

# **Resettlement Policy Framework**

*World Bank*

*China Energy Efficiency Financing Project II*

**Huaxia Bank**

**December 3, 2014**

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## **1. INTRODUCTION**

1. This document constitutes the **Policy Framework for Compensation, Resettlement and Rehabilitation of Displaced Persons (RPF)** for Energy Efficiency Financing II Project in China. The Huaxia Bank – the Participating Financial Intermediary (PFI) of the Project has agreed to apply World Bank environmental and social safeguard policies in the design and implementation of this project, including OP 4.12, “Involuntary Resettlement.” For this project, design and scheduling considerations make it impossible to determine the extent of resettlement planning requirements at appraisal. The RPF establishes principles and procedures to be followed if subsequent stages of project design or implementation are to cause land acquisition or other involuntary restrictions on access to land or other resources. In such instances, the RPF requires that a Resettlement Plan (RP) is prepared for World Bank review and approval. The RP ensures that any such potential impacts are minimized, and that any persons affected by such impacts are provided ample opportunity and compensation, through provision of compensation and other forms of assistance, to improve or at least restore their incomes and living standards.

## **2. PROJECT DESCRIPTION**

2. The Project includes two components; one is energy conservation investment lending through PFI; and the other is technical assistance to PFI. The energy conservation investment lending component will provide finance to subprojects in key energy-intensive industrial sub-sectors and energy conservation project types with significant potential for energy efficiency improvements and attractive financial returns. Energy intensive industrial sectors include iron and steel, chemicals and petrochemicals, and construction materials, which include: (a) adoption of energy saving industrial technologies such as more efficient industrial boilers, kilns, and heat exchange systems; (b) recovery and utilization of by-product gas, waste heat and pressure; (c) installation of highly efficient mechanical and electrical equipments, including motors, pumps, heating and ventilation equipments; and (d) industrial system optimization to reduce energy use.

3. Most of these subprojects will be located within the existing premises of industrial facilities and will not require additional land acquisition. Only in some waste heat recovery subprojects, potential land acquisition or resettlement might be involved for construction of related heating supply facilities outside the existing plants. To ensure that implementation of land acquisition and resettlement for those subprojects will follow relevant national laws and regulations and comply with the safeguard policies of the World Bank, separate resettlement action plans need to be developed by following the policies and procedures set out in this policy framework.

## **3. POLICY OBJECTIVES AND KEY DEFINITIONS**

4. OP 4.12 provides essential guidance on objectives and principles that are applicable in projects generating land acquisition and resettlement-related impacts. Key objectives and definitions are as follows:

5. Every reasonable effort will be made to avoid or minimize the need for land acquisition, and to minimize all resettlement-related adverse impacts. If land acquisition and associated adverse impacts cannot be avoided, the principle objective of the RPF is to ensure that all persons subjected to adverse impacts (“displaced persons” as defined below) are compensated at replacement cost (as defined below) for lost land and other assets and otherwise provided with any rehabilitation measures or other forms of assistance necessary to provide them with sufficient opportunity to improve, or at least restore, their incomes and living standards.

6. “Displaced persons” refers to all of the people who, on account of the activities listed above, would have their (1) standard of living adversely affected; or (2) right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset acquired or possessed temporarily or permanently; (3) access to productive assets adversely affected, temporarily or permanently; or (4) business, occupation, work or place of residence or habitat adversely affected; and “displaced person” means any of the displaced persons.

7. “Full replacement cost” is the method of valuation of assets which determines the amount of compensation sufficient to replace lost assets, including any necessary transaction costs. Compensation at full replacement cost is defined as follows:

- For agricultural land, it is 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 cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes.
- For land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.
- For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes.

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the full replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in the World Bank Policy on Involuntary Resettlement OP 4.12, Para. 6.

“Land acquisition” is the process whereby a person involuntary loses ownership, use of, or access to, land as a result of the project. Land acquisition can lead to a range of associated impacts, including loss of residence or other fixed assets (fences, wells, tombs, or other structures or improvements that are attached to the land).

