THE GOVERNMENT OF LESOTHO

RESETTLEMENT POLICY FRAMEWORK

SECOND EDUCATION SECTOR DEVELOPMENT PROJECT (ESDP II) APL PHASE 2

RP150

THE KINGDOM OF LESOTHO

SECOND EDUCATION SECTOR DEVELOPMENT 
PROJECT II

(ESDP II)

APL PHASE II

RESETTLEMENT POLICY FRAMEWORK

(FINAL DRAFT 04/01/2003)

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THE GOVERNMENT OF LESOTHO

SECOND EDUCATION SECTOR DEVELOPMENT PROJECT (ESDP II) APL PHASE 2

A. INTRODUCTION

1. The Kingdom of Lesotho is a small mountainous developing country completely surrounded by South Africa with a population of about 2 million people. With scarce resources, attributable to the harsh environment on the highland plateau and limited agricultural space in the lowlands for sustainable agricultural activities such as subsistence and pastoral farming, Lesotho (despite being landlocked) has abundant highland fresh water resources and the skills of its resourceful people, the Basotho.

2. Through the Highland Water Project, Lesotho is successfully harnessing its fresh water resources for export to South Africa. Similarly, the Government of Lesotho (GoL) has manifested its commitment to the education of its people by (a) devoting a relatively high share of government budget to education, (b) embracing the Education for All and Millennium Development Goals, (c) identifying education as one of the key strategies for alleviating poverty in its interim Poverty Reduction Strategy Paper (PRSP), and (d) adopting a Free Primary Education (FPE) Policy in 1999.

3. In line with this strategy, the GoL requested the World Bank for support and the 12 year Education Sector Development Program (II) was designed in 1999 (prior to FPE) as a 12 year Adaptable Program Loan (APL) to support the education sector. The goal of the 12 year program is to assist the GoL in achieving its goal of producing more and better educated Basotho and enabling them to participate in local and regional labor markets.


5. APL 1 supported mostly primary and secondary education, extensive analysis and capacity building in the areas of ECD, TVET that would underpin investment decisions in APL 2 and in NFE. Similarly, analytical work completed in APL2 will underpin investment decisions for APL 3.

6. Therefore, the development objective of the proposed ESDP II, APL 2, is to further increase the access, equity, and the quality of primary and secondary education and continued strengthening of the institutional capacity of the Ministry of Education.

7. The proposed ESDP II, APL 2 is structured to achieve its objectives within nine major investment components of the project, which are:

1. Improving Coverage through Construction of Classrooms
2. Targeted Equity Based Program
3. Essential Teaching and Learning Materials
4. School Support through Decentralized Inspection and Advisory Services
5. Strengthening School – level Management
6. Distance Teacher Education Program
7. Basic Education Curriculum and Examination
8. Expansion of ECCD through Home-based Care
9. Further strengthening MOE Institutional Capacity
The detailed policy and investment elements of the proposed APL 2 Project for the period July 2003 to December 2007 are:

- 270 primary classrooms with associated administrative block, kitchen, and latrines are built, 70 of which will be located in remote areas
- 80 classrooms will be added to the existing 20 secondary schools which are identified for being overcrowded (4 classrooms for each secondary school)
- 20,000 scholarships awarded to orphans and other disadvantaged children annually
- Additional core primary textbooks provided to cater for the new enrolment and replenishment and secondary textbook revolving fund established
- 5000 primary teachers and 1000 secondary teachers of Math, English, Science, and Sesotho provided with refresher course bi-annually
- Primary inspectors (45), primary advisors (85), secondary inspectors (20) and secondary advisors (17) trained
- District management strengthened and 10 District Resource Centres provided with equipment and library materials
- School management (400 primary principles and deputies, 100 primary management committees, 500 secondary principals and deputies, and 30 Secondary Boards) trained in finance and management
- Distance Teacher Education Program continue to be supported so that it produces at least 250 graduates annually from 2005 onwards
- Develop an Integrated Curriculum and Examination Framework, localize the Cambridge Overseas School Certificate Exam and continue to implement National Standardized Tests in basic literacy and numeracy
- ECCD home-based centres established in all districts (at least 2 bases per district)
- Two Non-formal Education Learner Post pilots continue to be supported
- Policy development and capacity building in higher education
- MOE institutional capacity strengthened including (a) Strategic Plan reviewed and annual operational plans in use; (b) MTEF implemented annually and education PER updated by 2004; (c) donor coordination strengthened; (d) Education Planning Unit strengthened in policy development, planning, monitoring and evaluation; (e) construction of MOE Headquarters building; (f) ongoing MOE staff training in strategic areas; and (i) HIV/AIDS policy development.

8. Specifically, Component 1, Improve Coverage through Construction of Classrooms, will finance the construction of new primary schools and the expansion of facilities of existing secondary schools.

9. The identification of sites for primary school construction will be based on the needs of local communities as expressed by them and/or the findings from a soon to be commissioned school mapping exercise. Current information from the Ministry of Education (MoE) Education Management Information System (EMIS) show that Thaba-Tseka and Maseru Districts have the highest average pupil:classroom ratios (68 and 59). Therefore, the primary construction will be mainly targeted in these two districts unless the school mapping exercise proves the contrary.
10. Under Component 1, therefore, land will have to be acquired to build these new schools on and to support the expansion of some existing schools. It is expected that in a vast majority of cases due to joint partnership manifested through effective participation and consultation between the GoL/MoE and the local communities, significant efforts would be made to select these sites to avoid or minimize impacts on people, land, property and on access to natural and other economic resources, as far as possible.

11. To this effect the GoL has prepared guidelines for the establishment of new government primary schools which seeks community mobilization and participation and guidelines for identifying school sites.

12. Notwithstanding, in a minority of cases, identification, selection and acquisition of land for the construction of new schools and/or the expansion of others, that may lead to either the physical displacement of people, or their loss, denial or restriction of access to economic resources (such as farm land and/or trees for example and/or huts for residential, rest or commercial purposes) and therefore to resettlement and compensation seems inevitable in some minority cases in this project.


14. The GoL is not required to prepare a Resettlement Plan at this stage since the land/sites have not yet been identified. However, the GoL is required by Bank policy to prepare a Resettlement Policy Framework (RPF) to be publicly disclosed in Lesotho and at the infoshop at the Bank. The date for disclosure in-country and at the infoshop at the Bank must precede the date for appraisal of the project.

15. The RPF establishes the resettlement and compensation principles, organizational arrangements and design criteria to be applied to meet the needs of the people who may be affected by the project. The RPF is prepared to the standards of the Governments own policy on resettlement and compensation and the policy of the World Bank, OP 4.12.

16. When the school mapping exercise is complete and specific planning information on the location of these new schools is made and land/sites are identified, resettlement/compensation plans will be subsequently prepared consistent with this policy framework and will be submitted to the Bank for approval before any land acquisition, resettlement, loss, denial of, and restriction to natural resources or any other impact on livelihood occurs.

14. This RPF covers the following sections;

B. Principles and objectives governing resettlement preparation and implementation.

C. A description of the process for preparing and approving resettlement plans.

D. Land acquisition and likely categories of impact.

E. Eligibility criteria for defining various categories of project affected persons.
F. A legal Framework reviewing the fit between the laws of Lesotho and regulations and Bank policy requirements and measures proposed to bridge any gaps between them.

