD and MOPWT and will allow the affected to submit questions, complaints, or suggestions via email, phone, text message or regular mail; and iii) a continuous dialogue with the construction camp site manager to facilitate a friendly and supportive environment between communities and workers living in the construction camps.

The envisaged participation is meant to influence the designs of roads and footbridges as well as of the OPRC contracts to all take account of the needs of children, women and girls, men and boys as well as the elderly from planning, through construction, and to operation and maintenance phases. Construction campsites are generally expected to pose a bad relations' risk between communities and campsite workers e.g. the arrival of a significant male labour force would tend to result in some local women and girls engaging in relations with the workers, with this exacerbating the already high incidence of sexual transmitted infections (STIs) in the country, including HIV/AIDS, and further resulting in the adolescent pregnancy and families' disruptions amongst others, and these requiring awareness campaigns and coming up with preventive interventions so as to create a safer and healthier environment among communities and campsites dwellers.

### 12.3 Consultation/ Participation in the Project Cycle

The RPF requires as a principle that for each RAP or otherwise preparation, persons will have the right to be consulted and to participate in decision-making throughout the course of the TIC/OPRC's subsequent sub-projects' preparation to implementation stages. Consultation and participation will occur during each sub-project stages of:

- project preparation and planning;
- project implementation; and
- as part of monitoring and evaluation exercises.

### 12.4 Project Preparation and Planning Stage

(a) Consultation will occur in the earlier stages of each sub-project planning (i.e. identification and conceptualisation), but limited to discussions with key stakeholders, such as local authorities and key informants, since the configuration of the project – and therefore the identification of affected persons – would not as yet have been finalised. These discussions will be recorded and become part of the project's documentation. With respect to the OPRC and bridges at this conceptual stage citizen engagement will be in prioritizing the roads and foot bridges location determination and to also engage with the villages along the way to understand their prioritized requirements may be undertaken. Such an approach will ensure that the proposed investments are maximized for the benefit of the rural population. During subsequent preparation and planning phases the consultation process will be progressively diversified to include community *pitsos*, individual household interviews, group discussions and other ESIA techniques.

(b) During each RAP preparation and planning stage, consultation and participation will include at least the following elements:

- Start-up *pitsos*, to introduce the newly approved project, explain potential impacts and obtain agreement for the research and fieldwork.
- Interviews with affected persons and other interested parties, to indicate the possible extent of land/asset acquisition, to gather baseline socio-economic information and that of asset inventory (see Section 3.1-4), and to obtain their resettlement related views, concerns and preferences.
- Where a significant number of households are affected (say 10 or more in a village), focus group discussions will be conducted with community representatives to explore and assess:
  - patterns of social interaction and organisation in the community, and the likely impact of the project on social networks and support systems;
  - potential impacts on local economic activities and the communal natural resource base;
  - the impacts on community infrastructure and services;
  - viable compensation/mitigation measures.
- Concluding *pitsos*, to discuss research results and further planning activities and schedules.

- (c) As stated earlier, the participation needs and requirements of each project/sub-project will be context specific. Envisaged project locations will be in the rural, especially the remote highlands areas with scattered settlements. Selected TIC sub-projects will accordingly differ as some will affect relatively larger numbers of households. Each RAP will accordingly have to fit its specific situations.
- (d) At the commencement of fieldwork, each RAP will assess and propose the participation approach to be followed, given the project's social setting and impacts. The emphasis will be on using existing local institutions and structures wherever possible. Where deemed appropriate, project-specific consultation forums will be established, in conjunction with local institutions, to supplement existing structures. In all instances the establishment of such forums/project committees will be undertaken in a sensitive and informed manner.

## 12.5 Project Implementation Stage

- (a) Community *pitsos*, group discussions, liaison with local authorities/ institutions and (where established) consultative forums will be the main form of community participation during implementation of the relevant sub-projects. The aim of participation during this stage will be:
  - to involve affected communities and local authority structures in the planning and execution of resettlement activities, thereby promoting collective organisation and decision-making;
  - to ensure ongoing dissemination of resettlement and compensation information and schedules to affected households.
- (b) Where project-specific forums/project committees are established, their key functions will be:
  - to represent the residents of settlements in their areas of operation;
  - to advise their “constituencies” of all project-related matters (e.g. resettlement schedules, compensation agreements, construction job opportunities);
  - to participate in negotiations on resettlement and compensation issues;
  - to cooperate with project and government officials in the implementation of resettlement activities, and with the resolution of grievances and implementation problems.
- (c) Additionally, consultation will occur at individual/ household level throughout project implementation phases to implement RAPs, ARAPs, etc. where determination of resettlement preferences and compensation entitlements and packages would occur.
- (d) In all instances, individual and group/community discussions will be recorded and become part of the project's documentation.

## 12.6 Participation in Monitoring and Evaluation

- (a) Project monitoring requirements, and the participation of affected persons in these activities, will depend on each sub-project's nature and scale of land acquisition and resettlement, and hence its particular RAP requirements.
- (b) On sub-projects where these impacts are small, monitoring will be limited to consultations with affected individuals/ households to discuss their reestablishment and any problems that have occurred or are occurring that they require to be addressed.
- (c) On projects with significant social impacts, the participation of affected persons and communities in monitoring and evaluation will occur through formal activities such as quantitative socio-economic monitoring surveys and participatory monitoring and evaluation.

### 13.0 MONITORING AND EVALUATION

The effectiveness of the TIC and related sub-projects' compensation and resettlement programme will be monitored, including physical progress with resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts. The overall objective of monitoring will be to provide feedback on the implementation process, and to identify problems and successes as early as possible in this process so that timely adjustment of implementation arrangements can be made.

The socio-economic census undertaken during resettlement planning (Section 3.1-4) and other relevant socio-economic studies will be used to compile baseline information on affected households and communities, and assist with the assessment of livelihoods and standards of living. This baseline information will provide a set of socio-economic indicators against which to measure, as part of the monitoring programme, any changes in the livelihoods and income of affected households.

#### 13.1 Monitoring Framework

The overall aim of the monitoring programme will be to measure the extent to which the goals of the compensation and resettlement programme have been achieved. Indicators (the variables used to measure progress toward the goals of the compensation and resettlement programme) and targets (the quantified levels of the indicators to be achieved at a given point in time) will be established in consultation with affected communities and other key stakeholders. The following range of indicators will be established:

- (1) **input indicators** (to measure the financial, physical and human resources allocated for the attainment of resettlement and livelihood restoration goals);
- (2) **output indicators** (to measure the services/goods and activities produced by the inputs; e.g., compensation disbursements for acquired assets, preparation of resettlement sites and allocation of residential plots and the construction of replacement services/facilities);
- (3) **outcome indicators** (to measure the extent to which the outputs are accessible and used, and the levels of satisfaction with services and activities produced by the inputs.; e.g. the ways in which compensation was used by recipients, changes to schools enrolment figures in resettlement areas, and changing local attitudes to project implementation);
- (4) **impact indicators** (to measure the key dimensions of livelihood restoration so as to determine whether the goals of the compensation and resettlement programme have been achieved; e.g., restoration and diversification of income levels across different social categories,); and
- (5) **process indicators** (to measure and assess implementation processes; e.g., the functioning of liaison/participation structures, the levels of representation of different social categories and the processes by which conflicts and disputes are resolved).

They are summarily detailed hereunder.

#### 13.2 Performance Monitoring

Performance monitoring will measure progress with resettlement and livelihood restoration against scheduled actions and milestones. Input and output indicators associated with performance milestones will be monitored.

On-going monitoring of resettlement implementation will occur as a standard project activity. The project's community consultation structure will play an important monitoring role by providing feedback on community concerns, grievances and requests.

Internal monthly monitoring reports will be compiled, while formal monitoring reports will be prepared on a quarterly basis for distribution to key project stakeholders.

### 13.3 Impact Monitoring

Impact monitoring will focus on the effectiveness of resettlement and livelihood restoration measures, the identification of constraints and the recommendation of any corrective measures that may be necessary. Data collection will occur at two levels:

- at household level, through the use of quantitative (standardised) socio-economic and health survey instruments;
- at group/community level, through the use of qualitative (participatory) monitoring and evaluation techniques.

In both cases, external agencies will be appointed to assist with impact monitoring exercises.

### 13.4 External Evaluation Panel

An External Evaluation Panel/ Consultant will be appointed to provide guidance to the RD on the compensation and resettlement programme, especially to monitor adequacy of RAPs preparation process and their implementation. The Panel/ Consultant will undertake overall evaluations of the resettlement and livelihood restoration work being undertaken by the TIC project and its sub-projects, and have the following scope of work:

- examining internal monitoring reports and quantitative and qualitative socio-economic monitoring reports;
- visiting resettlement sites and consulting relocated and host communities to verify the success of the resettlement programme;
- evaluating project institutions, including capacity and operating constraints;
- analysing budgets and expenditure in relation to milestones and site realities; and
- advising on any emerging issues and providing recommendations on how to address issues and improve the resettlement programme.

In addition to the various indicators assessed by other forms of monitoring, the Panel will consider process and sustainability indicators.

There will be an audit of each completed RAP by external consultant.

The monitoring framework Table below presents a summary with monitoring indicators specified for the TIC in general while individual RAP will specify others as relevant.

**Table 10: Monitoring Framework**

Monitoring Activity	Indicator Type and Recommended Indicators	Responsibility	Frequency
Internal (performance) monitoring	Input, output and process indicators, measuring: <ul style="list-style-type: none"> <li>• procedures in operation, which for TIC should include Section 9.1 functional activity processes milestones;</li> <li>• physical progress against established milestones which for TIC come from the project work program.</li> </ul>	RD	<ul style="list-style-type: none"> <li>• Monthly internal reports</li> <li>• Quarterly/ annual reports</li> </ul>
Standardized (quantitative) monitoring	Mainly impact-derived indicators measuring: <ul style="list-style-type: none"> <li>• social impact indicators, which for TIC should include: i) demographic changes; ii) changes to status of women, iii) children and vulnerable groups; iv) changes to land use and tenure patterns.</li> <li>• health indicators including: i) birth rate, ii) death rate, iii) infant mortality rate; iv) incidence of communicable and preventable diseases (e.g. diarrhoea, HIV, TB); v) access to primary and other health care; vi) access to potable water; vii) changes to nutritional status of households.</li> </ul>	RD; M&E consultant	<ul style="list-style-type: none"> <li>• Annual</li> </ul>

Monitoring Activity	Indicator Type and Recommended Indicators	Responsibility	Frequency
	<ul style="list-style-type: none"> <li>economic impact indicators which for TIC should include: i) the employment levels; ii) crop output and production costs; iii) household asset profiles and landholdings; vi) income, expenditure and consumption levels;vii) success of income restoration and development initiatives.</li> </ul>		
Participatory (qualitative) monitoring	<p>Community-derived indicators applying where resettling households number over 10 in one village should include those assessing:</p> <ul style="list-style-type: none"> <li>Attitudes to key resettlement initiatives (e.g. adequacy of compensation);</li> <li>Perceptions and suggestions relating to negative project impacts (e.g. crime)</li> <li>Perceptions and suggestions relating to positive project impacts (e.g. access to services).</li> <li>Disturbances to social practices and fabric of local communities (e.g. influx of jobseekers).</li> <li>attitudes to key implementation and mitigation issues;</li> <li>perceptions and suggestions relating to project impacts, both negative and positive;</li> <li>satisfaction regarding the level of community participation and consultation.</li> <li>Host community reaction and concerns regarding presence of resettlers.</li> </ul>	RD; M&E consultant	<ul style="list-style-type: none"> <li>Quarterly via participation structure</li> <li>Annually by external agency</li> </ul>
External Assessment and Evaluation	<p>Output, impact, process and sustainability indicators which for TIC should include those assessing:</p> <ul style="list-style-type: none"> <li>procedures in operation and physical progress against established milestones;</li> <li>objectives and rationale of mitigation measures;</li> <li>success of resettlement and livelihood restoration measures.</li> </ul> <p><b>Process:</b></p> <ul style="list-style-type: none"> <li>Level of commitment of project authority (e.g. funding, staffing, transparency).</li> <li>Capacity of primary implementing agent.</li> <li>Capacity of government agencies and NGOs to fulfil their respective roles.</li> <li>Appropriateness of the consultation and participation process.</li> </ul> <p><b>Sustainability:</b></p> <ul style="list-style-type: none"> <li>Degree of autonomy of affected community leadership structures.</li> <li>Development of unsustainable dependencies (e.g. ongoing project maintenance of services).</li> <li>Sustainability of natural resource utilisation patterns in project and host areas.</li> </ul> <p>There will further be external audit of completed RAP.</p>	External Evaluators	Bi-annually during first 2-3 years of the project, thereafter annually

### 13.6 Reporting Requirements

Reporting requirements will be as prescribed under Section 9.5 (Reporting Procedures).

## 14. ANNEXES

### 14.1 ANNEX 1: Legal, Policy and Institutional Framework Review

#### a) Legislative Framework Review

Key Legislation	Appropriateness
<p><b>1.0 The Constitution of Lesotho (1993)</b>  The Constitution of Lesotho protects citizens from the arbitrary seizure of property. Article 17(1) states that “no property, movable or immovable, shall be taken possession of compulsorily, and no interest in or right over any such property shall be compulsorily acquired, except where the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>(a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and</li> <li>(b) the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and</li> <li>(c) provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.”</li> </ul> <p>Article 17(2) grants a person with an interest in or right over property that is compulsorily acquired “a right of direct access to the High Court for:</p> <ul style="list-style-type: none"> <li>(a) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled; and</li> <li>(b) the purpose of obtaining prompt payment of that compensation.”</li> </ul>	<p><b>Relevance to the RPF</b>  The Constitution’s relevance is in enabling making provisions aligned to the World Banks’ OP 4.12 Involuntary Resettlement requirements directly as quoted and indirectly through enabling enactment of specific laws such as the Land Act 2010 which deals directly with asset losses and compensation provisions. Both the Land Act and the Constitution have minimal gaps or impediments to the operationalisation of OP 4.12 (see Section 8 comparative and analysis Table).</p> <p><b>Adequacy/Effectiveness</b>  The Constitutional provisions relating to land acquisition and compensation requirements are adequate for the RPF operational requirements. The same with Land Act 2010, except that there are no Lands Administration Authority offices to provide services in the remote rural areas where TIC projects would be undertaken, thereby requiring extra resources and effort to comply with the acquisition processes by linking remote TIC locations with Maseru and Districts (see Section 4 regarding land acquisition in the rural setting).</p>
<p><b>2.0 Land Act (2010)</b>  This Act replaced that of 1979 in June 2010, governing land ownership and occupation, and the acquisition of property for public and development purposes. Related Land Regulations were gazetted in 2011. The Land Act provides for:</p> <ul style="list-style-type: none"> <li>• the grant of titles to land, the conversion of titles to land, and the better securing of titles to land;</li> <li>• the administration of land;</li> <li>• expropriation of land for public purposes;</li> <li>• the grant of servitudes;</li> <li>• the creation of land courts and the settlement of disputes relating to land; and</li> <li>• systematic regularisation and adjudication.</li> </ul> <p><b>Expropriation of land for public purposes.</b> Section 50(1) provides that land may be expropriated for public purposes for amongst others:</p> <ul style="list-style-type: none"> <li>• roads, aerodromes, railways, canals, water supply, drainage and sewerage;</li> <li>• social services such as schools, hospitals and low income housing;</li> <li>• water conservation by means of watersheds, water catchment areas and reservoirs;</li> <li>• government housing for residences and offices; and</li> <li>• any public utility service.</li> </ul> <p><b>Expropriation principles.</b> Section 52 stipulates that expropriation will be “subject to the following principles:</p>	<p>The Land Act 2010, administered mainly through the Lands Administration Authority (LAA) established through the 2010 Act, is the key law enabling the TIC/RPF to operate to the OP 4.12 requirements unhindered. The Land Act 2010 is aligned to OP 4.12, with a minor gap relating to operations in remote TIC projects areas (see Section 7 analysis Table), as mentioned under the Constitution section above, as well as ((see Section 4 regarding land acquisition in the rural setting). TIC resources have to be provided, to ensure compliance of OP 4.12 with the Land Act 2010 provisions by expediting land acquisition processes by linking the rural part needs with the urban providers. Key land issues involve land acquisition and servitudes for public purpose provisions, compensation and resettlement processes, joint ownership title by</p>

