

Republic of Malawi

Resilience and Disaster Risk Management Project (MRDRMP)

RESETTLEMENT POLICY FRAMEWORK-AF

DECEMBER 2019

Contents

ACKNOWLEDGEMENT	iii
LIST OF SELECTED ACRONYMS	iv
DEFINITIONS OF SELECTED TERMS USED IN THE DOCUMENT.	v
EXECUTIVE SUMMARY	1
1.0. BACKGROUND TO THE PROJECT AND RESETTLEMENT POLICY FRAMEWORK	3
2.0 PROJECT DESCRIPTION AND IMPLEMENTATION OF ACTIVITIES.	9
3.0 POLICY AND LEGAL FRAMEWORK ON RESETTLEMENT IN MALAWI.....	13
4.0 GUIDING PRINCIPLES ON RESETTLEMENT ACTIVITIES WITHIN THE MRDRMP.....	23
5.0 THE SUB – PROJECTS RESETTLEMENT PROCESS GUIDE	30
6.0 INSTITUTIONAL ARRANGEMENTS /CAPACITY BUILDING ON RESETTLEMENT.	35
REFERENCES.....	39
ANNEXES	40
Annex 1: Summary of implications of the project on various World Bank’s Safeguard Policies.....	41
Annex 2: Resettlement Screening Form for a sub-project	43
Annex 3: Summary of entitlements for various categories of project affected people.....	52
Annex 4: Map of Malawi Showing districts affected by the Floods and Droughts.....	54
Annex 5: An outline of the contents of Resettlement Action Plan.	55
Annex 6: Selected list of people consulted in preparation of the framework	56
Annex 7: Land Donation Form for Malawi Government (Form 1).....	57

ACKNOWLEDGEMENT.

This Resettlement Policy Framework for Malawi Resilience and Disaster Risk Management Project (MRDRMP) has been prepared with technical and financial assistance from The World Bank. Government of Malawi wishes to acknowledge important contributions from Francis Nkoka, Senior Disaster Risks Management Specialist (TTL), Violette Mwikali Wambua and Ian Gray, Senior Safeguards Specialists (for Malawi and Mozambique) and Yolanda Tashinga Chiumbu (Social Development Specialist) for organization and supervision of field studies and preparation of the document. Ministry of Finance, Economic Planning and Development and Ministry of Agriculture, Irrigation and Water Development provided useful information on design and scope of the components and sub-components of the project. Department of Disaster Management Affairs and Ministry of Lands, Housing and Urban Development made useful contributions on components for institutional strengthening and promotion of disaster resilience in Drought prone areas.

December 2019
Lilongwe, Malawi

LIST OF SELECTED ACRONYMS

ADC	Area Development Committee
ARAP	Abbreviated Resettlement Action Plan
ASWAP	Agriculture Sector Wide Approach
DC	District Commissioner
DEC	District Executive Committee
DFO	District Forestry Officer
DoDMA	Department of Disaster Management Affairs
ha	hectare
HIV	Human Immune Deficiency Syndrome Virus
IDA	International Development Association
IRLAD	Irrigation Rural Livelihoods Agricultural Development Project
MASAF	Malawi Social Action Fund
MFED	Ministry of Finance, Economic Planning and Development
MDRRP	Malawi Droughts Resilient Recovery Project
MRDRMP	Malawi Resilience and Disaster Risk Management Project
MGDS	Malawi Growth and Development Strategy.
MK	Malawi Kwacha
mm	millimetre.
MoAIWD	Ministry of Agriculture, Irrigation and Water Development
MoLGRD	Ministry of Local Government and Rural Development
MoTPW	Ministry of Transport and Public Works
NAC	National Aids Commission.
NGO	Non – governmental organization.
PDNA	Post Disaster Needs Assessment
PIU	Project Implementation Unit
PSC	Project Steering Committee
RPF	Resettlement Policy Framework.
SGR	Strategic Grain Reserve
TA	Technical Assistant
VDC	Village Development Committee
WFP	World Food Programme
WUA	Water Users Association

DEFINITIONS OF SELECTED TERMS USED IN THE DOCUMENT.

- **Census:** means a field survey carried out to identify and determined the number of project affected persons or displaced persons in accordance with procedures including criteria for eligibility for compensation.
- **Compensation:** means the payment in kind, cash or other assets given in exchange for the taking of land or impact on assets including fixed assets and livelihoods thereon, in whole or in part.
- **Cut – off – date:** is the date of commencement of the census of PAPs within the project area boundaries. This is the date on and beyond which any person whose land is occupied for project use, will not be eligible for compensation
- **Displaced persons:** means persons who, for reasons of the involuntary taking or voluntary contribution of their land and other assets under the project result in direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons physically relocate.:
- **Involuntary Resettlement:** means the involuntary taking of land or assets resulting in direct or indirect economic and social impacts caused by: loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the displaced person (s) has moved to another location.
- **Involuntary Land Acquisition:** means the taking of land by government or other government agencies for compensation for purposes of a public project against the will of the landowner in exchange of compensation. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested legal and/or customary rights.
- **Land:** refers to agricultural and non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the project.
- **Land acquisition:** means the taking of or alienation of land, buildings or other assets thereon for purposes of a Project.
- **Rehabilitation Assistance:** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable project affected persons to improve their living standards, income earning capacity and production levels, or at least maintain them at pre-project levels.
- **Project affected person(s)** means person(s) who are in some way impacted as a result of project activities. This can include acquisition of land or other assets, or impacts on assets, including livelihood activities.
- **Replacement cost:** means replacement of assets with an amount sufficient to replace lost assets and cover related transaction costs. In terms of land, this may be categorized as follows.
- **Replacement cost for land:** means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of preparing the land to levels similar to those of the affected land; and any registration and transfer taxes;
- **Replacement cost for houses and other structures:** means the prevailing cost of replacing affected structures, in an area and quality similar to or better than that of the affected structures. Such costs shall also include transporting building materials to the construction site; labor and contractors' fees; and registration costs.
- **Voluntary Land Contribution:** means a process by which an individual or communal owner agree to provide land for project-related activities. Voluntary contribution is an act of informed consent, made with prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress. Voluntary Land Contribution may be of two types. These are voluntary land contribution for compensation and voluntary land contribution without compensation.

EXECUTIVE SUMMARY

The Resettlement Policy Framework (RPF) for Malawi Resilience and Disaster Risk Management Project (MRDRMP) has been developed to guide interventions and guide implementation of resettlement and social issues should that need arise in the project implementation of the MRDRMP. The aim is to enhance the recovery of livelihoods and critical infrastructure, while strengthening climate resilience in areas affected by Idai floods caused by the 2019 Tropical Cyclone Idai which adversely affected food production and food security in some districts of Malawi. The rationale of the project is to alleviate the suffering of drought and flood affected segments of society. In addition, the project will support resilient re-construction and recovery of critical public infrastructure (climate smart irrigation facilities, water supply schemes) in order to enhance restoration of livelihood systems in the 15 districts of Dedza, Ntcheu, Balaka, Machinga, Mwanza, Neno, Chiradzulu, Mulanje, Zomba, Thyolo, Chikwawa, Nsanje, Mangochi, Phalombe and Blantyre. Specific infrastructure development interventions will include construction and rehabilitation of irrigation schemes, drilling of boreholes and monitoring their performance, construction of excavated water tanks, construction of medium sized dams, and catchment conservation. There will also be studies and modelling interventions aimed at gathering data for future decision making. A Contingency Emergency Recovery Component, (CERC) will also be included.

The summaries of the components and sub-components are as follows: -

Component 1: Improving Food Security and Sustainable Livelihoods. This component includes (i) delivery of immediate food support to critical drought affected populations; (ii) restoration of agricultural livelihoods in drought affected areas; (iii) upscaling of productivity and drought-resistant crops; (iv) increasing area of irrigated land. To date, the Project has improved access to food for 7.2 million people who were affected by the drought, well exceeding the end target of 1.6 million people. The end target of households receiving support to restore their livelihoods has been met with 87,750 households reached. Most activities of this component have been completed or are committed. Outstanding activities include installation of irrigation schemes and solar drip kits adopted during the restructuring.

Component 2: Enhancing Drought-Resilience and Preparedness. This component finances the rehabilitation of critical water infrastructure and improvement to water catchment management. To date, a total of 77,500 households have benefited from access to clean water through new or rehabilitated rural boreholes. A hundred water point committees have been trained to support the management of the boreholes. 14 high yielding boreholes have been drilled or are in progress with rehabilitation of 29 rural gravity-fed water supply schemes at design stage. With regards to drought resilience, a Harmonized Food Assessment Methodology (HFAM) and the National Agricultural Management Information System (NAMIS) have been developed to ensure timely dissemination of early warning information.

Component 3: Contingent Emergency Response Component. Following Cyclone Idai, the CERC was activated releasing US\$10 million for immediate needs in food security, transport, water resources, water supply and education sectors. Three activities have been funded or committed including: i) rehabilitation of 3 roads; ii) restoration of education infrastructure and provision of school supplies to 69 prioritized schools; and iii) restoration of water and sanitation systems through the construction and rehabilitation of 225 boreholes and 2 water supply schemes.

Component 4: Project Management. This component finances the following activities (i) incremental operating costs of the Project Implementation Unit (PIU); (ii) technical designs for the reconstruction and rehabilitation of infrastructure; (iii) supervision, quality control and contract management of reconstruction and rehabilitation sub-projects; and (iv) audit, studies and assessments required under various Project components. The PIU has staff covering procurement, financial management, safeguards, monitoring and evaluation, but procures additional support in to meet the demand of specific services.

Plan for execution of remaining MDRRP activities. The balance activities under the Parent MDRRP are expected to be committed under contract by July 2020. The remaining sub-project activities will be fully executed using the balance of Parent MDRRP resources, with no financing shortfall to be covered from the Additional Financing. The residual MDRRP activities that currently remain will be executed using the Parent implementation arrangements, allowing for continuity of the activities currently under tender processes or in advanced stages of preparation.

The purpose of the Resettlement Policy Framework (RFP) is to guide in addressing land acquisition and associated compensation requirements for some sub-projects to be funded from Malawi Resilience and Disaster Risk Management Project (MRDRMP). Construction of new infrastructure in safer sites would certainly require formal land acquisition. Land acquisitions may cause loss of important assets and negative impacts in livelihoods to local people. The aim of Resettlement Policy Framework is to synchronise resettlement planning in implementation of projects to be funded from the Malawi Resilience and Disaster Risk Management Project. Specific objectives are as follows:

- (a) To outline steps in resettlement screening of projects and how to incorporate in appraisal system of the projects.
- (b) To outline the process of preparation of Resettlement Action Plan.
- (c) To identify process to monitor and evaluate resettlement process and project impacts.
- (d) To describe potential socio-economic impacts from resettlement.
- (e) To outline policies to govern resettlement in implementation of the projects.
- (f) To describe policy and legal framework on land acquisition and resettlement.
- (g) To describe eligibility criteria for compensations to various categories of affected people.
- (h) To describe methods of valuing affected assets for purpose of compensations.
- (i) To outline institutional arrangement in implementation of resettlement.

Resettlement and compensations activities are responsibilities of the Ministry of Lands and Housing, District Commissioner, Traditional Authorities (T/A) and village head men as stipulated within various government policies and laws such as Land Acquisition Act, The Chiefs Act and Malawi National Land Policy. However, today because of the multi – dimensional nature of resettlement activities, successful implementation of resettlement depends on collaboration of different stakeholders, at district level and national level. Key central government ministries will be: The Ministry of Lands, Housing and Urban Development, Ministry of Local Government and Rural Development. The local authorities will coordinate implementation of Resettlement Action Plans and considerations of resettlement issues within the micro project implementation processes. Specific tasks will include screening and appraisal of the projects on resettlement issues before funding of the projects. In addition, local authorities will monitor and provide necessary technical assistance to management of resettlement activities to be done by the communities.

Resettlement of people generates a number of challenges and complaints especially to those affected people moved from one place to another if it is a requirement during project implementation. Examples of complaints include: objections to use of someone's land, encroachment on private land, theft of properties and marginalization in distribution of material assistance. And examples of grievances: include dissatisfaction with amount of compensation and dissatisfaction with size and nature of land replacement. In this context, the existing channels from the Parent Project of grievance redress mechanisms will continue, and continuous sensitization of the project affected people on how to access the GRM will be conducted. The process of grievance redress mechanisms involves project grievance committees, informal courts handled by traditional leaders (village headmen, traditional authorities) and formal courts within the judiciary. This and other Social issues that may arise have been properly highlighted in the MRDRMP ESMF and will address issues of labour, child labour, gender based violence mitigation, occupational health and safety, waste management, stakeholder/citizen engagement strategies and environmental health and safety. The Project will be implemented in 4 years, housed in the Ministry of Agriculture, Irrigation and Water Development, managed by a PIU and supervised by a Project Steering Committee.

1.0. BACKGROUND TO THE PROJECT AND RESETLEMENT POLICY FRAMEWORK

1.1. INTRODUCTION ON THE PROJECT.

The proposed project is Malawi Resilience and Disaster Risk Management Project (MRDRMP). The aim of the project is providing sustainable support to the affected drought and flood affected populations in restoring their livelihoods, as well as rehabilitating critical infrastructure essential for the restoration of public service delivery and sustainable economic recovery in the integrated drought and flood affected areas. In addition, the project will also seek to increase the institutional capacity of the Government's post-disaster recovery system and promote long-term resilience. The proposed period of the project is 4 years from 2020 to 2024. Government of Malawi is seeking a grant of US\$80 million from the International Development Association (IDA) of the World Bank Group for the project.

1.2. PROJECT IMPACT AREAS.

Malawi Resilience and Disaster Risk Management Project will cover 15 Drought affected districts in Malawi. These include Dedza, Ntcheu, Balaka, Machinga, Zomba, Neno, Mwanza, Blantyre, Chiradzulu, Mulanje, Thyolo, Chikwawa, Nsanje, Mangochi, and Phalombe. These regions are among the densely populated areas, and rain fed agriculture is the main economic activity for the people. Map of Malawi showing districts affected by the Droughts and flood is attached in annex 5.

1.3. PROPONENT AND IMPLEMENTING AGENCIES.

The proponent of the proposed Malawi Resilience and Disaster Risk Management Project on behalf of Government of Republic of Malawi is Secretary to Agriculture. Contact details and addresses of the proponent are as follows:

Proponent Name	:	Secretary for Agriculture
	:	Ministry of Agriculture, Irrigation and Water Supply
Postal address	:	P.O. Box 30049, Capital City, Capital Hill, Lilongwe 3, Malawi.
Telephone	:	265-01-789 355
Facsimile	:	265-01-789 185
E-mail	:	agriculture@gov.mw.net
Project Contact	:	Mr Nyandule Phiri, PS MOAIWD

A central project implementation unit based in Lilongwe will coordinate the overall implementation of The Malawi Resilience and Disaster Risk Management Project. The unit will be supported by sectoral ministries and these will include: Ministry of Agriculture, Irrigation and Water Development and Blantyre City Council. There will be several consultants and contractors that will be hired in the design and implementation of civil works to enhance good quality and timely completion of activities.

1.4. OUTLINE OF THE PROJECT

The Malawi Resilience and Disaster Risk Management Project (MRDRMP) constitutes a set of multi-sectoral interventions in response to the wide-scale damages and losses resulting from Droughts and floods brought about by cyclone Idai which occurred from January 2019 to February 2019. The project will work on objective orientation rather than sector targeting. **The MRDRMP will be more of a resilience approach project although it will stem off from a Parent Project called the Malawi Drought Resilience Recovery Project (MDRRP). The MRDRMP will thus take off as additional financing of the MDRRP but changing orientation including approach and name. This will therefore entail that some aspects of the Parent Project will still be carried forward to the new MRDRMP Project.** Point of contact will be district level in the areas affected by both the floods and droughts. Blantyre City will also be included in the package because apart from being heavily hit by the floods and drought, the City is one of the main drivers of Malawi's Economy. There are 3 components, and each component has sub-components which focus on specific areas of recovery of the programme. These components will have an integrated Flood and Drought risk Management to reduce the risks associated with droughts and floods. The summaries of the components and sub-components are as follows: -

Component 1: Improving Food Security and Sustainable Livelihoods. This component includes (i) delivery of immediate food support to critical drought affected populations; (ii) restoration of agricultural livelihoods in drought affected areas; (iii) upscaling of productivity and drought-resistant crops; (iv) increasing area of irrigated land. To date, the Project has improved access to food for 7.2 million people who were affected by the drought, well exceeding the end target of 1.6 million people. The end target of households receiving support to restore their livelihoods has been met with 87,750 households reached. Most activities of this component have been completed or are committed. Outstanding activities include installation of irrigation schemes and solar drip kits adopted during the restructuring.

Component 2: Enhancing Drought-Resilience and Preparedness. This component finances the rehabilitation of critical water infrastructure and improvement to water catchment management. To date, a total of 77,500 households have benefited from access to clean water through new or rehabilitated rural boreholes. A hundred water point committees have been trained to support the management of the boreholes. 14 high yielding boreholes have been drilled or are in progress with rehabilitation of 29 rural gravity-fed water supply schemes at design stage. With regards to drought resilience, a Harmonized Food Assessment Methodology (HFAM) and the National Agricultural Management Information System (NAMIS) have been developed to ensure timely dissemination of early warning information.