G. Methods of valuing affected assets.

H. Organizational procedures for the delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer.

I. A description of the implementation process, linking resettlement implementation to civil works.

J. A description of the grievance redress mechanisms.

K. A description of the arrangements for funding resettlement, including the preparation and review of cost estimates, the flow of funds, and contingency arrangements.

L. A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring.

M. Arrangements for monitoring by the implementation agency and, if required, by independent monitors.

B. PRINCIPLES AND OBJECTIVES GOVERNING RESETTLEMENT PREPARATION AND IMPLEMENTATION.

The impacts due to involuntary resettlement from development projects, if left unmitigated, often gives rise to severe economic, social and environmental risks resulting in production systems being dismantled, people facing impoverishment when their productive skills may be less applicable and the competition for resources greater; community institutions and social networks being weakened; kin groups being dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost. The resettlement policy, in most cases, is not triggered because people are being affected by physical displacement. It is triggered because the project activity causes land acquisition, whereby a physical piece of land is needed and people may be affected because they are cultivating on that land, they may have buildings on the land, they may use the land for water and grazing of animals or they may otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented. Therefore, people are in most cases compensated for their loss (of land, property or access) either in kind or in cash of which the former is preferred.

Therefore, the objectives of this policy are the following;

(i) Involuntary resettlement and land acquisition should be avoided where feasible, or minimized, exploring all viable alternatives.

(ii) Where involuntary resettlement and land acquisition is unavoidable, resettlement and compensation activities should be conceived and executed as sustainable
The resettlement policy applies to all components under the project, whether or not they are directly funded in whole or in part by the Bank. Therefore, even though the construction of the Head Office Complex for the Ministry of Education under this project is not being financed by the Bank, the resettlement policy also applies to this activity. At the time of the preparation of this RPF the potential sites to house this Head Office complex were all in the Central Business District (CBD) of Maseru on existing government land that contained existing buildings housing other government departments and ministries. The selection of one of these potential sites would mean relocation of those government offices and demolition of those government buildings. If the decision therefore is to use one of these sites then, the issues of resettlement and therefore OP4.12 do not arise and do not apply. If however, other sites are chosen or the existing situation changes on these potential sites, OP 4.12 may apply.

Similarly, for the Construction of a new 100 bed student hostel for Thaba-Tseka Technical Institute (TTI), the provisions of OP 4.12 would also apply whether or not the Bank funds this activity. At the time of preparation of this RPF, the consultant who prepared it visited the TTI and the proposed sites for this facility. Both sites were fenced off and are part of the existing complex facility of the TTI and at that time there were no other users of the sites other than the TTI.

However, at the time the decision is made on which site the MoE Head Office Complex and the new hostel block for TTI are to be built, a final determination on whether OP4.12 applies would have to be made based on the prevailing situation on the ground at that time.
Furthermore, the policy applies to all affected and/or displaced persons regardless of the total number affected, the severity of impact and whether or not they have legal title to the land. Particular attention should be paid to the needs of vulnerable groups among those affected and/or displaced; especially those below the poverty line; the land less, the elderly, women and children, indigenous groups and ethnic minorities or other affected and/or displaced persons who may not be protected through the Government of Lesotho land compensation legislation.

In particular for ESDP II APL 2, the policy also requires that the implementation of individual resettlement plans are a prerequisite for the implementation of the project activities requiring land acquisition, that is before any construction activity starts to ensure that displacement or restriction to access does not occur before necessary measures for resettlement and compensation are in place. It is further required that these measures include provision of compensation and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets may take place only after compensation has been paid and where applicable, resettlement sites, new homes, related infrastructure, public services and moving allowances have been provided to affected and/or displaced persons. Furthermore, where relocation or loss of shelter occurs, the policy further requires that measures to assist the affected and/or displaced persons are implemented in accordance with the resettlement plan of action.

In this project, in order to make primary education accessible to all Basotho children the MoE will establish new schools in communities. The need for such schools may be identified by the MoE through a school mapping exercise or by local communities themselves. Whether a local community request a school in their location or the MoE identifies a community for a new school, all school sites would be identified by the local communities themselves based on a set of criteria set by the MoE which include that the site should ideally be located within 500m of a settlement area, be at least 20,000m² in area and not within 3km in radius from another school. Therefore, land selection and acquisition will have to be done in a way that satisfies these guidelines. It is anticipated that in most cases this can be done without impacts on people, land, property and livelihoods. But, because of the mountainous terrain in Lesotho in general, but more so in Thaba-Tseka, where this project is targeting for increased school construction, there is at present a scarcity of suitable land for grazing, subsistence farming and for residential purposes in some areas. It would therefore not be possible in all cases to avoid impacts on people, land and property. When this happens, resettlement and compensation cannot be avoided and OP 4.12 will be triggered even though those affected may not have to physically move to another location.

It is particularly important to neutralize to the extent possible any socio-economic pressures in the communities that are likely to be exacerbated by involuntary resettlement, by facilitating the participation of those impacted in the construction activities. Therefore, offering impacted people the opportunity to continue to participate in the planning process that would lead to the preparation of Resettlement Plans is mandatory and Section L of this RPF deals with this requirement.

Also, offering impacted people the opportunity for employment during the construction of the schools, will provide additional income generating opportunities to a significant number of impacted persons who may potentially have to be resettled. Therefore, the
opportunity for employment of affected people by local building contractors is being taken advantage of in this RPF, by including it for discussion in the consultative process with the local communities.

Furthermore, it is worthy to note that rush migration to selected land/sites and forest areas may occur by those wishing to take advantage of the rules of eligibility described earlier in this Section. Were this to happen it would bring to bear additional pressures on the whole planning process and compensation budgets. This has major considerations therefore when establishing the cut-off dates.

A major object of this RPF is to ensure that affected individuals and households, and affected and/or displaced communities are meaningfully consulted, have participated in the planning process, are adequately compensated to the extent that at least their pre-displacement incomes have been restored and that the process has been a fair and transparent one.

C. DESCRIPTION OF THE PROCESS FOR PREPARING AND APPROVING RESETTLEMENT PLANS.

As stated earlier, the World Bank policy on Involuntary Resettlement OP 4.12 is triggered because the ESDP II APL 2 Project will finance the construction of new schools and the expansion of others thereby requiring land acquisition potentially leading in a minority of cases to loss, denial or restriction of access to economic resources. Since the location of these sites were not known at the time of the preparation of the project, the preparation and disclosure of this RPF is a conditionality for appraisal of this project. However, during implementation of this project, in a process defined here below, the selection of these sites would be made. When that happens, land would be acquired or access to economic resources may be lost, denied or restricted and people may then be affected. At that stage, OP 4.12 calls for the preparation of individual Resettlement Plans that must be consistent with this RPF.

To address the impacts under this policy, resettlement plans must include measures to ensure that the affected and/or displaced persons are;

(a) informed about their options and rights pertaining to resettlement.
(b) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives.
(c) And provided prompt and effective compensation at full replacement cost for losses of assets and access attributable to the project.