Key Legislation	Appropriateness
<p>(a) the Government shall first negotiate with the holder of land rights which are the subject of potential expropriation and resort to expropriation only upon failure of the negotiations;</p> <p>(b) prior adjudication of the land proposed for expropriation and other lands, whether adjoining or not as may be affected by the expropriation;</p> <p>(c) payment or settlement of compensation as provided for in ... the Act and under the regulations;</p> <p>(d) a party whose land rights are the subject of expropriation by the Government shall have the right to appeal to the Land Court against the decision of the Government in this regard.</p> <p><b>Public servitudes.</b> Sections 53 and 54 make provision for the establishment of public servitudes by the Government, a local council or a statutory corporation and the payment of compensation.</p> <p><b>Compensation.</b> Section 56 stipulates that compensation for compulsory acquisition of property shall be at market value. Section 58(2) states that “in assessing compensation, regard shall be had:</p> <p>(a) to the value of the property as certified by an odd number of valuers, one of whom shall be the Government valuer, having regard to the present and future replacement value; and</p> <p>(b) to the expenses incidental to any necessary change of residence or of place of interest.”</p> <p>Section 60 stipulates that that in all cases of compulsory acquisition compensation must be paid before conclusion of expropriation.</p> <p><b>Joint title in marriages.</b> Section 10(1) confers joint title to property to both spouses married in community of property (under civil, customary or any other law, irrespective of the date on which the marriage was entered into), and equal powers in land transactions.</p>	<p>spouses, etc. While local individuals would find compliance onerous due to remoteness of the TIC project areas, the project with resources should be able to do so expeditiously.</p>
<p><b>9.0 Legal Capacity of Married Persons Act 9 of 2006:</b></p> <p>It came into effect on 6 December 2006. Before the commencement of this Act a woman was regarded as a minor in terms of Lesotho laws and therefore could not enter into any contracts without the consent of her husband. The Act repeals the marital power which a husband had over the person and property of his wife and confers equal powers on both spouses married in community of property. This means that the spouses now have an equal capacity to dispose of the assets of the joint estate, contract debts for which the joint estate is liable, and administer the joint estate.</p> <p>The Act removes the following restrictions which the marital power placed on the legal capacity of the wife:</p> <ul style="list-style-type: none"> <li>entering into a contract;</li> <li>suing or being sued;</li> <li>registering immovable property in her name;</li> <li>acting as an executrix of a deceased's estate;</li> <li>acting as a trustee of an estate;</li> <li>acting as a director of a company;</li> <li>binding herself as surety; and</li> <li>performing any other act which was restricted by any law due to the marital power before the commencement of this Act.</li> </ul> <p>The Act requires that both spouses obtain consent of the other spouse when entering into any agreements concerning the joint estate. Article 10 of the Land Act has similar provisions with regard to the power of spouses married in community of property. Polygamous marriages are treated in the same manner, as if each household was a monogamous marriage “and each of the multiple wives shall be responsible for land matters relating to her household”. Transactions relating to land “shall be conducted by both spouses in monogamous marriages in community of property jointly or with the consent of another spouse, and where any document require a signature, the document shall be signed by both spouses unless they agree in writing that one spouse shall represent and sign on behalf of the other”. Where any of the spouses is “for any reason unable to sign or give consent or unreasonably</p>	<p><b>Relevance</b></p> <p>The Act seeks equality of married couples with respect to land and land-based asset ownership and joint management. With respect to the RPF work, its relevance centres on land and assets ownership, their loss to the project, resultant compensation arrangements, including all aspects of resettlement. Where large-scale water projects have been undertaken, the issue of joint titles in resettlement has been practically implemented.</p> <p><b>Effectiveness</b></p> <p>The law is generally effectively implemented in recent times with respect to compensation and land utilisation where public sector large-scale projects are concerned. The RPF should encounter minimal problems in addressing issues gender equity.</p> <p><b>Shortcomings and Recommendations</b></p> <p>The law is generally adequate for the RPF to operate in all respects, the draw-back is that in the case of TIC, the affected people are in remote areas and may require special assistance from the project to realise the intended benefits.</p>



Key Legislation	Appropriateness
withholds a signature or consent ... the other spouse may apply to the District Land Court for leave to perform the act without the required consent or to sign alone”.	
<b>Other Relevant Legislation</b>	
<p><b>3.0 The Roads Act (No. 24) of 1969</b></p> <p>The Road Act (No. 24) of 1969 provides for the “locating, constructing, opening, maintaining, protecting, deviating, working and closing of roads”.<sup>5</sup> The Act has not been amended, and is considered to be at variance with current land allocation and management practices.</p> <p>Sections 4, 5, 6 and 8 provide for the declaration of road reserves for the purposes of road construction, maintenance and protection:</p> <ul style="list-style-type: none"> <li>• Section 8 states that the width of a road reserve will not be more than “one hundred feet wide” unless otherwise required; and</li> <li>• Section 5 (3) (a) states that “no person shall construct or maintain any road unless a road reserve has been declared by the Minister in respect of that road.”</li> </ul> <p>Section 25 provides for compensation for any direct damage resulting from road construction or maintenance “to dwellings, buildings, gardens, plantations, crops, cultivated trees or lands under irrigation (not being land which is capable of irrigation but not actually under irrigation).” The Act does not make provision for the payment of compensation for land, other than food gardens and land under irrigation. In practice, compensation is now paid for the loss of land, with the exception of community-based road projects where land is generally donated. Section 25 of the Act further states that the compensation payable “shall be determined by agreement between the parties.” Where agreement cannot be reached, “the matter shall be referred to a single arbitrator” as agreed between the parties or as nominated by the “Resident Magistrate or Acting Resident Magistrate of Maseru”. The provisions of Section 25 also apply where storm-water from road drains cause damage to property.</p> <p>Other provisions of the Act confer the following rights and responsibilities to a road authority:</p> <ul style="list-style-type: none"> <li>• the right to erect fences and gates on the boundaries of a road reserve as deemed necessary;</li> <li>• the right to cut down and remove trees and vegetation within the road reserve for the purposes of road construction and maintenance. Trees/ vegetation that have been removed remain the property of the former land occupier, while those not required to be moved from the reserve become the property of the road authority;</li> <li>• the right to “make openings in fences and walls, and to make roads to quarries and other places, provided that on completion of the work the road authority shall at its expense restore such fence or wall and close such road if required”; and</li> <li>• the responsibility to “securely fence, fill in or otherwise make safe, any quarry or other excavation made in the course of the work and which may be a source of danger”.</li> </ul> <p>The Act is currently under review as part of the Ministry of Public Works and Transport’s (MOPWT’s) institutional and policy reform process. Proposed amendments to the Act include:</p> <ul style="list-style-type: none"> <li>• reserving regulatory matters related to roads to the Minister in charge of roads;</li> <li>• amending the section on land acquisition (Section 6) to conform to the provisions of the Land Act of 1979; and proposing that the Roads Directorate or local authority request that the land required for road construction and related works be set aside as a Selected Development Area under the Land Act, and treated accordingly; and</li> <li>• replacing Section 25 of the Act, dealing with compensation, with a provision that the Minister, in consultation with the Ministers responsible for finance and</li> </ul>	<p><b>Relevance</b></p> <p>The Act provides for ownership, construction and maintenance of roads. It is central and directly related to the RPF work in that respect, operating in concert with the land law and others.</p> <p><b>Effectiveness</b></p> <p>To the extent that the law has enabled construction of roads for close to 50 years, it can be said to be effectively implemented. As stated earlier, it is under review to update it and bring it in line with sister legislations such as the land and environmental laws.</p> <p><b>Shortcomings and Recommendations</b></p> <p>As the 1969 law, it is generally out-of-date and hence not fully aligned to the 1993 constitution and subsequent laws such as the Land Act 2010 and Environment Act 2008. What is heartening is that the draft Bill, under preparation in the last 10 or more years, exists, and is ready to go to Parliament for enactment. The recommendation is that the action should be taken as soon as possible, and be effectively implemented to enable effective implementation of TIC and the RPF</p>

<sup>5</sup> Supplementary to this Act, the Road Transport Act (No. 6) 1981 provides for “a co-ordinated development and flexible control of the means of and facilities for road transport by way of permits”, and the establishment of a Road Transport Board responsible for the administration of the Act.

Key Legislation	Appropriateness
land affairs, will make rules for the compensation of properties affected by road works, and that these rules should be considered by parliament for a minimum period of one month before becoming effective.	
<p><b>8.0 Local Government Act 1997</b> (as amended by the Local Government (Amendment) Act (no. 53) 2004, and the Local Government Regulations (no.48) 2005). It makes provision for the following local authorities: 1) Community Councils, 2) Urban Councils, 3) Municipal Councils, and 4) District Councils. Every local authority shall, subject to powers vested in another authority, regulate, control and administer all matters within its administrative limits relating to, amongst other things:</p> <p>1) control of natural resources (e.g. sand, stones) and environmental protection (e.g. pollution); 2) public health (e.g. refuse collection and disposal); 3) care of mothers, young children, the aged and integration of people with disabilities; 4) physical planning; 5) land/site allocation; 6) minor roads (including bridle paths); 7) grazing control; 8) water resources, and maintenance of water supply in villages; 9) provision and regulation of markets; 10) promotion of economic development; 11) roads and traffic; 12) streets and public places; 13) omnibus terminals; 14) mortuaries and burial grounds; 15) parks and gardens; 16) control of building permits; 17) education; 18) recreation and traffic; 19) fencing; 20) services for the improvement of agriculture; 21) preservation, improvement and control of designated forests in local authority areas; and 22) local administration of central regulation.</p> <p>In particular, Community Councils shall perform the functions of the control of natural resources, land/site allocation, minor roads, grazing control, maintenance of water supply, market provision and regulation, and burial grounds. A District Planning Unit is to be established in each administrative district, comprising planning officers and public officers of any Ministry working within the administrative district. This Unit is to provide planning services for the Councils within the district, and to formulate and finalise annual District Development Plans, with input from the Councils and recommendations made by the District Development Coordinating Committee (DDCC)<sup>6</sup>, for submission to the Ministry responsible for Economic Planning.</p>	<p><b>Relevance:</b> The Act is relevant as it establishes local authorities looking after rural settlements and related local developments. Road access construction, especially in the rural setting, relies on local authorities for land acquisition, compensation, consultations, rehabilitation, social and environmental safeguards, all of which the RPF/TIC are concerned with.</p> <p><b>Effectiveness:</b> The law has been effectively implemented to the extent that elected local authorities exist and exercise some of the specified legal functions, but the major constraint is lack of financial, skills and other required resources. With respect to the RPF related work, local authorities function well as participative structure, but lack monitoring skills, especially since rural access roads construction are of short durations (with hardly any maintenance work).</p> <p><b>Shortcomings and Recommendations</b> Lack of resources constrain the effectiveness of implementation, and for the TIC/RPF purposes, project resources should make for efficiency gap by expediting compliance processes between the urban offices and rural areas.</p>

## b) Policy Framework Review

Key Policies	Appropriateness and Effectiveness
MOPWT/Roads Directorate Resettlement Policy 2010 (actually the CPRF, Policy and Procedures 2010 – originally under MOPWT).	<p><b>Essence:</b> preparation of the OP 4.12-based Compensation and Resettlement Policy Framework (CRPF) for the Transport Sector, together with related Compensation and Resettlement Policy and Procedures (CRP) were prepared and completed by MOPWT in 2011, and the Policy has been implemented for the roads sector development since then by the RD. The Terms of Reference for this RPF preparation have included review of CRPF with a view to designing the new RPF.</p> <p><b>Appropriateness:</b> the CRPF/CRP have been appropriate for that time (2010-2015) however, that was the time of Roads Directorate creation and steady capacitation, with its Environmental and Social Management Unit (ESMU) now called Safety and Environmental Unit (SEU) looking after the Policy implementation. The OPRC, the new and future model of roads development with long term maintenance by the same contractor, requires an adjusted social safeguards framework, which this RPF seeks to do.</p> <p><b>Effectiveness and recommendations:</b> the institutional implementation effectiveness has not been as good as expected due to ongoing institutional framework changes (e.g. starting with MOPWT and ending with new RD), the fact that it has not been officially adopted (by GOL), and lack of required resources, especially staff (only 3 staff in place), with this hampering efficiency since roads developments are all over the country. That is why the TIC proposes to add with the Social Specialist for RPF side, and Environmental Specialist for the ESMF. Furthermore, policy consolidation is required to</p>

<sup>6</sup> The District Development Co-ordinating Committee shall consist of representatives from the Municipal, Urban and District Councils; public officers, including the District Administrator and representatives of the District Planning Unit and Ministries operating within the administrative district; and representatives of NGOs and ‘disadvantaged groups’.

