

Viet Nam: Northern Mountains Poverty Reduction Project

POLICY FRAMEWORK FOR COMPENSATION, RESETTLEMENT AND REHABILITATION OF PROJECT AFFECTED PERSONS

July 24, 2000

Section 1

RP-52

Introduction

A. The Project

1. Reducing rural poverty is one of the highest priorities for the Government and a broad policy framework for Government efforts. The development objective of the proposed Northern Mountains Poverty Reduction Project (NMPRP) is that poor villagers in the northern mountains use a variety of better physical infrastructure and social services to improve their farm production, food security and overall wellbeing. The project would benefit about one million rural poor in about 400 of the poorest communes in six provinces in the northern part of the country (Bac Giang, Hoa Binh, Lao Cai, Phu Tho, Son La and Yen Bai). No adverse impact or resettlement from land acquisition is anticipated in this project. Some minor land acquisition may be required for upgrading and construction of small rural infrastructure such as village roads, irrigation, water supply, health stations and classrooms.

B. Policy Framework

2. The principle objective of the Policy Framework is to ensure that all project affected persons (PAPs) will be compensated for their losses at replacement cost and provided with rehabilitation measures to assist them to improve, or at least maintain, their pre-project living standards and income earning capacity.

3. The Policy Framework lays down the principles and objectives, eligibility criteria of PAPs, entitlements, legal and institutional framework, modes of compensation and rehabilitation, peoples participation features and grievances procedures that will guide the compensation, resettlement and rehabilitation of the PAPs.

C. Project Affected People

4. The project affected people (PAP) include the following persons to be identified by the baseline information collected for each of the sub-projects where there are land, property or asset acquisition:

- (a) persons whose houses and other structures are in part or in toto affected (temporarily or permanently) by the project;
- (b) persons whose residential and/or agricultural land is in part or in toto affected (permanently or temporarily) by the project;
- (c) persons whose businesses are affected in part or in toto (temporarily or permanently) by the project; and
- (d) persons whose crops (annual and perennial) and trees are affected by the Project.
- (e) person whose other assets are affected by the project

D. Principles and Objectives

5. The principles outlined in the World Bank's Operational Directives 4.30 have been adopted in preparing this Policy Framework. In this regard the following principles and objectives would be applied:

- (a) Acquisition of land and other assets, and resettlement of people will be minimized as much as possible.
- (b) All PAPs are identified in the project impacted areas as of the date of the baseline surveys are entitled to be provided with rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income earning capacity and production levels. Lack of legal rights to the assets lost will not bar the PAP from entitlement to such rehabilitation measures.
- (c) The rehabilitation measures to be provided are: (i) cash compensation at replacement cost without deduction for depreciation or salvage materials for houses and other structures; (ii) agricultural land for land of equal productive capacity acceptable to the PAP; (iii) replacement of residential land of equal size acceptable to the PAP; (iv) and transfer and subsistence allowances.
- (d) Replacement residential and agricultural land will be as nearby as possible to the land that was lost, and acceptable to the PAP.
- (e) Plans for acquisition of land and other assets and provision of rehabilitation measures will be carried out in consultation with the PAPs, to ensure minimal disturbance.
- (f) The compensation, resettlement and rehabilitation activities will be satisfactorily completed before a no objection from the World Bank will be provided for award of contract of civil works under each sub-project.
- (g) The sources of funding for the compensation and rehabilitation of PAPs will be funded as follows: compensation for productive land will come from the commune land bank; and cash compensation for structures, trees, crops, income loss and rehabilitation assistance will come from the province. PAPs will not be required to provide local contribution for their affected land, residence or other assets.
- (h) Institutional arrangements will be in place to ensure effective and timely design, planning, consultation and implementation of the inventories and RAPs.
- (i) Effective regularly and timely supervision, monitoring and evaluation of the implementation of the Inventories and RAPs will be carried out.

E. Partial Resettlement Plan

6. In case where the impact of land and property acquisition by the each sub project component are minor ⁽¹⁾, a partial Resettlement Plan for each such project component will be prepared by the respective Provincial Project Management Organization (PPMO) and consolidated by the Central Project Management Organization (CPMO) for any given Project Annual Work Program, and furnished to the World Bank for its concurrence. See Attachment 1 for implementation steps.

7. Each partial Resettlement Plan will be included: (a) an inventory; (b) a socioeconomic survey; (c) detailed compensation and entitlement information; (d) payment and rehabilitation schedule; and (e) cost estimate and funding source.