Component 3: Contingent Emergency Response Component. Following Cyclone Idai, the CERC was activated releasing US\$10 million for immediate needs in food security, transport, water resources, water supply and education sectors. Three activities have been funded or committed including: i) rehabilitation of 3 roads; ii) restoration of education infrastructure and provision of school supplies to 69 prioritized schools; and iii) restoration of water and sanitation systems through the construction and rehabilitation of 225 boreholes and 2 water supply schemes.

Component 4: Project Management. This component finances the following activities (i) incremental operating costs of the Project Implementation Unit (PIU); (ii) technical designs for the reconstruction and rehabilitation of infrastructure; (iii) supervision, quality control and contract management of reconstruction and rehabilitation sub-projects; and (iv) audit, studies and assessments required under various Project components. The PIU has staff covering procurement, financial management, safeguards, monitoring and evaluation, but procures additional support in to meet the demand of specific services.

Plan for execution of remaining MDRRP activities. The balance activities under the Parent MDRRP are expected to be committed under contract by July 2020. The remaining sub-project activities will be fully executed using the balance of Parent MDRRP resources, with no financing shortfall to be covered from the Additional Financing. The residual MDRRP activities that currently remain will be executed using the Parent implementation

arrangements, allowing for continuity of the activities currently under tender processes or in advanced stages of preparation.

1.5. JUSTIFICATION FOR RESETTLEMENT POLICY FRAMEWORK FOR THE PROJECT.

The purpose of the Resettlement Policy Framework (RPF) is to guide in addressing land acquisition and associated compensations for new sites for some sub-projects to be funded from Malawi Resilience and Disaster Risk Management Project. The need for Resettlement Policy Framework emanates from two observations which indicate that the implementation and management of some of the sub-projects would trigger resettlement in one way or the other:

- (a) Construction of new irrigation schemes, medium sized dams, high yielding boreholes, monitoring wells and excavated water tanks would require formal land acquisition for the new facilities entailing land tenure and access changes within the community's settings. In addition, the project activities may cause negative impacts in livelihoods.
- (b) The specific locations of sub-projects within the 15 Drought affected districts are not known now as land sites would be selected at a later stage. However, based on previous experiences on development and rehabilitation of water infrastructure, what is generally known on the aspects of location facilities is proximity to the beneficiaries themselves. In this context, the implementation and indeed re-construction of sub - projects would likely restrict some households from footpaths, gardens, impact assets and disturb livelihoods bases.

1.6. OBJECTIVES OF RESETTLEMENT POLICY FRAMEWORK.

The aim of Resettlement Policy Framework (RPF) is to synchronise resettlement planning in implementation of sub-projects to be funded from Malawi Resilience and Disaster Risk Management Project in order to minimise negative social and economic externalities to project affected people. Specific objectives of the Resettlement Policy Framework are as follows:

- a) To outline steps in resettlement screening of projects and how to incorporate in appraisal system of the projects.
- b) To provide a process by which to identify individuals to be impacted by the project activities as well as the type and magnitude of impact.
- c) To outline the process of preparation of Resettlement Action Plan.
- d) To identify process to monitor and evaluate resettlement process and project impacts.
- e) To describe potential socio-economic impacts from resettlement.
- f) To outline policies to govern resettlement in implementation of projects.
- g) To describe policy and legal framework on land acquisition and resettlement.
- h) To describe eligibility criteria for compensations to various categories of affected people.
- i) To describe methods of valuing affected assets for purpose of compensations.
- j) To outline institutional arrangement in implementation of resettlement.
- k) To outline budget estimates and funding arrangements for resettlement.

1.7. USERS OF RESETTLEMENT POLICY FRAMEWORK.

The RPF contains useful information on the procedures for resettlement planning for sub-projects, potential economic and social impacts; measures for addressing the negative impacts, recommended environmental and social rules for contractors. In addition, the framework contains useful information on list of required statutory approvals/licences which need to be obtained in order to ensure that the implementation and management of the project follows sound environmental management practices stipulated in various policies and pieces of legislation

in Malawi. Such information will be useful in planning, implementation of the proposed project activities. In this regard, the report will be useful to the following implementing agencies such as Ministry of Local Government and Rural Development, Ministry of Agriculture, Irrigation and Water Development, Ministry of Natural Resources, Energy and Mining, district councils, project consultants (Project Manager, Project Architects, Landscape Architects and Project Engineers), project construction contractors, Environmental Affairs Department. In addition, the framework will be useful to non –governmental organizations and civil society organizations, development partners such as World Bank, World Food Programme, UNICEF and United Nations Population Fund.

1.8. TECHNICAL APPROACH IN THE PREPARATION OF RESETTLEMENT POLICY FRAMEWORK.

The approach in developing this Resettlement Policy Framework (RPF) was to undertake initial scoping potential environmental impacts of the potential activities and prepare an environmental and social management framework to guide the further environmental considerations in project planning and implementation. Initial environmental and social potential positive and negative impacts were isolated and through these, resettlement needs, or hot spots were identified. It is based on these anticipated hotspots that this Resettlement Policy Framework (RPF) was developed. To augment the process, various methods of data compilation were used including interviews of selected stakeholders, site visits to selected sites and literature review.

1.9. PUBLIC PARTICIPATION AND CONSULTATIONS.

Procedures for project environmental assessment in Malawi and World Bank safeguard policies require that adequate and informed consultations be carried out during preparation of environmental and social management framework. Consultations are supposed to provide opportunity for stakeholders/project affected persons to air views/concerns on project activities and provide opinions in appropriate plans before implementation. Consultations also help to avoid possible conflicts or misunderstandings on the potential negative risks and also offer measures for addressing concerns. In addition, consultations help to identify enhancement measures for positive impacts.

In order to undertake informed consultations, disclosure of the project is necessary. Information for project disclosure includes: nature and scope of the project, proponent, main components, period of implementation, potential positive and negative impacts among others.

In carrying out consultations for Resettlement Policy Framework for of Malawi Resilience and Disaster Risk Management Project (MRDRMP), Government of Malawi carried out a series of consultations with different stakeholders. These include Drought affected people, farmers in selected irrigation schemes, local government officials, extension workers, local leaders, non—governmental organizations and central government officials: a summary of consultations were as follows:

- Consultations with senior officials at various government ministries and departments. Consultations took place in Lilongwe on 18 -20th November 2019. These included Ministry of Agriculture, Irrigation and Water Development, Department of Disaster Management Affairs. The discussions centered on aim and objectives of the project, the scope of the project, design and modalities of implementation.

Main issues raised were that the project should have included irrigation development and water supply and resources structures. List of all consulted is attached in Annex 6.

- Interviews and discussions with local government officials in four selected district councils. The four selected district councils are among the 15 Drought affected districts. Main issues raised by local government officials included: need of participation in selection of sub-projects for implementation, shortage of funds for environmental and social mitigation measures, inadequate food assistance for Drought affected people (as priority activities), inadequate transport to supervise environmental mitigation measures, lack of skills in storage and management of pesticides, proposals to enhance environmental and social mitigation measures among others. List of all local officials consulted is attached in Annex 6.
- Consultations with selected non-governmental organizations in selected nongovernmental organizations. The nongovernmental organizations consulted were those in four Drought affected districts chosen for field surveys: The non-governmental organizations included: World Vision International, Total Land Care, Eagles Relief Development Programme, Catholic Commission, Malawi Red Cross Society. Main issues raised by non-governmental organizations included: involvement of non-governmental organization in planning and implementation of disaster mitigation related projects, involvement of Drought affected people in design and implementation of projects, avoiding duplication in implementation of projects and transparency in resource allocation and utilization on various. Some members of non-governmental organizations raised issues on high costs of pesticides for irrigation farmers. The issues will be incorporated in environmental and social management plans for sub-projects. Most of issues raised by non-governmental organizations would be addressed during planning and implementation cycle of the projects at district level.
- Consultations took place with selected Drought affected people and irrigation farmers in four Drought affected districts. Views from Drought affected people included: that food and clothes assistance was priority at that time and not rehabilitation of irrigation schemes, support to children disturbed by Droughts, support with income. Some Drought affected people mentioned the need to help in reconstruction of houses damaged by Droughts. Some Drought affected people complained of delay in distribution of food and donated clothes due to poor coordination among local leaders. Government of Malawi could not provide all answers to views/opinions of Drought affected people at the time. Most of the issues raised were for local government officials to look into.
- Consultations with irrigation farmers raised one major concern that may relate to resettlement. The farmers requested for project implementation to consider that there will be farmers at the intake who may be affected more with the head-works than farmers at the lower end who will be more in the benefiting category. 2 irrigation sites were visited in Mulanje and a total of 10 male farmers and 8 female farmers were consulted. The plan is to assess the entire irrigation system in the MRDRMP rather than focus on the lower end irrigation farmers to ensure all farmers have been covered. Annex 6 will also highlight the farmer consultation process.
- There will be further consultations as soon as project sites are known and confirmed. That will be the time when appraisal reports will be executed and ARAPs/RAPs will be produced.

1.10. PUBLIC DISCLOSURE.

Public disclosure of the project is important in order to allow stakeholders/public to appreciate the impacts of the project on their lives and environment. Project disclosure can take place during feasibility stage or planning stage or implementation stage. Disclosure of the project activities helps to gather wider views on the project and enlist support from local communities. Among others public disclosure of the project must cover rationale of the project, nature of the project, period of implementation, areas of implementation, potential impacts and proposed mitigation measures.

Public Disclosure of Malawi Resilience Disaster Risk Management (MRDRMP) Project will follow several stages through various stages and various means. These include:

- a) Briefs by government officials to news reporters and district information officers at district consultative meetings and briefs to local leaders and non-governmental agencies. These are yet to be done.
- b) Presentation, briefings and debates in National Assembly. The presentation and debates will help members of Parliament and local people to know more about Malawi Resilience Disaster Risk Management Project and why government of Malawi planned the project activities. This will be done from March to May 2020.
- c) Another important public disclosure has been through radio announcement. Government officials announced publicly through radio and MBC Television regarding the Malawi Resilience Disaster Risk Management Project (MRDRMP).
- d) Some members of public will be informed of Malawi Resilience Disaster Risk Management Project (MRDRMP) through distribution of the project documents in district commissioner's offices, libraries in towns and districts.
- e) The Resettlement Policy Framework will be posted on websites for various government agencies and World Bank Info. The arrangement will allow more people access information on the project and make informed views and opinions.

Specific information will be packaged for various groupings depending on their functions. There will be information packaged for beneficiaries, projected affected persons, stakeholders, community leaders as need arise.

On disclosure of the RPF, subsequent RAPs, ARAPs and all safeguards instruments will be approved/cleared by the Government of Malawi and the World Bank and disclosed with translation into local language/s in a culturally appropriate manner. It will also be disclosed in the World Bank external website. For any changes to these instruments after disclosure, the same approval and disclosure protocols will be followed. All project related information will be disclosed to PAPs, communities and stakeholders through existing local systems.

2.0 PROJECT DESCRIPTION AND IMPLEMENTATION OF ACTIVITIES.

2.1. AIM AND OBJECTIVES

The aim of the project is providing immediate support to the affected populations in restoring their livelihoods, as well as rehabilitating critical infrastructure essential for the restoration of public service delivery and sustainable economic recovery in the Flood and Drought-affected areas. In addition, the project will also seek to increase the institutional capacity of the Government's post-disaster recovery system and promote long-term resilience. Specific objectives are:

- a) To restore livelihoods and food security for households in the Drought and Flood affected districts.
- b) To rehabilitate irrigation schemes damaged by Droughts in Drought and Flood affected districts.
- c) To support the design of disaster resilience infrastructure for Drought and Flood prone areas.

In line of the project objectives, the project has four components, and these are: a) Livelihoods Restoration and Food Security, b) Infrastructure Rehabilitation and Reconstruction, c) Promoting Disaster Resilience: Program Management. The MRDRMP components are part of multi-sectoral and programmatic Disaster Recovery Framework under preparation by Malawi Government.

2.2 PROJECT ADMINISTRATION STRUCTURES

Five structures have been put in place for management and administration of Malawi Resilience and Disaster Risk Management Project (MRDRMP) and the same structures will be used in the New Project MRDRMP, and these are Project Steering Committee, project Implementation Unit, Field Offices, District Councils and Project Management Committees. The roles of each of these structures are as follows: -

- a) *Project Steering Committee (PSC)*: This will a principal decision-making body for the Malawi Resilience Disaster Risk Management Project (MRDRMP) and will be the PSC chaired by Secretary to Agriculture at Ministry of Agriculture, Irrigation and Water Development. It will be composed of representatives from the MoAIWD, Ministry of Natural Resources, Energy and Environment (MoNREM), Ministry of Local Government and Rural Development (MoLGRD), and Department of Disaster and Management Affairs. This committee will provide oversight for project implementation as well as central policy guidance as required on a periodic basis. Department of Disaster and Management Affairs will act as the lead technical agency for the development of the Recovery Framework and sit on the PSC in an advisory role.
- b) *Project Implementation Unit (PIU)*: Project Implement Unit will be responsible for overall project management, which includes coordination across implementing agencies and ministries, financial management, centralized procurement, inter-ministerial reporting arrangements, quality control, social and environmental controls and monitoring and evaluation. The unit will be composed of contracted and will remain housed within MoAIWD.

2.3 DESCRIPTION OF POTENTIAL SOCIO-ECONOMIC IMPACTS OF RESETTLEMENTS.

Land acquisitions for construction of public infrastructure negatively affect host communities. Communities may be affected by direct losses of land or by restriction to access land or other assets such as foot paths. Restrictions to access to assets inhibit free movement of people and increase distance of travel in communities. In addition, restriction to access to natural resources constraints means of livelihoods. Such resettlement exercises undertaken whether within rural communities or urban setting trigger several negative externalities on the affected people. In general, some impacts emanate from the consequences of losses of access to their settlement sites, others from loss of relationships and loss of access to their traditional productive assets. There are also socio impacts like enhancement of gender

resilience and HIV AIDs management as well as labour influx issues. Furthermore, some impacts arise from loss of social cohesion and relations. Examples of potential socio- economic impacts from such sources are outlined below here:

Table 1: Summary of main social and economic impacts from resettlement activities.

Category of losses	Social and economic impacts
Displacement from land	<ul style="list-style-type: none"> • Landlessness • Loss of productive resource for agriculture and other businesses
Loss of residential property and homestead	<ul style="list-style-type: none"> • Landlessness, homelessness • Impoverishment of people • Disturbance of house production systems • Loss of sources of income • Loss of or weakening of community system and social networks. • Loss of access to ancestral sites, graveyards • Loss of traditional authority.
Loss of assets or access to assets	<ul style="list-style-type: none"> • Impoverishment • Loss of sources of income • Loss of employment opportunities (self – employment)
Loss of income sources or means of livelihood	<ul style="list-style-type: none"> • Impoverishment • Loss of self – employment opportunities
Loss of identity and cultural survival	<ul style="list-style-type: none"> • Alienation of persons from their tribal society • Lack of access to community support
Loss of access or proximity to social amenities e.g. water sources	<ul style="list-style-type: none"> • Impoverishment. • Loss of sources of income • Increased time to access resources. Loss or shortage of time for other activities.
Blockage of footpaths/pathways	<ul style="list-style-type: none"> • Increase in travel distance due to longer route
Loss of grazing land	<ul style="list-style-type: none"> • Difficulties in rearing livestock
Blockage of access to public water bodies	<ul style="list-style-type: none"> • Difficulties in collection of water for domestic uses • Difficulties in collection of water for irrigation
Gender enhancement	<ul style="list-style-type: none"> • Limitations of women participation
Labour Influx	<ul style="list-style-type: none"> • Danger of labour importation
HIV/AIDS Management	<ul style="list-style-type: none"> • Danger of spread from extra marital affairs

In general, the number of projects affected people in implementation of most sub-projects will be low. This is because most of the sub-projects will involve site specific rehabilitation/ re-construction of public infrastructure (damaged sections of water supply schemes, damaged irrigation schemes). The scale of project affected people in those sub-projects (which may affect land and other types of properties) may be below 10 households. Government of Malawi has developed this RPF to guide on the preparation of site-specific Resettlement/ Compensation Action Plans to address and compensate potential PAPs for their potential losses.

2.4 GENERIC PROJECT CYCLE AND LINKAGES TO RESETTLEMENT ISSUES.

The generic project cycle of a sub - project development project. These steps are outlined in the diagrammatic flow of the project cycle below here.