Key Policies	Appropriateness and Effectiveness
	ensure that the RD does not have separate policy for each project/ programme, but a single one is required to enable streamlining and optimisation of scarce resources.

c) Institutional Framework Review

Institution	Responsibilities	Capacity
<p><b>Roads Directorate</b> (<i>Established by the Roads Directorate Act No 16 of 2010</i>), with the key mandate of: construction, upgrading, rehabilitation and maintenance of primary, secondary, tertiary and other roads and footbridges throughout Lesotho.</p> <p>Its RPF related Divisions/ Sections are:</p> <ul style="list-style-type: none"> <li>• Roads Network Planning Division;</li> <li>• Roads Network Maintenance Division;</li> <li>• The Rural Footbridges Section;</li> <li>• Safety and Environment Unit (SEU under Roads Network Planning Division).</li> </ul>	<p><b>Roads Directorate</b> (<i>Established by the Roads Directorate Act No 16 of 2010</i>) with responsibility for construction, upgrading, rehabilitation and maintenance of primary, secondary, tertiary and other roads and footbridges throughout Lesotho - directly or through its implementing agencies (consultants /contractors). It will take responsibility or TIC, especially the OPRC component introduction through its Roads Network Planning Division.</p> <p><b>Roads Network Planning Division Responsibilities</b> (<i>where TIC and RPF developments reside</i>):</p> <p>Preparation of project briefs, appraisal of new projects, negotiations with potential financiers, requesting for proposals for consultancy services, evaluation of proposals, carrying out topographic surveys of roads and bridges, design of roads and bridge structures for construction, upgrading and rehabilitation of roads and bridges, tender documentation, tendering and adjudication, awards and construction management.</p> <p><b>Safety and Environment Unit Responsibilities</b> (<i>SEU under Roads Network Planning Division</i>):</p> <p>Environmental and social management policy development, supervision of environmental management, construction monitoring, processing of mitigative social and resettlement/ compensation measures developments that include monitoring, consultation, participation and grievance redress processes, etc. for the RD directly or some through its implementing agencies. It will support TIC with the RPF/RAP as well as the environmental and social services.</p>	<p><b>Capacity and effectiveness:</b> the RD capacity to discharge its mandate has steadily improved since its formation in 2010, and it has been deemed capable of undertaking the OPRC model of road provision by contractor combined with long term maintenance responsibilities. The SEU's capacity concerning TIC (OPRC) requires additional staff of one Social Specialist (resettlement officer) with Community Liason Assistants (CLOs) at local level (at least 10) to implement RAPs (at least 3) and related functions and they will require training and capacity building (see Section 9.2). All SEU staff will need to be trained and skilled in: consultancy procurement and contract supervision/ management, in the fields of land acquisition and titling, assets adjudication and inventory taking, asset data management, valuation, compensation management, livelihoods restoration, community participation/ consultation, physical relocations/ resettlement, socio-economic surveys undertaking, land surveyor, legal, environmental, etc. all of which are required to undertake the mandate that includes the RPF implementation.</p>
<p><b>MOPWT:</b></p> <p>With the following departments:</p> <ul style="list-style-type: none"> <li>• The Planning Unit, MOPWT;</li> <li>• The Department of Road Safety;</li> <li>• The Department of Traffic and Transport;</li> <li>• Roads Directorate;</li> <li>• The Road Fund.</li> </ul>	<p>The overall TIC project is envisaged to be implemented by 2 agencies of the MOPWT, the RD and the Planning Unit. The Planning Unit is to focus on the components 2 and 3, while the RD will focus on Component 1. It has been determined that the Planning Unit will require additional staff in the positions of: Project Coordinator, Financial Management Specialist, and Procurement Specialist. On the other hand, the RD's capacity to undertake implementation of all the civil works and related activities under component 1, has been found adequate.</p>	<p><b>Capacity and effectiveness:</b></p> <p>The MOPWT has improved its capacity to discharge its mandate by establishing the Roads Directorate by 2010. The Planning Unit will require 3 additional staff to improve capacity while the RD's capacity to implement TIC/OPRC has been found adequate. All staff of the Planning Unit, RD, RF and other project team will be given training and capacity building in terms of Section 9.2)</p>

Institution	Responsibilities	Capacity
<b>MOPWT/ RD's consultants</b> OPRC consultants	<p>Consultants (including engineering and allied professions) are service providers engaged by MOPWT/ RD to perform certain services, most of which relate to contracts management for design, construction supervision, for maintenance of roads/bridges, buildings and other such structures, as well as rehabilitation of roads including those under TIC.</p> <p>With respect to the TIC/OPRC, the consultants will draft tender/ contract documents procuring contractors who will take responsibility for both particular road construction and its long-term maintenance under supervision. Consultants will also help procure contractors for bridges in a standard way.</p> <p>With respect to the RPF/TIC environmentally and socially inclined aspects, such consultancy services would include the undertaking of planning and implementation of compensation and resettlement programmes in line with Policy directives and procedural guidelines. It will further include management of compensation and resettlement programmes, including determination and disbursement of compensation entitlements. It will also include management of community participation, grievance redress and monitoring processes.</p>	<p><b>Suitability and Capacity:</b> The MOPWT/ RD /SEU capacity has been discussed under RD and MOPWT above. With respect to the consultancies, staff of the above-mentioned entities will require training in consultancies procurement, supervision and contract management. With respect to the RPF/SEU in particular, skills required to manage with internal staff, include the aspects of contract management, land acquisition and assets inventory taking, asset data management, compensation management, and community participation/ consultation, while outsourcing the following: valuation, livelihoods restoration, physical relocations/ resettlement, socio-economic surveys undertaking, land surveyor, legal, environmental.</p>
<b>Contractors</b> <b>OPRC</b>	<p>Contractors are contracted mostly to build roads, bridges, buildings and structures under supervision of consultants /engineers/ architects and other allied professions. With respect to the OPRC, contractors will be required to have staff within their set-ups to enable them to:</p> <ul style="list-style-type: none"> <li>• Screen for social impacts including RAP requirements;</li> <li>• RAP preparation: capacity to undertake the functions requires the OPRC contractor to have within his core project staff, 1 resettlement specialist and 1 environmental specialist. In the event of the contractor lacking sufficient RAP preparation skills (based on client/WB review of skills), such contractor should cater for hiring external consultant.</li> </ul>	<p><b>Capacity and effectiveness:</b> the MOPWT/ RD's standard way of procuring consultants and contractors to undertake developments is correct. The new OPRC way of combining construction with long-term maintenance is new, and it requires training for the client, consultants and contractors.</p> <p>The client's staff training needs is covered under RD and MOPWT above, as well as in Section 9.2.</p>
<b>Ministry of Local Government and Chieftainship Affairs</b> (MLGCA) (Local Government: Community, District and Urban Councils)	<p><b>MLGCA</b> (Headquarters): responsible for policy and management of local government affairs including chieftainship, Councils and rural land administration matters are handled, and therefore the RPF issues of land acquisition, resettlement and compensation. Furthermore the Ministry is responsible for rural and urban roads construction in concert with District Councils and Municipalities/Urban Councils. MLGCA's rural roads will interlink with those under OPRC, and it is a challenge to ensure there are no conflicts or gaps between the 2 road systems since they serve the same communities.</p> <p><b>Local Government</b> (Community, District and Urban Councils): responsible for local governance and development affairs that include roads construction and maintenance, land administration including acquisition and related compensation, as well as community mobilization.</p>	<p><b>Capacity and effectiveness:</b> the Ministry and its departments (local government, chieftainship and Councils, as well as land administration) handle required services of rural land tenure matters, including policies, legislations and physical planning. The Ministry and its departments and agencies' capacity require improving with resourcing (finance, skilled personnel, enabling legal framework, operational resources, etc.). A separate capacitating project may be required. Projects like the RPF/ OPRC have to use extra resources and effort to help expedite land acquisition related processes in rural setting to make up for the Ministry's capacity's constraints.</p>

Institution	Responsibilities	Capacity
<b>Land Administration Authority (LAA)</b> and the Dept. of Lands, Surveys and Physical Planning ( <b>LSPP</b> ) all within the MLGCA (responsible for lands matters including acquisition and compensation.	<p>LAA was created out of LSPP through the Lands Administration Authority Act 2010 to deal with management aspects of land titling (mostly urban leases), valuation, registration, mapping and surveying. The old LSPP is only left with land allocation and physical planning processing aspects.</p> <p>With respect to the TIC/RPF requirements, LAA deals with titling of land acquisition, land/ property valuation, and compensation functions mostly in the urban and lowlands setting, but no presence in the TIC projects areas which have to rely on rural setting land tenure systems. LAA is in a position to establish national-level compensation rates, which could affect the TIC's asset valuation.</p>	<p><b>Capacity and effectiveness:</b> the LAA requires institutional expansion to cover the whole Lesotho, as well as absorbing the Physical Planning and land allocation aspects which are still outside. Its capacity was effective under the MCA-Lesotho's funding, but when that stopped in 2014, the effectiveness then started to suffer. This means its ability to play its full role and influence the TIC in the rural setting is still far-off and the gap has to be filled by TIC by providing resources to expedite the processes.</p>
<b>Other Stakeholders</b>		
<b>NGO's</b>	<p>Non-Governmental Organisations that have interest in the road sector projects, especially with respect to the issues of land acquisition, compensation and resettlement do exist. However, their identity need to be established during each RAP development stage and their engagement strategy developed (see Section 9 where most are listed). They are to: assist with information dissemination, social preparation, livelihood restoration and monitoring programmes.</p>	<p><b>Capacity and effectiveness:</b> the NGOs are there or given; what is required is meaningful engagement and their capacitation to get the best outputs out of them. Capacity building (through RAPs/ARAPS) by each project is required..</p>
<b>Affected Communities</b>	<p>Affected communities mainly consist of those communities (and individual persons) affected by the road/transport sector developmental activities (and outcome), the key ones will be those whose members lose land and fixed assets to the project, those who lose communal resources or access, as well as host communities. On the positive side, communities may benefit from access provision. Like in the case of the NGOs above, RAP development will identify such communities (and affected individual members) in terms of Sections.</p>	<p><b>Capacity and effectiveness:</b> the Affected Communities are given wherever the roads sector development is undertaken, what is required is proper stakeholder identification, meaningful engagement and their capacitation to get the best outputs (see Participation Section 12). Capacity building (through RAP/ARAP) by each sub-project is required, or in terms of Participation Section 12 where there is no RAP/ARAP.</p>

## 14.2 ANNEX 2: Compensation/ Resettlement Entitlement Matrix

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
<b>1. Houses and Structures</b>			
1.1 Houses, residential structures and improvements	Property owner	<p>(1) The full or partial loss of houses, outbuildings, kraals/stables, outside toilets and any other fixed asset and amenity or service on a property required for transport sector developments will be duly compensated as per this RPF or RAP.</p> <p>(2) Preferred form of compensation is the provision of replacement housing. This will entail the following:</p> <ul style="list-style-type: none"> <li>Houses will be replaced, at an equivalent floor area, using standard modern materials. Households may “trade in” some of the floor area to which they are entitled for additional house fittings.</li> <li>Households will participate in the design and layout of replacement houses and be provided with a number of final designs from which to choose.</li> <li>Replacement houses will be constructed on project-designated sites or on sites within the defined project area identified by the households themselves.</li> </ul> <p>(3) Cash compensation or a combination of provision of replacement housing and cash will be considered where requested and feasible. The following measures and conditions will apply:</p> <ul style="list-style-type: none"> <li>Requests for cash compensation will be assessed on a case-by-case basis, taking account of the economic status and means of the household, and the wishes of the spouse and other household members.</li> <li>Where necessary, the housing credit can be disbursed in phases (e.g. an initial advance payment, followed by four payments for construction up to foundation level, window level, roof level and for roof construction).</li> <li>Households can choose to have their houses constructed by conventional construction (i.e. a project-appointed contractor), or by a contractor of their own choice. The project will provide technical supervision to ensure that houses are constructed to the required standards and within the required timeframe.</li> </ul> <p>(4) In the following instances compensation for the loss of houses and structures will only be in the form of cash compensation:</p> <ul style="list-style-type: none"> <li>A household opting for self-relocation to a site identified by the household itself which is outside the defined project area will be offered cash option only, including cash compensation for the acquired residential site.</li> <li>Compensation for outbuildings such as kraals/stables and sheds will be in cash, unless replacement structures are expressly requested.</li> </ul> <p>(5) On-site amenities/services such as water points and electricity will be reinstated at the replacement residential site, or through the provision of suitable alternatives, or compensated in cash where replacement is not possible.</p>	<ul style="list-style-type: none"> <li>Where more than one nuclear household occupy a single homestead and request relocation to separate residential sites, the housing credit for each nuclear household will be based on the current allotment of rooms to each nuclear household. Only nuclear households recorded as such during adjudication exercise will qualify for resettlement entitlements.</li> <li>Displaced households will receive a housing displacement allowance. Loss of structures other than houses does not qualify for such allowance.</li> <li>Notice to vacate will be served at least 120 days prior to acquisition date.</li> <li>Where displacement occurs, payments to be made in line with the RAP schedule to enable sufficient relocation preparation time.</li> <li>In all instances where cash compensation is requested and offered, the project authorities will provide technical supervision to ensure quality construction, and timely vacation of affected houses based on agreed evacuation date.</li> <li>Owners of buildings/ structures, including those on public land, will have the right to salvage materials from their affected structures. Salvageable materials will be removed timely and at the owners’ cost, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements.</li> <li>For fairness, determined rates will start applying within 6 months prior to property acquisition. Compensation items/ allowances rates will be adjusted annually for price escalation, using the Consumer Price Index (CPI).</li> <li>All transfer costs/taxes will be the responsibility of the project.</li> <li>People who occupy project impact area after the cut-off-date do not qualify for entitlements.</li> </ul>

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
	Tenant	(1) Where a tenant has constructed his/her own housing or business structure on land rented from another person, cash compensation will be paid for full or partial loss. (2) Cash compensation for full/ partial loss of other improvements (e.g. fencing) erected by tenant.	In assessing compensation entitlements, the agreement between the tenant and land owner should be studied and any appropriate agreements applied.
	Owner occupying housing structure in road reserve	Owners of houses or structures in the reserves of existing roads at the time of a project's socio-economic census survey will not be entitled to compensation for their structures unless: a. they occupy a road reserve with approval from a local authority; or b. the road reserve has never been officially declared or there is no proof that the clearance of the reserve has been enforced and eviction orders previously served on them.	Squatters who do not meet the eligibility criteria will not be entitled to compensation for their structures.
1.2 Rented accommodation	Tenant in rented accommodation	Payment of a rental allowance as defined in RPF/RAP. An enumerated tenant who voluntarily vacates his/her rented accommodation more than 3 months prior to the formal physical relocation time will not qualify for this entitlement; a tenant who occupies bona fide (adjudicated) rented accommodation in a project displacement area after the census, but not less than 3 months prior to the implementation of the relocation programme, will be eligible.	Compensation for building/structure payable to owner.
<b>2. Commercial /Business Enterprises</b>			
2.1 Commercial enterprise	Owner of commercial enterprises; informal traders operating on public land with a licence/ written approval from the relevant local authority	(1) Owners of displaced commercial properties, including informal traders operating on public land with a licence or written approval from the relevant local authority, will be compensated in cash or through the provision of a replacement structure. (2) Informal traders operating on public land without a licence or written approval from the local authority will not be provided compensation for their affected structures located on that land, unless their status has been legalised through a process in the RAP. (3) The project will facilitate acquisition of a replacement site, in coordination with the relevant authority, but no site is agreed upon, compensation will be in cash. (4) Where a business is forced by a project to close and cannot be re-opened elsewhere, the value of the business, as distinct from the premises, will be established from audited financial records or another mutually acceptable method and compensation paid to the owner. In such cases the owner will be required to sign and indemnify, exonerating the project from any further claims. (5) Where the normal flow of business in a commercial property that remains in situ is adversely affected by the project, resulting in a decrease in turnover, the project will compensate the owner for his profit loss during the period of the effect. This arrangement is only applicable to registered businesses with proper records of purchases and sales.	<ul style="list-style-type: none"> <li>Owners of displaced businesses will receive a business displacement allowance as described in Section 8.2.</li> <li>Owners will have the right to salvage materials from their affected buildings. Salvageable materials will be removed at the owners' cost and within a period as agreed by the project authorities, after which the structures will be demolished. The value of salvaged materials will not be deducted from compensation entitlements</li> </ul>
<b>3. Residential Land</b>			
3.1 Residential land	Landowner	(1) Landowners of residential plots will be compensated for all permanent losses of residential land, including food gardens. (2) Compensation for residential land will be due to: <ul style="list-style-type: none"> <li>landowners who hold the land under traditional allocation or a lease agreement, or any other recognised system of land tenure;</li> <li>persons with no recognisable legal right to the land they occupy for residential or business purposes but whose status has been legalised either through the history of their occupation of the land or through a process in the RAP.</li> </ul>	<ul style="list-style-type: none"> <li>Where household displacement and relocation to a designated resettlement site occur, other re-establishment measures to be specified in the Resettlement Plan.</li> <li>Informal traders and squatters on public land do not qualify for compensation for the land they occupy if the land is required for transport sector projects.</li> </ul>



TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
		<p>(3) The form of compensation for residential land will be determined by the nature/extent of the loss of land and the need for relocation.</p> <ul style="list-style-type: none"> <li>○ If continued occupation of the land is no longer possible, or if it is agreed that relocation is needed, compensation for the loss of residential land will be in the form of the provision of a replacement site. Cash compensation will only be considered where an owner who declines the offer of a replacement site of 'equivalent reinstatement' provides acceptable reasons.</li> <li>○ Compensation for the partial loss of residential land will be in the form of cash compensation.</li> </ul> <p>(4) Where land is sub-leased in terms of a written agreement, or where any other sub-lease agreement can be confirmed, compensation for the land will be paid to the holder or leaseholder of the land. The holder/ leaseholder will be expected to settle any outstanding liabilities with the sub-leaseholder. The sub-leaseholder will be entitled to compensation for any crops or trees grown on the land, or structures erected on the land, by him/her.</p>	<ul style="list-style-type: none"> <li>• Notice to vacate will be served at least 120 days prior to acquisition date.</li> <li>• Compensation for all losses payable prior to acquisition.</li> <li>• All transfer costs/taxes will be the responsibility of the project.</li> </ul>
<b>4. Cultivation Land</b>			
4.1 Permanent loss of cultivation land	Landowner	<p>(1) The full or partial loss of productive or fallow cultivation land required for project developments will be compensated.</p> <ul style="list-style-type: none"> <li>○ Fallow land includes land that remains unproductive for one or more successive seasons and for various reasons, including resting or in anticipation of an appropriate opportunity to till the land.</li> <li>○ The ownership of abandoned cultivation land (<i>moshoqa</i>) will be confirmed with local authorities and compensation will be in accordance with the provisions of prevailing land legislation.</li> </ul> <p>(2) Compensation for cultivation land losses will be in the form of cash compensation or where possible, the provision of replacement land. Cash compensation will be in accordance with an agreed or set per square meter rate.</p> <p>(3) The form of payment of cash compensation for agricultural land losses will be considered on a case-by-case basis, taking account of the economic status and means of the household, and the wishes and preferences of the spouse and other household members. Cash compensation can entail either:</p> <ul style="list-style-type: none"> <li>○ a once-off lump sum payment; or</li> <li>○ annual/quarterly payments by means of an investment with a financial institution, or with assistance provided by the project authorities as required.</li> </ul> <p>(4) Where the acquired land is less than 1000m<sup>2</sup>, compensation will be in the form of a once-off lump-sum cash payment only.</p> <p>(5) Where agricultural land greater than 1000m<sup>2</sup> is acquired and the owner wishes to be provided with replacement land, or where the provision of replacement land is considered to be in the best interests of the affected household, the project authorities will endeavour to secure acceptable replacement land. This would entail one or more of the following:</p> <ul style="list-style-type: none"> <li>○ enquiring from the local authorities (e.g. the Land Committees of Community Councils) about the availability of land, either through allocation or by purchasing;</li> </ul>	<ul style="list-style-type: none"> <li>• If the land in question is cultivated according to a sharecropping arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Sharecroppers will be given advice on alternative subsistence and livelihood strategies, and assisted to gain access to poverty alleviation/social welfare programmes if required.</li> <li>• Notice to vacate will be served at least 120 days prior to acquisition date.</li> <li>• Compensation for all losses payable prior to acquisition.</li> <li>• All transfer costs/taxes will be the responsibility of the project.</li> </ul>

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
		<ul style="list-style-type: none"> <li>arranging for the payment of fees from the compensation entitlement for the purchasing of identified replacement land and for the payment of the remaining (if any) compensation entitlement to the affected landowner (lump sum or investment);</li> <li>securing legal tenure (lease) to the land in the name of the affected owner; or</li> <li>arranging for compensation in cash (lump sum or investment) where suitable replacement land could not be found.</li> </ul> <p>(6) A landowner who loses more than 75% of his/her total landholding will have the option to relinquish the remainder of the landholding in return for cash compensation or assistance with the identification of replacement land.</p>	
4.2 Loss of access to public land	Encroacher (using public land for cultivation)	<p>(1) With the exception of cultivators as defined in paragraph (b) below, encroachers using public land for the cultivation of crops at the time of a project's socio-economic census survey will not be entitled to compensation for land losses.</p> <p>(2) Households cultivating land in a road reserve that have traditionally belonged to them will not be considered as encroachers, and will qualify for compensation for land losses, if (i) the reserve was never officially declared and the household informed of this, or (ii) if the land was never officially expropriated, or (iii) if there are no records of the reserve having been declared and the land expropriated.</p> <p>(3) Encroachers who do not qualify for compensation for land losses: assistance with identification of alternative cultivation land or opportunities where possible.</p>	<ul style="list-style-type: none"> <li>Where project and local authorities consider the impact on an encroacher to be severe, he/she will qualify for rehabilitation assistance as specified by RPF/RAP.</li> <li>Encroachers who occupy the project impact area after the cut-off date do not qualify for project entitlements.</li> </ul>
4.3 Temporary occupation of land	Property owner	<p>(1) Compensation for crop losses for the duration of temporary occupation.</p> <p>(2) Compensation for other disturbances and damages caused to property.</p>	<p>A temporary occupation contract should be signed with the affected landowner, specifying:</p> <ul style="list-style-type: none"> <li>period of occupation;</li> <li>formula for the calculating production losses (market value of crops normally produced on the land) and annual inflation adjustments;</li> <li>frequency of compensation payment; and</li> <li>land protection and rehabilitation measures.</li> </ul>
<b>5. Other Private Resources</b>			
5.1 Trees and Thickets	Property owner; other evidence of ownership	<p>(1) Compensation for the lost production from fruit-bearing and non-fruit-bearing trees that are mainly used for own consumption will be in the form of one of the following options:</p> <ul style="list-style-type: none"> <li>compensation at net present value based on the total loss of production over the whole productive live of trees, irrespective of age or production cycle stage of lost trees; or</li> <li>compensation at net present value calculated for the period of lost production (i.e. for the period until the replacement saplings reach maturity and start producing) plus 5 replacement saplings per affected tree.</li> </ul> <p>(2) Commercial orchards - compensated at commercial rates.</p> <p>(3) All resources from privately-owned trees that are felled (e.g. timber/fuelwood) will remain the property of the concerned owner.</p> <p>(4) Unaffected trees within a road reserve will either remain the property of the owner if not compensated for (as agreed), or become the property of road authority.</p>	<p>Affected persons to receive advance notice to clear affected trees/ thickets as applicable.</p>

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
5.2 Standing crops	Person farming the land, whether owner-cultivator, lessee or sharecropper	<ol style="list-style-type: none"> <li>(1) Civil works will as far as possible be planned to allow for the harvesting of standing crops before land is acquired permanently or temporarily.</li> <li>(2) Where crops cannot be harvested or the destruction of crops is unavoidable, cash compensation will be paid for the loss of crops. <ul style="list-style-type: none"> <li>• Land owners as well as encroachers using public land for the cultivation of crops prior to the cut-off date will be entitled to compensation.</li> <li>• Rates will be based on the loss of a season's production on the area of land lost.</li> </ul> </li> <li>(3) If the land in question was cultivated according to a sharecropping or lease arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land. Where required sharecroppers will be assisted with livelihood restoration programmes.</li> </ol>	Affected persons to receive advance notice to harvest crops, if applicable.
<b>6. Graves</b>			
	Family head	<ol style="list-style-type: none"> <li>(1) Affected graves will be treated in accordance with the wishes and preferences of the affected families. Compensation of next-of-kin for the re-interment of graves is of a personal and sensitive nature and should, therefore, be discussed and negotiated on an individual basis. Graves can either be re-interred in a designated cemetery or at a site as identified in consultation with the local authorities.</li> <li>(2) Exhumation and re-interment will be carried out with all due ceremony as agreed with the surviving relatives. All costs associated with exhumation and reburial, including all associated and traditional ceremonies, will be borne by the project.</li> </ol>	No area will be occupied by a project until all graves have been removed or treated according to the wishes of the surviving relatives.
<b>7. Communal/ Public Facilities and Resources</b>			
7.1 Land and other natural resources	Local community or user groups	<p>Where communal land and associated natural resources are acquired or affected by a project, appropriate compensatory measures will be introduced to mitigate any impacts. Where measures are required they will be funded out of the project, based on the following principles:</p> <ol style="list-style-type: none"> <li>(a) Compensation funds for the loss of communal assets such as grazing land, brushwood, medicinal plants, useful grasses, wild vegetables and river sand will be channelled through the applicable local authority (e.g. Community Councils and their Standing Committees on Natural Resource Management) for investment in approved community development ventures.</li> <li>(b) Where some displaced households are relocated outside their areas to a host community, while others are relocated within their area, the funds will be apportioned between the concerned local authorities based on the number of displaced households relocating within/to each area.</li> </ol>	
7.2 Buildings, infrastructure, access	Local community; Public Sector facilities, Government departments/ parastatal organisations etc.	<ol style="list-style-type: none"> <li>(1) Affected community buildings/ facilities will be repaired to their previous condition or replaced in areas agreed with affected communities, owners and the relevant authorities.</li> <li>(2) Permanent or temporarily impeded access will be restored or mitigated through the provision of an acceptable practical alternative.</li> <li>(3) Consultation and coordination will occur between government ministries regarding impacts on government assets caused by road sector projects. To minimise impacts, MOPWT will undertake complementary planning with other ministries to facilitate coordination of planned developments.</li> </ol>	Community buildings and structures include: schools, churches, community halls, water points, trails/footpaths and bridges.

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
7.3 Cultural assets	Community/public	<ol style="list-style-type: none"> <li>(1) Affected cultural assets such as rock-art and historical and heritage sites will be recorded, documented and, where feasible, rescued before commencement of civil works.</li> <li>(2) Palaeontological artefacts found during construction activities will be rescued and stored in a suitable facility.</li> </ol>	
8.0 Special Compensation/ Resettlement Provisions			
8.1 Host Communities	Community Council	<ol style="list-style-type: none"> <li>(1) Host communities will be considered as project-affected parties and will therefore be compensated according to the same principles as resettlers for any losses incurred as a result of resettlement activities.</li> <li>(2) Impacts on host communities will be mitigated through the Resettlement Plan, which will describe mitigation proposals for additional social infrastructure and services and the implementation of programmes to improve the production capacity and management of the natural resource base.</li> <li>(3) Formal consultation mechanisms involving representatives of the host and resettler communities will be institutionalised to promote social integration</li> </ol>	
8.2 Livelihood Restoration Initiatives	Affected Household Members	<ol style="list-style-type: none"> <li>(1) The RAP/ARAP will detail the support measures required in the period immediately following relocation, as well as the measures necessary for the restoration of livelihoods.</li> <li>(2) It is anticipated that livelihood restoration initiatives, which will be investigated and planned during the resettlement planning exercise, will focus on: 1) land-based livelihoods; 2) wage-based livelihoods; and 3) enterprise-based livelihoods.</li> <li>(3) Livelihood restoration options will be identified in consultation with affected communities and households. Where considered viable, these options will be subjected to detailed feasibility studies, after which detailed planning, design, costing and funding options will be undertaken of selected options. Livelihood restoration initiatives should be undertaken within the framework of sustainable development and emerging income-generating opportunities so that individuals and communities can continue with improved income-earning activities after withdrawal of project inputs and support.</li> </ol>	
<b>9.0 Assistance with Household Relocation and Re-Establishment</b>			
9.1 Displacement of household	Property owner	<ol style="list-style-type: none"> <li>(1) Housing displacement allowance for loss of residential accommodation.</li> <li>(2) Evacuation allowance for removal of belongings, or moving to be done by project.</li> </ol>	<ul style="list-style-type: none"> <li>• The housing displacement allowance will be determined in consultation with the affected persons.</li> <li>• All allowances will be paid at the time of serving the notice to vacate.</li> </ul>
	Tenant	Rental allowance for loss of rented accommodation.	To be determined during resettlement planning.
9.2 Displacement of a business	Property owner	<ol style="list-style-type: none"> <li>(1) Business displacement allowance for loss of commercial establishment.</li> <li>(2) Evacuation allowance for removal of belongings, or moving to be done by project.</li> <li>(3)</li> </ol>	As for housing displacement allowance.

TYPE OF LOSS	ENTITLEMENT UNIT	ENTITLEMENTS DESCRIPTION	IMPLEMENTATION GUIDELINES
9.3 Cultivation disruption allowance	Household with severe impacts on cultivation production	Cultivation disruption allowance.	These households will be identified and confirmed with local community structures and authorities.
9.4 Vulnerable household rehabilitation grant	Vulnerable households	Affected households who are classified as vulnerable will receive a vulnerable household rehabilitation grant.	These households will be identified and confirmed with local community structures and authorities.
9.5 Grant for loss of labour	Affected individuals	(1) Cash grant to a worker whose employment is terminated due to the business being forced to close permanently, provided that he/she is (i) of working age and (ii) was enumerated as a worker of the affected business during the project's socio-economic census. (2) An enumerated wage employee who leaves his/her employer prior to the implementation of a physical relocation programme will not qualify for the grant.	
9.6 Other disturbances to livelihood	Vulnerable social categories/ groups; share-croppers	Advice on alternative subsistence and livelihood strategies, and assistance to gain access to poverty alleviation/social welfare programmes.	Inter-ministerial/departmental consultation will be necessary to ensure effective delivery of community development products and to avoid duplication.
<b>10. Mitigation of Construction and Unforeseen Impacts</b>			
Mitigation of construction impacts	Persons in and proximate to project impact area	(1) Construction impacts will be managed by amongst others: the commissioning of project social impact assessments and resettlement (action) plans, the incorporation of social impact management measures into civil works documentation, and the preparation of environmental management plans. (2) Procedures will be implemented to ensure that any damages to buildings and structures resulting from construction activities (e.g. blasting and subsidence) are repaired.	
Mitigation of Unforeseen Impacts	Persons in and proximate to project impact area	All other unforeseen impacts that occur during the construction /implementation of a project will be assessed and appropriate mitigation or compensation measures prepared	
All project impacts	Persons in and proximate to project impact area.	(1) Advice on project impacts; construction schedules and acquisition dates; valuation, compensation and grievance resolution mechanisms; construction employment procedures; and local development initiatives.	<ul style="list-style-type: none"> <li>This will be done through the periodic distribution of information sheets and a consultation programme.</li> <li>Cooperation with other Government ministries and departments to support effective resource utilisation and community development.</li> </ul>

Source: Based on Annex A: Entitlement Matrix for Losses on Transport Sector Projects. Compensation and Resettlement Policy Framework for the Transport Sector (MOPWT, 2011 as updated)

### 14.3 ANNEX 3: Outline of a Resettlement Action Plan

This is an outline of a typical Resettlement Plan (RAP) where a Resettlement Policy Framework (RPF) is in place. Since the resettlement principles, procedures and processes are described in the RPF, the subsequent individual RAPs do not need to refer in detail to these components.

