

PHILIPPINES: SOCIAL INCLUSION AND ALTERNATIVE LIVELIHOOD OF THE INFORMAL WASTE SECTOR

LAND ACQUISITION, RESETTLEMENT AND REHABILITATION OF DISPLACED PERSONS FRAMEWORK

The possibility is always there that when development projects are implemented, there will be people who can be adversely impacted by such efforts. The most appropriate response should therefore be to minimize the number of people who will be negatively impacted, and ensure that the project provides for appropriate compensation and rehabilitation packages for those adversely affected.

It is in this context that this policy framework and the corresponding implementing guidelines are adopted, to govern the conduct of land acquisition, resettlement or rehabilitation of project displaced persons (DPs) of the Social Inclusion and Alternative Livelihood of the Informal Waste Sector. Targeted to be implemented over a period of three years, the Project aims to improve the livelihood and social inclusion of waste pickers and their communities through the development of alternative opportunities and incorporation into the evolving formal solid waste management sector.

The Project intends to cover over 3500 informal waste pickers and their families in 5 municipalities/cities that will be undergoing the process of modernization of their facilities and at least 2000 members of recycling cooperatives in Metro Manila and other LGUs.

The Project will have four components, namely:

- Participatory strategic planning - This component will support the participatory planning structure and strategic planning process for implementation of the innovations under the components as part of the social inclusion in the waste sector (component 2) and alternative livelihoods (component 3). A baseline social survey and assessment for each community will be conducted to identify the key beneficiary groups, their skills, social challenges and other relevant information.
- Social inclusion in waste management systems – This component will implement innovations to increase income and empowerment as identified in the strategic plan developed under Component 1 for each of the participating 5 LGUs. Each plan will involve sub-grants to the participating organizations. The sub-grants will fund investments, organizational capacity building and training in support of the integration of the informal sector in the waste management system with local governments using approaches to increase incomes and empowerment as outlined in the Plan. The grant will fund a combination of goods, works and training provided directly to the informal waste sector participants. The component will also support youth development programs for self esteem building, job placement, and supplementary education as identified in the plan. The sub-grant would also fund the support to informal waste sector members of cooperatives in Metro Manila focusing on programs to implement innovative models to improve incomes and empowerment among these groups, as identified in the consultative process in component 1.
- Alternative livelihoods for the informal waste sector -This component will develop livelihood opportunities for informal waste sector participants in the program municipalities that are investing in the modernization of their solid waste system. These opportunities are outside of the opportunities found as part of the formalization of the solid waste management system undertaken in component 2. This component will cover employment training and placement and entrepreneurial business development.
- Management, monitoring and evaluation and knowledge dissemination - In order to help ensure good project management, and governance and accountability including financial management for within the project implementing agency and the associated partners, this component will

provide financing for basic grant administration and monitoring and evaluation. It will also help ensure the lessons from the work are properly shared through a knowledge dissemination sub-component.

Of the four components, Component 2 (social inclusion in waste management system) may create possible negative impact on people, as properties and other assets are acquired to build or expand infrastructure.

The number of people and magnitude of adverse effects cannot be ascertained at this time, although the Project expects these to be minimal. To ensure, however, that proper compensation is given to persons affected by the Project, this Policy Framework is being adopted by SWAPP to govern transactions involving land acquisition, resettlement and/or rehabilitation of displaced persons (DPs).

This document is based on the following issuances:

- Executive Order 1035, *Procedures and Guidelines for the Expeditious Acquisition by the Government of Private Real Properties or Rights thereon for Infrastructure and Other Government Development Projects*. June 1985
- Executive Order 132, *Procedures to be followed in the Acquisition of Private Property for Public Use and Creating Appraisal Committee*
- World Bank Operational Policy 4.12, *Involuntary Resettlement*. December 2001

Policy Framework

A Project Management Office (PMO) will be established and headed by the Solid Waste Management Association of the Philippines (SWAPP) with the SWAPP Board serving as policy and program advisor. The implementation and coordination of the sub-projects will be done through the PMO with administration of funds done either by the local government itself, solid waste operators, or a local NGO chosen on a competitive basis. The magnitude of adverse project impacts, if any, is expected to be minimal and will only be known once the specific community-identified infrastructure sub-projects are selected and designed.