“Rehabilitation” is the process by which displaced persons are provided sufficient opportunity to restore productivity, incomes and living standards. Compensation for assets often is not sufficient to achieve full rehabilitation.

“Cut-off Date” is the date prior to which the ownership or use establishes eligibility as displaced persons for compensation or other assistance. The cut-off date is established in the RP. It normally coincides with the date of the census of affected persons, or the date of public notification regarding the specific civil works that would cause displacement. Persons coming into the project area after the cut-off date are not eligible for compensation or other assistance.

#### **4. KEY PRINCIPLES**

8. World Bank’s OP 4.12 establishes several key principles to be followed in resettlement planning and implementation. Of particular relevance for this RPF are the following:

- a) Wherever possible, project designs and RPs should be conceived as development opportunities, so that displaced persons may benefit from the services and facilities created for, or by, project activities.
- b) All displaced persons are entitled to compensation for lost assets, or to alternative but equivalent forms of assistance in lieu of compensation; lack of legal rights to the assets lost will not bar displaced persons from entitlement to such compensation or alternative forms of assistance.
- c) Compensation rates as established in a RP refer to amounts to be paid in full to the individual or collective owner of the lost asset, without depreciation or deduction for taxes, fees or any other purpose.
- d) When cultivated land is acquired, effort should be made to provide land-for-land replacement.
- e) Replacement houseplots, sites for relocating businesses, or replacement agricultural land should be of equivalent use value to the land that was lost.
- f) The resettlement transition period should be minimized. Compensation for assets should be paid prior to the time of impact, so that new houses can be constructed, fixed assets can be removed or replaced, and other necessary mitigation measures can be undertaken prior to actual displacement.
- g) Displaced persons are to receive support (direct assistance or allowances) to meet moving expenses or for temporary subsistence until they can resume productive activities.
- h) Displaced persons should be consulted during the process of RP preparation, so that their preferences regarding possible resettlement arrangements are solicited and considered; RPs are publicly disclosed in a manner accessible to displaced persons.
- i) The previous level of community services and access to resources will be maintained or improved after resettlement.
- j) Responsibility must be clearly established for meeting all costs associated with land acquisition and resettlement, and for ensuring that sufficient funds are available as they become needed.
- k) Clear institutional arrangements must be established to ensure effective and timely implementation of all resettlement and rehabilitation measures.
- l) Adequate arrangements for effective monitoring will be made on implementation of all resettlement measures.
- m) Methods by which displaced persons can pursue grievances will be established, and information about grievance procedures will be provided to displaced persons.

## **5. CHINESE LEGAL AND REGULATORY FRAMEWORK**

9. For any land acquisition and resettlement activities in China, they will follow a set of national laws and regulations, which include: (1) Land Administration Law of the People's Republic of China (issued in 1986 and amended in 1998); (2) Circular of the Ministry of Land and Resources Concerning the Issuance of the Guiding Opinions on Improving the System of Compensation for Requisition of Land (Circular No. 238, issued by MLR in 2004), and (3) provincial and local implementation regulations. These laws and regulations form the legal basis for providing compensation and rehabilitation to those affected by land acquisition and resettlement activities. The followings are key provisions of Land Administration Law and Circular No. 238.

### **5.1 Key Provisions of the Land Administration Law**

#### Article 2

The state may, out of necessity of public interest, requisition land collectively owned in accordance with law.

#### Article 46

Where land is to be requisitioned by the State, the requisition shall, after approval is obtained through legal procedure, be announced by people's governments at or above the county level, which shall help execute the requisition.

Units and individuals that own or have the right to the use of the land under requisition shall, within the time limit fixed in the announcement, register for compensation with the land administration department of the local people's government by presenting their certificates of land ownership or land-use right.

#### Article 47

Land requisitioned shall be compensated for on the basis of its original purpose of use.