#### RAP Outline (where the RPF is in place)

Headings	Descriptive Details
<b>1. Introduction/ Project Background</b>	<ul style="list-style-type: none"> <li>Brief description of project and its components.</li> <li>Reference to resettlement safeguards and RPF principles.</li> <li>Objectives of the RAP.</li> <li>Summary of methodology used in preparation of RAP.</li> </ul>
<b>2. Potential Impacts</b>	<ul style="list-style-type: none"> <li>Identification of project components that will require land acquisition and resettlement.</li> <li>Description of planning efforts to avoid/minimise resettlement, as well as mechanisms to minimise resettlement during project implementation.</li> <li>Description of other direct social impacts that will require mitigation (e.g. public/community infrastructure and services).</li> <li>Magnitude of expected loss of assets, including extent of displacement.</li> </ul>
<b>3. Consultation and Participation</b>	<ul style="list-style-type: none"> <li>Description of the consultation and participation strategy that was used during RAP preparation, highlighting the views and concerns of the affected population and how these were accommodated in the preparation of resettlement measures.</li> <li>Description of the participation strategy that will be used in subsequent project phases, including measures to ensure representation of vulnerable social categories/groups.</li> </ul>
<b>4. Baseline Census and Socio-Economic Surveys</b>	<ul style="list-style-type: none"> <li>The findings of a census and socio-economic survey of persons who will be directly affected by project activities, including: <ul style="list-style-type: none"> <li>current occupants of the affected area (property owners, tenants, illegal occupants/squatters);</li> <li>demographic and socio-economic features of the affected population (age-gender distribution, employment status, production systems, livelihoods, etc.);</li> <li>information on any vulnerable social categories/groups that may require special support measures.</li> </ul> </li> <li>Procedures for updating baseline census/socio-economic information prior to resettlement.</li> <li>The results of any other assessments/studies – e.g. land tenure, common property resources, health status/ issues, current/planned development interventions, roles of local authorities, community-based organisations and non-governmental organisations.</li> </ul>
<b>5. Losses and Entitlements</b>	<ul style="list-style-type: none"> <li>Description of the asset and estimated economic losses that will occur on the project (land, trees and other natural resources, buildings/ structures, income sources/means of livelihood).</li> <li>Where accurate determination of losses is not possible during RAP preparation, a description of the procedures to be followed in subsequent project phases to determine losses.</li> <li>With reference to the RPF, confirmation of entitlements and eligibility to entitlements, as well as a description of any additional entitlements not specified in the RPF.</li> <li>Preparation of entitlement matrix summarising the categories of affected persons and entitlements.</li> <li>Description of process for declaring a cut-off date to entitlements and a moratorium on further developments in the project-affected area.</li> <li>With reference to the RPF, confirmation of valuation methodology, as well as a description of the compensation rates and standards, or the process to be followed for the finalisation of rates and standards.</li> <li>Description of the process to be followed for the detailed valuation of affected properties/assets, for the compilation of asset inventories, and for the determination and finalisation of resettlement and compensation packages.</li> </ul>
<b>6. Resettlement and Restoration Measures</b>	<ul style="list-style-type: none"> <li>Description of the compensation packages to be provided to the various categories of affected persons.</li> <li>Description of resettlement measures – e.g. self-relocation to individually identified sites, group relocation to a designated resettlement site.</li> <li>Where relocation to a designated resettlement site will occur, a description of: <ul style="list-style-type: none"> <li>the process used for the identification of the preferred resettlement site;</li> <li>the physical characteristics of the site, including opportunities and constraints associated with resettlement to the site, and host community considerations;</li> <li>the action plan required for the physical preparation of the site (e.g. institutional, technical and engineering arrangements; feasibility studies undertaken or required);</li> </ul> </li> </ul>

Headings	Descriptive Details
	<ul style="list-style-type: none"> <li>the process for procuring, allocating and developing residential, business and agricultural sites;</li> <li>the legal arrangements for the transferring of titles to resettlers and the regularisation of tenure;</li> <li>the measures to prevent possible land speculation or an influx of other persons to the resettlement site.</li> <li>Description of plans for the provision of replacement housing – e.g. cash compensation, owner-construction or project provision of replacement housing.</li> <li>Description of plans to provide infrastructure and/or to restore access to services and facilities.</li> <li>Description of evacuation and relocation assistance to be provided to resettlers.</li> <li>Description of any additional household re-establishment/livelihood restoration measures that may be required to achieve the objectives of the RAP. Questions to answer: <ul style="list-style-type: none"> <li>are the compensation/resettlement measures sufficient to restore livelihoods? what additional measures are necessary?</li> <li>will resettlement require a change in livelihoods which may require substantial time for preparation and implementation?</li> <li>how will impoverishment risks be addressed?</li> <li>how will resettlers be assisted to make informed choices between alternative livelihood restoration strategies?</li> <li>what are the main risks for the successful implementation of the resettlement plan?</li> </ul> </li> </ul>
<b>7. Implementation Arrangements</b>	<ul style="list-style-type: none"> <li>With reference to the RPF, describe the organisational arrangements for the management of the resettlement: <ul style="list-style-type: none"> <li>identify/describe the agency responsible for overall management and coordination of resettlement activities;</li> <li>identify the agencies that will be responsible for delivery of resettlement measures and provision of services;</li> <li>identify/describe inter-departmental and inter-agency complementary planning actions;</li> <li>describe role of resettlers and local authorities in the implementation process;</li> <li>describe requirements to enhance the capacity of implementing agencies, local authorities and resettlers to successfully execute their responsibilities.</li> </ul> </li> <li>Describe the implementation process: <ul style="list-style-type: none"> <li>list and briefly describe the chronological steps (and target dates) in implementation of the resettlement;</li> <li>prepare an implementation schedule of activities to be undertaken as part of the resettlement implementation (e.g. Gantt chart);</li> <li>describe the linkages between resettlement implementation and initiation of civil works for each of the project components.</li> </ul> </li> <li>With reference to the RPF, confirm grievance redress mechanisms: <ul style="list-style-type: none"> <li>process for registering and addressing of grievances;</li> <li>details regarding registering of complaints, response time, communication mechanisms, etc.;</li> <li>appeal mechanisms and provisions to approach civil courts.</li> </ul> </li> </ul>
<b>8. Costs and Budget</b>	<ul style="list-style-type: none"> <li>Provide: <ul style="list-style-type: none"> <li>clear statement of financial responsibility and authority;</li> <li>tables showing itemised cost estimates for all resettlement activities, including provision for inflation and contingencies;</li> <li>timetables for expenditures/flow of funds;</li> <li>a description of the sources of funding for the various budget items.</li> </ul> </li> </ul>
<b>9. Monitoring and Evaluation</b>	<ul style="list-style-type: none"> <li>Describe internal monitoring requirements and process: <ul style="list-style-type: none"> <li>define and provide a list of key monitoring indicators to be used for internal monitoring;</li> <li>describe institutional and financial arrangements;</li> <li>describe frequency of reporting and content for internal monitoring;</li> <li>describe process for integrating feedback from internal monitoring into implementation.</li> </ul> </li> <li>Describe external monitoring/evaluation requirements: <ul style="list-style-type: none"> <li>describe financial arrangements for external monitoring and evaluation, including process for awarding and maintenance of contracts for the duration of resettlement;</li> <li>describe methodology for external monitoring;</li> <li>define key indicators for external monitoring, focusing on outputs and impacts;</li> <li>describe frequency of reporting and content for external monitoring;</li> <li>describe process for integrating feedback from external monitoring into implementation.</li> </ul> </li> </ul>

Source: Compensation and Resettlement Policy Framework for the Transport Sector. MOPWT. 2011

## 14.4 ANNEX 4: Generic Terms of Reference for a Resettlement Plan

### 1 INTRODUCTION

- (a) Provide a brief description of the overall programme of which the project under consideration is a component.
- (b) Briefly sketch the country's socio-economic environment.

### 2 PROJECT DESCRIPTION

#### 2.1 Overall Description

- (a) Briefly describe the project and its rationale, and include maps/drawings where possible.
- (b) Summarise all the components of the project.
- (c) Briefly sketch the project's socio-economic context – e.g. whether located in urban or rural area; nature of local economy, etc.

#### 2.2 Land Acquisition and Resettlement

- (a) Provide details of the project components for which land acquisition and resettlement are required.
- (b) Provide details of land acquisition/resettlement estimates, and note the accuracy of these estimates - e.g.:
  - when were the estimates made/how current are they?;
  - how were the estimates made/on what methods are they based?
- (c) Indicate the status of the land acquisition process – what has been done and what still needs to be undertaken.

#### 2.3 Consultation

- (a) Indicate the status of the consultation process:
  - are affected persons aware of the project?;
  - what level of consultation has been achieved?;
- (b) Indicate the remaining consultation activities/requirements.

### 3 OBJECTIVES OF THE CONSULTANCY

- (a) Set out the objectives of the study; e.g.:
 

*Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. Lesotho's Ministry of Public Works and Transport has a policy (the Compensation and Resettlement Policy Framework) to which all projects involving involuntary resettlement must comply. The objectives of the Policy Framework include that:*

  - *resettlement and land acquisition will be avoided or minimised where feasible;*
  - *ongoing and meaningful consultation with affected households/communities will occur;*
  - *affected persons will be assisted to at least restore, and preferably to improve, their livelihoods;*
  - *vulnerable groups and severely project-affected persons will be specifically catered for;*
  - *host communities will be considered as project-affected parties;*
  - *land acquisition/resettlement planning, budgeting and implementation will be an integral part of the project.*

*The specific objective of the study is to prepare a Resettlement Plan for xx project to comply with the stipulations of the Compensation and Resettlement Policy Framework.*
- (b) Indicate how the study fits into the larger project planning cycle.

### 4 LAWS, REGULATIONS AND INFORMATION SOURCES

Specify the legislation, policies and other documents that the consultants should be aware of in preparing their proposal, e.g.:

- MOPWT's Compensation and Resettlement Policy Framework;
- The Land Act 2010;
- The Roads Act, 1969;
- The Constitution of Lesotho;
- Policies, regulations and guidelines of funding agencies such as the World Bank.
- Reports already compiled for the project under consideration. It is important to indicate how these reports can be accessed by the consultants when preparing their proposals.

### 5 SCOPE OF SERVICES

- (a) Describe the specific issues to be covered/key tasks to be undertaken by the consultant. This would normally include the following:
  - **Baseline census and socio-economic surveys** of the persons affected by the project, to record household demographic information (age, gender, educational levels, economic status, residential status, etc.), socio-economic characteristics (e.g. income and expenditure patterns), and the peoples' concerns and suggestions about the project, as well as their compensation/resettlement preferences.



- **Qualitative research and other forms of participatory appraisal** to provide qualitative assessments of:
    - land tenure and transfer systems, to understand the impact of the project on land tenure arrangements;
    - patterns of social interaction in affected communities;
    - the importance of social networks and social support systems, and how these systems will be affected by the project;
    - the impact of the project on local economic activities;
    - the impact of the project on public infrastructure and social services.
  - **Estimate of Losses/Asset Inventories.** Inventories will eventually be required of the assets (land, buildings/structures, trees and other natural resources) affected by the project. Depending on the type of project and the extent of land acquisition, the full landholdings of affected persons may have to be recorded, to permit determination of the percentage land loss, and consequent resettlement eligibility and entitlement. The nature and scope of the project will determine the timing of the asset inventories and valuation exercises. In some cases it may be possible to complete the entire inventory and valuation exercise as part of the RAP, but in most instances the RAP will only provide as accurate as possible estimate of the expected losses, while stipulating the asset recording and valuation activities to be carried out in subsequent project phases. On some projects the asset inventory/valuation exercise could include the signing-off of entitlements between the developer and the affected owner, but in most cases this would be undertaken as a separate task in terms of a specific action plan described in the RAP.
  - **Any policy entitlements related to additional impacts** identified through the research that have not been covered in the RPF should be described in the RAP.
  - Based on the valuation methods described in the RPF, the RAP will **specify compensation standards** and the process for determining /finalising compensation rates.
  - A description of the **resettlement to be undertaken on the project**, including a description of resettlement measures, site selection, preparation and relocation, housing, infrastructure and social services, and the integration of resettlers with any host community.
  - The RAP should describe the **support measures** (if necessary) in the period immediately following relocation, as well as the measures necessary for the restoration of livelihoods.
  - A **detailed implementation schedule**, linked to the civil works programme, should be prepared. Specific organisational requirements and arrangements will be detailed.
  - A **budget**, showing itemised cost estimates for all land acquisition and resettlement activities, should be prepared.
- (b) An outline of a typical Resettlement Plan is included in Appendix 3 of the RPF.

## 6 CONDITIONS OF THE CONSULTANCY

### 6.1 Duration of Services

- (a) Indicate the probable contract start date, as well as team mobilisation requirements.
- (b) Indicate the key dates that other project activities are scheduled to occur (e.g. detailed engineering design, project appraisal by funding agency) so that the resettlement activities can be integrated into the overall project schedule.

### 6.2 Team Composition / Expertise Required

- (a) State the anticipated expertise/skills that will be required to successfully undertake the assignment:  
*E.g.: The assignment will require the consultancy team to have expertise and skills in at least the following areas:*
  - *resettlement planning;*
  - *socio-economic surveys;*
  - *social impact assessment;*
  - *agricultural economics;*
  - *property valuation, etc.*
- (b) State the likely composition of the team to undertake the assignment:  
*E.g.: It is anticipated that the consultancy team for the assignment will consist of the following specialists and support staff:*
  - *Resettlement Specialist/Team Leader (xx months);*
  - *Social Impact Assessment/Socio-Economic Survey Specialist (xx months);*
  - *Property Valuation Specialist (xx months);*
  - *Agricultural and Livestock Specialist (xx months)*
  - *GIS Specialist (xx months);*
  - *Fieldwork Coordinator (xx months) and fieldworkers (xx months).*

### 6.3 Reporting Requirements

- (a) State the names and contact details of the MOPWT official/s who will supervise and coordinate the assignment.
- (b) State the nature of any advisory or steering committee in place/to be established to oversee the project and provide guidance.

**6.4 Deliverables and Timetable for Outputs**

- (a) List each deliverable that will be required, including reporting format and language, number of copies required, deadlines /target dates, and review procedures. Deliverables are likely to include:
  - Inception Report – e.g.: *The Consultant will submit an Inception Report (10 copies) within four (4) weeks of commencement of the assignment. The Inception Report will give an account of team mobilisation, initial progress with the assignment and actual/potential constraints. It will also report on methodological and programming considerations for the rest of the assignment.*
  - Progress Reports – e.g.: *The Consultant will submit brief monthly reports (10 copies), summarising progress with the assignment against the programme and budget, and discussing any problems and potential programme deviations requiring resolution.*
  - Draft Resettlement Plan – e.g. *The Consultant will submit a Draft Resettlement Plan (10 printed copies and an electronic copy in MS Word) for review no later than xx weeks after commencement of the assignment.*
  - Final Resettlement (Action) Plan - e.g. *The Consultant will submit a Final Resettlement Plan (10 printed copies and an electronic copy in MS Word) no later than xx weeks after receipt of the consolidated comments from MOPWT on the Draft Resettlement Plan.*
- (b) State that all reports, documents and drawings prepared by the Consultant and paid for under the assignment will become the property of the Government of Lesotho upon completion of the services.

