*Unofficial translation*

**Belarus Water Supply and Sanitation Project**

**RP1365**

**Land Acquisition (Withdrawal) and Involuntary Resettlement Policy Framework**

### Introduction

This document constitutes the Land Acquisition (Withdrawal) and Associated Involuntary Resettlement **Policy Framework (LARPF**)(hereinafter referred to as the Framework) for the Belarus Water Supply and Sanitation Project (hereinafter referred to as the Project). The Republic of Belarus has agreed to apply the principles and procedures included in World Bank Operational Policy 4.12, Involuntary Resettlement, if the project is to cause land acquisition (Withdrawal) or other resettlement-related impacts. The Ministry of Housing and Communal services, through the state-owned enterprise “BELKOMTEHINVEST”, and oblast executive committees will be the primary implementing agencies, and as such will be primarily responsible for fulfilling actions required under the LARPF.

At present, it is not possible to determine the extent to which the Project will cause loss of land or other assets, which accordingly makes full resettlement planning impossible until further design considerations are determined. The LARPF establishes principles and procedures to be followed if subsequent stages of project design or implementation are to cause land acquisition (withdrawal) or other involuntary restrictions on access to land or other resources. In such instances, the LARPF requires that a Resettlement Plan (RP) is prepared for World Bank review and approval before initiation of works causing adverse impacts. The RP ensures that any such potential impacts are minimized, and that any persons affected by such impacts are provided ample opportunity, through provision of compensation or other forms of assistance, to restore or improve their incomes and living standards.

1. **Project Description**

The project objective is to improve the quality, efficiency and sustainability of water supply and wastewater treatment services in six participating Oblasts covering about 1.7 million consumers. The objective will be achieved through rehabilitation and reconstruction of water supply and sanitation facilities and networks including adoption of advanced technologies for water treatment. Furthermore, support will be provided to assist with the sustainability of the investments made in the water supply and sanitation sector.

The Water Supply and Sanitation Project is included in the National Water Program *Chistaya Voda* adopted in 2006. The Program will enable Government reforms in the water sector aimed at improvement of the services quality and management efficiency.

The Project consists of three components:

1) Rehabilitation of Waste Supply and Sanitation Systems

2) Support to the Preparation and Sustainability of Investment

3) Project Implementation and Management

At project inception, no land acquisition (withdrawal) or resettlement-related impacts were anticipated in any project works. As project design work advanced, however, it has become evident that site-related adverse impacts on private persons may not be completely avoidable.

Demolition of buildings or other real estate assets or physical relocation of people may be necessary. Permanent land acquisition (withdrawal) may be necessary for construction of pumping or filtering stations, but it is expected to be minimal. It is likely that temporary use of some land areas will be necessary during construction. After pipes are laid underground, any land that has been temporarily occupied will be restored to its original condition. The loss of buildings, crops, or other fixed assetsis also subject to compensation.

Given that all the land in the Republic of Belarus belongs to the state except for land plots, privately owned by citizens and non-state legal entities of the Republic of Belarus, or owned by foreign states and international organizations, impacts are likely to affect only agriculture cooperatives operating on state owned land. If cooperative land is to be taken (withdrawn) permanently, alternative land of similar size and quality of will be offered. Production impacts are expected to be insignificant given that less than 0.1% of available land would be taken. To comply with construction regulations, some small structures built within three meters on each side of the pipeline may need to be removed for safety and access reasons.

If any such adverse impacts occur, they will be minor in scope and scale. Nonetheless, the Republic of Belarus will undertake all necessary actions, consistent with objectives and procedures described in this LARPF, to mitigate any adverse impacts that may occur.

### Policy Objectives and Key Definitions

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

Every reasonable effort will be made to avoid or minimize the need for land acquisition (withdrawal), and to minimize all involuntary resettlement-related adverse impacts. If land acquisition (withdrawal) and associated adverse impacts cannot be avoided, the principle objective of the LARPF 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 real estate assets and otherwise provided with any rehabilitation measures or other forms of assistance necessary to provide them with sufficient opportunity to restore or improve their incomes and living standards.

“Land acquisition (withdrawal)” is the process whereby a person involuntary loses ownership, use of, or access to, land as a result of the project. Land acquisition (withdrawal) 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). Land acquisition (withdrawal) may be permanent or temporary.

“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) land plot acquired (withdrawn) or their right, title, interest in any house, land (including premises, agricultural and grazing land) or any other fixed or movable asset forfeited 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.

"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 replacement cost is defined as follows: For agricultural land, it is the pre-project or pre-displacement, whichever is higher, cadastral 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 cadastral 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 replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in OP 4.12, Para. 6.

“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.

### Key Principles

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

1. 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.
2. 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.
3. 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.
4. If cultivated land is acquired, effort should be made to provide land-for-land replacement.
5. Replacement house plots, sites for relocating businesses, or replacement agricultural land should be of equivalent use value to the land that was lost.
6. 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.
7. Displaced persons are to receive support (direct assistance or allowances) to meet moving expenses or for temporary subsistence until they can resume productive activities.
8. Displaced persons should be consulted during the process of RP preparation, so that their preferences regarding possible resettlement arrangements are solicited and considered; and RPs are publicly disclosed in a manner accessible to displaced persons.
9. The previous level of community services and access to resources will be maintained or improved after resettlement.
10. Responsibility must be clearly established for meeting all costs associated with land acquisition (withdrawal) and resettlement, and for ensuring that sufficient funds are available as they become needed.
11. Clear institutional arrangements must be established to ensure effective and timely implementation of all resettlement and rehabilitation measures.
12. Adequate arrangements for effective monitoring will be made on implementation of all resettlement measures.
13. Methods by which displaced persons can pursue grievances will be established, and information about grievance procedures will be provided to displaced persons.
14. If land is required for temporary project use, compensation will be paid for lost productivity or loss of access, and the project owner is responsible for restoring land to its pre-project condition.