8. The partial Resettlement Plan will be completed no later than *four months* prior to the estimated date for commencement of the works under the respective road or segment thereof. Each partial

⁽¹⁾ Impacts are considered minor if no affected people are physically displaced and less than 10 % of their productive assets are lost.

Resettlement Plan will be furnished to the World Bank for consideration no later than three months prior to the actual initiation of the works under the Project. Compensation, resettlement and rehabilitation activities will only commence after World Bank has found the Plan acceptable and the Provincial People's Committees have approved it. The compensation, resettlement and rehabilitation activities will be completed at least one month before the beginning of physical works.

9. The inventory for the partial Resettlement Plan will include the following information for each PAP household (see Attachment 2):

- (a) number of persons and names;
- (b) number, type, area of the houses and other sub-structures impacted or lost partly or fully;
- (c) number and area of all the residential plots lost;
- (d) number, category and area of agricultural land lost;
- (e) quantity and types of crops and trees lost; ages or diameters of trees and fruit trees;
- (f) businesses lost including structures, land and other fixed assets;
- (g) productive assets lost as a percentage of total productive assets;
- (h) quantity and category of other fixed assets affected by the Project; and
- (i) temporary damage to productive assets.

10. The compensation entitlements of assets and land affected are calculated based on the above information (see Attachment 3). A socio-economic survey is also required (see Attachment 4).

F. Full Resettlement Plans (RAPs)

11. In case where the impact of land and property acquisition by the each sub project component are significant⁽²⁾, a full Resettlement Action Plan (RAP) for each sub Project component will be prepared by the respective Provincial Project Management Organization (PPMO) in accordance with the provisions of this Policy Framework.. The RAP will be furnished by CPMO to the WB for its concurrence.

12. Each RAP will include: (a) an inventory; (b) a socioeconomic survey; (c) detailed compensation and entitlement information; (d) implementation and rehabilitation activities; (e) arrangements for external monitoring and evaluation, (f) implementation schedule and; and (g) cost estimate and funding source.

13. Each RAP will be completed no later than *four months* prior to the estimated date for commencement of the works under the project components. Each RAP will be furnished to WB for consideration no later than three months prior to the actual initiation of the works under the project component. Compensation, resettlement and rehabilitation activities will only commence after WB has found acceptable the respective RAP and the provincial People's Committees have approved it.

14. The compensation, resettlement and rehabilitation activities will be satisfactorily completed before a no objection from the World Bank will be provided for award of contract of civil works under each sub-project.

15. The sources of funding for compensation and rehabilitation of the PAPs will be funded as follows: compensation for productive land will come from the commune land bank; and cash compensation for structures, trees, crops, income loss and rehabilitation assistance will come from the province.

⁽²⁾ Impacts are considered significant if the following conditions apply:

- the affected people are physically displaced and more than 10 % of a household's productive are lost; or
- 200 or more people are affected for each sub-project (as per OD 4.30).

Section 2

Legal and Institutional Framework

A. Legal Framework

16. The legal framework governing the implementation of this Policy Framework and the Inventories and RAPs come from the following decrees: Article 27 of the 1993 Land Law enacted by the National Assembly of the Socialist Republic of Viet Nam on July 1993; Decree No. 87-CP dated August 17, 1994; Decree No. 22-CP dated April 22, 1998; and Circular No. 145/1998/TT-BTC dated November 4, 1998. An official letter No. 4448/TC.QLCS of MOF dated September 04, 1999 which is to guide the implementation of Decree No. 22-CP. Decree No. 22-CP has significant improvements over earlier decrees, however, the decree provides that those without legal rights to the land and houses will not be entitled to compensation (Article 6 and 7). The decree also provides compensation for house, structures could be paid at less than replacement cost (Article 17). These are contrary to the World Bank's policy OD 4.30.

17. In approving the land and property acquisition policy for the Project, the Government of Vietnam grants the above mentioned waivers and authorizes the provinces to provide: (a) compensation at replacement cost without deduction for depreciation and salvage materials, for land, houses and other assets taken by the project; and (b) to provide compensation and resettlement assistance to all affected persons regardless of their lack of title to the assets lost.

B. Institutional Framework

18. The responsibility for implementing the Policy Framework, Inventories and RAPs are as follows:

(a) The CPMU under the MPI has an overall responsibility for enforcement of the Policy Framework, submission and getting approval for this policy framework from the Prime Minister.

(b) The Provincial People's Committee is responsible for the approval and issuing the decision on the unit costs of compensation and approval of the RAP. The Provincial People's Committee is also responsible for the organization of meeting and the demarcation of responsibilities for the concerned institutions, departments and the lower administrative levels in order to implement the RAP successfully. It is advisable to appoint a team at the district to prepare and implement the RAP.