**14.5 ANNEX 5: Identification of Affected Assets and Ownership Details Templates****ANNEX 5a: FORM 2****RESETTLEMENT PLANNING FORM 2**

RD/TIC PROJECT

CONTRACT No :		RAP No.:	
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**CENSUS QUESTIONNAIRE OF AFFECTED PERSONS****1. Affected Person/Asset Owner Details***(As identified initially by FORM 1)*

ASSET OWNER DETAILS			
Full Name:			
Type(s) of Identification and number(s):			
Physical Address & Contact Details:			
Household /Entity Number:			
GPS Position:	EASTING:		NORTHINGS:
Village Name & ID:			
Area Chief:		Principal Chief:	
Community Council:			
District Name:			

**2. Identified Affected Asset Details***(Confirming FORM 1 Identity Details)*

ASSET DETAILS							
ROADS				BRIDGES			
Asset Type (Code)	Quantity	Extent of Impact	Location (Road Chainage/Village)	Asset Type (Code)	Quantity	Extent of Impact	Location (Road Chainage/Village)

Affected Asset Types Codes (Compensatable) (select the applicable)		
1. Homestead primary structures /dwellings	7. Food Gardens	13. Fruit Trees (young, pre- production)
2. Secondary/incomplete structures/ outbuildings	8. Business Structures.	14. Timber /fuel trees
3. Kraals/ stables/ sheds	9. Business Plots	15. Thickets
4. Homestead fencing	10. Business Enterprise	16. Graves
5. VIP toilets	11. Agricultural land	17. Communal Natural Resources (Pasture)
6. Residential Plot – rural area	12. Fruit Trees (in production)	18. Other (Specify)

# ANNEX 5b: FORM 1

## RESETTLEMENT PLANNING FORM 1

RD/TOC PROJECT

CONTRACT No :		RAP No.:	
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### PRELIMINARY IDENTIFICATION OF AFFECTED ASSETS AND OWNERSHIP INFORMATION

ROAD SECTION LOCALITY/CHAINAGE:				CONTRACT No.:		RAP No.:		
S/N	Identified Asset Code Name	Asset Location (Village Name)		Extent of Impact	Quantity	Owner's Name	Owner Physical Address & Contact Details	Remarks
		ROAD	BRIDGE					

<b>Affected Asset Types Codes (Compensatable) (select the applicable)</b>		
1. Homestead primary Structures /dwellings	7. Food Gardens	13. Fruit Trees (young pre- production)
2. Secondary/incomplete structures/ outbuildings	8. Business Structures.	14. Timber/fuel trees
3. Kraals/ stables/ sheds	9. Business Plots	15. Thickets
4. Homestead fencing	10. Business Enterprise	16. Graves
5. VIP toilets	11. Agricultural land (permanent acquisition)	17. Communal Natural Resources (pasture)
6. Residential Plot – rural area	12. Fruit Trees (in production)	18. Other (Specify)
<b>Extent of Impact/Loss (select the applicable)</b>		
1. Total permanent loss/ displacement	4. Other (Specify)	
2. Partial Loss/ displacement	5. Other (specify)	
3. Temporary Loss /displacements (during construction)	6.	

## ANNEX 5c: FORM 3: Resettlement Action Plan Baseline Socio-Economic Survey

## ROAD DIRECTORATE Resettlement Action Plan Baseline Socio-Economic Survey

## General Information

FIELDWORKER		
VILLAGE		
HOUSEHOLD NR	RD HH No.	
HOUSEHOLD HEAD		
RESPONDENT		
DATE	/ / 2017	
Is there a household member able to respond to this survey present?	1. Yes 2. No 3. Survey answered on behalf of the household	
If NO, record:	Household members able to respond to survey absent. – Date set for _____	
GPS	NORTHING _____	EASTING _____

## HOUSEHOLD COMPOSITION

Q 1. Full name of HH head:

Q 2. Gender of HH head:

Male 1

Female 2

Q 3. Marital status of household head.

Single	1
Married	2
Divorced	3
Separated	4
Widowed	5

Q 4. If Married, what type of marriage?

Community of property	1
Out of Community of Property	2

**Q.7** Please tell us about the members who make up your household/family: *(Code List provided at end of survey form)*

No.	Name	Relation HH *1	Sex (M/F)	Age	Marital Status *2	Residence Status *3	Max Level of Education *4	Occupation *5	Disabled Yes/No
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									

## TABLE CODES

RELATIONSHIP *1	
1	Household Head (HH)
2	Spouse/partner of HH
3	Son/daughter of HH
4	Son-in-law/daughter-in-law of HH
5	Grandchild of HH
6	Brother/sister of HH
7	Nephew/niece
8	Adopted/foster/step child
9	Orphan
10	Non-related dependent
11	Other relative
12	Other
13	Tenant

Marital Status *2	
1.	Single
2.	Married
3.	Widow/er
4.	Divorced
5.	Cohabitant
6.	Separated

Residential Status *3	
1.	This village
2.	Nearby village
3.	Mokhotlong Town
4.	Elsewhere in Mokhotlong District
5.	Maseru
6.	Elsewhere in Lesotho
7.	South Africa
8.	Elsewhere in the World
9.	Elected not to answer

Education *4	
1	No education
2	Some primary education
3	Complete primary education (class 1–7) (Sub A – Std. 6)
4	Some junior secondary education (form A – C)
5	Some senior secondary (form D – E)
6	Completed senior secondary
7	Some technical vocational education
8	Completed technical vocational education
9	Some Tertiary education
10	Completed Tertiary Education
11	Does not know

Occupation *5	
1	Regularly employed (part-time)
2	Regularly employed (full-time)
3	Regularly employed (seasonally)
4	Irregularly employed (casual work, piece jobs)
5	Self-employed (agriculture- <u>income</u> from farming etc.)

6	Self-employed (own business, <u>income</u> from small business – including shebeen, cafe shop, hairdresser, hawker, etc.)
7	Self-employed (specialist services, <u>income</u> from e.g. herbalist, circumcision surgeon)
8	Pre-school child (0 - 6 years)
9	School-going/studying
10	Unemployed (unable to find work)
11	Retired
12	Disabled and not-employed
13	Work for subsistence, ( <b>agriculture</b> in fields, working with <b>livestock</b> , working within the <b>home</b> - housekeeping, childcare, herding, working in the home garden, etc.)
14	Other (specify)
15	Elected not to answer

## Education

**Q 8** Can you tell us about the household members who are of school going age. We are interested in the schools or other institutions they attend and how they access these places. For each person under the age of 18, and who is part of the household, please describe their education status for last year.

No.	Name	Attending School (Yes/No)	Name of School /College /University	School Level	Main reason, if not attending school – See code list	Time to Walk to School (minutes)
1						
2						
3						
4						
5						
6						
7						

	Reason for Non-Attendance
1	Not Applicable. No children of school going age
2	School is too far to travel
3	School is too expensive
4	Children are needed to work for the homestead.
5	Only have girls, and they don't need education
6	Other (Specify)

## HOMESTEAD ASSETS

Q 9: What is your ownership status of your house?	Ownership	
	Renter	1
	Provided by employer	2
	Owner of the house	3
	Other	4



**Q 10 Please provide a description of any Main Homestead Structures (Fieldworker to Verify):**

No.	Main purpose of building	No. of Rooms	Round House YES/NO	Length (m) (Radius for Round)	Width (m)	Description of construction materials		
						Floor Type	Walls Type	Roof Type
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

Main purpose of building (codes)	Floor Type (Code)	Walls Type	Roof Type
1. 1-Multifunctional residential	1. Mud, Earth	1. Mud Block	1. No roof
2. 2-Sleeping only	2. Concrete	2. Stones	2. Thatch/Grass
3. 3-Kitchen only	Other (specify)	3. Sticks and Mud/Stones	3. Zinc
4. 4-Toilet, Shower		4. Bricks with Plaster	Other (specify)
5. 5-Combined residential, business (specify business)		5. Bricks with NO Plaster	
6. 6-Business only (specify)		6. Other (specify)	
7. 7 -Spiritual or ritual use			
8. 8- Other (specify)			

**Q 11 Are there other Homestead Structures/Fixed Assets on the site?**

Purpose	No. of Structures
Livestock Enclosure / Corral	
Pig Sty	
Chicken/Duck/ Poultry Coup	
Bird Shelter	
Grain Storage	
Rabbit Hutch	
Other (Specify)	

**Q 12 Do you have any of the following available in your household in a working condition? If YES, please tick.**

Item	✓	Item	✓
Kitchen dresser		Bed with Mattress	
Coal/wood stove		Gas / Kerosene Cooker	
Gas heater		Paraffin heater	
Electric Stove		Bicycle	
Radio		Television	
Refrigerator		Computer / Laptop	
Sewing Machine		Generator	
Hoe		Plough	
Harrow		Cart	
Tractor		Chainsaw	

**Q 13 Does the household have one or more businesses?**

<b>YES</b> (Go to q 21)	<b>NO</b> (go to q 23)
-------------------------	------------------------

**Q 14 If yes, please tell us the type of businesses (Tick option, multiple options may be ticked):**

No	Option	Tick
1	Beer brewing (if brew regularly, rather than non-regularly)	
2	Brick-making	
3	Construction	
4	Café – general dealer - spaza	
5	Child care/preschool/crèche	
6	Fruit/Vegetable seller	
7	Hairdresser	
8	Horse hire service	
9	Haulage service (transport of goods)	
10	Hospitality Shebeen/bottle store	
11	Milling business	
12	Public phones	
13	Rental of property	
14	Tailor/seamstress	
15	Taxi or transport service	
16	Other (specify)	
17	Elected not to answer	

Q 15 Are the businesses located on the homestead plot?

YES	NO
-----	----

Q 16 Does the household head lease or rent only some, but not all, rooms to tenants?

YES	NO
-----	----

**INCOME, EMPLOYMENT AND EXPENDITURE**

**Q 17 Please state how much money, if any, was received by your homestead from each of the following sources in the last month? (Interest is only on cash income available to the homestead).**

Activity		Maloti
Employment	Permanent Formal Employment	
	Contract Based Formal Employment	
Casual Labour	Casual Labour (without written contract)	
Self-Employment	Income from own business/informal trade (profit in the last month)	
Agriculture	Livestock sales	
	Fish and Fish Products	
	Crop, vegetable, fruit, nut sales	
	Animal product sales	
	Other	
Natural Resources	Wild Fruit	
	Charcoal	
	Natural Building Material (Wood, Reed, Grasses)	
	Salt	
Grants		
Other (Specify):		

**Q 18 Please state about the type of work and place of work for each of the formally employed household members.**

Name	Type of Employment (See code list)	Place of Employment (See Code list)

**Code list**

Type of Employment		Place of Employment	
1	Public Sector	1	This village
2	Private sector – (Monthly Salary or Weekly Wage)	2	Nearby village
		3	Mokhotlong Town
		4	Elsewhere in Mokhotlong District
		5	Mapholaneng
		6	Maseru
		7	Elsewhere in Lesotho
3	Private sector Self-employed	8	South Africa
4	Elected not to answer	9	Elsewhere in the World
5	Other (specify	10	Elected not to answer

(Where the respondent indicated income from a Grant, the following should be asked):

**Q 19 How much income was received from the following Grants?**

No	Grant Source	Maloti
1	Old Age Pension	
2	Private Pension	
3	African Pioneers Corps Pension/Military Pension	
4	Orphans and Vulnerable Children Grant	
5	Civil Servants pension	
6	Disability Allowance	
7	Pauper's Fund	
8	TEBA Grant (policy pay out for deceased miners)	
9	Other	
10	Elected not to answer	

**Q 20 Please indicate your household's expenditure for the last month the items in the table below.  
(Complete table below, indicate 0 if there was no expenditure for an item)**

Item	Maloti
Food & Personal Items (toiletries, washing powder, etc.)	
Transport (bus fares, taxis fees)	
School fees, uniforms, books/equipment	
Clothes	
Savings Society	
Household Energy (paraffin, gas, etc.)	
Telephone (cellular)	
Water (Transport or Pumping Costs)	
Medical Expenses	
Furniture/household equipment	
Rental (housing/accommodation)	
Agricultural expenses –crops	
Agricultural expenses –livestock	
Other (specify)	

**AGRICULTURE AND LIVESTOCK**

**Q 21 Does your homestead currently have access to arable land that you use, or is fallow, for cultivation?**

YES	NO
Go to Q 29	Go to Q 32

**Q 22 If yes, how many fields do you have in total? .....**

**Q 23 How many fields were cultivated in the last year? .....**

**Q 24** For ALL farm plots, please state the following information: (Note that throughout the survey the term ‘fields’ includes any gardens not on the residential site. Ensure that information about any gardens outside of the residential site is captured under this section as a ‘field’).