Compensation for requisitioned cultivated land shall include compensation for land, resettlement subsidies and attachments and young crops on the requisitioned land. Compensation for requisition of cultivated land shall be six to ten times the average annual output value of the requisitioned land for three years preceding such requisition.

Resettlement subsidies for requisition of cultivated land shall be calculated according to the agricultural population needing to be resettled. The agricultural population needing to be resettled shall be calculated by dividing the amount of requisitioned cultivated land by the average amount of the original cultivated land per person of the unit the land of which is requisitioned.

The highest resettlement subsidies to be divided among members of the agricultural population needing resettlement shall not exceed fifteen times its average annual output value for the three years preceding such requisition.

Standards of land compensation and resettlement subsidies for requisition of other types of land shall be prescribed by provinces, autonomous regions and

municipalities directly under the Central Government with reference to the standards of compensation and resettlement subsidies for requisition of cultivated land.

Standards for compensation for attachments and young crops on the requisitioned land shall be prescribed by provinces, autonomous regions and municipalities directly under the Central Government.

For requisition of vegetable plots in city suburbs, the land users shall pay towards a development and construction fund for new vegetable plots in accordance with the relevant regulations of the State.

If land compensation and resettlement subsidies paid in accordance with the provisions of the second paragraph of this Article are still insufficient to help the peasants needing resettlement to maintain their original living standards, the resettlement subsidies may be increased upon approval by people's governments of provinces, autonomous regions and municipalities directly under the Central Government. However, the total land compensation and resettlement subsidies shall not exceed 30 times the average annual output value of the requisitioned land for the three years preceding such requisition.

#### Article 48

Once a plan for compensation and resettlement subsidies for requisitioned land is decided on, the local people's government concerned shall make it known to the general public and solicit comments and suggestions from the collective economic organizations, the land of which is requisitioned, and the peasants.

#### Article 49

The rural collective economic organization, the land of which is requisitioned, shall accept supervision by making known to its members the income and expenses of the compensation received for land requisition.

The compensation and other charges paid to the unit for its land requisitioned is forbidden to be embezzled or misappropriated.

#### Article 57

Where land owned by the State or by peasant collectives needs to be used temporarily for construction of projects or for geologic prospecting, the matter shall be subject to approval by the land administration departments of people's governments at or above the county level. However, if the land to be temporarily used is located in the area covered by urban planning, the matter shall be subject to agreement by the urban planning administration department concerned before it is submitted for approval. The land user shall, depending on who owns the land and who has the land-use right, enter into a contract for the temporary use of the land with the land administration department concerned, or the rural collective economic organization, or the villagers committee and pay compensation for it in accordance with the provisions of the contract.

The temporary land user shall use the land for purposes stipulated in the contract for temporary use of the land and may not build permanent structures on it.

Generally, the period for temporary use of land shall not exceed two years.

## 5.2 Key Provisions in the Circular No.238

- (1)The Formulation of the Unified Standards of Annual Output Value. The departments of land and resources at the provincial level shall, in conjunction with other departments concerned, work out the unified minimum standards for annual output value, which shall be announced and executed after the examination and approval by the people's governments at the provincial level. Factors such as types and quality of arable land requisitioned, peasants' input, prices of primary products and the categories of farmland shall take into account when deciding the value of average annual output.
- (2)The Determination of the Unified Multiple of Annual Output Value. The unified multiple of the value of average annual output for calculating land compensation and resettlement subsidies shall comply with the principle of non-decrease of the standards of living of the peasants whose arable land has been requisitioned and shall be decided within the limits prescribed by laws and regulations; compensation for requisitioned land calculated with reference to the prescribed multiple of the value of average annual output shall increase the multiple upon approval of the people's governments at the provincial level if it is unable to maintain the original living standards of the peasants whose land has been requisitioned and still insufficient to pay social security expenses for peasants who have lost land due to requisition; the total land compensation and resettlement subsidies shall be 30 times the value of the average annual output of arable land, or shall be subsidized by a proportion of proceeds from the sale of State-owned land use rights under the overall planning of a local people's government if they are still insufficient to maintain the original living standards of the peasants whose land has been requisitioned. Compensation for arable land that is authorized to be requisitioned shall be implemented in compliance with the maximum compensation standards announced by the local people's government.
- (3)The Formulation of the Comprehensive Prices of Farmland in Resettlement Areas. In the areas where conditions permit, provincial-level departments of land and resources may make comprehensive land prices in counties (or cities) within provincial boundaries together with the administrative departments concerned, which shall go into effect upon approval and promulgation by the people's governments at the provincial level and shall be applied to compensation for land requisitioned. In calculating the comprehensive prices of farmland, the categories and rates of arable land, its production value, location, per capita quantity as well as demand and supply or the local economic development levels and the minimum standards of living should be given full consideration.
- (4)The Allocation of Compensation for Land. In accordance with the principle of distributing land compensation funds mainly among peasants whose land has been requisitioned, land compensation funds shall be appropriately allocated within rural collective economic organizations. The people's governments at the provincial level shall guide detailed ways of allocation. In the areas where land is expropriated and rural collective economic organizations are dissolved, all compensation for land shall be