The modus operandi for the identification of areas for construction of schools would be either of two ways:

(1) The MoE will identify using the results of the school mapping exercise areas that need new primary schools or expansion of existing secondary schools.

And/or,
(2) The local communities will identify their needs and approach the MoE for approval for a school to be built in their community by this project. It is worthy to note that throughout Lesotho today, many communities have identified this need and have not waited for funds from central government to build their schools. They have gone ahead with the blessing of the MoE and are operating schools under trees or tents in their communities on sites that they have already earmarked for school construction should they be approved for funding or secure their own funds. A number of these sites in Thaba-Tseka were visited during the consultations by the consultant who prepared this RPF. None of the sites visited, appeared to have triggered OP4.12 at that time.

Therefore, the request to finance the construction of a new school will be made by either the MoE or the Local Community.

But, the decision whether to approve or not approve the construction of a new primary school or the expansion of an existing secondary school in any area will be taken by the MoE subject the final approval of the World Bank.

The decision on the exact land on which the approved new primary school will be constructed and any additional land required for expansion of secondary schools will be made by the local community represented by their elected steering committee.

Once the school mapping exercise is completed, the MoE will sensitize local communities in areas where it wants to build new schools on the land acquisition process and grievance procedures. Local communities would also be requested to submit their proposals for new schools to the PSCU of the MoE.

A community that applies for establishment of a new school in its locality will be represented by an elected Steering Committee (SC). Where the MoE has identified a need for a new school, the local community will still be mobilized to elect a steering committee for that purpose. The steering committee will register the names of all primary school going age children in the catchment villages, their ages and the standards (grades) they will be in the following year. The Steering committee will propose a suitable site for the new school in the locality based on the following criteria which would have been given to them by the MoE. Once the SC has identified their site, the MoE officers in the EFU (Education Facilities Unit) will inspect the site and determine the feasibility and the suitability of the same using the screening criteria below.

**Land Selection Screening**

- The site should normally not be within 3 (three) kilometers of an established school that has at least three classrooms (excluding a church hall).
- The site should ideally be located within 500 meters of a settlement area.
- There should be a sustainable source of potable water within 1km of the site.
The site should be at least 20,000m$^2$ in size.

The site owners and/or users if any are consulted and are invited to participate in the activities of the local community regarding the school.

The outer boundaries of the site should be clearly marked and the length of the sides should be measured in meters.

There should not be any natural or manmade features on the site that could make construction difficult or that could pose danger to building structures or humans such as bedrock, gullies, water pipes, swamps, floodplains and rock falls.

There should not be any natural or manmade features within 100 meters of the site that could pose danger to pupils once the school is established, e.g. very steep cliffs, electricity pylons, etc.

Ideally there should be at least 100 households in the lowlands and 50 households in the highlands that would provide a catchment for the school. These should exclude villages in which there are established schools.

The Local Development Committee should agree to release the Land for establishment of the school. That is to say that the site must conform to and be consistent with the local development plan for that area.

The site should not lead to either the physical displacement of people, loss of their shelter, loss of assets, loss of income sources or means of livelihood, or their loss, denial or restriction of access to economic resources. If it does impact any one of these, chose another site. If this is not possible then OP 4.12 is triggered and those affected must be compensated.

If the MoE determines that the site is suitable because it satisfies the criteria above, then the school would be approved for funding. If the site does not meet the criteria above the SC will be advised to look for another site until a site is found that satisfies the screening criteria. The EFU will assist the SC if they so request that assistance.

If however the chosen site is suitable but triggers OP 4.12 and there is no feasible alternative to chose another suitable site that does not trigger OP4.12, then the MoE will approve the site subject to the SC preparing and fully and completely implementing a resettlement and compensation plan (RAP). The preparation of the RAP will be preceded by the conduct of a minor socio-economic study. The SC will be assisted by service providers to prepare the socio-economic study and the RAP.

The purpose of the socio-economic study will be to collect baseline data within the chosen site thereby enabling the social assessment of potentially affected populations/communities. The socio-economic study would focus on the identification of stake holders (demographic data), the participation process, identification of affected people (including owners and users of land) and baseline information on livelihoods and income, in addition to land holding.
On completion of the socio-economic study, the resettlement and compensation plan (RAP) will be prepared for each location that triggers OP 4.12.

The requirements of the RAP are:

(a) Baseline census and socio-economic survey information
(b) Specific compensation rates and standards
(c) Policy entitlements related to any additional impacts identified through the census or survey
(d) A description of the resettlement sites and programs for improvement or restoration of livelihoods and standards of living
(e) Implementation schedule for resettlement and compensation activities
(f) Detailed costs estimates.

The RAP is to be prepared by the SC on behalf of the local community.

The RAP would then be screened by the EFU, and the MoE will be responsible for approving the RAP. The RAP will also be subject to the final approval of the World Bank to ensure compliance with OP4.12 and ensure that before construction of schools is approved, individual resettlement and compensation plans are prepared consistent with this RPF.

Capacity will be built at the EFU of the MoE through training and the SC will be provided with technical assistance to ensure all stakeholders involved play their different roles, effectively. This would be build capacity at the community level which is crucial the success of this project.

D. LAND ACQUISITION AND LIKELY CATEGORIES OF IMPACT

At this stage it is not possible to estimate the likely number of people who may be affected since the sites for these new schools have not yet been identified.

However, the likely affected and/or displaced persons can be categorized into these 3 groups, namely;

(i) **Affected Individual** – An individual who suffers loss of assets or investments, land and property and/or access to natural and/or economical resources as a result of the project activities and to whom compensation is due. For example, an affected individual is a person who farms a land, pastoralists whose routes have been altered, or a person who has built a structure on land that has been demarcated and is now required by the project.

(ii) **Affected Household** – a household is affected if one or more of its members is affected by project activities, either by loss of property, land, loss of access or otherwise affected in any way by project activities. This provides for:
(a) any members in the households, men, women, children, dependent relatives and friends, tenants
(b) vulnerable individuals who may be too old or ill to farm along with the others
(c) members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence
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(d) members of households who may not eat together but provide housekeeping, or reproductive services critical to the family’s maintenance, and
(e) other vulnerable people who cannot participate for physical or cultural reasons in production, consumption, or co-residence.

In the local culture, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular basis even though living separately.

Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labor contributions are critical to the functioning of the “household”.

