



RESETTLEMENT POLICY FRAMEWORK

HURRICANE TOMAS EMERGENCY RECOVERY PROJECT

Saint Lucia
Hurricane Tomas Emergency Recovery Project
Resettlement Policy Framework

(Draft)

March 21, 2011(v1)

Revised July 2011 (v2)

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1. Introduction and Objectives

1. The World Bank is providing a credit to the Government of Saint Lucia (GOSL) in the amount of US\$15 million towards the Hurricane Tomas Emergency Recovery project. The project, which will support the Government's recovery and reconstruction efforts following the passage of Hurricane Tomas on October 30, 2010, will help finance post-hurricane rehabilitation activities in the health, education and infrastructure sectors throughout the island and strengthen disaster risk management capacity to lay the foundation for the longer-term sustainable strategy to improve the resilience, preparedness, and response capacity of Saint Lucia to natural hazards.
2. The purpose of this Resettlement Policy Framework (RPF) is to clarify resettlement principles, organizational arrangements, and design criteria to be applied to subprojects to be prepared during project implementation (see [OP 4.12, paras. 26-28](#)). Subproject resettlement plans consistent with the policy framework subsequently are submitted to the Bank for approval after specific planning information becomes available (see [OP 4.12, para. 29](#)).
3. The RPF will assist the PCU in i) screening all subprojects for land acquisition and physical and/or livelihood displacement resulting from such land acquisition; ii) identifying documentation and preparation requirements for compliance with World Bank Safeguards Policy. In the unlikely event that the project leads to land acquisition and/or resettlement, Abbreviated Resettlement Plans (ARPs) and/or Resettlement Action Plans (RAPs), as may be applicable, will be prepared for specific sub-projects in accordance with the project's RPF.
4. The Resettlement Policy Framework will form part of the project's Operations Manual and is referenced in the project's Legal Agreements.

2. Description of the Project

5. Project Objective.

The objective of the Project is to support the recovery and reconstruction of the Recipient in the aftermath of Hurricane Tomas. Financing under this project is provided on an emergency basis to avoid the usual time lag between the end of the relief period and reconstruction.

6. **Project Components.** Four components are proposed for the emergency recovery project, as follows:

Component 1: Support for Early Recovery. This component would focus on supporting the early recovery of the Government's key economic sectors from the impact of Hurricane Tomas, through the provision of goods, technical advisory services and emergency operating costs. Emergency Operating Costs would include the incremental expenses incurred by the GOSL for early recovery efforts arising as a result of the impact of Hurricane Tomas, including, *inter alia*, additional transportation costs (i.e. gasoline and use of other transportation), increased electricity bills for the public sector, staff overtime and rental of light and heavy machinery (i.e. generators and equipment for removal of debris). Goods and services under this component would be financed retroactively and the eligibility of the expenditures will be determined based on review of satisfactory supporting documentation presented by the Government, including adherence to appropriate procurement practices where applicable.

Component 2: Institutional Strengthening and Hazard and Risk Analysis. This component would include strengthening the institutional capacity at the national level, including the Ministry of Finance, Ministry of Housing, Urban Renewal and Local Government, the Ministry of Physical Development and Environment and the National Emergency Management Organization to: i) evaluate and integrate natural hazard and climate change risk reduction into national development policy and decision-making processes using geo-referenced information; ii) carry out various risk assessments and impact evaluation studies in highly affected areas and specific sectors; and iii) review the National Disaster Management Plan and improve disaster management capacity.

Component 3: Reconstruction and Rehabilitation of Damaged Critical Public Infrastructure. This component would finance selected reconstruction and rehabilitation activities of damaged infrastructure in the Government's transport, health and education sector. Activities would include civil works, technical advisory services and goods required for the rehabilitation of the damaged infrastructure. Civil works would be executed to ensure that target structures are resilient to future adverse natural events, thereby reducing their vulnerability to disasters.

Component 4: Project Management and Monitoring Support. While the project will be implemented by the same PCU currently implementing the Bank-financed Second Disaster Management Project, OECS Skills for Inclusive Growth Project and Enhancing Public Service Performance Project, additional resources will be needed to tackle the current emergency and increased workload in project management. This component would strengthen and develop the institutional capacity of the Project Coordination Unit for project execution, including procurement, financial management, and accounting, engineering oversight and supervision of Project activities, through the acquisition of goods, provision of technical advisory services, training and operating costs.

7. **Project Implementation.** Implementation and supervision of the proposed emergency project will be the responsibility of the Project Coordination Unit (PCU) under the purview of the Ministry of Ministry of Finance, Economic Affairs and National Development.