applied for the restoration of agricultural production and livelihood of the peasants whose land has been requisitioned.

- (5)Rehabilitation by Agricultural Production. During requisitioning of peasants' collective land beyond urban planning areas, first priority shall be given to providing peasants with necessary cultivated land for continuity of agricultural production by utilizing the rural collective land reserves, the contracted land returned voluntarily by the contracting rural households or the newly added arable land after land circulation and land consolidation.
- (6)Rehabilitation by Reemployment. Favorable conditions shall be created to provide free technical training and assign corresponding posts to peasants whose land has been requisitioned. Under equal conditions, the land users shall give priority to creating employment opportunities for peasants whose land has been requisitioned. During requisitioning of peasants' collective land within urban planning areas, the peasants losing their arable land due to land acquisition shall be incorporated into urban employment system and a social security system shall also be established.
- (7)Rehabilitation by Dividends. Regarding land with long-term stable earnings to be used in any projects, under the premise of rural households' willingness, the rural collective economic organizations, the land of which is requisitioned, shall regard land compensation as stocks or converge the land-use right of the land approved for construction purposes into stocks through consultation with the land users. The rural collective economic organizations and rural households shall receive dividends by means of preference stocks based on the contracted conditions.
- (8)Rehabilitation by Resettlement. In the area where peasants losing land due to land acquisition are not provided with basic production and living conditions, the local government shall organize their resettlement into other areas on the basis of fully soliciting opinions from the rural collective economic organizations and rural households whose land has been requisitioned.

## **6. SUB-PROJECT SCREENING**

10. Due to the nature of the sub-projects, only few subprojects may involve construction of certain facilities extending beyond the boundary of the existing plants or building on new locations. In these cases potential land acquisition and resettlement might be involved. For those subprojects, a land acquisition scoping will be carried out by a domestic social safeguard specialist engaged by Huaxia Bank in order to determine scale of land acquisition and resettlement impacts for those subprojects. The land acquisition scoping will include basic information on (1) amount of land acquisition required for the project; (2) amount of buildings to be demolished; (3) number of households or persons to be relocated; and (4) number of people to be affected by land acquisition. Based on such scoping, the types of resettlement plans instrument will be suggested for the concerned subprojects. Such land acquisition scoping will be reviewed and confirmed by the Bank before preparation of safeguard documents could begin.

11. The land acquisition screening determines whether a full RP or an “abbreviated” RP. When the number of persons affected exceeds 200, a full RP is necessary. Where impacts on all displaced persons are relatively minor, or fewer than 200 people are affected, an abbreviated RP may be prepared. Impacts are considered “minor” if the affected people are not physically displaced and less than 10% of their productive assets are lost.