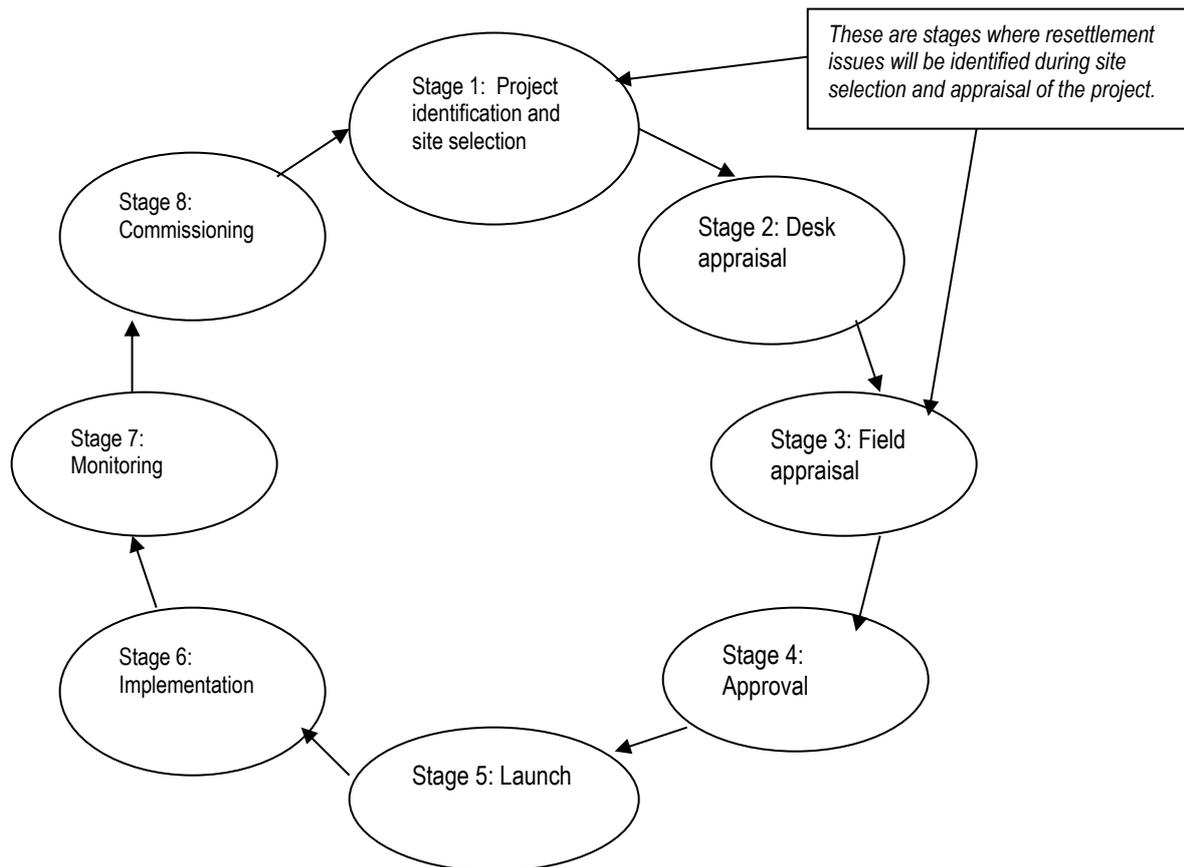


Figure 1: Generic project cycle for implementation of a sub - project.

Identification of resettlement issues will be done during project identification and site selection process in stage 1. It is at this stage that planning team of District Executive Committee carry out resettlement screening and work before the project can be appraised by the District Executive Committee (DEC).

2.5 BRIEF DESCRIPTION OF LAND ACQUISITION PROCEDURES FOR A SUB-PROJECT.

In the MRDRMP Project, the expectation is that sub projects will be undertaken on already demarcated land for example, a lot of anticipated irrigation schemes will be pieces of land already owned by farmers within the customary arrangement and are currently using traditional non effective irrigation methodologies. In this case, the project will invest head-works and structures that will facilitate enhancement of irrigation farming on the same pieces of land where the farmers are already farming. As such, the only new piece of land to be used will mostly be the head-works land which are normally in the mountains or valleys and are not demarcated to specific individuals but rather remain public land. However, for the rest of the interventions under this project, the only land transfer mechanism anticipated will be the land donation approach because the investments outlined are public in nature. Upon identification of the specific land area to be acquired, the village development committee will initiate negotiations with the occupier(s) of customary land, registered proprietor or their representatives. Inter-department cooperation will be utilized wherever necessary to tap on the expertise and experiences of the various stakeholder institutions.

(a) The District Commissioner in consultations with the line district sector line officials prepare

actions plans for implementation of land acquisition and resettlement that comply with the provisions of the framework.

- (b) Affected persons are then served with a notice with a clear explanation of the purpose of the acquisition, the area of land required and the owners' right to compensation in accordance with the existing law. The notice is normally for 30 days.

In the case of customary land, which is mostly used for Agricultural purposes, the District Commissioner/Chief Executive ascertains from the village head, the land register or whichever is applicable in order to determine the person or persons who have the right over that land. And in the case of freehold land the Ministry of Lands and Housing shall ascertain the registered owner or owners of the freehold land to be acquired from the land registers.

The District Commissioner/Chief Executive commissions a survey on such land to be acquired. Thereafter a plan is prepared and certified to be accurate showing:

- (i) land to be acquired;
- (ii) names of the owners and occupiers of that land as far as they can be ascertained; or
- (iii) in the case of customary land, the name of the land owner who is the holder of the right over the land as ascertained by the local chief and other Bonafede residents.

A copy of such plan shall be deposited in the office of the District Commissioner/Chief Executive and another at the premises of the local chiefs. Local leaders are responsible for informing the public on the plans. It should be highlighted that in case some project affected persons have objections to the proposed land acquisition and resettlement, their objections must be done in writing to District Commissioner for or Commissioner for Lands and Valuation within 30 working days after the public notice. Alternatively, formal complaint can be lodged via traditional authority. The last step is confirmation of land acquisition by way of issue of documents of allocation and subsequent lease for the project.

- (c) Voluntary Land Donation Monitoring. The voluntary land donation issues will be monitored by sub-project staff and the World Bank periodically review the land donation agreement forms and randomly interviewing the donors. During review missions, WB will verify that land donation due diligence has been conducted in accordance with the above procedures.

3.0 POLICY AND LEGAL FRAMEWORK ON RESETTLEMENT IN MALAWI.

REVIEW OF POLICIES AND LAWS ON RESETTLEMENT IN MALAWI.

Policy and legal framework on resettlement in Malawi are drawn from various government policies and pieces of legislation. In addition to a review of the Constitution of Republic of Malawi, other key government policies and pieces of legislation considered here include: Malawi National Policy, Land Act, Land Acquisition Act, The Town and Country Planning Act, and the Forestry Act. The following paragraphs highlight some resettlement related requirements in the planning of sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP):-

3.1. The Constitution of Republic of Malawi.

The Constitution of the Republic of Malawi guarantees land as a basic resource for social and economic asset for all Malawians. It affirms equitable access of land and ownership of property. The constitution also sets a benchmark on the issue of land acquisition. It provides in section 28(2) that “No person shall be arbitrarily deprived of property” and in section 44(4) that “Expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation provided that there shall always be a right to appeal a court of law”. Regarding these facts, it will be necessary for the community to provide adequate land to for displaced persons. The Constitution of Republic of Malawi further guarantees security of tenure of land and free enjoyment of legally acquired property rights in any part of the country. The implication of this provision to resettlements related sub - project under Malawi Resilient and Disaster Risk Management Project (MRDRMP).

3.2 The Malawi National Land Policy 2002

The Malawi National Land Policy focus on land as a basic resource common to all people of Malawi and for enhancement of socio – economic development. Section 4.11 affirms equitable access to land to all citizens of Malawi. The policy recognizes human settlement and agriculture as the major benefactor land use sector. As such, the policy advocates for orderly resettlements of villages or households especially in rich agricultural zones. Furthermore, the policy guarantees full legal protection to customary land tenure to the people of Malawi in order to enable the ordinary Malawians adequately participate in subsistence farming and socio-economic development activities. The Malawi National Land Policy also advocates for fair compensation on open market value to local people on all classes of land (whether held under customary land tenure or leasehold) in case such land is acquired for public interest or for development of public infrastructure. In reference to relocation of displaced people, the policy advocates adequate consultations with the affected people so that their interests are taken care of. Such provisions will have to be made in case of land acquisitions for some sub - projects under the Malawi Resilience and Disaster Risk Management Project (MRDRMP).

3.3 Land Act 2016

Land Act covers land tenure and land use quite comprehensively. Section 27 and 28 of the acts guarantees landholders for appropriate compensation in event of disturbance of or loss or damage to assets and interests on land Act also provides procedures of acquisition of one class of land to another. The process begins with appropriate notice the existing lessee of the land. Project Implementation Unit has to ensure that acquisition of land for new sub projects (in safer places) to be built in Nsanje and Chikwawa have to follow normal procedures are guided in Land Act.

3.4. Land Tenure Regimes in Malawi

Malawi embraces the capitalistic ideals regarding land ownership. There are five distinct land tenure classes existing in Malawi. The implementation of the sub-projects under the Malawi Resilience and Disaster Risk Management Project (MRDRMP) would likely involve land access to any one of the classes. Furthermore, cases of construction of new sub projects within selected sites would trigger land tenure and access changes. The description and extents of the classes of land in Malawi are as follows:

(i) Customary Land

This is land held in trust for all people of Malawi by the State President, who delegates his authority to traditional chiefs. This constitutes about 75% of the total 9.5 million hectares of the land. The land is commonly held and distributed to the people by local chiefs. Although each person has recognised ownership to a piece of land, he or she cannot trade on it as the land can be reassigned to other people in case the chiefs deem it fit. A coherent system in the distribution of land exists in both patrilineal and matrilineal societies. This system has allowed smallholder agriculture to survive without access to bank loans.

(ii) Leasehold Land

This is part of private land that is leased by individuals or other legal residents. The lease period varies according to type of use that someone has applied for. Currently these falls into three groups of 21 years old leases for agricultural uses, 33 to 99 years old for property and infrastructure developments, and over 99-year lease for those who would wish to sublease to tenants of 99 years. About 8% of the land in Malawi is in this category.

(iii) Registered Land

This is grouped into two classes called customary registered and adjudicated land. The first exists in Lilongwe District only. This land is registered in the family leader name with all family names in that area registered including the size of their land holdings. Their implicit freehold status as the families can trade in its holding by leasing out or selling bits of it with groups consent. Loans can therefore be obtained on strength of their certificates to the land

(iv) Freehold Land

This is land, which has been granted to persons for perpetuity. The government has no specific control on transactions except on planning permission on uses. This lease is now limited to Malawian citizenship only. It is difficult to enforce conservation measures on this land because of the exclusivity, which the persons enjoy, particularly some owners who live overseas.

(v) Government Land

There is land which is owned and used by government for public utilities, government offices and other properties, markets, government farms and other public goods throughout the country.

(vi) Public Land

Land managed by agencies of the government and traditional leaders in trusts for the people of Malawi, openly used or accessible to the public at large. This includes catchment areas, protected forest reserves, national parks, game reserves, dambos, community forests, riverines, Drought plains, wet lands, military sites and others.

3.5. Land Acquisition Act 2017

This law covers procedures relating to the acquisition of land by either the government or individuals or developers from any form of the land tenure systems in Malawi. The act makes provision for preliminary investigation, preliminary survey of the area and the procedure to be followed where land should be acquired. The procedure for land acquisition starts with issue of a formal notice to persons who have existing interests in the land. Such notices are issued under section 6 of this act. Sections 9 and 10 of the act covers the steps for assessment of land, crops, fruits and other landed properties and subsequent procedures for payments of the compensations to the displaced people. Section 11 to 14 outlines the necessary steps for land surveying and land transfer following notices in government gazette. The responsibility of identifying alternative land for those affected people rests with their village headman, their traditional authority and District Commissioner of the district. The District Commissioner assists in transportation and provisions of necessary services on new sites of resettlement.

3.6. The Registered Land Act 2016

The Act makes provision for the registration of title to land and for dealings in land that has been registered. The Act has been amended several times since 1967 with the most current amendments passed in 2016. The Amendment Act amends some provisions in the Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

3.7. The Customary Land Act 2016

The Customary Land Act 2016 provides for the management and administration of customary land and for matters connected therewith and incidental thereto. Customary land means all land used for the benefit of the community as a whole and includes unallocated customary land within the boundaries of a traditional land management area, including:

- land within the boundaries of a Traditional Land Management Area other than Government or reserved land;
- land designated as customary land under the Land Act, 2016;
- land and boundaries demarcated as customary land under any written law or administrative procedure in force at any time before this Act came into operation whether that demarcation has been formally approved or published in the gazette;
- land, the boundaries of which have been agreed upon by a land committee claiming jurisdiction over that land.

The Customary Land Act, 2016 is the main act in customary land administration and management in Malawi. The Act establishes “customary estates”, which is customary land owned, held or occupied as private land within a traditional land management area and which is registered as private land under the Registered Land Act 2016. As such, customary land will no longer be treated as valueless commodity, but will be given equal value as any privately-owned land such as leasehold or freehold (Government of Malawi, 2017).

In terms of operation, the Customary Land Act 2016 creates customary land committees (CLCs) at group village headman (GVH) level to manage land within a Traditional Land management Area (TLMA). The CLC will be chaired by a GVH and will have six elected members from the community, three of which will be women. In discharging its duties, the CLC shall, among others, have regard for the principle of sustainable development and the relationship between land use, natural resources and the environment contiguous to the customary land; seek and consider views of other local government authorities having jurisdiction in the TLMA; and not allocate land or grant a customary estate without the prior approval of the relevant Traditional Authority. Local government authorities shall provide advice and guidance based on the same being originating from the Commissioner of Lands. Local government authorities will oversee the operations of the CLCs (Government of Malawi, 2017).

The Customary Land Act 2016 defines the terms for customary land in a Traditional Land Management Area transfer to Government or reserve land for public interest. It also focuses on the Declaration of Hazardous Land, on grant and management of customary estates, on adjudication of interest in customary land and on dispute settlement. The essence of community ownership and control is that all members of a particular community have access to land and all its products without exception and that the role of chiefs is to ensure not only political

protection for the community but, essentially, a more equitable distribution of that land among current members of the community and future generations.

3.8. Land Survey Act 2016

The Land Survey Act provides for land surveys, the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council.

3.9. Physical Planning Act 2016.

The Act provides for physical planning and the orderly and progressive development of land in both rural and urban areas and for issues relating to the grant of permission to develop land and for other powers of control over the use of land. The Act is administered by the Commissioner for Physical Planning and also provides for the establishment of the Physical Planning Council. The Act provides for development permission including application forms, processing and revocation. Section 54 provides that a person shall not commence the development of any subdivision of any land unless he first obtains a grant of development permission. In addition, a person applying for the registration of any land under the Registered Land Act must attach a copy of the grant of development permission in order for his documents to be considered.

Part VII of the Act deals with acquisition of land and compensation. The section provides that the Minister may acquire any land, either compulsorily or by agreement if it is considered desirable or expedient in the interests of the implementation of any plan of the proper control and furtherance of development of any land under the Act. Compensation will be paid in accordance with the Lands Acquisition Act as amended. Section 68 of the Act provides for occasions when compensation is payable for planning actions, section 69 deals with how compensation can be assessed and section 70 provides for how a claim for compensation can be made. The Second Schedule of the Act is on the calculation of compensation under section 68.

The Act provides for circumstances when an appeal can be made and the fact that an appeal can be made to the Council. A person aggrieved by a decision of the Council may apply to the High Court for judicial review.

3.10. Forest Act.

The Forestry Act number 11 of 1997 affirms the role of Department of Forestry on control, protection and management of forest reserves and protected forest areas. In addition, the act recognizes the need to promote participatory social forestry and empowerment of communities for conservation and management of trees within the country. In this regard the act encourages community involvement in woodlots and management of forest reserves through co-management approaches. Section 86 of Forestry Act has provided guidelines on values/rates for sale of both indigenous trees and exotic trees. These rates are gazetted and are reviewed from time to time by senior government officials. The values are used so that those who are involved in forestry are paid reasonable compensations on their timber trees and fruit trees. In case the department has not reviewed the rates at the material time, the department of Forestry normally assigns an officer to value the trees for purpose of immediate sale or compensations. Normally, the valuation of people's trees are done based on species of trees, measured diameter of breast height and market price in kwacha per cubic metre. Current rates for compensations of various trees are contained in Malawi Gazette Supplement No 13A of 3 December 2010. Government Notice number 23.

3.11. The Local Government (Amendment) Act 2017

The Local Government Amendment Act, 1998 consolidates the law relating to local government. Section 34 of the 1998 Act provides for the acquisition of land by Agreement. It states that for the purpose of (a) any of its

functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of section 34 of the 1998 Act has been deleted and substituted with a new subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions.

The Amendment Act also amends the principal act by providing that the Council may dispose of land held by it in accordance with the Land Act 2016 and the Registered Land Act 2016.

3.12. REVIEW OF POLICIES OF THE WORLD BANK ON RESETTLEMENT.

World Bank Policy on involuntary resettlement is outlined in Operational Policy (OP 4.12), and the overall objective of this safeguard is to avoid or minimize involuntary resettlement where feasible, exploring all viable alternative project designs. Further the policy encourages community participation in planning and implementing resettlement. More specifically, where resettlement is unavoidable, the policy stipulates criteria for eligibility to compensation, resettlement assistance and rehabilitation assistance measures to displaced persons on the following conditions: -

- a. Those who have formal legal rights to land, including customary and traditional rights recognized under the laws of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
- b. Those who have no formal legal rights to land at the time the census but have a claim to such land or assets provided that such claims are recognized under the laws of Malawi. This class of people includes foreigners and those that come from outside and given land by the local chief to settle.
- c. Those who have no legal right or claim to the land they are occupying to the land they are occupying. This class of people includes squatters and those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph 3.2(a) and 3.2 (b) shall be provided compensation, resettlement assistance and rehabilitation assistance for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 3.2 (c) shall be eligible for compensation for the assets but not land.