3. Estimated Population Displacement

8. It is not expected / anticipated that this project would require acquisition of private property or resettlement/displacement of persons. In most cases, the works relate to the reconstruction, repair and rehabilitation of existing structures. However, it is two new constructions have been indentified under the project, namely: the Dennery hospital and the Dennery infant school. Both facilities are expected to be relocated and constructed on currently unoccupied public lands already identified by the government. Therefore, the Involuntary Resettlement Policy (OP 4.12) is triggered as a precaution, and to allow flexibility in the activities financed. And this Resettlement Policy Framework (RPF) has been prepared to outline the process to be undertaken by the GOSL.

4. World Bank Land/Asset Acquisition Policy (OP 4.12): Guiding Principles

9. The World Bank's Policy, 4.12 Involuntary Resettlement, will guide the social safeguards (land acquisition and involuntary resettlement) planning and compliance during implementation of sub-projects. As sub-projects are identified and proposed for financing both prior to and during the project implementation period, screening for potential land acquisition / resettlement will be conducted and the necessary mitigation and management measures in keeping with the agreed RFP will be developed.
10. In the event that a sub-project resulting from Bank-assisted investment projects to address direct economic and social impacts entails land acquisition , and are caused by the involuntary taking of land resulting in the loss of assets, the Borrower must implement measures to ensure that the affected persons are:
 - (i) informed about their options and rights pertaining to resettlement;
 - (ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives;
 - (iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.
11. Full replacement cost is the method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structure and assets should not be taken into account. For losses that cannot easily be valued or compensated for in monetary terms (e.g. access to public services, customers and supplies; or to fishing grazing or forest areas), attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities. Should the the laws of Saint Lucia not be in keeping with the World Bank's standards of compensation for full replacement cost, then compensation under domestic law would be supplemented by additional measures

necessary to meet the replacement cost standard. Such additional assistance is distinct from resettlement assistance to be provided.

5. Legal Framework: Compensation Evaluation

1. Saint Lucia's Legal Framework: Land Acquisition, Compensation Evaluation

12. The Laws of Saint Lucia include a Land Acquisition Act established in 1946. The mentioned Act provides a very detailed account of the procedures enforced by the Government of Saint Lucia in matters pertaining to the acquisition of land for public purposes.

Notification and Due Procedure:

Acquisition of Land

(1) *If the Governor General considers that any land should be acquired for a public purpose¹ he or she may cause a declaration to that effect to be made in the manner provided by this section and the declaration shall be conclusive evidence that the land to which it relates is required for a public purpose.*

(2) *Every declaration shall be published in 2 ordinary issues of the Gazette and copies thereof shall be posted on one of the building (if any) on the land or exhibited at suitable places in the locality in which the land is situated, and in the declaration shall be specified the following particulars in relation to the land which is to be acquired-*

- (a) the parish or district in which the land is situated;*
- (b) a description of the land, giving the approximate area and such other particulars as are necessary to identify the land;*
- (c) in cases where a plan has been prepared, the place where, and the time when, a plan of the land can be inspected;*
- (d) the public purpose for which the land is required.*

(3) *Upon the second publication of the declaration in the Gazette as aforesaid the land shall vest absolutely in the Crown.*

¹ The Act sets forth the following definition: "For the avoidance of doubt it is hereby declared that the expression "public purpose" in this Act shall include the purpose of fulfilling any obligation of the Government, or of Her Majesty's Government in the United Kingdom, under any treaty or agreement made by the Government or by Her Majesty's Government, as the case may be, with the Government of any other country, territory or place, and any purpose pertaining or ancillary thereto."

(4) This section does not prevent the acquisition of lands for public purposes by private treaty.”

Negotiations with Landowners:

Authorised Officer to Treat with Landowner:

- (1) As soon as any declaration has been published in accordance with the provisions of section 3, the authorized officer shall without delay, enter into negotiations (or further negotiations) for the purchase of the land to which the declaration relates upon reasonable terms and conditions, and by voluntary agreement with the owner of the land.*
- (2) It is not necessary for the authorized officer to await the publication of the declaration before he or she endeavors to ascertain from the owner the terms and conditions on which he or she is willing to sell his or her land, but no negotiations or agreement is considered to be concluded unless and until the conditions of sale and acquisition have been approved in writing by the Governor General.*

Compensation evaluation:

Rules for Assessment of Compensation

Subject to the provisions of this Act the following rules shall apply to the assessment and award of compensation by a Board for the compulsory acquisition of land-

- (1) The value of the land shall, subject as hereinafter provided, be taken to be the amount which the land, in its condition at the time of acquisition, if sold in the open market by a willing seller, might have been expected to have realized at a date 12 months prior to the date of the second publication in the Gazette of the declaration under section 3.*
- (2) However, this rule shall not affect the assessment of compensation for any damage sustained by the person interested by reason of severance, or by reason of the acquisition injuriously affecting his or her other property or his or her earnings, or for disturbance, or any other matter not directly based on the value of the land;*

Interest

The Board, in awarding compensation may add thereto interest at the rate of 6% per year calculated from the date upon which the authorized officer entered into possession of the land acquired until the date of the payment of the compensation awarded by the Board.