To adequately address the rehabilitation and compensation of the people to be affected by the acquisition of land under the Project, this *Policy Framework and Implementing Guidelines for Land Acquisition, Resettlement and Rehabilitation of Displaced Persons* is hereby adopted.

The principal objective of this document is to ensure that all displaced persons are compensated for their losses and provided with assistance to improve, or at least maintain, their pre-Project living standards and income earning capacity.

The document lays down the principles and objectives, eligibility criteria of entitlements, legal and institutional framework, modes of compensation, people participation features and grievance procedures that will guide the implementation of compensation for displaced persons.

Principles and Objectives

The principles outlined in the World Bank's Operational Policy 4.12 have been adopted in preparing this document. In this regard, the following principles and objectives will govern Project implementation:

- Acquisition of land and other assets should be avoided, where feasible, and minimized as much as possible.
- All displaced persons residing or cultivating land, working, doing business, or having rights of

ownership along an alignment or segment of alignment to be constructed, rehabilitated or improved under the Project are, as of the time of conduct of the baseline surveys, entitled to be provided with compensation sufficient to assist them to improve or at least maintain their pre-Project living standards, income earning capacity and production levels.

- Lack of legal rights to the assets lost will not bar the displaced persons from entitlement to such compensation or rehabilitation measures.
- Replacement premise and agricultural land will be as close as possible to the land that was lost and is acceptable to the displaced persons.
- All replacement land for agriculture, residential and business use will be provided with secured tenure status and without any additional cost, taxes, and surcharges to the displaced persons at the time of transfer.
- Planning and implementation for acquisition of land and provision of compensation will be carried out in consultation with the displaced persons, to ensure minimal disturbance and transparency in transactions between the Project implementers and displaced persons.
- Entitlements will be provided to displaced persons no later than one month prior to expected start-up of works at the respective subproject site. Construction work will not be initiated until displaced persons are compensated or adequately relocated.
- Financial and physical resources for compensation will be made available as and when required.
- Community infrastructure, which are affected must be restored or replaced.
- Institutional arrangements should be in place to ensure the effective and timely design, planning, consultation and implementation of the Inventories.
- Effective and timely implementation supervision, monitoring and evaluation of the resettlement action plans must be carried out.

Entitlement Framework

The PMO will work closely with SWAPP Board in the implementation of this policy framework and implementing guidelines. The Social Inclusion and Alternative Livelihood for the Informal Waste Sector Project, as represented by the PMO, will coordinate with the duly authorized representative/s of the LGU in determining the appropriate compensation for displaced persons in accordance with the following compensation scheme:

- Displaced persons losing more than 20% or all of their productive assets (agricultural land, house or business), or in cases when the remaining assets are not economically viable, are entitled to:
 - ✓ full compensation at replacement cost of the entire asset or at direct land/asset replacement; and
 - ✓ rehabilitation assistance that allows them to enhance or at least maintain their standard of living.
- Displaced persons losing less than 20% of their productive assets, and where the remaining assets remain viable for continued use, are entitled to cash compensation at replacement cost for the affected asset.
- Agricultural land will be replaced by:
 - ✓ land of equal productive capacity, which is acceptable to the displaced persons; or
 - ✓ full compensation at replacement cost, where land is not available.
- Commercial/residential land (or other real property) will be replaced by:
 - ✓ land of equal market value or business potential (as the case may be), which is acceptable to the displaced persons; or
 - ✓ full compensation at current market value, where suitable replacement land is not available or at the informed request of the displaced persons.
- Replacement of damaged or lost crops will be based on full market value for one year's harvest and will be paid in cash.

- Displaced persons whose land is temporarily taken will be compensated at full replacement cost for their net loss of income and/or damaged assets, including a reasonable amount for opportunity cost/s.
- Appropriate transfer and subsistence allowances will be given during the transition phase as part of the rehabilitation assistance package to allow displaced persons to enhance or at least maintain their standards of living.
- Verification of titles and tax payments shall be undertaken before land replacement or cash compensation.