(iii) Vulnerable Households – vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them. This provides for;

a) unmarried women – may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom s/he is linked in dependency as part of the household, resettlement will never sever this link.

b) Elderly – elderly people farm as long as they are able. Their economic viability does not depend on how much land they farm or how much they produce because, by producing even small amounts of food to “exchange” with others, they can subsist on cooked food and generous return gifts of cereal from people such as their relatives and neighbors. Losing land will not affect their economic viability. They will have cash or in-kind replacements to exchange. For future production they need access to only a small parcel of land. What would damage their economic viability is resettlement that separates them from the person or household on whom they depend for their support. The definition of household by including dependents avoids this.

c) Boys – In Lesotho, the school enrollment rate for boys is considerably less than for girls for the simple reason that boys are requested to attend to or look after farm animals for their parents and are thus forced to miss school. The GoL is taking steps to sensitize communities to adopt measures that meet both the needs of the parents and the need for boys to go to school. Particular attention should therefore be paid to the need for boys from affected households to address this issue successfully. The future consequences of having a society of uneducated men can be far reaching.

d) Women – may depend on husbands, sons, brothers or others for support. In many cases too, women are the main breadwinner in their household. They need relatively easy access to health service facilities, as mothers and wives. They should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.
e) **Small-scale female farmers**- are also vulnerable because they may not have men available within the household to carry out male specific land preparation tasks such as ringing trees. Either male relatives in other households help them voluntarily, or they hire men for cash, beer (locally brewed) or food. Land compensation specifically includes the labor costs of preparing a new land, so these women are provided for by the compensation plan.

f) **Non-farming females**- these earn income from other sources and/or depend on relatives for "exchanges" of staple foods. Since they do not farm they will not be affected by the sub-projects need for agricultural land. If a building of theirs lies on land needed by a subproject, they will receive replacement cost compensation. If someone on whom they depend is resettled, they are protected because the resettler can name them as part of the household.

These household types are not mutually exclusive, for example an elderly woman may be unmarried (or widowed).

### E. ELIGIBILITY CRITERIA FOR DEFINING VARIOUS CATEGORIES OF PROJECT AFFECTED PERSONS

The Bank's OP4.12 suggests the following three criterion for eligibility;

a) Those who have formal rights to land (including customary land, traditional and religious rights, recognized under Lesotho Law.

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 Lesotho or become recognized through a process identified in the resettlement plan.

c) 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.

d) Those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from.

Those covered under a) and b) above are to be provided compensation for the land they lose, and other assistance in accordance with the policy. Persons in category c) are compensated for loss of economic resources in accordance with this RPF. Persons covered under d) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this policy, if they occupy the project area prior to a cut-off date established by the EFU in close consultation with the SC's, subject to "no objection" of the Bank.

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

Eligibility for Community Compensation

Communities (districts, towns and villages) permanently losing land and/or access to assets under customary rights will be eligible for compensation.

Method to Determine the Cut-Off Dates

When the respective school site has been selected by the SC, the EFU and the SC, will meet to discuss and agree on a programme of implementation. They will also choose tentative cut-off dates. The dates would then be communicated to the community through their SC.

The entitlement cut-off date refers to the time when the assessment of persons and their property in the project area (i.e. the new school site) is carried out, i.e. the time when the site for the new school has been identified and when the site specific socio-economic study is taking place. Thereafter, no new cases of affected people will be considered.

The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land areas thereby posing a major risk to the project. Therefore, establishment of a cut-off date is of critical importance. The SC's will pay a crucial role in identifying users of land since most of them would have acquired their customary rights to use the land from their local customary heads.

F. A LEGAL FRAMEWORK COMPARING THE BORROWER LAWS AND REGULATIONS WITH THE BANK POLICY REQUIREMENTS AND MEASURES PROPOSED TO BRIDGE ANY GAPS BETWEEN THEM.

The Kingdom of Lesotho is a sovereign democratic kingdom.

Administratively, Lesotho is divided into 10 districts, namely, Maseru (capital city), Mafeteng, Mohale's Hoek, Quthing, Qacha's Nek, Thaba Tseka, Mokhotlong, Butha-Buthe, Teyateyaneng, and Hlotse (Leribe).

The Administrative Head of each district is known as the District Administrator (DA).

The Districts are further divided into Local Authorities, which are sub divided into Municipal Councils, Urban Councils, Rural Councils and Community Councils.

There is established a District Planning Unit for each administrative district whose functions are, inter alia, to provide planning services for the Councils within its district and to finalize the District Development Plan consistent with the overall National Development Plan.
Throughout the history of Lesotho, there has been a system of local administration under Chiefs and Principal Chiefs that have been recognized under customary law.

**Land Tenure and Ownership in the Kingdom of Lesotho**


The 1993 Constitution of Lesotho is the supreme law of Lesotho states in Article 108, section (1) that all land is inalienable and is vested in the King in trust for the Basotho Nation and the power vested in the King shall be exercised in accordance with this constitution and any other law.

**The Land Act 1979**

The Land Act 1979 provides for:

(a) the grant of title to land
(b) the conversion of titles to land
(c) the declaration of selected development areas and selected agricultural areas and titles to land therein
(d) the setting aside of land for use for public purposes
(e) the establishment of a land tribunal
(f) the grant of public servitudes.

In Part 1, the act states that no other person other than the King, shall hold any title to land except as provided for under customary law or under this act and where the customary law is inconsistent with this act, this Act shall prevail.

Customary Law as defined in the constitution means the customary law of Lesotho for the time being in force subject to any modification or other provision made in respect thereof by any Act of Parliament.

The power to grant titles to land, to grant or create servitudes, to revoke or derogate from an allocation made under the Act, to terminate or revoke a lease, license or servitude is vested in the king, as head of state, in trust for the Basotho people and shall be exercised as provided for under the act.

In Part 2, the Act provides for land held under allocation, Part 3 Section 1 provides for grant of title to land in Urban Areas and Part 3 section 2 provides for Conversion of certain titles to land in Urban and Rural Areas. Part 4 provides for granting of leases and licenses.

Land in Lesotho can therefore be held under four types of tenure;

- Land Held under Allocation – is made in respect of land which is not the subject of a registrable title, shall not be transferable and shall, subject to power of revocation, entitle the allottee to use or use and occupy the land for the purpose stated in the allocation for a period which in the case of a corporate body or unincorporated may be a limited or indefinite period or in the case of an
individual, may be a limited period or his lifetime but shall not endure beyond his lifetime.

- Land Held under Lease is created either by contract or by operation of the law and is a form under which the landlord of lessor grants the tenant or lessee exclusive possession of the land, usually for a period defined and in return for a rent. The tenant has security of tenure and a proprietary interest in the land.

- Land Held under License

- Land Held under Customary Law - Customary rights among the Basotho in the project area are, on the whole, similar. Most of the people belong to one, overarching ethnic group, the Basothos. Under Customary Law, a village controls a certain amount of land whose boundaries are not precise in the surveyor's sense, but nevertheless are widely accepted. These boundaries contain the village, its farmlands and fallow, and regularly exploited bush. Bush that is not regularly used by any village does not belong to anyone and is available for use by anyone. Anyone wishing to farm in uncontrolled bush should ask permission of the village chief.

The act provides in subsequent parts for selected development and selected agricultural areas, Land required for public purposes, the establishment of a Land Tribunal, Land Revenue, Public Servitudes and Compensation thereof, Duties of the commissioner of lands, Grants of titles to lands, Miscellaneous provisions and Amendments, Repeals and Savings.

The Education Act 1995

The Education Act 1995 regulates the Education Sector in Lesotho by providing for the Registration of Schools, Management of Schools, Establishment of the National Curriculum Committee, Teaching Services etc.

The Environment Act 2001


Section 5 of the Act establishes the National Environment Council which consists mainly of government ministers and whose main function is the formulation of environmental policy, national goals and objectives pursuant to the Act. Section 9 of the act establishes of the Lesotho Environment Authority whose main functions shall be the principal agency for the management of the environment, to co-ordinate, monitor and supervise
all sectoral activities of the field of environment and be responsible for the implementation of the national environmental policy.