(c) The Provincial Project Management Organization (PPMO) is responsible for advising the District team in the preparation of the RAP. It is also responsible for organizing the training on this policy framework for the concerned district and commune staffs so that they can carry out the preparation of the RAP, implement the payment of compensation and other rehabilitation entitlement to PAPs in a timely manner.

(d) The District team, under the guidance of the PPMO is responsible for preparing the RAP, annual implementation schedule of the RAP and day to day implementation so that consultation, payment of compensation and other rehabilitation entitlements to PAPs are carried out in a satisfactory and timely manner.

(e) The Provincial Departments of Finance and Construction are responsible for preparing finalizing the proposal of compensation unit costs and submit it to the Chairperson of the Provincial People's Committee for the approval. The Financial Department is also responsible for payment arrangements according to the approved the RAP implementation schedules.

(f) The People's Committees at the district and commune levels will ensure the active and effective participation of the PAPs in the preparation and implementation of the RAP. These administrative levels are also responsible for the arrangement of replacement land and provision of land use certificates to PAP, carry out the public information campaign and information dissemination activities.

(g) All the administrative levels from the province to commune are responsible for the complaint and grievance redressal which is stipulated in Section 5 of this policy framework..

Section 3

Entitlement Policy

19. PAPs will be entitled to the following types of compensation and rehabilitation measures:

(a) PAPs losing agricultural land and crops

- i) Compensation of lost agricultural land will be through provision of "land for land" arrangements of equal productive capacity of the lost land and satisfactory to the PAPs.
- ii) PAPs will be compensated for the loss of standing crops and fruit or industrial trees at market price. Productive trees will be compensated at replacement cost.
- iii) PAPs whose land is temporarily taken by the works under the Project will be compensated for their loss of income, standing crops and for the cost of soil restoration and damaged infrastructure based on the temporarily impacted period, if this period is more than two years, the impact is to be permanently considered..
- iv) The land for compensation is to be provided from the community land bank.

(b) PAPs losing residential land and structures

- i) The mechanism for compensating loss of residential land and structures will be: (1) the provision of replacement residential land of equivalent size, satisfactory to the PAPs; and (2) cash compensation reflecting full replacement cost of the structures, without deduction for depreciation or salvage materials.
- ii) If the impact on residential land and/or structure is minor, cash compensation at replacement cost acceptable to the PAP will be provided.⁽³⁾
- iii) If the residential land and/or structure is only partially affected by the Project and the remaining residential land is not sufficient to rebuild the residential structure lost, then at the request of the PAP the entire residential land and structure will be acquired at full replacement cost, without depreciation. The threshold of insufficient remaining residential land is to be determined based on the consultation with PAPs.
- iv) The land for compensation is to be provided from the community land bank.

⁽³⁾ Minor impact on residential land is defined as less than 20% of the total residential land holding and the remaining area is not less than 200 m2.

(c) PAPs losing business

- i) The mechanism for compensating loss of business will be: (1) the provision of alternative business site of equal size and accessibility to customers, satisfactory to the PAP; (2) cash compensation for lost business structure reflecting full replacement cost of the structures, without depreciation; and (3) cash compensation for the loss of income during the transition period.
- ii) PAPs will also be provided compensation at full replacement cost, without deduction for depreciation and salvage materials for any other fixed assets affected in part or in toto by the Project.

Section 4

People's Participation

20. The PAPs will participate throughout the various stages of the planning and implementation of the partial or full RAP. For these purposes and prior to the preparation of the RAP, the PAP will be informed of the provisions of this Policy Framework at public meetings held by the respective PPMO, District People's Committee and Commune People's Committees.

21. Each household PAP will be fully informed by the relevant District People's Committee and/or Commune People's Committees of their entitlements and rehabilitation choices under the RAP.

22. After compensation, each PAP household will sign an acceptance letter.

Section 5

Implementation Arrangements

A. Implementation Schedule

23. A detailed implementation schedule of the various activities to be undertaken will be included in each RAP.

24. Satisfactory payment of compensation and furnishing of other rehabilitation entitlements, and relocation if that be the case, will be completed at least one month prior to the scheduled start-up date of works in the respective Project site.