For Displaced Persons Losing Residential Land and Structures

- The provision of replacement residential land (house site and garden) of equivalent size, satisfactory to the displaced persons; and cash compensation reflecting full replacement cost of the structures, without depreciation;
- If the displaced persons so wish and the portion of the land to be lost represents 20% or less of the total area of the residential land area, and the remaining land is still a viable residential lot, cash compensation, at full replacement cost (market value), will be provided to the displaced persons;
- If after acquisition, the residential land and/or structure is insufficient to rebuild the residential structure lost, then at the request of the displaced persons the entire residential land and structure will be acquired at full replacement cost, without depreciation; and
- Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area, and will be assisted in identifying alternative accommodation.

For Displaced Persons Losing Agricultural

- The general mechanism for compensation of lost agricultural land will be through provision of "land for land" arrangements of equal productive capacity, satisfactory to the displaced persons. However, if the displaced persons so wish and the portion of the land to be lost represents 20% or less of the total area of the landholding, and the remaining land is still a viable economic holding, cash compensation, at full replacement cost (market value), will be provided to the displaced persons;
- If more than 20% of a person's agricultural land is acquired and the remaining holding is not viable, then the Project will acquire the entire landholding and provide compensation of the acquired land at direct land replacement;
- Displaced persons will be compensated for the loss of standing crops and fruit or industrial trees at full (current) market price;
- Displaced persons whose land is temporarily taken by the works under the Project will be compensated for their loss of income, standing crops and for the cost of soil restoration and damaged infrastructure, including a reasonable amount for opportunity cost/s; and
- Displaced persons who will lose their income will be provided opportunities for alternative livelihood, through skills and entrepreneurship training, job matching or business development assistance.

For Displaced Persons Losing Business

- The provision of alternative business site of equal size and accessibility to customers, satisfactory to the displaced persons;

- Cash compensation for lost business structure reflecting full replacement cost of the structures, without depreciation;
- Cash compensation for the loss of income and opportunity during the transition period; and
- Cost of money in case of delays of one year or more in releasing payment.

Other Cases

In cases where community infrastructure such as schools, churches, health centers, water sources, roads, or electrical and water supply connections are damaged, the Project will ensure that these are restored or repaired as the case may be, at no cost to the community.

Implementation Arrangements and Procedures

The responsibility for implementing the policy and guidelines set forth in this document are as follows:

- The overall responsibility for the implementation and enforcement of the policy and guidelines under this document rests with the PMO.
- Guided by the designated community facilitator, the PO and Indigenous People's representatives (if applicable) shall be responsible for preparing the asset inventories, the compensation plans (if applicable), and the supervision of action plans for land acquisition until all requirements have been completed.
- The PO shall ensure that the required consultation and participation of displaced persons in the preparation and implementation of the land acquisition activities comply with the provisions of this policy framework and the Indigenous Peoples Planning Framework (if applicable to area being acquired).
- Funds for implementing the inventories and land acquisition action plans will be provided by the LGU as part of their counterpart contributions.

Voluntary Land Donations

The following guidelines will help in facilitating and documenting voluntary land donation if this approach is the full consensus of the beneficiaries:

- An assessment that the affected person will not suffer a loss that will affect his/her standard of living and economic viability as a result of the donation;
- Certification from the LGUs and the proponents, that the land is free of claims or encroachments from any third party;
- Deed of Donation to the Informal Waste Sector Association concerned, as witnessed by the LGU officials, notarized by a registered Lawyer, with copies of donation papers furnished to the Office of the Municipal Assessor and the Provincial Register of Deeds;
- Declaration of Ownership with Waiver of Claims for Affected Assets;
- Joint Affidavits of Two Adjoining Landowners or Barangay Officials (for unregistered lands);
- Waiver of Rights/Quit Claim (for Plants, Trees, Houses, Structures claimed by Tenants, Informal Settlers); and
- Waiver of Rights/Quit Claim (With Sharing of Claim).

Public Consultation and Participation

The displaced persons will participate throughout the various stages of the land acquisition activities.

When the community has identified the exact location of the infrastructure and the technical requirements for site selection have been fulfilled, the displaced persons will be fully informed about the subprojects and about the provisions of this Land Acquisition, Resettlement and Rehabilitation Policy, in a barangay meeting to be held by the respective PO with their designated community facilitator. Negotiations can be made during this meeting(s), to ensure that negative impacts to households are avoided or kept to being minimal, and that conditions for acquisition are fully understood by all parties involved. The meetings will cover:

- ✓ An orientation on the Project and its Components
- ✓ Subproject proposal, its benefits and possible negative impacts
- ✓ Location of proposed infrastructure
- ✓ Schedules of implementation
- ✓ LARR policy and its implementation arrangements
- ✓ Discussions on Compensation for Acquisition of Properties
- ✓ Conditions and documentation requirements for Sale or Donation of specific properties/assets to be affected
- ✓ Grievance mechanisms and processes

Copies of the Project background, LARR policies and entitlements will be written in the dialect understood by displaced persons and distributed to them.