At the time of preparation of the project the Lesotho Environment Authority was not yet established. To a larger extent, the functions and responsibilities of the Lesotho Environment Authority were being carried out by an overstretched, understaffed and under funded National Environment Secretariat.

Comparison between Land Law in Lesotho and Bank OP4.12

Whereas the law relating to Land administration in Lesotho is wide and varied, entitlements for payment of compensation are essentially based on right of ownership (i.e. allocation and land titles and and/or customary ownership). The Bank OP is fundamentally different from this and states that affected persons are entitled to some form of compensation whether or not they have legal title if they occupy the land by a cut-off date.

Therefore, all land to be acquired by the SC's for this project would be so acquired subject to the Laws of Lesotho and the Bank OP4.12. Where, there is conflict, the Bank OP 4.12 must take precedence and the purpose for this is to ensure that no project affected person is poorer after the project than he or she was before the project and indeed reducing poverty and improving the living conditions of people in the project area.

Comparison of Lesotho Law and World Bank OP4.12 regarding compensation

<table>
<thead>
<tr>
<th>Category of PAPS/ Type of Lost Assets</th>
<th>Lesotho Law</th>
<th>World Bank OP4.12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Owners</td>
<td>Cash compensation based upon market value of unimproved land.</td>
<td>Recommends land-for-land compensation. Other compensation is at replacement cost.</td>
</tr>
<tr>
<td>Land Tenants</td>
<td>Entitled to compensation based upon the amount of rights they hold upon land</td>
<td>Are entitled to some form of compensation whatever the legal recognition of their occupancy.</td>
</tr>
<tr>
<td>Land Users</td>
<td>Not entitled to compensation for land, entitled to compensation for crops.</td>
<td>Entitled to compensation for crops, may be entitled to replacement land and income must be restored to pre-project levels at least.</td>
</tr>
<tr>
<td>Owners of &quot;Non permanent&quot; Buildings</td>
<td>Silent on this issue</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Owners of &quot;Permanent&quot; buildings</td>
<td>Valuation based on depreciated market value.</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
</tr>
<tr>
<td>Perennial Crops</td>
<td>Cash compensation based on market value</td>
<td>As per section G of this RPF once approved by the Bank and disclosed in Lesotho and at the Bank InfoShop.</td>
</tr>
</tbody>
</table>
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RESETTLEMENT POLICY FRAMEWORK
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G. METHODS OF VALUING AFFECTED ASSETS.

Valuations methods for affected land and assets would depend on the type of asset. The three land asset types identified under Lesotho law in this policy framework are;

i) State owned land vested in the King
ii) Assets held under Allocation
iii) Assets held under Lease
iv) Assets held under License
v) Assets held under Customary Law

The SC's (the corporate body on behalf of the local community causing resettlement impact) would compensate for assets and investments, including labor, crops, buildings, and other improvements, according to the provisions of the resettlement and compensation plan. Compensation rates would be market rates as of the date and time that the replacement is to be provided.

Under customary law land belongs to chiefdoms, towns and villages. However, because the bank policy on resettlement and compensation, OP4.12, makes no distinction between statute and customary rights, not only assets and investments will be compensated for, but also land. Thus, a customary land owner or land user on state owned land, will be compensated for land, assets, investments, loss of access etc. at market rates at the time of the loss.

Compensation Payments and Related Considerations.

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 instill the importance and preference of accepting in kind compensation if the loss amounts to more that 20% of the total loss of subsistence assets.

<table>
<thead>
<tr>
<th>FORMS OF COMPENSATION</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Payments</td>
<td>Compensation will be calculated in Maloti. Rates will be adjusted for inflation.</td>
</tr>
<tr>
<td>In-kind Compensation</td>
<td>Compensation may include items such as land, houses, other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.</td>
</tr>
<tr>
<td>Assistance</td>
<td>Assistance may include moving allowance, transportation and labor</td>
</tr>
</tbody>
</table>

Making compensation payments raises some issues regarding inflation, security and timing that must be considered. One purpose of providing in-kind compensation is to reduce inflationary pressures on the costs of goods and services. Local inflation may still occur, thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values.

Compensation for Land

Compensation for land is aimed at providing a farmer whose land is acquired and used for project purposes with compensation for land, labor and crop loss. For this reason, and for transparency, a "Land" is defined as an area:
This definition recognizes that the biggest investment a farmer makes in producing a crop is his or her labor. A farmer works on his/her land most of the months of the year. The major input for producing a crop is not seed or fertilizer, but the significant labor put into the land each year by the farmer. As a result, compensation relating to land will cover the market price of labor invested as well as the market price of the crop lost.

A farmer who loses land will be compensated in-kind by the SC by providing him/her with another land of equal size, market value and within relatively the same travel distance in the local community. In the absence of this, the farmer who loses land will be compensated in cash at the market value of the land lost to assist him/her acquire new land upon which to farm. This process would be done consistent with the delivery of emoluments and all other processes described in this RPF.

**Land measurement**

For the purposes of measuring land, the unit of measurement would be that which is used by and understood by the affected farmers. Therefore, if a traditional unit of measurement exist, that unit will be used. If a traditional unit of measurement does not exist, then it is recommended that land will be measured in meters or any other internationally accepted unit of measurement. However, in such an event, the unit that is being used must be explained to the affected farmers and must somehow be related to easily recognizable land features that the farmers are familiar with, such as using location of trees, stumps, etc. as immovable pegs. The most important concern of this exercise is to ensure that the affected farmer is able to verify using his/her own standards/units of measurement, the size of land that is being lost. Ensuring that this occurs maintains transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas.

**Calculation of Crops Compensation Rate**

The current prices for cash crops would have to be determined. All crops to be compensated using a single market value rate, for each crop grown. This rate incorporates the value of crops and the value of the labor invested in preparing a new land. Determining compensation using a single rate per crop creates transparency because anyone can measure the area of land for which compensation is due and multiply that by a single rate known to all. This approach also allows assignment of values to previous year’s land (land in which a farmer has already invested labor) and land that have been planted but have not yet sprouted. The value of the labor invested in preparing agricultural land will be compensated at the average wage in the community for the same period of time. The rate used for land compensation is to be updated to reflect values at the time compensation is paid. The following example, which is based on 2002 data, derives a total value for a one hectare land from the value of the crops on the land and the value of labor invested in preparing a replacement land.
EXAMPLE OF METHOD TO BE USED TO DETERMINE A COMPENSATION RATE FOR LAND*  
(Based on 2002 data. Maloti payments will be revised to reflect crop values and labor rates in effect at the time of compensation)

<table>
<thead>
<tr>
<th>Item Compensated</th>
<th>Basis of Value</th>
<th>Maloti /ha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value of Crops</td>
<td>Average of the highest 2002 official and market survey land prices per ha of staple food crops (corn etc.), plus cash crops (e.g. maize, sorghoum).</td>
<td></td>
</tr>
<tr>
<td>Labor Invested</td>
<td>Labor costs of preparing a replacement land.</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>Replacement value of crops plus labor.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This example assumes a one-hectare land.

Crop values will be determined based on:

- A combination of staple foods and cash crops. Specifically, the 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances s/he would lose food crop rather than a cash crop income.