- a) description of the activity causing land acquisition;
- b) range and scope of potential adverse impacts;
- c) socioeconomic survey and baseline census survey information;
- d) review of relevant laws and regulations relating to land acquisition and resettlement;
- e) specific compensation rates (or alternative measures) for all categories of affected assets;
- f) other measures, if any, necessary to provide opportunities for economic rehabilitation of displaced persons;
- g) eligibility criteria for compensation and all other forms of assistance;
- h) relocation arrangements, if necessary, including transitional support;
- i) site selection and site preparation, if necessary;
- j) restoration or replacement of community infrastructure and services;
- k) organizational arrangements for implementation;
- l) consultation and disclosure arrangements;
- m) resettlement implementation schedule;
- n) costs and budget;
- o) monitoring arrangements;
- p) grievance procedures;
- q) summary entitlements matrix

13. If an abbreviated RP is to be prepared, it also must be based on principles and planning and implementation arrangements established in this RPF. An abbreviated RP normally includes the following contents:

- a) a census survey of displaced persons and valuation of assets;
- b) description of compensation and other resettlement assistance to be provided;
- c) eligibility criteria;
- d) consultation and disclosure arrangements;
- e) organizational arrangements for implementation
- f) timetable and budget;
- g) monitoring arrangements;
- h) grievance procedures

## **7. RPs PREPARING AND APPROVING**

14. Once it is determined that land acquisition or any associated impacts is essential to complete any project activities, resettlement planning should begin. The overall responsibility for preparation and implementation of any necessary RPs rests with sponsors of individual subprojects. The subproject owner will carry out, or cause to be carried out, a census survey to identify and enumerate all displaced persons, and a socioeconomic survey to determine the range and scope of adverse impacts in the affected area. The census survey must cover 100% of the persons to be displaced; the socioeconomic survey may be undertaken on a sample basis. Based on accurate baseline census survey and social economic survey, the RAP will be prepared in

accordance with the policy principles and planning and implementation arrangements set forth in this RPF, and established appropriate mitigation measures as appropriate for all categories of adverse impacts.

15. Huaxia Bank's Social and Environmental Unit will actively involve in RAP preparation in order to ensure satisfactory RAPs are prepared for subprojects involved with any potential land acquisition and resettlement, and submit them to the World Bank for review. Any RAPs prepared in accordance with this RPF must be reviewed and approved by the Bank prior to awarding of contracts for the civil works causing the displacement.

## **8. ENTITLEMENT POLICY**

16. All displaced persons are eligible for compensation and/or other forms of assistance, as relevant to the nature of impacts affecting them.

17. In general, people eligible for compensation would include those affected in the following ways:

Land to be permanently acquired for the project: This refers to (a) members of affected villages who have formal land use rights, and (b) those outsiders who are currently farming the land areas under lease arrangement. Displaced persons in category a) are entitled to compensation at replacement cost. For those in category b) they are entitled to compensation for lost crops and lost structures.

Loss of houses, other structures and fixed assets, including trees and standing crops: Owners of houses and other assets (regardless of whether they hold land title or building permits for structures erected prior to the cut-off date).

Losses associated with temporary impacts: This includes temporary loss of land, and transitional costs associated with moving, or disturbance to businesses during construction.

18. Specifically, displaced persons will be entitled to the following types of compensation measures:

### *1. Displaced persons losing agricultural land:*

- a) The preferred mechanism for compensation of lost agricultural land will be through provision of replacement land of equal productive capacity and satisfactory to the displaced person. If satisfactory replacement land cannot be identified, compensation at full replacement cost may be provided.
- b) Displaced persons will be compensated for the loss of standing crops at market price, for economic trees at net present value, and for other fixed assets (ancillary structures, wells, fences, irrigation improvements) at replacement cost.

- c) Compensation will be paid for temporary use of land, at a rate tied to duration of use, and the land or other assets will be restored to prior use conditions at no cost to the owner or user.