A walk-through of the alignments to determine the specific location of subprojects on the ground may be arranged by the PO upon the request of displaced persons. Field verification activities will be conducted with the technical design engineers present.

All consultation meetings and other activities shall be properly documented.

In the event that a subproject involves acquisition of land and other assets and results to other adverse impacts, the Sub-Grantee Project Team shall withhold approval of the subproject unless a compensation package or certifications of Waivers in accordance with this document, satisfactory to all concerned, is agreed upon between the LGU, the informal waste sector association and the owners/tenants of land/asset affected as well as those who stand to lose their crops, jobs or sources of income.

An assessment detailing impact on land, property and other asset shall be undertaken by the proponent PO by filling up the Environmental and Social Management Plan template of the Project. If land is required, a series of options for acquisition and compensation will be indication. Any donation of land will have to be accompanied by a formal deed of donation (see above). All required documentation were reviewed and checked PMO before downloading of subproject funds.

Resettlement Plan

As applicable, the following procedures for a resettlement plan will be observed:

Inventory and Entitlement

An inventory for each access road, footbridges, irrigation canal, water supply pipe alignment or segment thereof will be prepared by the Sub-Grantee Project Team . The information to be obtained in the Inventory will include the following information for each Project- Affected-Household.

- number of persons and names;
- amount and area of all the residential plots lost;
- amount, category/type and area of agricultural land lost;

- quantity and types of crops and trees lost;
- quantity and category of any fixed assets lost;
- productive assets lost as a percentage of total productive assets; and
- temporary damage to productive assets.

Land Acquisition and Compensation Report (LACR) for Less than 200 HH

The Land Acquisition and Compensation Report (LACR) will be required if less than 200 displaced households will be affected by the subproject in terms of the need to acquire land and other assets. Furthermore, the subproject shall not result in any displacement of families, and that remaining assets are still viable for continued use. It should reflect the inventory of affected persons and properties, number of persons eligible for each entitlement or form of assistance as stated in the Policy Framework, cost estimates and arrangements for consultation and participation.

The LACR shall be submitted as an Attachment to the Subproject Proposal. The implementation shall be completed at least one month prior to commencement of any construction/physical work. Resettlement Action Plan and Socio-Economic Survey (RAPSS) for more than 200 HH.

A Resettlement Action Plan and Socio-Economic Survey (RAPSS) shall be prepared and implemented if the remaining assets are not viable for continued use or if more than 200 HHs are affected.

The RAPSS shall establish the pre project quality of life of displaced persons in terms of income, occupation, land and structures, tenure, quality of structure, access to basic services and facilities. The full resettlement plan, at the minimum, will include the following:

- completed Inventory;
- detailed compensation and entitlement calculations for each affected household, where applicable;
- detailed socioeconomic survey of DPs describing their age, sex, ethnicity, education, main occupation, sources of income, and total household income per year; location, area and category of the replacement residential and agricultural land to be provided, if that be the case;
- time-bound action plan for implementation;
- detailed budget & source of funding for the various compensation measures; and
- arrangements for external monitoring and evaluation.

If Indigenous Peoples are found among the target barangays, the provisions of the Project's IP Planning Framework shall be adopted. Compensation shall follow this Policy, although certain terms and conditions for performance of cultural rituals and other culture sensitive practices prior to use of IP lands must be followed.

Implementation Schedule

A detailed implementation schedule of the various activities to be undertaken will be included in each inventory and resettlement plan.

Payment of compensation and provision of other entitlements (in cash or in-kind) shall be satisfactorily completed for each sub-project prior to the PMO award of contract for civil works.