In addition, the World Bank policy on resettlement stipulate those displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

3.13. COMPARISON AND GAPS BETWEEN POLICIES OF WORLD BANK AND GOVERNMENT OF MALAWI ON RESETTLEMENT.

Policies of the World Bank on resettlement and of Government of Republic of Malawi have a number of common aspects in management of resettlement. For example, both policies emphasise on minimisation of the extent of resettlement. Secondly, the policies recommend considerations of fair and adequate compensations to project affected persons. However, there some gaps which exists between the policies of World Bank and those of Government of Republic of Malawi. A detailed comparative analysis is provided in table 3. Some selected examples are as follows:

- (a) On aspect of compensations on assets to project affected people, the policies of World Bank on resettlement include illegally built structures of squatters and pirates as eligible for compensations on their assets. In case of Malawi, such claimants are not entitled to compensations.

- (b) On aspects on compensations on land, the policies of Government of Malawi considers the different intrinsic values associated with various classes of land (customary land, leasehold land, freehold land, public land) .In such cases, rates for compensation on land vary from one site to another and from one class of land tenure to the other. World Bank policies do not distinguish such differential aspects of land classes and corresponding different market rates.
- (c) In cases on compensation of loss of land by project affected people, the World Bank policies prefer land for land compensation. In Malawi an option of land for land compensation is normally preferred in customary land transaction while option of land for money compensation is the preferred options in urban areas.
- (d) World Bank policies clearly stipulate resettlement as an upfront project – in that all issues of land acquisition and relocation of project affected people has to be done prior to commencement of the project site on the acquired site. The policies do not clearly spell out this approach and in practice; resettlement is treated as a separate exercise outside project planning and implementation process.
- (e) World Bank Policies clearly recommends for adequate resettlement assistance and rehabilitation assistance to relocated people as a way of restoring and enhancing socio – economic living standards. This is supposed to be undertaken within the first years of relocation on the new sites. Malawi legislation does not clearly define the extent f resettlement assistance to relocated people. Much of available support is normally left in hands of District Commissioner and local chiefs within the district and area of relocation of the project affected people.

3.14. MEASURES FOR ADDRESSING THE GAPS IN THE POLICIES IN IMPLEMENTATION.

The approach in addressing the discrepancies between policies of the two institutions is focus implementation of policy aspects which positively favour the project affected persons and leave out those which negatively impact on the project affected persons. This recommendation is on the observation of that the common position between World Bank Policy on Resettlement and the Constitution of Republic of Malawi on resettlement is the guarantee of fair and adequate compensation and adequate resettlement assistance for the project affected person. In this regard, suitable options to be adopted are as follows:

- (a) Compensations in form of land for land loss to acquisition from those who have been displaced be made as a top priority. The option could come out as cost effective as the land acquisition process (which involves the project affected persons) may be much cheaper compared to acquisition of the same land by the government.
- (b) Compensations related to customary land acquisition to be made on real replacement values as opposed to previous practice of considering customary land as a free commodity. Whenever there is a conflict between the Bank and Government of Malawi policies on land tenure that of the bank will prevail.
- (c) Compensations should be paid to categories of project affected people so long they are covered within the cut-off date. Some special project affected persons to be included are the squatters, pirates, vendors' stalls/hawkers.
- (d) Compensations should be paid in relations to labour inputs into gardens and maintenance of trees and crops within the immediate past year.
- (e) Provisions of basic and social services (such as potable water, sanitation facilities, subsidised fertile, income generating activities) to project affected people within the new area of relocations. Such support would enhance the restoration of standards of living of the project affected people.

Table 2: Outline of selected differences on management of resettlement amongst Project Affected Persons between World Bank Policy on Resettlement (OP 4.12) and Laws of Malawi

Project affected person	Provisions from relevant laws of Government of Malawi		World Bank Provision on the aspects	Appropriate measures for addressing the gaps.
	Name of Legislation	• Provision within piece of legislation in Malawi		
Land Owner/Occupier	Land Acquisition Act (Chapter 57:04)	<ul style="list-style-type: none"> • The law stipulates that compensation based on assessment done by government and agreed by parties. • The law stipulates that compensation given when land is acquired. • The law stipulates that compensation not to exceed market value. 	<ul style="list-style-type: none"> • The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement. • Compensations will only be given to legal occupants and those identified before cut off dates and surveys. 	<ul style="list-style-type: none"> • Compensation of all structures at full replacement costs prior to displacement
Land Owner/Occupier	Land Act (Chapter 57:01)	<ul style="list-style-type: none"> • The law stipulates that reasonable cash compensation to loss of affected persons for loss of land 	<ul style="list-style-type: none"> • The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement without gender discrimination. 	<ul style="list-style-type: none"> • Compensation of structures at full replacement costs and labour costs prior to displacement
Land Owner/Owner	Customary Land Act	<ul style="list-style-type: none"> • The law favours land for land compensations 	<ul style="list-style-type: none"> • The policy favours land for land compensations in cases of loss of land by project affected persons. • The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement. 	<ul style="list-style-type: none"> • Compensation of land for land to project affected persons. • Compensation of structures at full replacement costs prior to displacement
Encroachers	Land Acquisition Act (Chapter 57:04)	<ul style="list-style-type: none"> • The law stipulates that compensation is only given when land is legally acquired. Same treatment to be given to all genders including women and vulnerable groups. 	<ul style="list-style-type: none"> • The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement. 	<ul style="list-style-type: none"> • Compensation of all structures at full replacement costs prior to displacement
Consultations and Disclosure	Environmental Management Act 2017 EIA Guidelines 2017	<ul style="list-style-type: none"> • The law stipulates that there shall be public consultations and disclosure of all environmental and social issues including resettlement to all genders including vulnerable groups. 	<ul style="list-style-type: none"> • The policy stipulates that there shall be public consultations and disclosures amongst project affected persons and the general public. 	<ul style="list-style-type: none"> • Public consultations and disclosures at all levels of project management on all resettlement issues ensuring vulnerable groups and all genders are included.

Livelihood Restoration	Customary Land Act	<ul style="list-style-type: none"> The law favours for land compensations (that would ensure continuation of livelihoods and socio-economic interventions) 	<ul style="list-style-type: none"> The policy favours land for land compensations in cases of loss of land by project affected persons. The policy stipulates that owners of buildings built illegally are entitled to in land compensation at full replacement costs including labour costs prior to displacement. 	<ul style="list-style-type: none"> Compensation of land for land to project affected persons including all genders and vulnerable groups. Compensation of structures at full replacement costs prior to displacement with all gender inclusion and all vulnerable groups.

**** in case of conflict /gaps between laws and policies of Malawi and the OP 4.12, the latter will prevail***

**The GRM will be directly linked and adequately advocated throughout compensations process so that any compensation related grievances are adequately captured, documented, processed and feedback is provided.*

4.0 GUIDING PRINCIPLES ON RESETTLEMENT ACTIVITIES WITHIN THE MRDRMP

4.1. GUIDING PRINCIPLES ON RESETTLEMENT

The overall policy guidance on execution of new infrastructures under Malawi Resilience Disaster Risk Management Project will be to determine acceptable alternative options, when possible, to avoid resettlement related cases at the earliest opportunity. This is because resettlement disrupts the existing social and economic fabrics of the poor communities. In this regard, appropriate principles (described below here) will guide acceptable mechanisms for minimising or avoiding altogether incidences of resettlements during implementation of sub - project under Malawi Resilience Disaster Risk Management Recovery Project. The principles revolve around the basic tenets of the World Bank Operational Policy on resettlement as well as the existing policies and laws of the Government of Republic of Malawi. The principles are as follows:

Principle A: Recommended sites for sub - project under Malawi Resilience Disaster Risk Management Project shall be those sites with no or minimal resettlement.

Suitable sites for funding of sub projects are those sites where the implementation of a project **would not bring** about involuntary resettlement, voluntary or involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

Principle B: Projects proposed within a site where resettlement on the proposed site is unavoidable, government will plan and implement resettlement well in advance implementation of the new infrastructure. Implementation of resettlement activities by the communities will be on the following principles:

- **Genuine consultation and participation must take place**

In case the government wishes to site a sub project on interest in public interest, government will adequately consider the views, rights and interests of the displaced and to – be- resettled people.

- **A pre - resettlement data baseline must be established**

Government will prepare a Resettlement Action Plan or Abbreviated Action Plan to guide compensation and relocation processes. The preparation of action plans will be based on baseline surveys of the project affected persons and the locality of the project.

- **Government to provide resettlement assistance to project affected persons.**

Project affected people will be provided with necessary support in course of relocation. The support will include provision of transport and basic services on the new sites of settlement.

- **A fair and equitable set of compensation options must be negotiated.**

In case of resettlement needs on the proposed project site, government will take care of required compensations on and assets to project affected people based on replacement costs.

- **Vulnerable social groups must be specifically catered for.**

Compensations and resettlement assistance will cover all entitled categories of project affected persons including vulnerable groups such as the squatters, female headed households (widows, unmarried females) the aged, child headed families (orphans), the aged, widowers and the disabled.

- **Setting up of accessible grievance redress mechanisms.**

Government will put in place user friendly and cost-effective mechanisms for addressing complaints from project affected persons. The mechanisms will include use of local grievance redress mechanisms administered by a project committee, local village heads, traditional authorities as well use of formal courts under the Judiciary. The use of local traditional courts administered by village headmen, group village headmen and traditional authorities will allow project affected people to access such services without going long distance.

- **Compliance to relevant policies and laws.**

Land acquisition and resettlement activities by government will be implementation in compliance to relevant World Bank Safeguard Policies and government policies and laws.

4.2. THE SCREENING PROCESS.

The screening process will occur as soon as the sites have been identified. At that point, sites will be subjected to both Environment and Social screening where issues of resettlement will be scrutinized.

The objectives of this screening process are:

- To guide implementing agencies in identification of appropriate sites for construction of various new infrastructure.
- To guide communities in identification of measures for addressing resettlement issues (if they arise) prior to submission of the proposal.
- To monitor measures for addressing the social impacts from resettlement.

Figure 2 below outlines a diagrammatic flow of the proposed resettlement screening sub - project under the Malawi Resilience and Disaster Risk Management Project (MRDRMP) :-

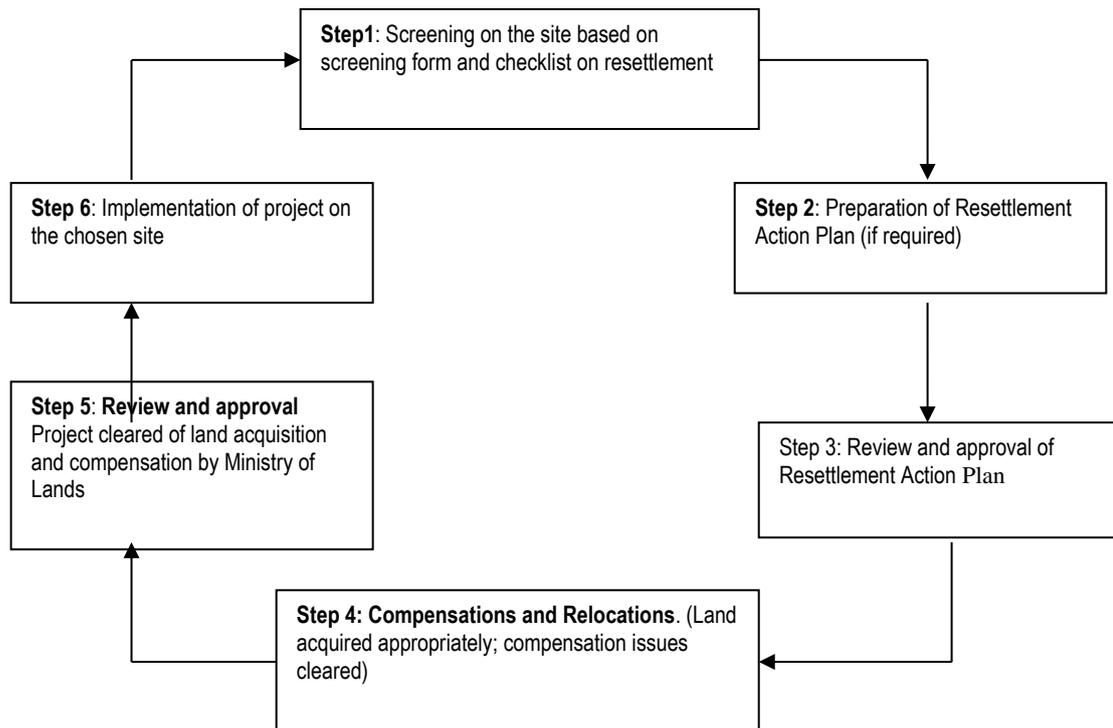


Figure 2: Diagrammatic flow of the screening process.

The decision to undertake a resettlement action plan or an abbreviated one will depend on the screening results and according to OP 4.12. the scope and level of detail of the resettlement plan vary with the magnitude and complexity of resettlement. The plan is based on up-to-date and reliable information about (a) the proposed resettlement and its impacts on the displaced persons and other adversely affected groups, and (b) the legal issues involved in resettlement. The resettlement plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the resettlement plan. Annex 5 has an outline of a sample of the resettlement action plan. An abbreviated resettlement action plan however covers the following minimum elements:

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

It will be much more basic as the lower significance of the resettlement indicate from the screening process.

4.3. SCREENING OF THE SITES BY DISTRICT EXECUTIVE COMMITTEE.

This step will be the first step in the resettlement screening process, and it will be done on the proposed site of the project. This will be undertaken by use of the *Resettlement Screening Form (annex 3)*. The committee would be assisted in screening by professionals. The committee will carry out the exercise based on checklist and screening forms (sample in annex3). The committee will be trained on use of the screening forms and prepared checklists on social impacts.

The aim of this exercise will be to assess the suitability of the proposed site or identify any form of encumbrances. In case the land on the chosen site is owned by someone or has assets for somebody, the committee will have to identify necessary compensatory measures for affected persons.

4.4. CENSUS OF DISPLACED PERSONS AND CUT – OFF DATE

In context of resettlement, cut-off date is normally the date when a task team mandated to facilitate resettlement/relocation of persons completes a census and asset inventory of project affected persons within the project area. It should be made clear that the cut-off date is the date which marks the seal of those identified to be beneficiaries for compensations as project affected persons. Any other persons claiming compensation after the end of the surveys that identified the project affected persons will not be included as eligible for compensation.

Normally, the purpose of the exercise is preparation of pre-resettlement data and information regarding those to be re-located. The exercise involves rapid 'census or head count' of the number people and their properties within the site. All heads of households who were not residents in the area prior to this cut-off date are normally not eligible for resettlement assistance and compensations. Normally the exercise is for preparation of database for drawing plans for compensations and resettlements. The steps to undertake appropriate estimation include the following tasks: -

Step 1 Undertake site visit to the chosen sub project site.

This will help to appraise the pattern of the structures, scope of activities and density of residential properties on the site.

Step 2 Delineation of the proposed site. The purpose would be to prepare boundaries of the site within which to work on.

Step 3 Calculate the size of the area in hectares.

This would be to estimate the size of land which the persons would lose and which would be acquired and compensated for after negotiation.

Step 4 Carry out physical check and count of the houses within demarcated site.

This would be to find out the number of residential premises of heads of households within the site to be acquired.

Step 5 Establish the average number of persons per house within the demarcated area.

This would be to find out the estimated number of persons living within the houses within the site. The figure can also be obtained from municipal authorities.

Step 6 Estimate the people to be displaced. This would involve calculations multiplying the number of counted houses of heads of households (step 4) and the average number of persons per house (found in step 5).

4.5. METHODS OF VALUATION OF ASSETS.

Land acquisition and compensation of the assets depends on proper and fair valuation. In Malawi methods of valuation of assets (such as buildings, trees, fruit trees, crops, vegetables) for purpose of compensations are based on various provisions in various pieces of legislations. These include Land Acquisition Act, Forest Act and Town and Country Planning Act. Generally, Ministry of Lands, Housing and Urban Development will provide technical leadership on the exercises. Physical assets such as buildings, bare land and other structures. Table 2c below is a summary of the method in which valuations are conducted in Malawi: -

Table 2c: Summary of Valuation Methodology

Asset	Process
Temporary and permanent loss of land	a) A detailed inventory of all persons and their land holdings; b) Valuation of land on market basis; c) Determination of costs to the land including disturbance allowance; and d) Determination of compensation package according to valuation and costs.
Structures	a) A detailed inventory of persons affected and their buildings and auxiliary structures;

	<ul style="list-style-type: none"> b) Valuation of buildings based on comparable/investment/cost/profits approach to achieve replacement cost; c) Determination of disturbance allowance; and d) Determination of compensation package without depreciating the value of the structures.
Temporary loss of business profits	<ul style="list-style-type: none"> a) A detailed inventory of persons and their businesses; b) Establishing business profits for the past 5 years using their accounts details. c) Determination of disturbance allowance; and d) Determination of the compensation package.
Crops	Potential annual yield of the crop multiplied by highest market price per kg multiplied by land size.
Trees	No. of trees multiplied by market prices.
Fruit trees	Value based on yield per year per hectare, productive lifespan, market price/kg. Inputs or payment for re-establishment will be provided.

Construction and operation of the proposed project will involve temporary disturbance of people and their businesses and loss of property such as trees. Compensation whether in a form of money, replacement of structures will arise from:

- a) Temporary land requirements for the project;
- b) Structures falling within the proposed route for the water distribution network; and
- c) Trees and crops falling under the proposed route for the water distribution network.

Valuation methodology

This section describes the valuation approach and methodology used in the valuation of project affected assets. It also describes how the asset inventory was conducted in the project area.