- The value of stable crops to be taken as the highest market price reached during the year, in recognition of these factors:
  - Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
  - Farmers most often purchase cereals when they have run out, during the “hungry season” when prices are high. Compensating at a lower value might put the individual or household at risk.
  - Averaging the highest price of stable foods yields a high per ha value that reimburses for the vegetables and other foods that are commonly inter-cropped with staples, but are almost impossible to measure for compensation.

- The labor cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, plowing, sowing, weeding twice, and harvesting the crop. Labor costs will be paid in Maloti, at the prevailing market rates.

The following table presents an example of a compensation schedule for a one-hectare land. The Maloti values are based on arbitrary labor rates, which will need to be validated at the time payments are made.

EXAMPLE OF LAND COMPENSATION SCHEDULE OF PAYMENTS
All agricultural labor activities are included for two reasons. First, because of the need for transparency, all land labor will be compensated for at the same rate. Second, it is difficult to forecast when during the growing season a farmer might need to give up his/her land. Thus, the land compensation covers all investments that a farmer will make. In certain cases, assistance may be provided to land users in addition to compensation payments, for example, if the farmer is notified that his/her land is needed after the agriculturally critical date of March, when s/he will no longer have enough time to prepare another land without help. Assistance will be provided in the form of labor intensive village hire, or perhaps mechanized clearing, so that replacement land will be ready by the sowing dates. The farmer will still continue to receive his/her cash compensation so that s/he can pay for sowing, weeding and harvesting.

**Compensation for Buildings and Structures.**

Compensation will be paid by replacing structures such as huts, houses, farm outbuildings, latrines and fences. Any homes lost will be rebuilt on acquired replacement land, however cash compensation would be available as a preferred option for structures (i.e. extra buildings) lost, that are not the main house or house in which someone is living. The going market prices for construction materials will be determined. Alternatively, compensation will be paid in-kind for the replacement cost without depreciation of the structure. The project will survey these prices for administrative purposes on an ongoing basis.

Compensation will be made for structures that are:

- Exist on land which will be acquired for project purposes or are
- Directly damaged by construction activities.

Replacement values will be based on:

- Drawings of individual’s household and all its related structures and support services,
- Average replacement costs of different types of household 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.) For vulnerable groups identified in earlier section of this RPF replacement values will be based on actual replacement cost.
- Prices of these items collected in different local markets,
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- Costs for transportation and delivery of these items to acquired/replacement land or building site,
- Estimates of construction of new buildings including labor required.

<table>
<thead>
<tr>
<th>Item</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>House</td>
<td>Raw or Baked brick, Straw or tin roof, Varying sizes (small, medium large)</td>
</tr>
<tr>
<td>Kitchen</td>
<td>Open, closed</td>
</tr>
<tr>
<td>Stables/sheds/pens</td>
<td>Cattle, goat, pig, sheep, other</td>
</tr>
<tr>
<td>Coops</td>
<td>Chicken, duck, other</td>
</tr>
<tr>
<td>Fence</td>
<td>Straw/ poles (per unit poles &amp; mat), raw and/or baked brick/cement blocks (per 1-m length)</td>
</tr>
<tr>
<td>Private Bathing</td>
<td></td>
</tr>
<tr>
<td>Latrine</td>
<td>Replacement latrines will be similar to those currently operational and financed by the bank at health centers, schools.</td>
</tr>
<tr>
<td>Open well</td>
<td>Internally lined with concrete rings and provided with a hand driven pump</td>
</tr>
<tr>
<td>Storage building</td>
<td>Cement/sand block walls with thatched roof on z-profiled metal sheets.</td>
</tr>
<tr>
<td>Sun Screen open huts/shades</td>
<td>Similar to those replaced, on thatched roof on wood poles.</td>
</tr>
</tbody>
</table>

**Compensation for Sacred Sites**

Sacred sites include but not restricted only to altars, initiation centers, ritual sites, tombs, cemeteries. It includes other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities the use of sacred sites for any project activity, is **not** permitted under this project.

**Compensation for vegetable gardens and beehives**

These are planted with vegetable and ingredients for daily use. Until a replacement garden starts to bear, the family displaced as a result of the project land needs will have to purchase these items in the market. The replacement costs therefore, will be calculated based on the average amount that an average town dweller spends on buying these items for one year per adult from the local market.

Beehives are placed in various locations in the bush by some individuals that specialize in honey gathering. If such hives would be disturbed by the project activities, or access to hives is denied, beekeepers can move them, and the bees will adapt to the new locations. Beekeepers would be compensated by the value of one season's production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

**Compensation for trees**

*Peach and Apricot Trees*
Peach and Apricot trees are the primary fruit tree in the project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of:

- Subsistence food for families
- Petty market income in some areas, and
- Shade.

Given their significance to the local subsistence economy, which this project intends to positively impact, peach and apricot trees will be compensated on a combined replacement/market value. These fruit trees used for commercial purposes will be compensated at market value based on historical production records. If households chose to resettle, they will be compensated for the labor invested in the trees they leave behind, because they will continue to own the trees left behind under customary rights. It is not uncommon for individuals to own trees in other villages in which they formally lived and, in some cases, to continue to harvest fruit from those trees for subsistence purposes and/or sale to traders. If a household chooses to transfer ownership of the trees, transfer costs will be paid in addition to labor costs. The compensation rate will be based on information obtained from the socio-economic study. From this study, a compensation schedule for peach and mango trees can be developed incorporating the following goals:

- Replace subsistence peach and apricot production yields as quickly as possible.
- Provide subsistence farmers with trees to extend the number of months of the year during which mangoes are produced and can be harvested as a supplemental source of food for their families during their “hungry season”.
- Provide farmers with the opportunity to derive additional production income from trees bearing more valuable fruits at off-season periods.
- Provide cash payments to farmers to replace pre-project income derived from the sale of excess peach and apricot production until replacement trees produce the equivalent (or more) in projected cash income.

The compensation schedule is based on providing a combination of new grafted and local trees to farmers, as well as cash payments to offset lost yearly income. The schedule could assume the following (the figures in Maloti (Xno.) to be determined in the socio-economic study):

<table>
<thead>
<tr>
<th>Local Peach and Apricot</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Avg. Fruit Yield (kg) of Mature tree</td>
<td>200 to 600 kg/yard</td>
</tr>
<tr>
<td>Estimated Yield used</td>
<td>Ten sacks (1,000 kg)/tree/year</td>
</tr>
<tr>
<td>Market Price:</td>
<td></td>
</tr>
<tr>
<td>- Height of harvest season (March/April)</td>
<td>Maloti/kg</td>
</tr>
<tr>
<td>- End of season (late May)</td>
<td>Maloti/kg</td>
</tr>
<tr>
<td>Price used as basis of this estimate</td>
<td>80% height of season; 20% end of season</td>
</tr>
<tr>
<td>Years to Production</td>
<td>two to three</td>
</tr>
<tr>
<td>Years to Maximum Production</td>
<td>Ten</td>
</tr>
<tr>
<td>Costs of Sapling</td>
<td>Maloti; locally available</td>
</tr>
</tbody>
</table>
Compensation (and resettlement) will be funded like any other activity eligible under the projects administrative and financial management rules and manuals.