Supervision, Monitoring and Evaluation

Implementation of the inventories and resettlement plans will be regularly supervised and monitored by the respective Sub-Grantee Project Team in coordination with the respective PO. The findings will be recorded in the monthly reports to be submitted to the PMO. Internal monitoring and supervision by the designated community Facilitators and community volunteers will constitute:

- Verification that the baseline information of all displaced persons has been carried out and that the valuation of assets lost or damaged, the provision of compensation and other entitlements, and relocation has been carried out in accordance with the provisions of this Resettlement Policy, the respective inventory and resettlement plan (if applicable).
- ✓ Verification and follow-up action to ensure that funds for implementing the inventory and resettlement plan are provided by the LGU to the PO in a timely manner and in amounts sufficient for their purposes, and that such funds are used by the PO in accordance with the provisions of the respective inventory and resettlement plan.
- ✓ Record all grievances and their resolution and ensure that complaints are dealt with in a timely manner.

The PMO, in the event that a Resettlement Action Plan is implemented, will contract an external agency or agencies, as and when needed, to periodically carry out independent monitoring and evaluation of the implementation of the inventories and resettlement action plans. The external agencies can be from academic or research institutions, non-governmental organizations (NGO) or independent consulting firms, all with qualified and experienced staff and terms of reference acceptable to the World Bank.

In addition to verifying the information submitted in the internal supervision and monitoring reports of the designated community facilitators and community volunteers, the external monitoring agency will visit a sample of 20% of displaced households in each Province prior to approval of civil works and/or other occasions as deemed necessary by the PMO. The external monitor will

- ✓ Determine whether the procedures for orientation, consultation meetings, participation, relocation and delivery of compensation and other entitlements have been done in accordance with this LARR Policy and the respective inventories and resettlement action plans;
- ✓ Assess if this document's objectives for the restoration of living standards and income levels of displaced persons have been met;
- ✓ Gather qualitative indications of the social and economic impact of subproject implementation on the displaced persons; and
- Suggest modifications to the PMO on the implementation procedures of the inventories and resettlement plans, as the case may be, to achieve the principles and objectives of this document.

Costs and Budget

Each inventory and resettlement plan will include detailed cost of relocation, compensation and other entitlements, with a breakdown of replacement or rehabilitation costs for agricultural land, residential land, business land, houses, business and other assets, public facilities and services, and utilities. The cost estimates will make adequate provisions for continuous consultation and information dissemination, and project supervision under contingencies.

Complaints and Grievances

Complaints and grievances relating to any aspect of the resettlement entitlements and/or activities, including the determined area and price of the lost assets, will be managed as follows:

- ✓ A *Complaints and Grievance Committee (CGC)* at the barangay level shall be established to hear the complaints and grievances of the displaced persons regarding the acquisition of land and other

assets, compensation, resettlement, rehabilitation and other entitlements. Members of the CGC shall include the Barangay Captain, Barangay Secretary, a member of the Barangay Justice (Lupong Tagapamayapa) as well as formal and informal representatives of the IP or the affected community.

- ✓ The complaint, grievance and appeal shall have the following levels:
 - LEVEL 1 - The Displaced Person addresses complaints and grievances to the Barangay CGC. The Committee will have to document its investigation of the facts presented and provide a written response to the DP, within fifteen (15) calendar days of receiving the complaint.
 - LEVEL 2 - If the Displaced Person is not satisfied with the decision of the Barangay CGC; the displaced persons may appeal the case to the Sub-Grantee Project Team within fifteen (15) calendar days of receiving the written decision/s from the CGC. The decision of the MPDO shall be rendered within thirty (30) calendar days of receipt of the Displaced Person's appeal after validating the facts of the complaint
 - LEVEL 3 - If the Displaced Person is not satisfied with the decision of the CGC, he/she may appeal the case to the concerned provincial office of the DSWD through the designated community Facilitator within fifteen (15) calendar days of receiving the written decisions from the Committee. The decision of the provincial office of the DSWD shall be rendered within thirty (30) calendar days of receipt of the Displaced Person's appeal after validating the facts of the complaint.
- ✓ If the Displaced Person is not satisfied with the decision of the CGC, the case may be submitted to the PMO, with copies of the complaint furnished to the World Bank (and the provincial and regional offices of the National Commission of Indigenous People, if the Displaced Person is an IP) for consideration. The decision of the PMO shall be rendered within thirty (30) calendar days of receipt of the Displaced Person's appeal. The Displaced Person can appeal to a higher level if he/she so wishes.