The valuation of assets in this Project is based on national laws and World Bank resettlement policy OP4- 12.

a) Malawi National and Local Provisions

There are several legal provisions in Malawi that govern compensation if an affected person's assets are affected. Section 28 of the *Constitution of Malawi* provides that every person shall be able to acquire property and that having acquired that property; no person shall be arbitrarily deprived of the property. Section 44 (4) further states that expropriation of property shall be permissible only when done for public utility and only when there has been adequate notification and appropriate compensation, if there shall always be a right to appeal to a court of law. The principal Act on Land Matters- *The Land Act 2016* - provides that any person who suffers any disturbance of, or loss or damage to any interest which he had shall be paid compensation for such disturbance, loss or damage as is reasonable. Additionally, the *Land Acquisition and Compensation Act 2016* provides the procedure for the assessment of appropriate compensation. It considers three steps as being necessary to arrive at an appropriate compensation, namely:

- i) The consideration which the person entitled to the land paid in acquiring it;
- ii) The value of the unexhausted improvements to the land made at the expense of the person entitled thereto since the date of his acquisition thereof; and
- iii) Any other appreciation in the value of the land since the date of such acquisition.

The approved 2002 Malawi National Land Policy (4:12, 16) carries the spirit with which valuations must be conducted especially on customary lands. In part it says that "land values shall be determined by open market procedures for customary lands acquired through compulsory acquisition by the government. It further notes that "the inadequacy of compensation is always the direct result of excluding certain items or qualities from the factors considered when determining value and delays in payment of compensation".

b) World Bank OP4-12

The World Bank requires best international practice in resettlement matters and expects the host government entity to apply World Bank's *Operational Policy (OP) 4:12* on involuntary resettlement to all activities under the Contract. The World Bank defines involuntary resettlement as embracing both physical as well as economic displacement arising due to project-related land acquisition and / or restrictions on land use.

The main objective of the *World Bank Operating Policy (4:12)* asserts that '*resettlement shall at least restore and, preferably, improve standards of living and the livelihoods of those households, families, extended families, and individuals who lose land, assets, or access to resources due to the implementation of a project*' (*Draft Resettlement Policy Framework 2017*).

Nonetheless, it is appreciated that the OP 4-12 take precedence in the case where national practices are below those of the World Bank. The OP 4-12 states that Replacement Cost as a rate of compensation for lost assets must be calculated as market value plus transaction costs. It further expects the Project to compensate affected people for loss of physical assets, revenue and income resulting from economic displacement or physical relocation regardless of whether these losses are temporary or permanent.

About land and structures (buildings), the replacement cost is defined as follows:

- 1) *Agricultural land*: The market value (MV) of land of equal productive potential located in the vicinity of the affected land.
- 2) *Land in urban areas*: The market value of the land of equal size and use, with similar or improved public facilities and services located in the vicinity of the affected land
- 3) *Household and public structures*: the cost of purchasing or building a new structure within the area, with land size and quality similar or better than those of the affected structure or of repairing a partially affected structure

Valuation Practice in Malawi

Valuation in Malawi is undertaken by Real Estate professionals registered under the *Land Economy Surveyors, Valuers, Estate Agents and Auctioneers' Act of 1989 (CAP:53.08)* of the laws of Malawi. They are themselves Members of the Surveyors Institute of Malawi (SIM). SIM subscribes to the International Valuation Standards of the International Valuation Standards Council. As such, valuation of assets is done in accordance with Practice Statements and Guidance Notes published by the *International Valuation Standards Council (IVSC)*. The IVSC (2009) defines Market Value as '*Market Value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion*'.

Applied Valuation Methods

The most accurate and appropriate methods of valuation for land taken and improvements on the land acquired are Contractor and Comparison Methods.

a) Contractor Method

For the properties lost, as sales are rare if not non-existent in this area, the Contractor's Method was used. This method, alternatively known as the Cost Approach or Depreciated Replacement Cost (DRC), is used for properties for which there is no market or for which there is insufficient direct comparable market evidence. Costs of construction materials were assessed having considered factors such as construction material cost, labor and transportation. These costs were averaged to find cost per square meter of the buildings.

b) Direct Comparison Method

This method compares the subject property with the prices obtained for other similar properties almost at the same point in time. That said, however, in rural areas where transactions are not registered, the valuer relied on information given by people in the area itself and elsewhere. The valuer, having considered the information

obtained and as prevailing in some areas where similar assessments have been done recently has regarded it as satisfactory to base a decision on. The Direct Comparison Method is the preferred method in the industry and is favored by courts as in the case of *Re Wilson and State Electricity Commission of Victoria (1921)* whereby J Cussen states that: “...a very common way to obtain value to owner is to base it upon, though not necessarily confine it to, the market price – that is, the price which a willing buyer would give to a willing seller who was desirous of getting rid of the property and had made his preparations accordingly” Direct comparison is seen as the most preferred method as it can be compared against recent transactions, which provide the most accurate representation of market trends (*Redeam Pty Ltd v South Australian Land Commission (1977)*). Stephen J (*Riverbank Pty Ltd v Commonwealth 1074*) describes a direct comparison as ‘the conventional valuation technique’.

Valuation Methods Applied for this RAP

The Method used in valuing the assets affected is dependent on the use, type and market conditions of the asset. Based on the knowledge of the asset impacted by the project, the appropriate methods used in the valuation of the affected asset are Cost approach, Investment approach and Comparison approach. The following categories of assets will be affected:

- a) Loss of land
- b) Loss of structures/ buildings
- c) Loss of crops
- d) Loss of trees (fruits, exotic and natural)
- e) Loss of access /damage on cultural heritage sites/burial grounds
- f) Loss of livelihoods (businesses, farming, waged labor).

Valuation for Loss of Land, Structures, Crops and Trees

a) Valuation for Loss of Structures

Considering that the area of impact of the Project is generally rural in nature where no structure is sold or bought, the Cost Approach to valuation was used for this RAP. The first step in this approach was to collect costs of materials having identified the types of structures impacted. The collection of costs was conducted in around Lilongwe City more especially where the project has been affected i.e. Chinsapo, Zankutu, Area 25, area 49 just to mention a few. It also involved meeting contractors in areas of potential impact. Through such a research, costs of materials, labour and transport of materials were obtained. The cost of the structures was divided into three categories in order to simplify calculations. These categories were the main structure, the roof structure and the floor construction materials. These categories were mainly based on the material used, which determines the type of labour used and workmanship. This division simplified the valuation of assets with different combinations of materials.

Valuation for Loss of Land

Land values are derived by using two main methods of valuation –Sales Comparison and Income/Investment Method. These are market-based valuation methods. The use of each one of these methods results in derivation of land market values. However, in cases of scarcity of market evidence on sales of land within the project area, the preferred method of valuation for such land has been investment method. The valuation of commercial, retail and industrial property is always based on the primary method of valuation being an income-based valuation method, rather than using the direct comparison method (API, 1997). Despite the importance of agriculture to the Malawian economy, there has not been the same importance placed on the valuation of rural property based on the income potential and profit generation of this asset class compared to other income producing property sectors.

Profit based property sectors, such as the tourism and leisure sectors, as well as all businesses are valued by adopting an income method, which reflects the potential of the property, as well as the management ability of the current property owner / operator (Whipple, 1995; Fischer, 2002, API, 1997). It would be only on very rare

instances that a valuer would value a hotel, resort or business -based property solely on the direct comparison method, as this method would not provide a value based on the actual income generated by the property. With such property sectors, value is not directly based on the size of the land and buildings or the construction and quality, but the income stream and the risk of maintaining that income stream.

A rural property is a property that has its value based on the level of productivity associated with the property regarding location, soil type, climate and topography. The better these physical attributes combined with the management of these assets to produce income, the higher the value of the land (Eves, 1996, 2000, 2001). Although the location of the rural property will determine the general characteristics of a rural property and therefore the potential productivity, individual farmers within specific rural property markets can have considerable variations in both the commodity yields achieved from year to year and commodity prices received. These production variations also result in considerable differences in farm net profits across all farms in any one location. As over 85% of Malawian land is under agriculture, it offers good reason to value rural registered freehold estate (in this project area) but agricultural land using the income approach. This gives an objective approach in deriving land value. This approach considers the gross revenue less production costs, the result of which is capitalized at a market cap rate for a period. In deriving the values in our current situation, the crops grown in the district of impact were identified through the District profile documents and other research articles including the data from the Ministry of Agriculture Agri-economic Survey section, which provided the current prices of the crops on market. This helped to calculate the gross revenue and the net revenue.

c) Loss of crops

At the time of asset inventory most gardens were not planted with crops. The approach described below is provided for the damaged crops during the construction period. In the event that annual crops have been damaged, the calculation of amount payable would be based on the average market unit price of the crop over a period of the past three years multiplied by the highest annual yield in kg and that multiplied by the land size on which it is grown. The prevailing market prices and yield per crop would be obtained from the Ministry of Agriculture.

d) Tree Assessment

Unlike the assessment of land, the tree assessment was based on Malawi Government Gazette of 2010 form Department of Forestry. This provides different approaches for assessment of trees for both commercial and domestic purposes. In view of this report, which is the subject, assessment for commercial purposes has been more reasonable. An upward adjustment has been made to the rate provided by the Forestry Department to cater for to achieve replacement cost.

e) Fruit Tree Assessment

In terms of the assessment of fruit trees a consideration was made to use the average yield/tree/year, average current market price and expected productive life span. Fruit Compensation schedule attached and number of each claimant's fruit trees, the assessors obtained the compensation payable to each fruit tree owner basing on the current market.

Considering the productive life only, the establishment cost was calculated by averaging the cost of a tree with the duration and longest duration to production. In calculating the yield per fruit tree and average prices, the assessor disregarded the size of the trees as is the case with forest tree above. Prices adopted are the highest that could be obtained in the market at the time of the research.

4.6. LIMITATIONS OF THE EXISTING VALUATION METHODS ON ASSETS.

The existing valuation methods have some limitations and the consequences include under valuation of the assets and underpayment of compensations to project affected people. The limitations of the valuation methods stem from the following weaknesses:

- (a) The methods use old rates in valuation of replacement costs of buildings and structures in some local authorities in rural districts.
- (b) The rates for calculation replacement costs for buildings do not include the labour costs, transport costs incurred in the re – erection of the houses and other structures.
- (c) The rates used for valuation of crops in some local authorities in rural districts tend to be old rates and not regularly reviewed by relevant authorities.
- (d) In most cases, key experts in some asset valuation are not involved as the actual field work is dominated by officials from local authorities. Cases in points are valuation of trees and fruit trees are normally carried out by officials from District Commissioners Office based on old stipulated figures from Ministry of Agriculture and Department of Forestry. Such incidents lead to undervaluation of assets as some officials cannot professionally adjust rates to realistic levels reflecting the field observations.
- (e) The methods do not explicitly stipulate resettlement assistance especially n identification of appropriate alternative land for relocation. The tasks of identification of alternative land is left in hands local leadership such village headmen and traditional authorities of the area where the people stay. The District Commissioner is practically expected to oversee how the people are assisted in relocation by their local leaders. Normally it is when serious difficulties crop up when the District Commissioner assists in identification of alternative land.
- (f) Lack of reinforcement on land allocation allows encroachers to occupy land that they are not entitled to. The Government of Malawi does not have laws that should protect encroachers hence do not appreciate compensations because within the law, they are allowed to remove encroachers from occupying the land. World Bank Policies insists on compensation and this difference in approach delays processes hence possess limitations to asset valuations.

Some of the measures which could be adopted in addressing the inadequacies outlined above include the following as guideline:

- a) Government authorities to guide that local authorities which will be involved in valuation of land and assets have update rates of valuation of and crops, trees and buildings structures.
- b) Government authorities will guide appropriate team of experts are constituted prior to commencement of preparation of resettlement action plans. The team should at least consist of well experienced personnel n land management, valuation, forester, building foreman, quantity surveyor, agronomist and horticulturalist.
- c) Cases of compensations of loss of land should emphasise on allocation of alternative land to those people displaced. The option could come out as cost effective as the land acquisition process (which involves the project affected persons) may be much cheaper compared to acquisition of the same land by the government.
- d) Compensations related to customary land acquisition to be made on open market values as opposed to previous practice of considering customary land as a free commodity.
- e) The guidance is that Compensations could be paid to categories of project affected people so long they are covered within the cut-off date. Some special project affected persons to be included are the squatters, encroachers, vendors' stalls/hawkers.
- f) The guidance is that Compensations could be paid in relations to labour inputs into gardens and maintenance of trees and crops within the immediate past year.
- g) Provisions of basic and social services (such as potable water, sanitation facilities, subsidised fertilisers, and income generating activities) to project affected people within the new area of

relocations. Such support would enhance the restoration of standards of living of the project affected people.

4.7. ELIGIBILITY PRINCIPLES FOR COMPENSATIONS FOR PROJECT AFFECTED PEOPLE.

In cases of the need for resettlement in relation to in implementation of sub - project under the Malawi Resilience and Disaster Risk Management Project (MRDRMP), procedures for determining eligibility for compensation, resettlement assistance and the actual displaced persons shall consider the following:

- (a) Those that have formal legal rights to land, including customary and traditional rights recognized under the laws of Malawi. This class of people includes those holding leasehold land, freehold land and land held within the family or passed through generations.
- (b) Those who have no 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 Malawi. This class of people includes those that come from outside and given land by the local chief to settle.
- (c) Those who have no legal right or claim to the land they are occupying to the land they are occupying. This class of people includes those that settle at a place on semi-permanent basis, or those settling at a place without any formal grant or authority.

Displaced persons classified under paragraph (a) and (b) shall be provided compensation from the community for the land, building or fixed assets on the land and buildings taken by the project in accordance with the provisions of this framework if they occupy the project area prior to the cut-off date (date of commencement of the census). Displaced persons classified under paragraph 4.5(c) shall be eligible for compensation from the community for the assets but not land. Displaced persons who encroach on the project area after the cut-off date shall not be entitled to compensation, or any resettlement assistance or any other form of rehabilitation assistance.

4.8. ENTITLEMENTS FOR COMPENSATIONS.

Entitlements for compensation by project affected persons from the local community shall be based on the criteria outlined in 4.5 and the various categories of losses identified in the desk studies and field consultations. The matrix in Annex 3 will be used in the settlement of claims for compensation for lost assets of project affected persons based on the aforementioned principles in 4.5 above and legal framework where land is involuntarily taken. Unless otherwise indicated, payment of compensation and other entitlements and the extension of assistance will be given by the local community to head of households and not individuals. Annex 3 provides details of entitlements to compensations to various potential categories of project affected persons. Table 3 below is a summary of the Entitlement Matrix and Annex 3 has finer details on the summary of entitlements.

Table 3: Entitlement Matrix

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Agricultural/Customary land	Less than 20% of land holding affected	Farmer/ title holder	Cash compensation for affected land equivalent to replacement value
	Land remains economically viable.	Tenant/ lease holder	Cash compensation for the harvest or product from the affected land or asset, equivalent to average market value of last 3 years, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater.
	Greater than 20% of land holding lost Land does not become economically viable.	Farmer/ Title holder	Land for land replacement where feasible, or compensation in cash for the entire landholding according to PAP's choice equal to replacement cost. Land for land replacement will be in terms of a new parcel of land of equivalent size and productivity with a secure tenure status at an available location which is acceptable to PAPs. Transfer of the land to PAPs shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance) Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
		Tenant/Lease holder	Cash compensation equivalent to average of last 3 years' market value for the mature and harvested crop, or market value of the crop for the remaining period of tenancy/ lease agreement, whichever is greater. Relocation assistance (costs of shifting + assistance in re-establishing economic trees + livelihood rehabilitation assistance)
Land users	Impact on livelihood	Land less, encroachers	Compensation to restore livelihood and ensure they will not be worse off as a result of the investments' activities.
Commercial Land	Land used for business partially affected Limited loss	Title holder/ business owner	Cash compensation for affected land Opportunity cost compensation equivalent to 5% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist).

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Business owner is lease holder	Opportunity cost compensation equivalent to 10% of net annual income based on tax records for previous year (or tax records from comparable business, or estimates where such records do not exist)
	Assets used for business severely affected If partially affected, the remaining assets become insufficient for business purposes	Title holder/business owner	Land for land replacement or compensation in cash according to PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at an available location which is acceptable to the PAP. Transfer of the land to the PAP shall be free of taxes, registration, and other costs. Relocation assistance (costs of shifting + allowance) Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates)
		Business person is lease holder	Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher. Relocation assistance (costs of shifting) Assistance in rental/ lease of alternative land/ property (for a maximum of 6 months) to re-establish the business.
Residential Land	Land used for residence partially affected, limited loss Remaining land viable for present use.	Title holder	Cash compensation for affected land
		Rental/lease holder	Cash compensation equivalent to 10% of lease/ rental fee for the remaining period of rental/ lease agreement (written or verbal)
	Land and assets used for residence severely affected	Title holder	Land for land replacement or compensation in cash according to PAP's choice, based on the replacement cost.