Funding would be processed and effected through the Project Support Coordination Unit (PSCU) in the Ministry of Education (MoE) and will comply with the financial arrangements agreed upon at project appraisal.

The compensation process which will involve several steps would be in accordance with the individual project resettlement and compensation plans, significantly:

- **Public Participation** with the local communities would initiate the compensation process as part of an ongoing process that would have started at the land selection/screening stage with the SC or when the community came together to request the school and also at the time the socio-economic assessment is being carried. This would ensure that no affected individual/household is simply “notified” one day that they are affected in this way. Instead, this process seeks their involvement and wishes to inform communities in a participatory approach with the project, from the beginning as outlined in item k. of this report.

- **Notification** of land resource holders – the respective SC having been involved in identifying the land it requires will notify the local chief and village inhabitants who will help to identify and locate the property users. The users will be informed through both a formal notification in writing and, for as many people are illiterate, by verbal notification delivered in the presence of the village chief or his representative. In addition, the local chief, religious leaders, other elders and individuals who control land will accompany the survey teams to identify sensitive areas.

- **Documentation** of Holdings and Assets – village and project officials to arrange meetings with affected individuals and/or households to discuss the compensation process. For each individual or household affected, the SC officials completes a compensation dossier containing necessary personal information on, the affected party and those that s/he claims as household members, total land holdings, inventory of assets affected, and information for monitoring their future situation. This information is confirmed and witnessed by village officials and officials of the EFU. Dossiers will be kept current and will include documentation of lands surrendered. Each individual will be provided a copy of the dossier at the time of negotiations. This is necessary because it is one way in which an individual can be monitored over time. All claims and assets will be documented in writing.

- **Agreement on Compensation, Awareness of Grievance Procedures, and Preparation of Contracts** – All types of compensation and grievance procedures are clearly explained to the individual or household. The SC draws up a contract, listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind
compensation has an order form which is signed and witnessed. The compensation contract is read aloud in the presence of the affected party and the EFU, the local chief, village officials and other village leaders prior to signing.

- **Compensation Payments** – All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party and the village officials.

**Community Compensation Payments**

Community compensation will be in-kind only for a community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent better standard to that being built by local NGO’s in the area to serve the same function. Examples of community compensation include;

- Public Toilets
- Well or Pump
- Market Place
- Road
- Storage warehouse

No community project will be approved that requires the displacement of additional persons for compensation or relocation.

I. **A DESCRIPTION OF THE IMPLEMENTATION PROCESS, LINKING RESETTLEMENT IMPLEMENTATION TO CIVIL WORKS.**

Before any project activity is implemented, people who are being affected by such activity, will be compensated and grievances settled in accordance with the resettlement policy framework. For projects involving land acquisition, it is further required that these measures include provision of compensation, income restoration and of other assistance required for relocation, prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required. In particular, the taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided to displaced persons. For project activity requiring relocation or loss of shelter, the policy further requires that measures to assist the displaced persons are implemented in accordance with the individual resettlement and compensation plan of action.

The measures to ensure compliance with this policy directive will be included in the resettlement and compensation plans that will be prepared for each land involving resettlement or compensation. When the SC present their resettlement and compensation plans to the MoE for approval, part of the screening process that the EFU will use to approve recommended sites will be to confirm that the resettlement and compensation plans contain acceptable measures that link resettlement and compensation activity to civil works in compliance with this policy. The timing mechanism of these measures will ensure that no individual or affected household will be displaced due to civil works activity before compensation is paid and resettlement sites with adequate facilities are prepared and provided for to the individual or household affected. Once the resettlement and compensation plan is approved by the local and national
government, the resettlement and compensation plan, will, at the discretion of the Bank, be sent to the World Bank for final review and approval.

**J. A DESCRIPTION OF GRIEVANCE REDRESS MECHANISMS.**

At the time that the individual resettlement and compensation plans are approved and individual compensation contracts are signed, affected individuals would have been informed of the process for expressing dissatisfaction and to seek redress.

The grievance procedure will be simple, administered as far as possible at the local level to facilitate access, flexible and open to various proofs taking into cognizance the fact most people are illiterate and poor requiring a speedy, just and fair resolution of their grievances. The SC being a party to the contract would not be the best office to receive, handle and rule on disputes. Therefore, taking these concerns into account, all grievances concerning non-fulfillment of contracts, levels of compensation, or seizure of assets without compensation will be addressed to the existing local courts system of administration of justice in the Districts. Local NGO's will be engaged by the SC's to mediate disputes.

All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would so by notifying their village chief and the District Administrator (DA). The DA will consult with the district local governments, village chiefs and elders and other records to determine a claims validity. If valid, the village chief and SC will notify the complainant and s/he will be settled.

If the complainants claim is rejected, then the matter will be brought before the District Land Tribunals and/or the local courts for settlement. If the matter cannot be settled by the local courts and/or the District Land Tribunals, the matter will go the High Court for resolution. The High Court of Lesotho will be the highest appellate "judge" in this system. The decision of the High Court would be final and all such decisions must be reached within a full growing season after the complaint is lodged.

If a complaint pattern emerges, the DA with the local governments, the EFU, SC's, and village leaders will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once the DA, EFU, local governments, and village leaders agree on necessary and appropriate changes, then a written description of the changed process will be made. The DA, local governments, SC, and village leaders will be responsible for communicating any changes to the population.

In the local cultures it takes people time to decide that they are aggrieved and want to complain. Therefore, the grievance procedures will give people up to the end of the next full agricultural season after surrendering their assets to set forth their case.

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The estimate of the overall cost of resettlement and compensation would be determined during the socio-economic study. The Steering Committee on behalf of the Local Community that is causing resettlement and impacting livelihoods would have to finance their resettlement and compensation plan.

The MoE through the ESDP II APL 2 will finance the technical assistance required to strengthen the capacities of EFU and the SC’s to fulfill their respective responsibilities as outlined in this RPF and to facilitate the process necessary to seek the effective participation of the local communities and affected people. This assistance will take the form of training of key staff in the EFU and hiring of local NGO’s to work with the SC’s to produce the RAP’s and carry out the socio-economic studies required. The MoE will also finance the SC’s to monitor implementation of the RAP’s.

At this stage, it is not possible to estimate the likely number of people who may be affected since the sub-projects have not yet been identified. When these locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data would be available, thus facilitating the preparation of a detailed and accurate budget for resettlement and compensation.

Since it is the local community represented by their SC is the party causing resettlement, the SC would be required to effect payments to the affected party or to finance any other requirements in the resettlement and compensation plan, prior to funds being released to build the new school. All payments would be made in Maluti.

The budget in the resettlement and compensation plans will be subject to the approval of the World Bank.