No.	Plot Size (Hectares)	Ownership	Cultivation Method	Irrigation	Main Crop Type	Secondary Crop Type	Crop Use
1							
2							
3							
4							
5							
6							
7							
8							

  

Ownership	Cultivation Method	Irrigation	Main/Secondary Crop Type	Crop Use
1. Private	1. Hired tractor	1. Rain-Fed	1. Maize	1. Household Food
2. Rented	2. Hired cattle	2. Well/Borehole	2. Wheat	2. Selling
3. None	3. Own tractor	3. Flood Irrigation	3. Sorghum	3. Both
4. Sharecropping	4. Own cattle	4. River	4. Beans	4. Other (Specify)
5. Other	5. Communal use of tractor	5. Other	5. Peas	
	6. Communal use of cattle		6. Cabbage	
	7. Plough		7. Onions	
	8. Other		8. Carrots	
			9. Peppers	
			10. Turnips	
			11. Beetroot	
			12. Butternut	
			13. Spinach	
			14. Lettuce	
			15. Tomatoes	
			16. Pumpkin	
			17. Potatoes	
			18. Dagga	
			19. Tobacco	
			20. Other (specify)	
			21. Elected not to answer	

**Q25. Does the house have a food garden?**

<b>YES</b>	<b>NO</b>
Go to Q 33	Go to Q 35

**Q26. If yes, did you cultivate the garden last summer?**

<b>YES</b>	<b>NO</b>
Go to Q 34	Go to Q 35

**Q27. If Yes – Which of the following were cultivated in the garden? (can tick more than one).**

No	Crop	Tick
1	Maize	
2	Wheat	
3	Sorghum	
4	Beans	
5	Peas	
6	Cabbage	
7	Onions	
8	Carrots	
9	Peppers	
10	Turnips	
11	Beetroot	
12	Butternut	
13	Spinach	
14	Lettuce	
15	Tomatoes	
16	Pumpkin	
17	Potatoes	
18	Dagga	
19	Tobacco	
20	Other (specify)	
21	Elected not to answer	

**Q 28 How many of the following livestock does the homestead OWN?** *(include those mafisa-ed out but exclude those mafias-ed in)?*

Type	Number of Animals
Cattle	
Goats	
Sheep	
Horses	
Donkeys	
Chickens	
Pigs	
Other Livestock/Poultry (Specify)	
Other Livestock/Poultry (Specify)	

**Q 29. Does your household own trees?**

YES	NO
Go to Q 37	Go to Q 38

**Q 30. If yes, please indicate the type and number of trees owned**

Type of trees	Number
Peach trees	
Apricot	
Apple trees	
Pear	
Quinces	
Prune	
Palm	
Forest trees	
Thicket (give area covered in square metres not numbers)	
Other specify	

**Q 31 Where does your household obtain water for drinking and washing today? (Tick one option).**

Water Source	Option
1 = Rainwater Tank	
2 = Well (Deep)	
3 = Traditional / Hand Dug Well	
4 = Borehole (Hand-Pumped)	
5 = Spring	
6 = Stream or River	
8 = Swamp	
9 = Other	

**Q 32 For the water source ticked above, were there any months each year where water was scarce or of poor quality, please tick below?**

Month	Scarce	Poor Quality
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

**Q 33** Please indicate the energy sources used for lighting, and cooking, (Tick ✓ only the main source for each)

No.	Source	Lighting	Cooking
1	Electricity		
2	Gas		
3	Paraffin		
4	Wood		
5	Candle		
6	Charcoal		
7	Battery		
8	Solar Power		

**Q 34** What is the principle toilet system used by your household? (Tick ONE option only)

No.	System	✓
1	Flush Toilet (Connected to Sewerage)	
2	Flush Toilet (Septic Tank)	
3	Chemical Toilet	
4	Pit Latrine (with ventilation)	
5	Pit Latrine (without ventilation)	
6	Stream/River/Lake	
7	Bush/Forest	
6	Other (Specify)	

**Q 35** Does the household have any graves?

YES	NO
Go to 46	Go to 47

**Q 36** If Yes, please fill in below: (Note- this needs to be cross checked with the Asset Registration survey and either deleted or expanded)

Description	Location of Graves			
	Cemetery	At the Homestead	Near the Homestead	Total
No of Graves				

**Q 37** Are there any other comments that you would like to make about the Project?




## RESETTLEMENT SOCIAL SURVEY FORM 4

## INVENTORY OF COMPENSATABLE AFFECTED ASSETS

## FORM 4a: The Affected ASSET OWNER Details

ASSET OWNER / JOINT OWNER 1						
Asset Owner Full Name(s):						
Gender:						
Marital Status:	SINGLE	MARRIED	LIVING TOGETHER	SEPARATED	DIVORCED	WIDOWED
If Married:	COMMUNITY OF PROPERTY (COP)		OUT OF COP		CUSTOMARY/TRADITIONAL	
Type of Identification	PASSPORT	DRIVERS LICENCE	ID	AFFIDAVIT:		
Official Identity Number:						
Household/Entity ID Number:						
Village Name:					NO.:	
GPS Position:	EASTING:		NORTHING:			
Postal Address:						
District:						
Area Chief:						
Principal Chief:						
Community Council:						
Telephone Numbers						
JOINT OWNER 2 <input type="checkbox"/> / OWNER REPRESENTATIVE <input type="checkbox"/>						
Full Name:						
Gender:						
Type of Identification	PASSPORT	DRIVERS LICENCE	ID	AFFIDAVIT:		
Official Identity No.:						
Village Name:					NO.:	
Postal Address:						
District:						
Area Chief:						
Principal Chief:						
Community Council:						
Telephone No.:						

Permanently Affected (Compensatable) Asset Types (tick the applicable)		
1. Homestead primary Structures /dwellings	6. Residential Plot – rural area	13. Fruit Trees (young/pre-production)
2. Secondary and incomplete structures/ outbuildings	7. Food Gardens	14. Timber/fuel trees
3. Kraals/ stables/ sheds	8. Business Structures.	15. Thickets
4. Homestead fencing	9. Business Plots	16. Graves
5. VIP toilets	10. Business Enterprises	17. Communal Natural Resources (pasture)
	11. Agricultural land	18. Other (Specify)
	12. Fruit Trees (in production)	

## FORM 4b: ASSET REGISTRATION FORM

### Inventory of Compensatable Affected Assets

[illegible]

Permanently Affected (Compensatable) Asset Types <i>(tick the applicable)</i>		
1. Homestead primary Structures /dwellings (m <sup>2</sup> )	8. Business Structures (formal) (m <sup>2</sup> )	15. Timber/fuel trees (tree)
2. Secondary & incomplete structures/ outbuildings (m <sup>2</sup> )	9. Business Structures (small-scale) (m <sup>2</sup> )	16. Thickets (m <sup>2</sup> )
3. Kraals/ stables/ sheds (m <sup>2</sup> )	10. Business Plots (m <sup>2</sup> )	17. Graves (grave)
4. Homestead fencing (running metre)	11. Business Enterprises (valuation)	18. Communal Natural Resources (Grazing land) (m <sup>2</sup> )
5. VIP toilets (household)	12. Agricultural land (m <sup>2</sup> )	19. Other (Specify)
6. Residential Plot – rural area (m <sup>2</sup> )	13. Fruit Trees (in production)(tree)	20. Other (Specify)
7. Food Gardens (m <sup>2</sup> )	14. Fruit Trees (pre-production) (sapling)	

## 14.6 ANNEX 6: Impacts Screening Templates

### RD OPRC ROADS DEVELOPMENT

#### Typical RPF Related Roads Development Impacts Screening

##### Step 1: Public Consultation and Scoping Session(s)

Step 1 involves public consultation at scoping level (during EIA/SIA preparation phase) where Chiefs, Councillors, other leaders and community representatives attend scoping session(s) at strategic project locational areas, where project plans are tabled by the consultant / OPRC contractor to solicit initial views and feed-back. Names and minutes of the scoping sessions are to be produced.

##### Step 2: General Screening of Potential Impacts

Step 2 involves the screening process through which identification is made of all possible Valued Environmental Components (VECs) of the project and their anticipated impacts - beneficial or detrimental, which can reasonably result from the project implementation. This is done by compiling a candidate list of key impacts (from the VECs) such as socio-economic, social and cultural, bio-physical, etc. and identifying potential sources of environmental impacts.

##### Step 3: Environmental Impacts Analysis

Step 3 involves subjecting to analysis, the main impacts determined from the screening stage in order to quantify them whenever possible. The identified environmental impacts are predicted in terms of their potential size and nature. The prediction of impacts specifies the impacts' causes and effects, and their secondary and synergistic consequences for the environment and local community. The analysis include the evaluation of the significance of impacts. The evaluation will lead to the judgement about which impacts in the study are considered important and therefore need to be mitigated.

##### Step 4: Identifying Mitigation and Management Options

Step 4 involves proposals on what management and/or mitigation measures to employ for the identified and predicted environmental impacts. This will enable mitigation measures analysis, followed by proposals to mitigate, prevent, reduce, remedy or compensate for each of the adverse impacts evaluated as significant. The analysis of the implication of adopting different alternatives to be explicitly done to help make the choice clearer for decision making.

##### Step 4: Preparation of the Environmental Management Plan (EMP)

Based on all mitigation measures identified and proposed during the impact analysis phase, an EMP to be developed. The EMP ensures that project activities are conducted and managed in an environmentally sound and responsible manner. The EMP contains some environmental specification to which the contractor will be required to adhere to throughout the duration of his contract. Also, the EMP details the organisational authority and structure required to ensure the effective implementation of the EMP.

##### Step 5: Impact Matrix Preparation

The following evaluation matrices are used to determine possible impacts of the proposed project components on the environment. Each impact will be evaluated in terms of intensity, duration and chances of occurrence. For each of the anticipated negative impacts there will be proposed mitigation measures which should be considered during the implementation and operation of the project. Some impacts will happen during the construction phase while others may continue or happen during the operational phase of the project. Environment is to be understood in its broadest sense, including all biophysical, social and cultural aspects. The significance of an impact will be evaluated using the following criteria:

Criteria	Description
Spatial Extent	Local, regional, national, cross-border/international
Nature of impact	This is an appraisal /evaluation of the type of effect the construction, operation and maintenance of a development would have on the affected environment. This description includes what is to be affected and how.
Duration of impact	<ul style="list-style-type: none"> <li>Short term: 0-5 years;</li> <li>Medium-term: 5-15 years</li> <li>Long-term: 16-30 years. Impact will cease after the operational or working life of the activity, either due to natural process or by working life of the activity, either due to natural process or by human intervention.</li> </ul>

Criteria	Description
	<ul style="list-style-type: none"> <li>Permanent: impact will be where mitigation by natural process or by human intervention will not occur in such a way or in such a time span that the impact can be considered transient or temporary.</li> </ul>
Intensity	<ul style="list-style-type: none"> <li>Low Impact: affects the environment in such a way that natural, cultural and soil functions and processes are not affected.</li> <li>Medium impact: affected environment is altered by natural, cultural and soil functions and processes continue although in a modified way.</li> <li>High: natural, cultural or social functions or processes are altered to the extent that they will temporarily or permanently cease.</li> </ul>
Probability of occurrence	<ul style="list-style-type: none"> <li>Improbable: low likelihood;</li> <li>Probable: distinct possibility;</li> <li>Highly probable: impact will occur regardless of any prevention measures;</li> <li>Definite: impact will occur regardless of any prevention measures.</li> </ul>
Determination of significance	<ul style="list-style-type: none"> <li>No significance: the impacts do not influence the proposed development and/or environment in any way;</li> <li>Low significance: the impacts will have a minor influence on the proposed development and/or environment. These impacts require some attention to modification of the project design where possible, or alternative mitigation.</li> <li>Medium significance: the impacts will have a moderate influence on the proposed development and/or environment. The impact can be ameliorated (lessened or improved) by a modification in the project design or implementation of effective mitigation measures. Should have an influence on decision, unless it is mitigated.</li> <li>High significance: the impacts will have a major influence on the proposed development and/or environment. The impacts could have the no-go implication on portions of the development regardless of any mitigation measures that could be implemented. Influence decision, regardless of any possible mitigation.</li> </ul>

The application of good construction practices as described in the EMP would mitigate most of the temporary impacts up to an acceptable level.

The analysis matrix Table below is just a template to be adjusted to the specifics of each project.

**ROADS (OPRC) DEVELOPMENT**

Aspect	Impact Description	Spatial Extent	Duration of Impact	Probability of occurrence	Intensity	Significance (with mitigation)
<b>Positive Environmental Impacts (construction phase)</b>						
<i>Socio-economic</i>						
• Employment creation during construction						
•						
<i>Natural Environment</i>						
•						
•						
<b>Negative Environmental Impacts (construction phase)</b>						
<i>Socio-economic</i>						
• Loss of property/assets						
• Loss of communal and private land						
• Construction camps health and interference with locals;						
• Social disruption in the areas surrounding the project area						
• Safety risk						
• Health (HIV & AIDS, etc.)						
• Cultural heritage and practices (archaeology/ palaeontology)						
•						
<i>Natural Environment</i>						
• Blasting & Vibration						
• Dust generation and air pollution						
• Noise pollution						
• Traffic interference						
• Vehicle emissions						
• Land Use						
• Impact on sensitive ecological and environmental features						
• Flora and fauna						

Aspect	Impact Description	Spatial Extent	Duration of Impact	Probability of occurrence	Intensity	Significance (with mitigation)
• Soils and Geology						
•						
<b>Positive Environmental Impacts (operational phase)</b>						
<i>Socio-economic</i>						
• Improved mobility /travel time						
• Improved access to services, facilities and markets						
• Enabling some local economic venture developments						
• Health Impacts (positive)						
• Etc.						
<i>Natural Environment</i>						
1.						
2.etc.						
<b>Negative Environmental Impacts (operational phase)</b>						
<i>Socio-economic</i>						
• Safety risk						
• Etc.						
<i>Natural Environment</i>						
• Traffic noise						
• Dust generation and air pollution (gravel road)						
• Traffic interference						
• Vehicle emissions						
•						

## 14.7    ANNEX 7: Extracts From Operational Policy (OP 4.12)

The World Bank's involuntary resettlement safeguard policy (OP 4.12) is triggered when a project leads to the involuntary taking of land resulting in:

- relocation or loss of shelter;
- loss of assets or access to assets; or
- loss of income sources or means of livelihood, whether or not the affected people must move to another location.<sup>7</sup>

### Policy Objectives

- Involuntary resettlement should be avoided where feasible, or minimised, exploring all viable alternative project designs.
- Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the people displaced by the project to share in project benefits.
- Displaced people should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- Displaced people should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels.

### Required Measures

OP 4.12 requires that displaced people be provided with prompt and effective compensation for the loss of assets attributable directly to the project, and with assistance during relocation. The taking of land and related assets may occur only after compensation has been paid, resettlement sites allocated, and moving allowances provided, where applicable.

Preference should be given to land-based resettlement strategies for displaced people whose livelihoods are land-based:

- These strategies may include resettlement on public land or on private land acquired or purchased for resettlement.
- Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken.
- If land is not the preferred option of the displaced people or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for loss of land and other assets.
- The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

Payment of cash compensation for lost assets may be appropriate where:

- livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual is economically viable; or
- active markets for land, housing, and labour exist, displaced people use such markets, and there is sufficient supply of land and housing; or
- livelihoods are not land-based.

Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

The Banks states that particular attention must be paid to the needs of vulnerable groups among the displaced, especially those below the poverty line, the landless, the elderly, women and children.

If physical relocation of affected people is required, the resettlement plan/policy framework includes measures to ensure that the displaced people are:

- provided assistance (such as moving allowances) during relocation; and
- provided with residential housing, or housing sites, or, as required, agricultural sites at least equivalent to the advantages of the old site.

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<sup>7</sup> OP/BP 4.12 also cover the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced people.



The resettlement plan/policy framework may also include measures to ensure that displaced people are:

- offered support after displacement for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living; and
- provided with development assistance such as land preparation, credit facilities, training or job opportunities.

Displacement or restriction of access should not occur before necessary measures for resettlement are in place, namely:

- provision of compensation;
- assistance required for relocation; and
- provision of resettlement sites with adequate facilities.

In new resettlement sites or host communities, infrastructure and public services should be provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced people and host communities. Patterns of community organisation appropriate to the new circumstances should be based on choices made by the displaced people.

#### Eligibility for Benefits

The borrower should conduct a census to identify the people who will be affected by the project.

The criteria by which displaced people will be deemed eligible for compensation and other resettlement assistance need be established. OP 4.12 identifies three categories of affected people:

- those who have formal legal rights to land, including customary and traditional rights recognised under the laws of the country;
- those who do not have formal legal rights to land, but have a claim to such land or assets – provided that such claims are recognised under the laws of the country or become recognised through a process identified in the resettlement plan. “Such claims could be derived from ... continued possession of public lands without government action for eviction (that is, with the implicit leave of the government)”; and
- those who have no recognisable legal right or claim to the land they are occupying.

Category 1 and 2 people should be compensated for the land they lose, as well as provided with other agreed-upon assistance. Category 3 people should be provided with resettlement assistance in lieu of compensation for the land they occupy as well as other assistance as necessary, if they have occupied the area prior to an agreed cut-off date for entitlements. All three categories should be provided with compensation for loss of assets other than land.