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
	Remaining area insufficient for continuing use or become smaller than minimally accepted under zoning laws		<p>Land for land replacement shall be of minimum plot of acceptable size under the zoning law/ s or a plot of equivalent size, whichever is larger, in either the community or a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status.</p> <p>When the affected holding is larger than the relocation plot, cash compensation to cover the difference in value.</p> <p>Transfer of the land to the PAP shall be free of taxes, registration, and other costs.</p> <p>Relocation assistance (costs of shifting + allowance)</p>
	<p>Land and assets used for residence severely affected</p> <p>Remaining area insufficient for continued use or becomes smaller than minimally accepted under zoning laws</p>	Rental/lease holder	<p>Refund of any lease/ rental fees paid for time/ use after date of removal</p> <p>Cash compensation equivalent to 3 months of lease/ rental fee</p> <p>Assistance in rental/ lease of alternative land/ property</p> <p>Relocation assistance (costs of shifting + allowance)</p>
Buildings and structures	<p>Structures are partially affected</p> <p>Remaining structures viable for continued use</p>	Owner	<p>Cash compensation for affected building and other fixed assets</p> <p>Cash assistance to cover costs of restoration of the remaining structure</p>
		Rental/lease holder	<p>Cash compensation for affected assets (verifiable improvements to the property by the tenant).</p> <p>Disturbance compensation equivalent to two months' rental costs</p>
	<p>Entire structures are affected or partially affected</p> <p>Remaining structures not suitable for continued use</p>	Owner	<p>Cash compensation for entire structure and other fixed assets without depreciation equal to replacement cost, or alternative structure of equal or better size and quality in an available location which is acceptable to the PAP.</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (costs of shifting + allowance)</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
		Rental/lease holder	<p>Cash compensation for affected assets (verifiable improvements to the property by the tenant)</p> <p>Relocation assistance (costs of shifting + allowance equivalent to four months rental costs)</p> <p>Assistance to help find alternative rental arrangements</p> <p>Rehabilitation assistance if required (assistance with job placement, skills training)</p>
		Squatter/informal dweller	<p>Cash compensation for affected structure without depreciation</p> <p>Right to salvage materials without deduction from compensation</p> <p>Relocation assistance (costs of shifting + assistance to find alternative secure accommodation preferably in the community of residence through involvement of the project)</p> <p>Alternatively, assistance to find accommodation in rental housing or in a squatter settlement scheme, if available)</p> <p>Rehabilitation assistance if required assistance with job placement, skills training)</p>
		Street vendor (informal without title or lease to the stall or shop)	<p>Opportunity cost compensation equivalent to 2 months net income based on tax records for previous year (or tax records from comparable business, or estimates), or the relocation allowance, whichever is higher.</p> <p>Relocation assistance (costs of shifting)</p> <p>Assistance to obtain alternative site to re- establish the business.</p>
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP (whether owner, tenant, or squatter)	Cash compensation equivalent to average of last 3 years market value for the mature and harvested crop, plus the labour cost.
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees plus 10% premium

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
Loss of access to grazing	On livelihood	Households undertaking grazing activities in the affected areas.	<p><i>Alternate Arrangements:</i> Encourage adoption of zero-grazing techniques,</p> <p><i>Economic rehabilitation assistance:</i> Provide assistance to facilitate this transition... For example, assistance with and payment for construction of new zero-grazing structures on alternative lands; provision of buffer lands for growth of cattle fodder; assistance with cultivation of fodder, provision of cattle fodder for lag period until cultivated cattle fodder becomes available.</p> <p>Ensure that the livestock owners have access to land for grazing or ways to sustain their livelihoods.</p>
Loss of access to water sources	Loss of access to water for household use, for household plots, etc.	Affected households	<i>Replace water access:</i> Provide alternate access to water sources in the interim period. Ensure that the investments' design take into consideration different use and need for water and accommodate the users accordingly.
Loss of communal properties such as burial grounds and places of worship, community centres, and social buildings	Loss of access to these sites, temporarily or permanently, loss of investment made.	Communities affected	<i>Consultation:</i> Undertake consultation with affected households to determine appropriate arrangements and compensation if suitable. Replacing the social building such as schools and dispensaries.
Loss of livelihoods (losing commercial unit, working/using agricultural/other land including rented land)	Loss of means of livelihoods such as a trade, small production, such as collection of forest product, fishery, bee keeping, small dependent jobs on affected assets, such as sand, forest, inaccessible water bodies and forest	Wage earners (workers employees within shop/business/ industries) and persons engaging in non-farming livelihoods such as hunters and gatherers, fisher folk, beekeeper.	Livelihood restoration measures- land or non-land based: Undertaken to help the affected persons restore their livelihood.
Temporary Acquisition	Temporary acquisition	PAP (whether owner, tenant, or squatter)	Cash compensation or reinstatement for any assets affected (e. g. boundary wall demolished, driveways, trees removed)
Additional support to vulnerable people		PAP or PAH	<p>An additional financial assistance of 20% on the base compensation amount payable.</p> <p>Provision of livelihood support if eligible as per criteria.</p> <p>Provision of financial literacy training as given to all PAPs</p>

Land and Assets	Types of Impact	Person(s) Affected	Compensation/Entitlement/Benefits
			This amount will be in addition to other compensation and assistance amounts given above per type of loss

4.9. APPROACH AND PROCEDURES FOR DELIVERY OF COMPENSATIONS.

Once valuation of land losses and asset losses has been finalized, it is the responsibility of the extension workers and District Lands Officer to circulate to District Executive Committee for review and approval the compensation packages from the community to project affected people. The process of payment of compensations must be speeded upon as to reduce risks of inflations and devaluation of the sums of the money. Normally, compensations must be delivered to project affected persons within a period of six months from the date of valuation of the assets. The recommended procedures for the community to deliver compensation to project affected people are as follows:

(a) **Delivery of compensation based on official valuations.**

This delivery mechanism is based on what the community offers such sums deemed adequate as compensation to displaced person; and that person may accept that amount as compensation payable to him. Normally the sums are disbursed to the District Commissioners for the community in question for payment to the displaced persons. Local village headmen, traditional authority and council shall maintain records of displaced persons, their claims and entitlements. After payment of such sums, council documents the name(s) of the displaced persons, the amount of compensation and the records of how the compensation was arrived at. A copy of such records shall be made available to the government and local chiefs.

(b) **Delivery of compensation based values arbitrated by formal courts.**

Normally this approach is based on the recommended figures for compensations from formal courts. Such incidents occur when some people appeal to courts for review of the compensation packages. What is decided by the courts can be used for compensation to project affected people.

It should be highlighted that in case some project affected persons have objections land acquisition and resettlement, their objections have to be done in writing to District Commissioner or Commissioner for Lands and Valuation within 30 working days after the public notice; or formal complaint lodged via local village headmen and traditional authority .It should also be pointed out that normally claims are not entertained after five years from the date of the proclamation; and or 12 months after the execution of the purpose out of which the claim has arisen in respect of any damage done to the land acquired.

4.10. GRIEVANCE REDRESS MECHANISMS ON RESETTLEMENT ACTIVITIES.

During the implementation of MRDRMP, a person or group of people can be adversely affected, directly or indirectly due to the MRDRMP activities. The grievances that may arise can be related to social issues such as loss of crops, disruption of services, temporary or permanent loss of livelihoods and other social and cultural issues. Grievances may also be related to environmental issues such as excessive dust or noise generation, damages to infrastructure due to construction related vibrations or transportation of raw material, noise, traffic congestions, changes to access etc. Should such a situation arise, there must be a mechanism through which affected parties can resolve such issues in a cordial manner with the MRDRMP personnel in an efficient, unbiased, transparent, timely and cost-effective manner. To achieve this objective, a grievance redress mechanism that was set up for the Parent Project MDRRP, which has been revamped and is functioning well has been included in the RPF for the MRDRMP.

Implementation of projects activities under MRDRMP will take place in 15 districts. Implementation of the activities may generate several challenges and complaints especially to those which relate to infringement of rights of sections of the society. Examples of complaints include: discrimination among farmers on irrigation

schemes, objections to use of someone's land during emergency detours at irrigation scheme head-works, encroachment on private land and harassment of women and other vulnerable groups. And examples of grievances: include dissatisfaction with amount of compensation and, dissatisfaction with size and nature of land replacement. Such grievances are likely to crop up in one way or another in implementation sub-projects under MRDRMP. Since the implementation of some labor-intensive public works programmes will be community based, negotiation and agreement by consensus will provide the first avenue to iron out and resolve any compliant/grievances expressed by the individuals, the land owners or households whose land and properties might be affected. The communities will ensure that resettlement related grievances should be addressed during the identification and appraisal of sites.

In this context, the existing channels from the Parent Project of grievance redress mechanisms will continue, and continuous sensitization of the project affected people on how to access the GRM will be conducted. The process of grievance redress mechanisms involves project grievance committees, informal courts handled by traditional leaders (village headmen, traditional authorities) and formal courts within the judiciary.

4.10.1. PROJECT GRIEVANCE COMMITTEE

The PIU will ensure that implementation mechanism of each sub-project under the MRDRMP will have a Project Grievance Committee that will be drawn from the local government VDC/ADC structure. Within the Project Grievance Committee, there will be members who will be assigned specifically to record contractor workers grievances **and gender sensitive grievances and the same will be responsible for processing in as much an independence manner as possible. The committee will be the first reference point of issues which crops from activities on the site. The committee will be composed of chosen representatives of key stakeholders in implementation of sub-project that should include traditional leader representative, project steering committee representatives, contractor representatives and representatives that project affected persons may co-opt. Their Terms of Reference will be to address grievances in general and sensitive ones that will be gender related and labour related.** The committee will operate within framework and timeframe of project cycle. The committee will be set up to address some issues/cases related to activities. The committee will also be responsible for referring some cases/issue to relevant oversight bodies.

4.10.2. TRADITIONAL COURTS

Traditional courts are community-based tribunals and operate in form of primary justice. Traditional courts are based in each local village in the country. When complaints/disputes related to project arise, the matter will be referred to a village head of the area (project area). The village head will organize a village tribunal to preside on the matter. Both parties in complaints/cases will be called to be heard. When one party is not satisfied with the decision at village headmen level, the complaint can be taken up to group village headmen. Similarly, that party not satisfied with decisions on complaints at that level, can take the matter to traditional authorities (T/A) for public hearings. In most cases/ complaints of this nature are sorted out at traditional authority level. However, those who are not satisfied with the verdict will be allowed to appeal to the District Commissioner (DC) of the district. Further appeals can be made to the central government. In this regard, the matter can be referred to one of the line ministries (Ministry of Lands and Valuation, Ministry of Labour, Ministry of Local Government) on the matter of dispute which may give direction on the existing policy to be implemented.

4.10.3. FORMAL COURTS

Formal courts include magistrates, High Court of Malawi and Supreme Court of Malawi. These courts handle both civil and criminal cases. Regarding complaints and cases during MRDRMP, people with

complaints will have opportunity to take cases to these courts for review and determination on course of action. Such cases may include review of amount of compensations, cases theft of valuable property as well as beating each other. Magistrate courts are in all the 15 affected districts and these would help complainants to access the services of these magistrates in case such needs arise.

4.10.4. ACCESS TO WORLD BANK GRIEVANCE REDRESS SYSTEM

Malawi Government will also ensure that communities and individuals in project locations are aware of World Bank Grievance Redress System. Government will disclose simple system of submitting issues of concern through letters or newspapers. People who believe that they are adversely affected by project activities carried by contractors or communities may submit complaints (through letters/phones) to Grievance Redress Service (GRS) World Bank Malawi office. The letters would be reviewed by offices. The system ensures that complaints received are promptly reviewed in order to address project-related concerns. Project affected communities and individuals may also submit their complaint to the Bank's independent Inspection Panel, after having brought the complaint to the attention International Development Association through Malawi Country Office. Information on how to submit complaints to the Bank's Grievance Redress Service and the Bank Inspection Panel will be disclosed to the public during public disclosure of Environmental and Social Management Framework.

4.10.5. GRIEVANCE REDRESS MECHANISM UPTAKE CHANNELS

Commonly used communication lines to generate knowledge of availability of the GRM beyond project affected persons and beneficiaries will include but not limited to: -

- Radio programmes through local area radios or national radio stations
- Chief's and traditional leader's regular village meeting announcements
- IEC materials generated by the PIU that will include posters and leaflets distributed around project areas
- A Hotline with available mobile networks
- WhatsApp numbers

5.0 THE SUB – PROJECTS RESETTLEMENT PROCESS GUIDE

The sub project resettlement process will consist of a series of appraisal activities prior to approval of the implementation of a sub - project. The exercise will be done by the District Environmental Sub – Committee of a local council. The purpose would be to identify potential resettlement impacts through a screening process which has been highlighted in Section 4.2 above.

5.1. DESK APPRAISAL OF THE PROPOSED SITE AND PROJECT.

Desk appraisal of the projects will be carried out by District Executive Committee lead by District Commissioner in districts of site location. Based of field verification results, the District Executive committee would make anyone of the following recommendations:

(a) Preparation of Resettlement Action Plan for the proposed site.

This would be on observations of that the implementation of the project on the proposed site would trigger resettlement, or involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

(b) Clearance of the project on the proposed site.

This would be on observations of that the implementation of the project on the proposed site would not trigger involuntary resentment, voluntary or involuntary physical dislocation, eviction of squatters, loss of land (whether ownership is recognized by customary land tenure or land titles, impact on cultivations and property, loss of access to property, loss of access to natural resources and other economic resources.

5.2. GUIDELINES FOR THE PREPARATION OF RESETTLEMENT ACTION PLAN FOR PROJECTS.

In implementation of some sub-projects under Malawi Resilience and Disaster Risk Management Project (MRDRMP), may need preparation of a Resettlement Action Plans prior to implementation of the project. It will be the responsibility of District Commissioner to mobilization of appropriate team of experts to prepare a resettlement action plan within a reasonable time. In general, a resettlement action plan for a community based micro project must consist at least the following aspects:

- Description of the location of the proposed sub project.
- The size of land which the sub project will take up and its existing uses.
- Detailed inventory of all assets to be lost by all households and individuals affected by having to move their place of residence or business to allow for the construction of the facility. This must be made from baseline survey (census of the area) against which the future well-being of the household can be measured. A plan of action for the resettlement of the homestead must be drawn.
- Inventory of the people who will lose land over which they have established ownership or rights of usufruct (either permanently or temporary fashion) to allow for construction of the facility. This must be made of baseline survey (census of the area) against which the future well-being of the households can be measured. A plan of action for the resettlement of replacement of homestead must be drawn. This should also detail how compensation for crops will be paid, where replacement of land will found (if necessary), and which steps will be followed to ensure that the households productive base is re-established.
- A plan of action for ensuring that the communally held resource base is replaced/re-established to ensure that no one is worse off after project implementation than before is established

Annex 5 outlines details of contents of a Resettlement Action Plan.

The preparation of a resettlement action plan would be done as collaborative efforts between the college/implementing agency and District Executive Committee. Key officials to be involved would be the District Lands Officer, District Forestry Officer, District Water Officer, Environmental District Officer, Community Development Officer and extension workers. In case there is inadequate technical personnel (such as valuation experts) at district level, assistance has to sort from Department of Lands and Valuation at Ministry of Lands and Housing. Such a wide range of the experts would provide adequate support to the village development committee or area development committee to produce credible schedule for compensations to project affected people.

The Resettlement Action Plans will be prepared by District Executive Committee. The PIU will review and submit to The Ministry of Lands and Housing for approval.

5.3. MONITORING OF RESETTLEMENT ACTIVITIES.

Monitoring and evaluation mechanisms for resettlement activities within the programme will be linked to existing government monitoring and evaluation systems at community level, district level and national level. Monitoring and evaluation at community level will be undertaken by District Executive Committee (DEC) with technical support of the extension workers. Monitoring resettlement activities at community level has to be done by District Executive Committee (DEC) as opposed to the community structures so that the District Executive Committee provides independent results. The District Monitoring and Evaluation Officer will provide technical support in tracking key monitoring indicators on the exercises. Monitoring at national level will assess the effectiveness of the stakeholders in mainstreaming of resettlement principles in administration and implementation of sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP). The key stakeholders in monitoring at national level will be implementing agencies such as Ministry of Lands and Housing, and Ministry of Local Government and Rural Development (MLGRD). Information from district councils will be collected by District Monitoring and Evaluation Officer and will be transmitted to Department of Economic Planning and Development. The ministry will produce consolidated annual monitoring reports. Key issues to be monitored at community level will be type of resettlement losses, delivery of compensations to affected people and provision of resettlement assistance to project affected people. Table 3 below here outlines a suggested monitoring plan at local level. The plan outlines typical resettlement losses, entitlements, monitoring indicators, authorities responsible for monitoring and means of verifications. It should be noted that District level monitoring will be treated as internal monitoring alongside PIU and Ministry Headquarters level will be treated as external monitoring. Further the PIU will take on overall technical oversight of all resettlement implementation issues and report to World Bank accordingly.