At this stage however, all that can be reasonably and meaningfully prepared is an indicative budget, highlighting key features that the budget must contain, inter alia, as follows:

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Costs X (in US$)*</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Compensation for loss of Land</td>
<td>X /hectare</td>
<td>For land acquisition purposes, based on cost realized in projects involving similar issues in Lesotho.</td>
</tr>
<tr>
<td>2</td>
<td>Compensation for loss of Crops</td>
<td>X /hectare of farm lost</td>
<td>Includes costs of labor invested and average of highest price of staple food crops as per methods described in Section G of this RPF.</td>
</tr>
<tr>
<td>3</td>
<td>Compensation for Buildings and Structures</td>
<td>X</td>
<td>This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.</td>
</tr>
<tr>
<td>4</td>
<td>Compensation for Trees</td>
<td>X/year/tree</td>
<td>Based on methods described on page 27 of this RPF for compensation for trees.</td>
</tr>
<tr>
<td>5</td>
<td>Cost of Relocation Assistance/Expenses</td>
<td>X/household</td>
<td>This cost is to facilitate transportation, etc.</td>
</tr>
</tbody>
</table>
L. A DESCRIPTION OF MECHANISMS FOR CONSULTATIONS WITH, AND PARTICIPATION OF, DISPLACED PERSONS IN PLANNING, IMPLEMENTATION, AND MONITORING.

Public consultation and participation are essential because they afford potentially displaced persons the opportunity to contribute to both the design and implementation of the project activities. The socio-economic situation prevailing in Lesotho as discussed earlier, makes public consultation with the communities, indispensable. Furthermore, it is the local communities who are to claim ownership of this project for it to be successful and their wealth of knowledge of local conditions are invaluable assets to the project. In recognition of this, particular attention would be paid to public consultation with potentially affected individuals/households when resettlement and compensation concerns are involved.

Public consultation will take place at the inception of the planning stages when the development plans are being prepared. The participation strategy would evolve around the provision of a full opportunity for involvement. This process would not be an isolated one because of the very nature of the project, which through its implementation and design ensures continuous public participation and involvement at the local level. Therefore, as a matter of strategy, public consultation would be an on-going activity taking place through out the entire project cycle. For example, public consultation would also occur during the preparation of the; (i) during the school mapping exercise, (ii), immediately after the project is effective when local communities are sensitise on the project and for them to come together and make a request to the MoE to finance a school in their communities, (iii) during the land identification, screening and selection process (iv) the socio-economic study, (v) the resettlement and compensation plan and (v) during the drafting and reading of the compensation contract.

Public participation and consultation would take place through meetings, radio programs, request for written proposals/comments, filling in of questionnaires/forms, public readings and explanations of project ideas and requirements, making public documents available at the, district, town, and village levels at suitable locations like the official residences/offices of local chiefs/elders. These measures would take into account the low literacy levels prevalent in these communities by allowing enough time for responses and feedback. All documents would also be disclosed at these locations in Sesotho and English and meetings held with the communities would be Sesotho.

Notwithstanding, the best guarantor for public interest is the chiefs and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced individuals/households either in part or in whole.
THE GOVERNMENT OF LESOTHO

SECOND EDUCATION SECTOR DEVELOPMENT PROJECT (ESDP II) APL PHASE 2

Monitoring of this process would be through the village chief as part of the individual resettlement and compensation plans and overall the monitoring and evaluation mechanism of the entire project.

This requirement is line with the Bank policy on disclosure.

M. ARRANGEMENTS FOR MONITORING BY THE IMPLEMENTATION AGENCY AND, IF REQUIRED, BY INDEPENDENT MONITORS.

The arrangements for monitoring would fit the overall monitoring plan of the entire ESDP II APL 2 project which would be through the Project Support and Coordinating Unit (PSCU) of the Ministry of Education. The PSCU will institute an administrative reporting system that:

(a) alerts project authorities to the necessity for land acquisition,
(b) provides timely information about the valuation and negotiation process,
(c) reports any grievances that require resolution, and
(d) documents timely completion of project resettlement obligations (i.e. payment of the agreed-upon sums, construction of new structures, etc.) for all permanent and temporary loses, as well as unanticipated, additional construction damage.

Consistent with the Environmental and Social Management Framework, the Environmental and Social Officer in the EFU would be responsible for periodically transferring the information compiled by the SC’s to the EFU and hence the PSCU so that it is alerted in a timely manner to any difficulties arising at the local level.

The objective will be to make a final evaluation in order to determine;

(i) if affected people have been paid in full and before implementation of the subproject,
(ii) if the people who were affected by the project have been affected in such a way that they are now living a higher standard than before, living at the same standard as before, or they are actually poorer than before.

A number of indicators would be used in order to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many kids in school compared to before, health standards, etc). Therefore, the resettlement and compensation plans will set two major socio-economic goals by which to evaluate its success:

- Affected individuals, households, and communities are able to maintain their pre-project standard of living, and even improve on it; and
- The local communities remain supportive of the project.

In order to access whether these goals are met, the resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities.
The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance:

- Questionnaire data will be entered into a database for comparative analysis at all areas where a new school is built by the SC and the EFU,
- Each individual will have a compensation dossier recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received.
- The SC’s and EFU will maintain a complete database on every individual impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages.
- Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
- Proposed use of payments
- The number of contention cases out of the total cases
- The number of grievances and time and quality of resolution
- Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
- Agricultural productivity of new lands
- Number of impacted locals employed by the civil works contractors
- Seasonal or inter annual fluctuation on key foodstuffs
- General relations between the project and the local communities

The following indicators will be used to monitor and evaluate the implementation of resettlement and compensation plans;

<table>
<thead>
<tr>
<th>VERIFIABLE INDICATORS</th>
<th>Monitoring</th>
<th>Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding compensation or resettlement contracts not completed before next agricultural season.</td>
<td>Outstanding individual compensation or resettlement contracts.</td>
<td></td>
</tr>
<tr>
<td>Communities unable to set village-level compensation after two years.</td>
<td>Outstanding village compensation contracts.</td>
<td></td>
</tr>
<tr>
<td>Grievances recognized as legitimate out of all complaints lodged.</td>
<td>All legitimate grievances rectified</td>
<td></td>
</tr>
<tr>
<td>Pre-project production and income (year before land used) versus present production and income of resettlers, off-farm-income trainees, and users of improved agricultural techniques.</td>
<td>Affected individuals and/or households compensated or resettled in first year who have maintained their previous standard of living at final evaluation.</td>
<td></td>
</tr>
<tr>
<td>Pre-project production versus present production (crop for crop, land for land).</td>
<td>Equal or improved production per household.</td>
<td></td>
</tr>
</tbody>
</table>

Financial records will be maintained by the SC’s and the EFU at the MoE to permit calculation of the final cost of resettlement and compensation per individual or household. Each individual receiving compensation will have a dossier containing:

- Individual biological information,
- Number of people s/he claims as household dependents
- Amount of land available to the individual or household when the dossier is opened.

Additional information will be acquired for individuals eligible for resettlement/compensation:
Each time land is used /acquired by a project, the dossier will be updated to determine if
the individual or household is being affected to the point of economic non-viability and
eligibility for compensation/resettlement or its alternatives. These dossiers will provide
the foundation for monitoring and evaluation, as well as documentation of compensation
agreed to, received, and signed for.

It is normal that some compensation procedures and rates may require revision at some
time during the project cycle. The SC's and EFU will implement changes through the
Change Management Process in the Monitoring and Evaluation manuals of the project,
which will require feed back from:

- Indicators monitored by the SC's to determine whether goals are being met, and
- a grievance procedure for the local community to express dissatisfaction about
  implementation of compensation and resettlement.