B. Complaints and Grievances

25. Complaints and grievances related to any aspect of the RAPs, including the determined quantities and price of the lost assets, will be handled as follows:

(a) As a first stage, PAPs will present their complaints and grievances to the Commune authorities, and the commune will have to provide a written response to the PAP within fifteen calendar days of receiving the complaint. If the PAP is not satisfied with the decision of commune, the PAP may present the case to the District People's Committee within fifteen calendar days of receiving the written response from the Commune authorities. The decision of the district should be rendered within fifteen calendar days of receipt of the PAP's appeal and if the PAP is not satisfied with the decision of district,

the PAP may present the case to the Provincial People's Committee and the same procedure at the district level is to be applied.

(b) If the PAP is not satisfied with the decision of the Provincial People's Committee, the case may be submitted for consideration by the District Court.

26. PAPs will be exempted from all taxes, administrative and legal fees.

C. Supervision, Monitoring and Evaluation

27. Implementation of the Inventories and RAPs will be regularly supervised and monitored by the respective PPMO in coordination with the respective District Peoples' Committees and Communes. The findings will be recorded in quarterly reports to be furnished to CPMO.

28. An independent agency or agencies will be retained by PPMOs to carry out annual external monitoring and evaluation of the implementation of the RAP. The independent agencies will be academic or research institutions, non-governmental organizations or independent consulting firms, all with qualified and experienced staff and terms of reference acceptable to the World Bank.

Section 6

Costs and Budget

29. Each RAP will include detailed cost of compensation and other rehabilitation entitlements and relocation of PAPs, if that be the case, with a breakdown by agricultural land, residential land, business land, houses, other structures, businesses, other assets and cost for compensation or RAP implementation. The cost estimates will make adequate provision for contingencies.

30. Preparation of financial flow and compensation schedule.

31. It will clearly state from where the sources of fund will come. Compensation for productive land will come from the commune land bank. Cash compensation for structures, trees, crops, income loss and rehabilitation assistance will come from the province.

ATTACHMENTS

- 1 Steps in Land/Property Acquisition and Compensation
2. Inventory (Census) of Project Affected People
3. Compensation Entitlements of Project Affected People
4. Socio-Economic Household Data Sheet of Project Affected People

ATTACHMENT 1

STEPS IN LAND/PROPERTY ACQUISITION AND COMPENSATION

For Each Sub-Project Involving Land and Property Acquisition

	Activity	Responsible	When
	Orientation and training in the Compensation, Resettlement and Rehabilitation policy and procedures will be provided to districts and communes	CPMO, PPMO and assisted by World Bank staff	
1.	Commune works with villagers to select and prioritize development activities including infrastructure for construction and/or improvement	CDC	During planning period
2.	CDC consults and discuss potential land and structure acquisition impact with affected head of household	CDC	During planning period
3.	District engineer and CDC design infrastructure and finalizes exact amount of land and structure to be affected	District Engineer, CDC	During start of implementation
4.	Complete inventory and socio-economic survey of affected households	CDC and District Engineer	During start of implementation
5.	Hold another consultation with affected households and agrees on compensation and provide contact names and address for grievance/complaints	CDC	During start of implementation
6.	Complete entitlement form and set schedule and funding source for payment	CDC and DPMO	During start of implementation
7.	DPMO submits all 4 completed forms to PPMO for review	DPMO	Four months before award of contract for construction
8.	PPMO submits them to CPMO and World Bank for review	PPMO/ CPMO	Three months before award of contract for construction
9.	Review and clearance	World Bank (Year 1 by HQ and Year 2 to 5 by Hanoi Office)	
10.	PPMO pays cash compensation to affected households from provincial budget for affected structures, trees, crops and rehabilitation assistance. Commune provides compensation for affected agricultural and productive land from commune land bank.	PPMO CDC	Before award of contract for construction
11.	World Bank provide "no objection letter" (NOL) for award of contract for construction work	World Bank (Year 1 by HQ and Year 2 to 5 by Hanoi Office)	

CDC - Commune Development Committee
 DPMO - District Project Management Office
 PPMO - Provincial Project Management Office
 CPMO - Central Project Management Office

Forms and Schedule:

1. Inventory form (see Attachment 2)
2. Entitlement form (see Attachment 3)
3. Socio-economic survey (see Attachment 4)
4. Schedule of Compensation and Payment Activities (to be prepared by each sub-project)

Vietnam: Northern Mountains Poverty Reduction Project

Inventory of Project Affected People

Province: _____ District: _____ Commune: _____ Village: _____

[illegible]

* Land Types are as follows: (please fill in the types of land appropriate for Vietnam)

1. xxx
2. xxx
3. xxx
4. xxx
5. xxx
6. xxx

[illegible]

Province: _____ District: _____ Commune: _____ Village: _____

[illegible]