Table 4: Proposed monitoring plan of resettlement activities at community level by District Executive Committee

Type of resettlement losses/ Grievances	Compensation entitlement	Monitoring indicators	Monitoring authorities	Means of verifications	Frequency of monitoring
Loss of land	<ul style="list-style-type: none"> Land replacement Cash compensation in lieu of land 	<ul style="list-style-type: none"> Hectares of land replacement. Cash paid in Malawi Kwacha Number of people compensated. 	District Council	Records	Annually
Loss of residential structures	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash compensation. Number structures compensated. Number of people compensated. 	District Council	Records	Annually
Loss of commercial/business structure	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha. Number of structures compensated. Number of people compensated. 	District Council	Records	Annually
Loss of rental accommodation	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash compensation in Malawi Kwacha Number accommodation units compensated. 	District Council	Records	Annually
Loss of businesses	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha Number of businesses compensated. 	District Council	Records	Annually
Loss of forest trees	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Number of trees compensated. Cash pad in Malawi Kwacha Number of people compensated 	District Council	Records	Annually
Loss of fruit trees	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Cash paid in Malawi Kwacha Number of fruit trees compensated. Number of people compensated 	District Council	Records	Annually
Loss of crops	<ul style="list-style-type: none"> Cash compensation 	<ul style="list-style-type: none"> Kilograms of crops compensated. Cash paid in Malawi Kwacha Number of people compensated 	District Council	Records	Annually
Loss of grazing land as a grievance	<ul style="list-style-type: none"> Grazing land replacement 	<ul style="list-style-type: none"> Availability of alternative grazing land 	District Council	Records	Annually
Blockages to access to natural resources	<ul style="list-style-type: none"> Alternative access routes 	<ul style="list-style-type: none"> Functional alternative routes to natural resources. 	District Council	Records	Annually
Blockage of pathways/footpaths	<ul style="list-style-type: none"> Provision of alternative pathways/footpaths 	<ul style="list-style-type: none"> Functional alternative footpaths/pathways 	District Council	Records	Annually

5.4. LIVELIHOOD RESTORATION

The World Bank OP 4.12 outlines additional livelihood improvement measures for PAPs in order to improve livelihoods or restore livelihoods to pre-project levels in order to reduce vulnerability and inequality. In the case where the subprojects will affect livelihoods or income generation, measures will be put in place to improve or at least restore livelihoods and incomes. Eligibility for livelihood restoration will pay attention to gender aspects and the needs of vulnerable groups. Some of the strategies that will be used to enhance livelihoods for the PAPs will include: judicious usage of compensation amount by provision of effective training and sensitization; providing PAPs with construction related work that would enable them to supplement incomes; and inclusion into project activities and interventions. The target group will be the recipients of the compensation and the PIU will organize training using safeguards budget on how best they can use their compensation to restore their livelihoods adequately. Reports on the restoration trek will be submitted to the World Bank in the course of MRDRMP project implementation.

5.5. ALTERNATIVE TO LAND ACQUISITION - VOLUNTARY LAND DONATION

Voluntary land donation for the implementation of project activities should be able to meet the basic principles of informed consent to donate land and the choice to agree or disagree. The act of land donation should be undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities. Further, due diligence will be carried out to establish the status of ownership of the donated land and completion of transfer where applicable. The Land Donation Agreement Form recognized by Government of Malawi, the Form 1 is attached in this document as Annex 7. The procedure for land donation in Malawi is as follows: -

- i. Meeting with District Council Officers comprising at least District Lands Officer and District Environmental Officer to understand the land agreements that would be made before the land is donated.
- ii. Proceed to the proposed sites for land donation in the District to get the perspective of the communities on the ownership of any proposed structures.
- iii. Through the District Council the signing of land agreement forms if facilitated.
- iv. The District Councils is requested to complete the signing of the land agreement forms for the proposed infrastructure development.

6.0 INSTITUTIONAL ARRANGEMENTS /CAPACITY BUILDING ON RESETTLEMENT.

6.1 INSTITUTIONAL ARRANGEMENTS.

Resettlement exercises have been a traditional responsibility of the ministry of lands, housing and urban development (particularly the department of lands and valuation), the district commissioner, traditional authorities and village headsmen within the chosen area. However, today because of the multi – dimension nature of resettlement activities, successful implementation of resettlement depends on collaboration of different stakeholders, at local level (village/area level), district level and national level. This is necessary because the implementation of the activities would require inputs, expertise and resources which would be adequately taken care of if the concerned parties liaise. Figure 3 below outlines a diagrammatic arrangement of key institutions to be involved in resettlement.

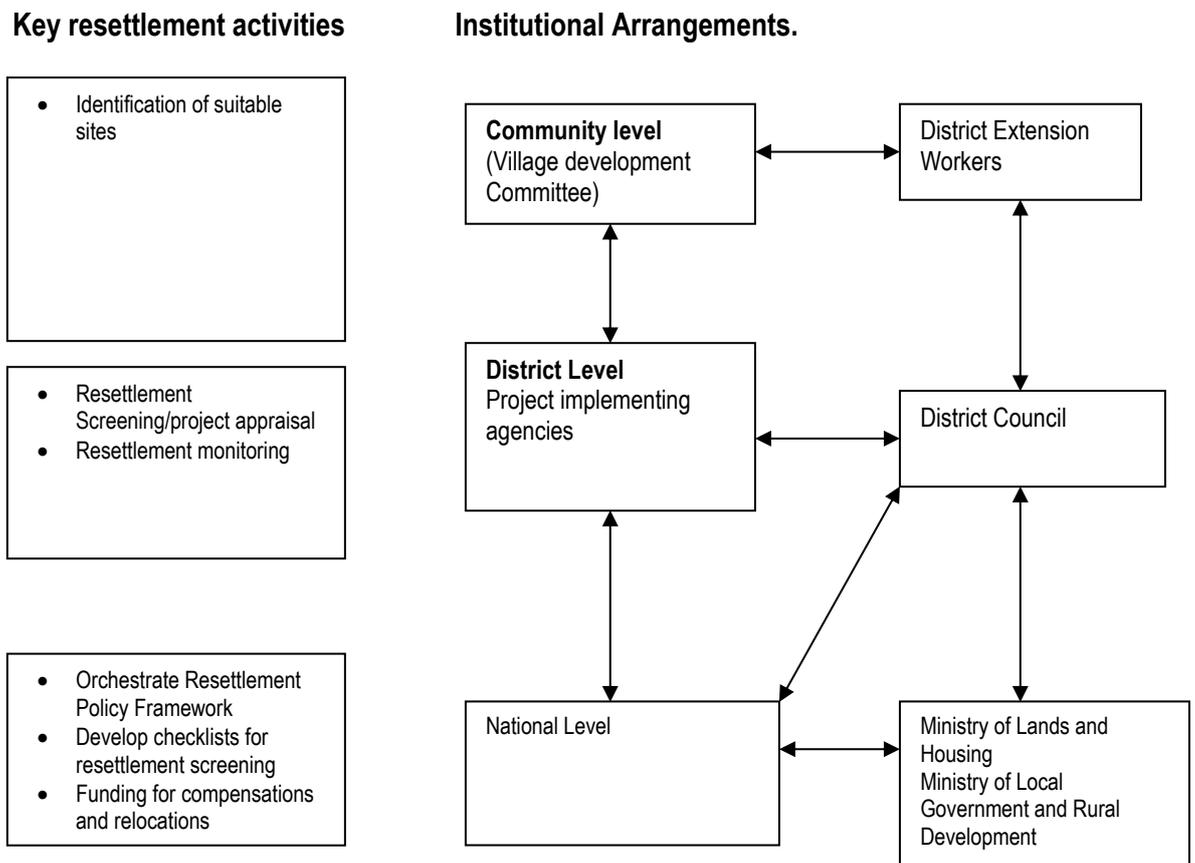


Figure 3: Diagrammatic arrangements of key institutions in resettlement activities

6.2 DEFINITION OF RESPONSIBILITIES OF STAKEHOLDERS

The following sections outline key responsibilities of the institutions involved in resettlement planning and implementation within the context of implementation of sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP).

(a) Responsibilities of the community.

In context of community development initiatives, permanent community level structures include village development committees, area development committees and area executive committees. Main responsibilities in resettlement activities will as the following:

- The Village Development Committee/ Area Executive Committees (AEC), which include extension workers, will be responsible for resettlement screening based on checklists and screening form (annex 1). This would help to identify and mitigate the potential social impacts within selected sites. The exercise will help the communities to select potential sites without cases of resettlement. The committees will be responsible for consultations with wider communities on resettlement related matters.
- The Village Development Committees (VDC) and Area Development Committee (ADC) will be responsible for identification of project affected people, assets to be compensated and identification of resources for compensations to those to be displaced.

The main institutional weaknesses of these local structures include the following: inadequate knowledge on use of screening forms on resettlement, inadequate skills in scoping social impacts from resettlement related exercises. One way of addressing these gaps would be for District Executive Committee particularly District Lands Officer, Environmental District Officer and extension workers to provide technical back up to the village development committees.

(b) Responsibilities of the Local Authority.

The District Executive Committee (DEC) is the key implementation arm of a local authority, and responsibilities in relation to resettlement activities will be as follows:

- Local authorities will be the main implementing government institutions on resettlement activities within the implementation schedule of the sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP). Main tasks will include project screening for resettlement, implementation of compensatory measures in line with Resettlement Policy Framework. Necessary annual budget provisions for resettlement related activities will be made for each district council.
- At desk appraisal, District Executive Committee will screen the site before land acquisition and resettlement. The District Executive Committee will verify that the land on the site is free from encumbrances. Resettlement activities by the communities will be undertaken based on Resettlement Action Plan prepared based on guidelines outlined in section 5.2.0.
- The District Executive Committee will be responsible for monitoring the community level activities on resettlement to ensure that compensatory measures are taken care of and adequately before commencement of the project.

There will be need for training for the District Executive Committee members on aspects highlighted above. This will help in executing the task better.

Some institutional weaknesses at district council include inadequate technical skills for valuation of properties, inadequate knowledge on use of screening forms on resettlement and inadequate skills in scoping social impacts from resettlement.

There are District Lands Officers in selected districts (although at the time of consultations, there were few Lands Officers in most districts). The District Lands Officers are graduate professionals, and they provide technical leadership in land administration and property management. The main job descriptions for District Lands Officer include overall land management within the district, monitoring land uses, conflict resolution on referred cases of land disputes, processing land leases and resettlement activities. However, as at the time of preparation of this framework, most posts of District Lands Officer were vacant due to resignations. It is recommended that District Commissioner should also work hand in hand with Regional Physical Planning Officers. Regional Physical Planning Officers support districts in monitoring land uses. In view of this, it will be necessary to undertake adequate trainings in resettlement screenings to existing staff in such as District Environmental Officer, Director of Planning and Development, District Community Development Officers and others. **This cadre has personnel with qualifications to develop and implement safeguard tools like RAPs and others. The PIU will have a Safeguards Specialist hired precisely to backstop the district interventions**

and offer oversight in implementation modalities of both Social and Environmental Safeguards. Such trainings would assist these officers to undertake the initial screenings in absence of the District Lands Officer.

(b) Responsibilities at national level.

Resettlement activities require multi – sectoral services and as such several line ministries would be involved in one way or the other. However, in case of resettlement issues related to sub – project under Malawi Resilience and Disaster Risk Management Project (MRDRMP), the following ministries have to be involved adequately: Ministry of Agriculture, Irrigation and Water Development; Ministry of Lands and Housing, Ministry of Economic Planning and Development, Department of Forestry. Some of the main activities to be done at national level are as follows:

- Mainstreaming resettlement planning within project management systems of Malawi Resilience and Disaster Risk Management Project (MRDRMP) by synchronising resettlement screening with project appraisal systems.
- Preparation of friendly checklists on social impacts from land acquisition and resettlements
- Provision of necessary resources to district level staff for conducting resettlement awareness meetings.
- Provision of necessary resources for conducting resettlement awareness meetings for extension workers and area development committees in selected districts.
- Provision of necessary resources to district level staff for monitoring resettlement activities.
- Coordinating national level monitoring on resettlement activities.

6.3 CAPACITY BUILDING FOR MANAGEMENT OF RESETTLEMENT ACTIVITIES.

The proposed sub - projects under the Malawi Resilience and Disaster Risk Management Project (MRDRMP) will be implemented in the 15 listed districts across the country. The risks of generating resettlement issues emanating from observations of that the new projects would require land uptake within both rural and urban settings. At the moment the specific locations are not known. In order to effectively screen resettlement issues, it is likely that the exercise would require dynamic and multi-disciplinary professionals. It is therefore necessary for the authorities to put in place appropriate tools for enhancing the knowledge and skills among the staff to be involved in resettlement screening and identification of compensatory measures. Some of the key capacity building activities which have to be carried are as follows:

- (a) Preparation of a user-friendly manual on land acquisition and resettlement exercises for local authorities.
- (b) Preparation of checklists for social and economic impacts from resettlement activities to be used at local level. Such tools would guide the communities in avoiding involuntary resettlement in site identification processes. The target group for this exercise would be staff of implementing agencies and District Executive Committee.
- (c) Training and awareness in use of resettlement screening forms in appraisal of sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP). The target group for this exercise would be staff of implementing agencies and District Executive Committees

6.4 BUDGET ESTIMATES.

Management of resettlement issues in relation to sub - project under Malawi Resilience and Disaster Risk Management Project (MRDRMP) will be carried out at district level and national level. Appropriate budget support to activities expected at each of these two levels is outlined in Tables 5, 6 and 7 below here. It should be pointed out that the budget estimates are indicative and may be revised by and with stakeholders during census and asset inventory phase as the cases of resettlement become clear and clear. The tables also highlight sources of funding for the exercises. Furthermore, it should be highlighted that the figures are provided n the following assumption of that the rates of land acquisition and compensation would be on real replacement values. The use of real replacement values in compensations of assets would be consistent with stipulations in the World Bank Safeguards Policy: Involuntary Resettlement (OP 4.12). Compensations on real replacement values of assets would contribute to much higher incomes and better of lives for project affected persons after resettlement exercise.

Table 5: Indicative annual budget district level support services for resettlement activities

Serial Number	Main activities budgeted for	Unit of budget	Budget Estimates (in Malawi Kwacha) per year.	Source of funding
1.0	Preparation Resettlement Action Plan	Lump sum	5,000,000.00	Annual budget Malawi Government
2.0	Monitoring activities	Lump sum	10,000,000.00	Annual budget Malawi Government
3.0	Training and sensitization of the communities on resettlement issues	Lump sum	10,000,000.00	Annual budget Malawi Government
4.0	Administrative costs	Lump sum	5,000,000.00	Annual budget Malawi Government
		Total	MK30,000,000.00	

Table 6: Indicative annual budget for national level support services to resettlement activities.

Serial Number	Main activities budgeted for	Unit of budget	Budget Estimates (in Malawi Kwacha) per year	Source of funding
1.0	National stakeholder awareness workshops on resettlement issues	Lump sum	8,000,000.00	Annual budget Malawi Government
2.0	Preparation of checklists for social and economic impacts of resettlement	Lump sum	5,000,000.00	Annual budget Malawi Government
3.0	Monitoring and evaluation activities	Lump sum	5,000,000.00	Annual budget Malawi Government
5.0	Administrative costs	Lump sum	5,000,000.00	Annual budget Malawi Government
		Total	MK23,000,000.00	

Malawi Government will provide the funding to Project Implementation Unit to facilitate timely compensations to project affected people in those projects which may require relocation of the people or use of their land for construction/ upgrading of public infrastructure such as irrigation schemes, water supply schemes, among others.

Table 7: Sample of annual nominal resettlement budget based on frequency of sub - project which may require resettlement.

SN	Type sub - project which may require land and resettlement	Average budget (in Malawi Kwacha)	Frequency of occurrences of sub projects which may need resettlement		Budget estimates for resettlement for a sub projects (in Malawi Kwacha)		Annual budget estimates (in Malawi Kwacha)
			Within urban local authorities	Within district local authorities	Urban local authorities	District local authorities	
1	Construction of new Irrigation Schemes	200,000.00	7	1	1,400,000.00	0	1,400,000.00
2	Rehabilitation of water supply structures	200,000.00	2	0	400,000.00	0	400,000.00
3	Rehabilitation of water resources schemes	100,000.00	10	10	1,000,000.00	1,000,000.00	2,000,000.00
	Totals						MK3,800,000.00

Malawi Government will provide the funding to Project Implementation Unit to facilitate timely compensations to project affected people in those sub-projects which may whether require or not the physical relocation of the people or the use of their land for construction/ upgrading of public infrastructure such as irrigation schemes, water supply schemes among others.

REFERENCES

- Government of Malawi (2002), **Malawi National Land Policy**, Ministry of Lands, Physical Planning and Surveys.
- Government of Malawi (1995), **The Constitution of Republic of Malawi**.
- Government of Malawi (1988), **Town and Country Planning Act**, Department of Town and Country Planning.
- Government of Malawi (1965), **Land Act**. Department of Lands and Valuation.
- Government of Malawi (1967), **Land Acquisition Act**. Department of Lands and Valuation
- Government of Malawi (1998) **Local Government Act**. Ministry of Local Government and Rural Development
- Government of Malawi (1997) **Forestry Act**. Ministry of Forestry, Fisheries and Environmental Affairs.
- Government of Malawi (2017) **Environmental Management Act**. Ministry of Forestry, Fisheries and Environmental Affairs.
- World Bank Group (2004) **Involuntary Resettlement Policy**, Washington.