2. Practical application and enforcement of Land Acquisition Act

13. In the context of the Saint Lucia Disaster Management Project II a Land Acquisition and Involuntary Resettlement Report was prepared. The Surveys and Mapping Department of the Government (Ministry of Physical Development) provided additional and very useful information regarding the practical application and enforcement of the national laws. The following points were of particular pertinence to the purpose of understanding the practice of land acquisition in Saint Lucia, and therefore its degree of compliance with World Bank policy: The Ministry of Physical Development has confirmed the following:

- Market Value - Calculation of compensation is based on market value; In determining market value the sale of property of similar characteristics with up to one year is used.
- Valuation System ó Property valuations are very flexible and are always in favor of the land owner. In determining the valuation of property location, number of dependencies and size of land are taken into consideration
- Interest - Should the payment to the affected landowner be delayed 6% interest is paid. This is substantially above interest rates paid by commercial banks.
- Procedural delays ó There may be delays of undertaking the procedural outlined in the legislation for example after the general elections as the decisions have to be approved by the Cabinet of Ministers. Notifications of the intent to acquire private property can only be published after approval of the Cabinet of Ministers. Payment is delivered upon completion of works - Advanced payment has exceptionally been paid through private treaty if strongly requested, however it is not very common.

6. Fit between the World Bank and the Borrowers laws

14. **Saint Lucian compliance with OP 4.12 has not been met.** The national legal framework provides the Government of St. Lucia with instruments that entitle bearers of assets with rights of notification and fair compensation, which are compatible with the Bank's involuntary resettlement policy. A court case precedent as well as interviews with different persons involved in the process (again in the context of the Saint Lucia Disaster Management Project II), also offer some evidence to the fact that the customary application of this legal framework has usually favored land owners (in terms of negotiated compensation) vis-à-vis the State. Nevertheless, the project does not comply with OP 4.12 for two reasons.

15. First, the chronology of events permitted under the Land Acquisition Act does not correspond with the timing of activities accepted by the Bank. According to World Bank policy, the land owners/occupants must be compensated ***before*** the works take place, while the Land Acquisition Act of Saint Lucia allows this payment to take place after the completion of the works. It is therefore fundamentally important that this order be reversed in order to proceed. ***Hence, affected landowners must be compensated before any works can commence.***
16. Second, the project's strictly legalistic reliance on the State's authority and ability to acquire land as long as it is in accordance with the Land Acquisition Ordinance has apparently resulted in the responsible parties neglecting to engage with the affected land owners as legitimate stakeholders through a transparent communication strategy. Therefore, compliance with Bank policy will depend on (i) the Government's commitment to a transparent communication strategy based on the information and validation processes set out in Section 4 and including a clear grievance mechanism for the affected persons to voice their concerns

7. Criteria for selection of investment proposals

17. Rehabilitation investment proposals should demonstrate that they are technically and financially viable, economically efficient, environmentally and socially sound and manageable within the project life time, with sufficient institutional capacity in place to implement and operate/maintain. The proposals will undergo rapid technical, financial, social, and environmental analysis prior to inclusion into the project. In general, the investment proposals should demonstrate the following:
- Proposed rehabilitation activities should be directly related to hurricane Tomas impacts;
 - Proposed activity should be a priority, and focus on critical infrastructure for the country's rapid recovery from the hurricane;
 - Investments should be (realistically) completed within the 3-year project life; so implementation readiness should be demonstrated, such that status of investment preparation should be at least at feasibility stage and costs are estimated with reasonable accuracy;
 - To the extent possible, proposed activities should have minimal environmental and social safeguards issues: including avoidance of land acquisition, resettlement, etc. where feasible to ensure the project will be executed within the project life.
 - In the event that land acquisition becomes necessary the subject document will guide implementation.
 - Consultation and disclosure requirements will be simplified to meet the requirements of this Emergency Operation (Hurricane Tomas Emergency Recovery Project). This RPF will be disclosed in the sector ministries involved with implementation of the project and other public places in Saint Lucia and in the World Bank InfoShop.

18. A preliminary list of civil work activities to be financed under the project has been identified, which comply with the selection criteria listed above.