## 2. *Displaced persons losing residential land and structures*

- a) Loss of residential land and structures will be compensated either in-kind (through replacement of house site and garden area of equivalent size, satisfactory to the displaced person, or in cash compensation at replacement cost, plus assistance for relocation.
- b) If after partial land acquisition the remaining residential land is not sufficient to rebuild or restore a house of other structures of equivalent size or value, then at the request of the displaced person the entire residential land and structure will be acquired at full replacement cost.
- c) Compensation will be paid at replacement cost for fixed assets.
- d) Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area and will be assisted in identifying alternative accommodation.

## 3. *Displaced persons losing business*

- a) Compensation for loss of business will involve, as relevant: (i) provision of alternative business site of equal size and accessibility to customers, satisfactory to the displaced business operator; (ii) cash compensation for lost business structures; and (iii) transitional support for loss of income (including employee wages) during the transition period.

## 4. *Vulnerable groups*

- a) The project vulnerable groups - the elderly, disabled, woman headed households should be identified in the census survey. Besides compensations and rehabilitations measures to be adopted for all affected people, additional assistance will be provided to them in order to ensure that their income and livelihood will be restored and improved through project implementation.

## 5. *Infrastructure and access to services*

Infrastructure (such as water sources, roads, sewage systems or electrical supply) and community services (such as schools, clinics or community centers) will be restored or replaced at no cost to the communities affected. If new resettlement sites are established, infrastructure and services consistent with local standards will be provided at no cost to the relocated persons.

## **9. REHABILITATION MEASURES**

19. Compensation may be sufficient to allow displaced persons to restore incomes if paid at full replacement cost when replacement assets are available. Often, however, land acquisition and resettlement may require rehabilitation measures for displaced persons or persons who lose income from land acquisition in order to obtain new skills required for resuming production in a new environment, or to pursue new sources of income. The RP must assess the impacts resulting from land acquisition and resettlement of displaced persons, and provide adequate rehabilitation measures to assist those affected to restore their livelihoods. Terms for provision of such measures, including training, extension services, or employment, along with responsibility for providing them, should be specified and detailed in the RP.

## **10. CONSULTATION AND DISCLOSURE**

20. To promote active project engagement and adaptation to changed living circumstances, displaced persons should be provided with opportunities to participate in planning and implementation. At minimum, displaced persons should be consulted on preferences and concerns during the resettlement planning process. All displaced persons are to be informed regarding potential impacts and proposed mitigation measures, including compensation rates. The RP will be disclosed, in a manner and location accessible to displaced persons while in draft, and subsequently disclosed again following finalization.

## **11. IMPLEMENTATION ARRANGEMENTS**

21. The RP reviews organizational arrangements, to ensure that implementation procedures are clear, that responsibility is clearly designated for provision of all forms of assistance, and that adequate coordination among all agencies involved in RP implementation is assured. The RP must include a detailed implementation schedule, linking the project construction timetable to resettlement-related activities. The implementation timetable should establish that compensation (in cash or in kind) should be completed at least one month prior to initiation of civil works, and at least three months before residential structures are demolished.

## **12. COSTS AND BUDGET**

22. Each partial and full resettlement plan will include detailed cost of compensation and other rehabilitation entitlements and relocation of displaced persons, if that be the case, with a breakdown by agricultural land, residential land, business land, houses, businesses and other assets. The cost estimates will make adequate provision for contingencies. The resettlement plans will explicitly establish sources for all funds required, and will ensure that fund flow is compatible with the timetable for payment of compensation and provision of all other assistance.

## **13. GRIEVANCE PROCEDURE**

23. RPs will establish means for displaced persons to bring complaints to the attention of relevant project authorities. Grievance procedures should include reasonable performance standards, e.g., time required to respond to complaints, and should be provided without charge to displaced persons. The RP should also state other avenues available to aggrieved persons if the project-related procedures fail to resolve complaints.

#### **14. RESETTLEMENT MONITORING**

24. In addition to internal project monitoring arrangements, the project owner will ensure that RP implementation will be monitored by a qualified agency independent of project implementing agencies. The RP should establish the scope and frequency of monitoring activities. External monitoring reports will be prepared for simultaneous submission to the project office and the World Bank.