People who encroach on the area after a cut-off date established by the borrower and acceptable to the Bank are not entitled to compensation or any other form of resettlement assistance.

#### Public Consultation

Displaced people and any host communities receiving them should be provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.

A resettlement plan/policy framework requires that the borrower informs potentially displaced people at an early stage about the resettlement aspects of the project and takes their views into account in project design. Thereafter:

- displaced people are informed about their options and rights pertaining to resettlement; and
- displaced people are consulted, offered choices among, and provided with technically and economically feasible resettlement alternatives.

#### Resettlement Planning, Implementation and Monitoring

A resettlement policy framework or plan comprise the strategy for achieving the objectives of the policy and cover all aspects of the proposed resettlement.

For sector investment operations that may involve involuntary resettlement, a Resettlement Policy Framework is required. The framework estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

At a project level, the socio-economic risks associated with involuntary resettlement are addressed through preparation of a Resettlement Action Plan (RAP) or an Abbreviated RAP<sup>8</sup>. These form part of the broader Environmental Assessment (EA) process, linked to the Social Impact Assessment (SIA) and Social Management Plan (SMP) – which also encompass socio-economic impacts that do not result from involuntary resettlement.

Resettlement planning includes early screening, scoping of key issues, and the choice of a resettlement instrument. Screening and scoping of key issues determines the type, location, sensitivity and scale of each project, and the nature and magnitude of potential social impacts, including for resettlement. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement.

The selection process to be followed in determining the appropriate resettlement instrument according to World Bank standards is outlined in Figure 1 below<sup>9</sup>.

A full RAP is required whenever land acquisition in a project:

- affects more than 200 people, and
- takes more than 10% of any landholding; and/or
- involves relocation.

An Abbreviated RAP is acceptable if:

- fewer than 200 people are affected; or
- if more than 200 people are affected, but all land acquisition is minor (10% or less of any landholding is taken) and no physical relocation is involved.

If fewer than 200 people are affected but some relocation is involved, an Abbreviated RAP is expanded to include an economic rehabilitation programme.

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<sup>8</sup> A Resettlement Process Framework may also be prepared, for the involuntary restriction of access to legally designated parks and protected areas.

<sup>9</sup> World Bank. 2004. *Involuntary Resettlement Handbook. Planning and Implementation in Development Projects*.

## **14.8 ANNEX 8: Terms of Reference (this assignment)**

### **Lesotho Transport Infrastructure and Connectivity Project Terms of Reference for Resettlement Policy Framework**

#### **1.0 Introduction**

The primary purpose of this consultancy service is to prepare a Resettlement Policy Framework (RPF) to be used in the implementation of the Lesotho Infrastructure and Connectivity project. The RPF is a statement of the policy, principles, institutional arrangements and procedures that the Borrower (Government of Lesotho) will follow in each subproject/contract involving resettlement. It sets out the elements that will be common to all the subprojects/contracts. Preparing it allows the Bank and the Borrower to agree on principles and processes, so that these need not be discussed for every subproject/contract. It also allows project implementers, who may be in many locations, agencies, or communities, to undertake specific subprojects/ contracts without having to re-negotiate fundamental agreements.

#### **2.0 Background**

Poor-quality and unevenly distributed road network is currently a constraint on growth, especially for the isolated highland areas of Lesotho. The network links all the districts with nine border crossing points to South Africa. Most of Lesotho's road network is concentrated in the lowlands, which constitute only 25 percent of the country's total area. Arterial roads connect all districts in Lesotho, but relatively fewer rural roads connect villages and towns within mountain districts of Thaba Tseka, Mokhotlong, Qacha's Nek, and Quthing that include the remaining 75 percent of Lesotho's land area and about a quarter of its population. The mining and tourism sectors in the Mokhotlong district offer Lesotho's best economic potential, but are constrained by the very poor condition of district's road infrastructure, although a few bridges have been built recently. The poor condition of roads leading to the district capitals of Mokhotlong and Thaba-Tseka also constrains the access to urban markets. As a result, the 25 percent of Lesotho's population living in these less developed and sparsely populated mountainous districts, with limited road connections and bridge access across the rivers, are isolated with poor access to basic services, markets, and business opportunities. With total of 39 inland river crossings in the highland areas, this population is highly dependent on ferry services at river crossings, animal transport, and pedestrian travel.

The proposed project (TIC) seeks to improve the maintenance regime of a selected group of these roads as well as improve access across some of the rivers through the construction of footbridges. The implementation of these project components is likely to negatively impact on the settlement of selected individuals and communities. Therefore a proper framework on how such sporadic issues will be handled is required.

#### **3.0 Rationale**

The Lesotho Roads Directorate Developed a Resettlement Policy Framework for its Road Sector Development Programs in the year 2010 under the auspices of the Integrated Transport Project (ITP). Although the document is yet to be ratified by the Cabinet as an official document of the Government of Lesotho; it is already being used as the guiding document for the implementation of resettlement issues in all Road Directorate projects. With the coming of a multifaceted project, there is a need to produce an updated version Resettlement Policy Framework which will serve as the social safeguards instrument for reference under the implantation of the Transport Infrastructure and Connectivity project (TIC).

The World Bank's Operational Policy on Involuntary Resettlement (OP 4.12) must be applied to any project which displaces people from land or productive resources, and which results in relocation, the loss of shelter, the loss of assets or access to assets important to production, the loss of income sources or means of livelihood, or the loss of access to locations that provide higher incomes or lower expenditures to businesses or persons. The policy applies whether or not the affected persons must move to another location<sup>10[1]</sup>. The Bank describes all these processes and outcomes as "involuntary resettlement," or simply resettlement, even when people are not forced to move. Resettlement is involuntary if affected people do not have the option to retain the status quo that they have before the project begins. Many projects involve multiple subprojects that require land takings, and for a wide range of projects the subprojects/contracts may not be known at the beginning of a project because they will be selected at a later date, the Transport and Infrastructure and Connectivity Project falls into this category.

These category of projects normally require two types of resettlement planning. First is a Resettlement Policy Framework (RPF) that will guide and govern the project as subprojects are selected for inclusion. Second are the specific resettlement action plans (RAPs) that are carried out for each subproject where displacement as described above, will occur.

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<sup>10[1]</sup> The full policy and its Annex are available on the World Wide Web (the Internet), in Volume 2 of the Bank's Operational Manual at <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nsf/textonly>

The RPF must be prepared, accepted, and disclosed publicly before the Bank will appraise the project. The individual RAPs for subprojects must also be prepared, accepted, and disclosed by the Bank before appraisal. Provision must be made in the RPF for the process for reviewing and accepting subsequent RAPs before any subproject/ contract is approved for inclusion in the Bank-supported program. Therefore the standard program of Public disclosure will apply via known media in the client country and world bank infoshop.

#### **4.0 Objective**

The objective of these TORs is to prepare a resettlement policy framework within which, the process and procedures for land acquisition, compensation, and resettlement operations will be settled.

#### **4.1 Scope of Work**

The consultant will be expected to prepare a Resettlement Policy Framework (policies, procedures and other actions) to lay out the resettlement/compensation principles, organizational and implementation arrangements for contracts that may require resettlement. It is expected that the Resettlement Policy Framework should cover the various activities of the project. The expected output is a report that provides basic information about the scope of resettlement/rehabilitation actions to be induced by project operations. The tasks of the assignment are as follows:

1.        **Review of Legal and Institutional Framework**

Review of current legal, regulatory and policy framework for land acquisition, expropriation, compensation, relocation and resettlement; review their effectiveness and make recommendation for its improvement when required. Analyze the suitability of the current institutional arrangements, the capacity of the client and its preparedness to execute resettlement/rehabilitation activities falling under this project and recommend ways to enhance the institutional capacity of the client.

2.        **Valuation of and Compensation for Losses**

Define appropriate procedures to be used in valuing losses to determine their replacement cost and describe levels of compensation to achieve replacement cost for lost assets;

3.        **Eligibility**

Define the criteria for determining the eligibility for compensation and other resettlement assistance including relevant cut-off dates.

4.        **Community Participation**

Define mechanisms for consultations with and participation of PAPs in plan/design, implementation and monitoring of presumed resettlement activities;

5.        **Resettlement Instruments**

Define the process and procedures of preparing and approving resettlement/rehabilitation action plans;

6.        **Grievance Procedures**

Define a formal process for information dissemination and settlement of disputes and counseling during resettlement process;

7.        **Monitoring and Evaluation**

Design a mechanism for monitoring and evaluation of resettlement activities by implementing agencies, independent monitors as well as the PAPs – to ensure full and objective information.

The Tasks should form a basis for chapters of the report

#### **4.2 Methodology**

The consultant will be expected to follow, but not limited to the following procedure:

- Review of existing national laws, regulations and other relevant documents regarding resettlement/rehabilitation of property;
- Review and analysis the existing RPF prepared for the Road Directorate and integrate relevant parts into the new RPF.

#### **5.0 Qualifications, Timeframe and Reporting**

##### **5.1 Qualifications**

The consultant should be an experienced social scientist with a Master's degree or Land Valuation expert with a Master of Science degree in Land Economics; either expert must have documented experience in social scientific analysis and a minimum of 5 years working experience with social survey and assessments. Experience from resettlement and rehabilitation programs in Lesotho will be an added advantage. Knowledge of Bank's safeguard policies is mandatory. The consultant is required to have proven capabilities in report writing.

### **5.2 Timeframe**

The target period for the start of the consultancy is 2<sup>nd</sup> May 2016. It is anticipated that the consultant(s) should complete the outputs of the work over a maximum duration of 120 days including document reviews.

### **5.3. Submission of Reports**

The work of the consultant will be supervised by the Environment and Social Unit (ESMU) of the Roads Directorate (RD). The consultant should obtain comments from the ESMU and World Bank task team before submitting the final report. The Consultant shall prepare and submit the reports in English to the Client. The Consultant shall deliver 12 hard copies and two soft copies of the complete report in a generally used electronic format.

Due to the short duration of the assignment, payment schedule will be as follows:

- 10% on signing the contract
- 50% on submission of an acceptable draft Final report
- 40% on submission of a final report that incorporates comments from the client. Final payment will only be made on acceptance of the final report by the World Bank, Planning unit of MoPWT and the Roads Directorate. Revisions of the draft final report shall be done at no cost to the client.

The content of the final report should be presented in a format similar to the following.

- Executive Summary;
- A brief description of the project and components for which land acquisition and resettlement are required;
- Principles and objectives governing resettlement policy framework;
- Assessment of estimated population displaced and likely categories of displaced persons, to the extent feasible;
- Eligibility criteria for defining various categories of displaced persons;
- Assessment and presentation of the legal framework reviewing the fit between borrower laws and regulations and Bank policy requirements and measures proposed to bridge any gaps between them;
- Methods of valuing affected assets;
- Organizational procedures for delivery of entitlements;
- Description of grievance redress mechanisms;
- Arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds and contingency arrangements;
- Mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring; and
- Arrangements for monitoring by the implementing agency and, if required, by independent monitors

All documents shall be prepared in accordance to the World Bank Guidelines.

### **5.0 Other information**

The consultant is directed to, but not limited to the following documents for undertaking the assignment:

- Land Act No. 42 of 2010
- Roads Directorate Resettlement Policy 2010
- World Bank, OP 4.12, Involuntary Resettlement
- Guidelines for EIA (Government of Lesotho, Ministry of Tourism, Environment and Culture).
- Lesotho Design Standards for Roads and Bridges: Guidelines for Environmental Control (Vol.9).

## 14.9 ANNEX 9: References

1. Cernea, M.M. (ed). *The Economics of Involuntary Resettlement: Questions and Challenges*. The International Bank for Reconstruction and Development, 1999.
2. Government of Lesotho. *The Constitution of Lesotho, 1993*.
3. Government of Lesotho. *The Roads Act, 1969*.
4. Government of Lesotho. *The Land Act, 2010*.
5. Government of Lesotho. *The Land Administration Authority 2010*.
6. Government of Lesotho. *Environment Act, 2008*.
7. GOL (1988). Design Standards for Roads and Bridges. Vol. 9.
8. GOL. Government Gazette. Vol. XXXIV, No. 44. 7 July 1989. *Declaration of Roads and Road Reserves*.
9. GOL. Ministry of Public Works and Transport. *Technical Manual for Low Volume Roads Using Labour-Based Methods*. May 1996.
10. GOL, Maseru Urban Planning and Transport Study, October 2010
11. GOL. Guidelines for Environmental Control. Roads Department. Maseru.
12. GOL (1999). Draft Guidelines for Environmental Impact Assessment. Maseru.
13. GOL. Ministry of Economic Planning. Bureau of Statistics. *Households Population 1996. Volume IIID (a)*. December 2000.
14. GOL. Ministry of Public Works and Transport. *Integrated Transport Infrastructure Programme (ITP)*. June 2002.
15. GOL. Ministry of Public Works and Transport. *Compensation and Resettlement Policy Framework for the Transport Sector (MOPWT, 2011)*.
16. GOL, National Strategic Development Plan 2012/13-2016/17, 2014
17. GOL, MLGCPA, National Decentralisation Policy for Lesotho, February 2014
18. International Finance Corporation. *Handbook for Preparing a Resettlement Action Plan*.
19. Lesotho Highlands Development Authority. *Resettlement and Development Plan, Phase 1B (Mohale Dam)*.
20. Lesotho Highlands Development Authority. *Compensation Policy, 1997* (revised October 2002).
21. Lesotho Highlands Development Authority. *LHWP Phase II Compensation Policy, August 2016*.
22. Lesotho Highlands Development Authority. *LHWP Phase II Compensation Rates for Phase II of the Lesotho Highlands Water Project (2016/2017 Fiscal Year), September 2016*.
23. Lesotho Highlands Development Authority. *LHWP Phase II Community Participation Strategy, 29 September 2014*
24. Metolong Authority. *Metolong Dam and Development Programme Resettlement and Compensation Policy and Procedures 2010*.
25. Sectoral HIV and AIDS Guidelines prepared under the Integrated Transport Project (ITP).
26. Sectoral Environmental Assessment for the Transport Sector Programme, Lesotho report 2003
27. WASCO. WASCO Policy Framework for Land Acquisition and Compensation 2012
28. World Bank. Aide Memoire: *TIC and ITP. August 2015*
29. World Bank. Aide Memoire: *TICP. February 2017*
30. World Bank. *Operational Policy 4.12. Involuntary Resettlement*. December 2001.
31. World Bank. *Operational Policy 4.12 - Annex A. Involuntary Resettlement Instruments*. December 2001.
32. World Bank. *Bank Procedure 4.12. Involuntary Resettlement*. December 2001.
33. World Bank. *Environmental and Social Framework: Setting Environmental and Social Standards for Investment Project Financing, 2016*
34. World Bank. *Generic Terms of Reference for a Resettlement Policy Framework*.
35. World Bank publication on "Roads and the Environment: A Handbook"
36. World Bank. 'Social Analysis in Transport Projects: Guidelines for Incorporating Social Dimensions into Bank-Supported Projects. Social Development Department, Washington, D.C. 2016'
37. World Bank. 2003b. Social Analysis Sourcebook: Incorporating Social Dimensions into World Bank Operations. Social Development Department, Washington, D.C.: The World Bank. On the Web at: <http://www.worldbank.org/socialanalysis/sourcebook>.