8. Land Acquisition Screening Procedures

19. Screening for land acquisition will be done in accordance with the following steps:

1. Sponsoring agency screens the preliminarily selected sub-projects for potential social safeguard impacts (land acquisition) and determination of safeguards documents required according to Saint Lucia legislation (Act and Regulations) and the World Bank policies.
2. If land acquisition is required then subproject resettlement plans consistent with the policy framework are developed and submitted to the Bank for approval after specific planning information becomes available (see [OP 4.12, para. 29](#)).
3. Review of Safeguards screening by World Bank.
4. Preparation of safeguard documents (resettlement plan), consultation and disclosure;
5. Review and clearance of the safeguard documents within the Government and the Bank.
6. Implementation of agreed actions; and supervision, monitoring and evaluation
The sponsoring agency makes a determination concerning whether the project in question is likely to entail land acquisition

9. Institutional Arrangements

20. The PCU shall serve as the coordinating agency for the approval of all subproject activities to be completed under this project. Prior to the submission of small works activities for funding consideration, the issuing agency (agency requesting the work) shall screen the subprojects to assess whether or not land acquisition is entailed. The PCU shall forward these findings to the Ministry of Physical Development (Head of the Physical Planning) for review and concurrence.

21. Once this review is completed, the PCU shall then incorporate these findings and requirements into the final approval document for submission and review by appropriate program managers. The results of this process shall become a permanent part of the works approval package and the sub-project resettlement action plan (RAP) shall be incorporated in any tender produced by the program.

22. Supervision for compliance with the terms of the contract shall rest with the issuing agency.

23. In the event that a Resettlement Action Plan is required the following institutions will be responsible for its implementation and monitoring

- Ministry of Physical Development: Surveys and Mapping Units, Physical Planning Section, Commissioner of Crown Lands, Registrar of Lands
- Ministry of Social Transformation: Community Development Officer
- PCU : Project Coordinator
- Technical Unit of the applicable Implementing Agency (Ministry of Communications, Works, Transport and Public Utilities, Ministry of Education and Ministry of Health)

24. The PCU will ensure that all project activities adhere to the requirements of the RPF, and that designated social specialists/community officers are appointed for overseeing the implementation and monitoring of the framework. A focal person will be appointed for oversight on required clearances and studies. The World Bank task team will include a social specialist to facilitate the implementation of the RPF and to provide approval of resettlement/studies/plans requiring clearance by the World Bank.

10. Sources of funding and estimated cost

25. The cost of acquisition and associated administrative and logistical costs will be provided for by the Ministry of Physical Development in its Budget submissions since Land Acquisitions form part of the Planning program of the Ministry. The exact costs will be determined according to the Land Acquisition Act, and payments must be made before the works begin.

11. Monitoring and follow-up activities

26. The following (land acquisition timetable) table should be completed to specify the necessary activities, dates by which they should be accomplished, allotted budget and entity responsible for implementation. Activities will include: stakeholder consultations, identification of land/asset acquisition impacts, surveys of lands, calculation of payment compensation, disclosure of relevant information, definition of compensation and payment etc.

Activities	Dates	Budget	Responsible institution/human resources assigned

27. The PCU will be responsible for following up and ensuring that all activities are completed. Minutes will be kept of all meetings held and will be sent to all parties via e-mail.

12. Information Disclosure and consultation

28. This RPF will be shared with concerned communities, nongovernmental organizations and development partners. It will be disclosed in-country by the Project Coordination Unit and will also be made available at the World Bank's InfoShop. Relevant subproject-specific safeguard documents/mitigation plans prepared subsequently will also be disclosed. Stakeholders should be periodically consulted and kept informed about any land acquisition-related information during design and implementation stages
29. Any feasibility and detailed design studies financed by this operation will also adhere to World Bank safeguards policies relating to consultation and disclosure.

13. Capacity-Building and Monitoring of Safeguard Implementation

30. As part of the capacity-building to be provided for implementation of the proposed project, the Safeguards Focal Points and relevant staff of the concerned Ministries will also receive training in the RPF's application.
31. During supervision of this project the World Bank will assess the implementation of the RPF, and recommend additional strengthening if required.

14. Grievance Redress

32. A grievance redress mechanism for the project is necessary for addressing legitimate concerns of affected individuals and groups who may consider themselves deprived of appropriate treatment under the project. The mechanism will be developed by the PCU and would include (i) a recording and reporting system, including grievances filed both verbally and in writing, (ii) designated staff with responsibility at various levels of governments, and (iii) a time frame to address the filed grievances. This mechanism will be detailed in the sub-project safeguards documents. The functioning of the grievance redress mechanism will be regularly monitored and evaluated by the PCU during project implementation.