ANNEXES

Annex 1: Summary of implications of the project on various World Bank's Safeguard Policies

List of safeguard Policies	Focus of the safeguard policy	Explanatory Notes
Environmental Assessment OP/BP 4.01	The objective of this policy is to ensure that Bank-financed projects are environmentally sound and sustainable, and that decision-making is improved through appropriate analysis of actions and of their likely environmental impacts. This policy is triggered if a project is likely to have potential (adverse) environmental risks and impacts on its area of influence. OP 4.01 covers impacts on the natural environment (air, water and land); human health and safety; physical cultural resources; and transboundary and global environment concerns.	An ESMF will be prepared which will provide the criteria and procedures for screening sub-project investments and guide the preparation of site-specific environmental and social management plans. The ESMF will also assess the institutional capacity of the implementing agency and provide measures for capacity building along with an estimate of the budget needed for the implementation of the ESMF. The ESMF will also provide a list of activities that could be financed by the Project and screen out activities that correspond to Category A projects.
Natural Habitats OP/BP 4.04	This policy recognizes that the conservation of natural habitats is essential to safeguard their unique biodiversity and to maintain environmental services and products for human society and for long-term sustainable development. The Bank therefore supports the protection, management, and restoration of natural habitats in its project financing, as well as policy dialogue and economic and sector work. The Bank supports, and expects borrowers to apply, a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development. Natural habitats are land and water areas where most of the original native plant and animal species are still present. Natural habitats comprise many types of terrestrial, freshwater, coastal, and marine ecosystems. They include areas lightly modified by human activities, but retaining their ecological functions and most native species.	Because of the sensitivity of the Lower Shire area (being within the proximity of natural reserves and Drought prone areas), it is possible that the ecological balance of the area could be affected, including natural reserves. Restoration of some livelihood activities, such as bee keeping and nature-based enterprises, may affect some protected wildlife reserves in rural communities.
Forests OP/BP 4.36	The objective of this policy is to assist borrowers to harness the potential of forests to reduce poverty in a sustainable manner, integrate forests effectively into sustainable economic development and protect the vital local and global environmental services and values of forests. Where forest restoration and plantation development are necessary to meet these objectives, the Bank assists borrowers with forest restoration activities that maintain or enhance biodiversity and ecosystem functionality. The Bank assists borrowers with the establishment of environmentally appropriate, socially beneficial and economically viable forest plantations to help meet growing demands for forest goods and services.	N/A
Physical Cultural Resources OP/BP 4.11	The objective of this policy is to assist countries to avoid or mitigate adverse impacts of development projects on physical cultural resources. For purposes of this policy, "physical cultural resources" are defined as movable or immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Physical cultural resources may be located in urban or rural settings, and may be above ground, underground, or underwater. The cultural interest may be at the local, provincial or national level, or within the international community.	Some sub-projects may trigger this policy if contractors during rehabilitation and reconstruction of public infrastructure discover archeological sites, historical sites, remains and objects, including graveyards and/or individual graves. The Government of Malawi will prepare Chance Find Procedures for Contractors to guide them in the proper management of physical cultural properties in case they are found.
Involuntary Resettlement OP/BP 4.12	Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. For these reasons, the overall objectives of the Bank's policy on involuntary resettlement are the following: (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs. ² (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons ³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs. (c) Displaced persons should be assisted in their efforts to improve	Some sub-projects may trigger this policy if there will be no need to move land occupants in areas where there could be need to place an investment. This is not highly anticipated as most interventions are expected to be rehabilitations or enhancement activities and in worst case scenario land to be donated without causing any need for resettlement.

		their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher	
Indigenous Peoples OP/BP 4.10		The objective of this policy is to (i) ensure that the development process fosters full respect for the dignity, human rights, and cultural uniqueness of indigenous peoples; (ii) ensure that adverse effects during the development process are avoided, or if not feasible, ensure that these are minimized, mitigated or compensated; and (iii) ensure that indigenous peoples receive culturally appropriate and gender and inter-generationally inclusive social and economic benefits.	N/A
Safety of OP/BP 4.37	Dams	The objectives of this policy are as follows: For new dams, to ensure that experienced and competent professionals design and supervise construction; the borrower adopts and implements dam safety measures for the dam and associated works. For existing dams, to ensure that any dam that can influence the performance of the project is identified, a dam safety assessment is carried out, and necessary additional dam safety measures and remedial work are implemented.	N/A
Projects on International Waterways OP/BP 7.50		The objective of this policy is to ensure that Bank-financed projects affecting international waterways would not affect: (i) relations between the Bank and its borrowers and between states (whether members of the Bank or not); and (ii) the efficient utilization and protection of international waterways. The policy applies to the following types of projects: (a) Hydroelectric, , Drought control, navigation, drainage, water and sewerage, industrial and similar projects that involve the use or potential pollution of international waterways; and (b) Detailed design and engineering studies of projects under (a) above, include those carried out by the Bank as executing agency or in any other capacity.	The proposed Malawi Resilience and Disaster Risk Management Project (MRDRMP) will finance activities outlined in Drought Risks Management Plan for Shire River Basin Management Programme. The project will finance river training activities on Ruo River, one of main tributaries of Shire River – internal water ways
Projects in Disputed Areas OP/BP 7.60		The objective of this policy is to ensure that projects in disputed areas are dealt with at the earliest possible stage: (a) so as not to affect relations between the Bank and its member countries; (b) so as not to affect relations between the borrower and neighboring countries; and (c) so as not to prejudice the position of either the Bank or the countries concerned.	N/A

Annex 2: Resettlement Screening Form for a sub-project



Government of Republic of Malawi

MALAWI RESILIENCE AND DISASTER RISK MANAGEMENT PROJECT (MRDRMP)

RESETTLEMENT SCREENING FORM

GUIDELINES FOR THE EVALUATION

- The evaluator to undertake the assignment during field visit of the site .
- The evaluator to undertake the assignment after prior briefing of the exercise.
- The form to be completed by consensus of at least three people.

Project Name:	Estimated Cost:
Project Location: Village: Traditional Authority: District:	Project Objectives
Land tenure status	Proposed Main Project Activities:
Name / Signature and Position of Evaluator	Date of appraisal

	SCOPE AND FOCUS OF SCREENING	METHODOLOGY OF SCREENING			
		Appraisal of Impacts		Evaluation of Impacts	
		No	Yes	Low	High
1.0	SCREENING CRITERIA FOR PROPOSED SITE FOR THE PROJECT				
	<i>Will construction/expansion of a sub project within proposed site generate the following socio-economic impacts?</i>				
1.1	Loss of private land/gardens				
1.2	Loss of private residential premises				
1.3	Loss of private commercial premises				
1.4	Loss of crops for a person/person				
1.5	Loss of forest trees for a person/person				
1.5	Loss of fruit trees for a person/person				
1.6	Eviction of squatters/pirates				
1.7	Eviction of vendors				
1.8	Loss of rental accommodation				
1.9	Closure/blockage of public footpath/road				
1.10	Blockage of pathways for livestock				
1.11	Loss of grazing land				
1.12	Loss of cultural sites – graveyards, ritual sites				
1.13	Loss public facilities – church, borehole, water kiosks,				
1.14	Loss of access to natural resources				

OVERALL EVALUATION OF THE RESETTLEMENT SCREENING PROCESS.

The results of the screening process would be either - that there is no need of compensation and resettlement on the site or that there would be compensation and resettlements on the site and that a resettlement action plan be prepared. The basis of these options is listed in the table below:

There would be need of compensation/resettlement on the site and that Resettlement Action Plan be prepared.	No need of compensations and resettlement on the site and the project be implemented
1. An entry/entry of "YES" against each social impact in column 4 in table	1. Entries of "NO" against each of the social impact in column 4 in table
Completion by District Commissioner/Director of Planning and Development	
Date Received from	
Dated Reviewed:	
Date of Submission of inspection of the site	
Date of recommendation	
Date of clearance.	
Name & Signature of Officer:	

NOTES:

- Once the Resettlement Screening Form is completed and analyzed District Executive Committee will consider and endorse the overall position on the site. In case the proposed site and project is cleared of resettlement, The District Commissioner will inform implementing agency to proceed with rehabilitation and reconstruction of the infrastructure.
- In case the there is need for compensation/resettlement on the site before project implementation, the District Commissioner will organize the preparation of Resettlement Action Plan.

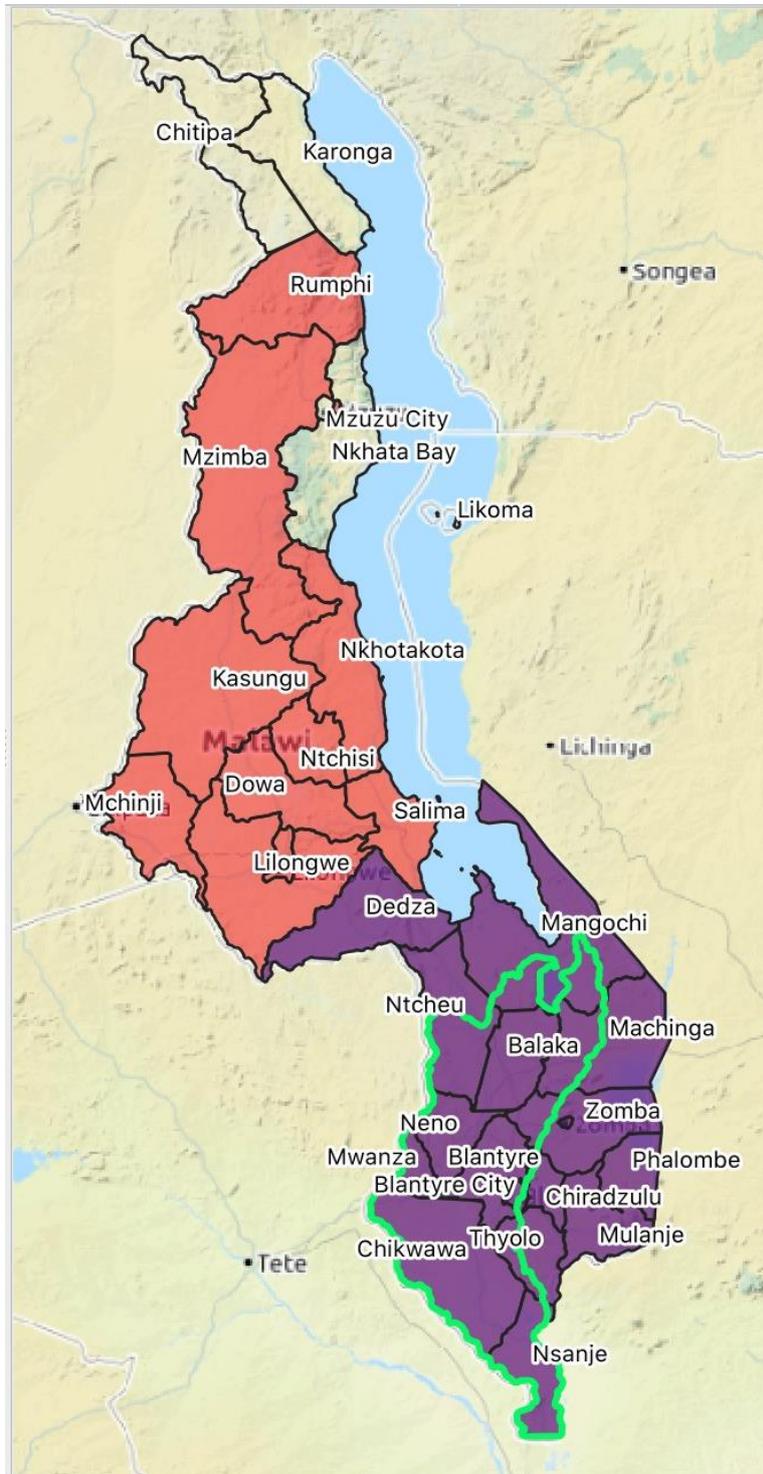
Annex 3: Summary of entitlements for various categories of project affected people.

CATEGORY OF PROJECT AFFECTED PERSONS	TYPE OF LOSS	ENTITLEMENTS FOR THE PROJECT AFFECTED PERSONS		
		Compensation for loss of structure	Compensation for loss of land and other assets	Compensation for loss of home and livelihoods
Property owners including those on customary land regulated by traditional authorities	Loss of land	<ul style="list-style-type: none"> • Cost at full replacement value 	<ul style="list-style-type: none"> • Land replacement at new site plus land clearing by the project. 	<ul style="list-style-type: none"> • Cash compensation for crops and trees at replacement values in scarce season • Allow sufficient time to harvest annual crops
	Loss of structures – residential premises or business	<ul style="list-style-type: none"> • Cost at full replacement value 	<ul style="list-style-type: none"> • Fence, brick work, wire and wood • Wells • Stores • Wastes water facilities • Connection to utilities 	<ul style="list-style-type: none"> • Lump sum payment for loss of income from rented property based on number of months per tenant,
	Socio-economic identity	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Disturbance allowance, transportation cost for relocation • Rehabilitation assistance, skill training, cash transfer project programme • Link the project affected communities to micro – finance loans and assistance.
Residential tenant Business tenant	Loss of rental accommodation	<ul style="list-style-type: none"> • Replacement of number of houses lost on the site 	<ul style="list-style-type: none"> • Replacement costs for non-movables 	<ul style="list-style-type: none"> • Disturbance assistance • Transportation assistance if relocating • Provision of rental fees for few months
Business tenant	Loss of premises	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Replacement costs for non-movables if installation was agreed with owners 	<ul style="list-style-type: none"> • None
	Loss of business	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Payment of lost income at an agreed rate (say payment of six months of pas year average turnover)
Vendors	Loss of hawkers	<ul style="list-style-type: none"> • Compensation at full replacement value for structure 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Payment of lost income at an agreed rate (say payment of six months of pas year average turnover)

Encroachers using land (pirates)	Loss of land			
	Loss of structures/shelter	<ul style="list-style-type: none"> • Compensation at full replacement value for structure • Payment of site rent 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Cash compensation for crops, trees at full replacement cost during scarce seasons • Permission of sufficient time for harvesting annual crops, fruits and timber trees
Squatters – living on the site	Loss of shelter/structures	<ul style="list-style-type: none"> • Compensation at full replacement value for structure • Payment of site rent 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Payment in lieu of wages while rebuilding • Provision of disturbance assistance • Provision of transport assistance in relocation
Community	Public facilities	<ul style="list-style-type: none"> • Compensation at full replacement value for structure • Payment of site rent 	<ul style="list-style-type: none"> • Replacement of land at new site plus clearing of the site. • Waste facilities, connection to utilities and provision of access paths. 	<ul style="list-style-type: none"> • Payment of lost income for business. • Establishment of temporary facilities during construction.

Annex 4: Map of Malawi Showing districts affected by the Floods and Droughts

The Map below highlights the districts that will be cover under the Additional funding. The areas highlighted in Purple are the focus Districts.



Annex 5: An outline of the contents of Resettlement Action Plan.

1. Description of the sub - project
2. Objectives of the sub –project.
3. Socio-economic characteristic of the people on the selected site
4. Legal framework for resettlement and compensations
5. Inventory of the project affected people and assets to be lost
6. Approach to valuation of the assets.
7. Eligibility criteria
8. Payment of compensation and records
9. Site selection for relocation
10. Housing infrastructure and social services
11. Environmental protection and management
12. Community participation
12. Integration with host population
13. Grievance redress procedures
13. Work plans for implementation of the resettlement
14. Cost and budget
15. Monitoring and evaluation plan

Annex 6: Selected list of people consulted in preparation of the framework

List of people who attended consultative meeting held at Ministry of Local Government 20th November 2019

Name	Designation
C. Gunda	MDRRP PIU
L. Loti	MOF
D. Kampani	MDRRP PIU
A Zidana	MOAIWD
B Chisama	MOAIWD
N. Mwaisunga	EAD
J. Dusabe	MDRRP PIU
N. Mtema	MDRRP PIU
R. Chazika	MDRRP PIU

List of Farmers Consulted at Msikita and Limbuli Irrigation Schemes in Mulanje on 18th September 2019

NAME	IRRIGATION SCHEME	MALE	FEMALE
Elube Gidala	Limbuli		*
Chimwemwe Sitolo	Limbuli		*
Hanna Kapesi	Limbuli		*
Edda Lihuku	Limbuli		*
Cassim Chiona	Limbuli	*	
Joseph Chitsulo	Limbuli	*	
Mattias Lipapa	Limbuli	*	
Hamsa Ajusu	Limbuli	*	
Cassim Issa	Limbuli	*	
Patricia Selube	Msikita		*
Chikondi Nsabwe	Msikita		*
Mary Thomu	Msikita		*
Lome Chiundu	Msikita		*
Dave Kachala	Msikita	*	
Patrick Chibale	Msikita	*	
Foster Banda	Msikita	*	
Kambani Mulele	Msikita	*	
Mervyn Katunga	Msikita	*	

Annex 7: Land Donation Form for Malawi Government (Form 1)



MALAWI GOVERNMENT
DEPARTMENT OF LANDS AND VALUATION
**CUSTOMARY LAND
CONSULTATION WITH CHIEF**

Name of Applicant..... Of..... Village.....T/A..... District.
Name of Chief..... District..... Region.....
(hereinafter called "the Chief")

Name of Village Headman

Property:

Customary land comprising hectares situate or near

The Chief and the Village Headman state as follows:-

ACQUISITION

- (1) There is no objection to the proposed acquisition;
- (2) No compensation is payable;
- or*
- (3) Compensation amounting to K as proposed in the attached Schedule should be paid.
- or*

LEASE for years /Permit to occupy;

- (1) There is no objection to the grant of this application;
- (2) No compensation payable;
- or*
- (3) Compensation amounting to K as proposed in the attached Schedule should be paid.
- or*

TEMPORARY USE for months/years;

- (1) There is no objection to the proposed temporary use ;
- (2) No compensation payable;
- or*
- (3) Compensation amounting to K as proposed in the attached Schedule should be paid.

NOTE: IF THE CHIEF OR THE VILLAGE HEADMAN HAS AN OBJECTION, THE GROUNDS OF THE OBJECTION SHOULD BE SET OUT IN AN ATTACHED MEMORANDUM.

....., 20.....
Chief

....., 20.....
Village Headman

The above statement has been read over and explained to the Chief and the Village Headman.

....., 20.....
District Commissioner