**IV Legal Framework**

Taking of land, whether permanent or temporary, for construction of state facilities (for state needs) is regulated by the current legislation of the Republic of Belarus:

1. Land Code of the Republic of Belarus of July 27, 2008;

2. Edict of the President of the Republic of Belarus No. 667 of December 27, 2007 "On Land Withdrawal and Allocation";

3. Decree of the President of the Republic of Belarus No. 10 of August 6, 2009 "On Creation of Additional Conditions for Investment Activities in the Republic of Belarus";

4. Resolution of the Council of Ministers of the Republic of Belarus No. 462 of March 26, 2008 "On Certain Measures on Implementation of the Edict of the President of the Republic of Belarus No. 667 of December 27, 2007";

1. The Law of the Republic of Belarus "On Potable Water Supply" of June 24, 1999;
2. Edict No. 58 of the President of the Republic of Belarus of February 2, 2009 “**On Some Measures for Protection of Proprietary Rights in Withdrawal of Land Plots for State Needs.**”
3. Edict No. 615 of the President of the Republic of Belarus of October 13, 2006 “**On Valuation Activities in the Republic of Belarus.**”
4. Resolution of the Council of Ministers of the Republic of Belarus No. 562 of May 7, 2007 “On Methods of Valuation of Objects of Civil Rights During Implementation of Certain Types of Transactions and (or) Other Legally Significant Acts”;
5. Resolution of the State Property Committee of the Republic of Belarus No. 67 of December 20, 2007 “On Approval of the Instruction for Valuation of Permanent Structures (Buildings, Facilities), and Enclosed Premises as Real Estate Assets";
6. Edict No. 565 of the President of the Republic of Belarus of November 29, 2005 “On Certain Measures Towards Regulation of Housing Relations.”

The above-listed laws and regulations govern the procedure of land withdrawal and allocation, as well as the authority of local administration and self-government bodies in decisions on land allocation.

The Land Code of the Republic of Belarus provides for reimbursing the losses, caused by withdrawal or temporary occupation of land lots and demolition of real estate assets located therein, to the land users who incurred these losses. In addition to the loss reimbursement, land users may be provided land lots of equal value, subject to local conditions and specifics and the land users’ will. The amount of the losses caused to the land users is determined by organizations in accordance with the list and procedure established by the Council of Ministers of the Republic of Belarus. The losses are to be reimbursed by the persons/entities who receive the withdrawn land or are permitted to carry out construction without land acquisition. The disputes related to reimbursement of losses will be settled in court.

Edict No. 58 of the President of the Republic of Belarus of February 2, 2009 “**On Some Measures for Protection of Proprietary Rights in Withdrawal of Land Plots for State Needs**” specifies the agencies responsible for ensuring the land user’s right to indemnification of damages and the corresponding indemnification options (p. 4.5). At that (p. 5), there is an established procedure for addressing the issues related to provision to the land user, land owner, owner or tenant of a new land lot instead of the withdrawn one. The owner may exercise only one of the rights listed under p. 4 or p. 5. .

In respect of the Bank requirements, the legislation of the Republic of Belarus requires that:

1. The investor should take measures to minimize land allocation and forced resettlement;   
2. Property compensation should match the cost of replacement of the property;

3. The affected persons should be informed in time and consulted about alternatives of compensation (the best options should be found depending on the income sources of the people. Usually, if people live from land, the best option is, providing them with land, at least, equal in quality and area. In absence of a land market the provision of cash funds will not help them acquire land. Crops should also be compensated. People should be helped during the transition period as well.

4. In accordance with the current legislation of the Republic of Belarus, people eligible for compensation are those with title to land. Persons who illegitimately hold land or reside on it are not entitled to claiming a compensation for their cost of illegitimate use of land (Article 72 of the Land Code of the Republic of Belarus).

Many aspects of Belarus Republic practices for land expropriation are broadly consistent with Bank policy requirements. However, Belarus regulations do not require provision of assistance to land users (affected people) who lack full legal title to or right to use the land or other assets that will be lost. In this project, the impact will be only to agricultural cooperatives or other forms of public enterprises for which use of land is regulated. As provided in legal documentation for the project, if there is any inconsistency between the laws and regulations of the Belarus Republic and this policy framework, the domestic law or regulation shall be waived to the extent necessary to achieve RPF requirements.

**V Land Acquisition and Grievance Addressal Processes**

In Belarus construction projects, the land acquisition process normally includes three phases:

1. Obtaining preliminary concurrence for the site selection. In this phase, the lead project agency draws up a site selection act, clears it with other relevant agencies (sanitary, environmental, fire safety, and other concerned agencies), and obtains an approval from the district (city/town) executive committee. This act serves as a basis for project development.
2. Developing a land acquisition plan. In this phase, a resolution on the land acquisition is prepared, the site boundaries are designated, a statement of losses is prepared to be added to the preliminary concurrence files, and a land acquisition act is drawn up (developed by the Belgiprozem Institute)
3. Demarcation of the boundaries of the allocated site. State registration of the land lot formation and of the origin of title thereto. The lead project agency receives a certificate of land-use right. On the basis of this document, and other documents related to obtaining a construction permit, the lead project agency obtains an authorization for construction from the construction supervision agencies.

One of the key principles of land relations, as provided by Article 5 of the Land Code of the Republic of Belarus, is the principle of transparency and consideration of public opinion in land-related decisions, including land acquisition, change of use designation, imposition of restrictions or encumbrances on interests in land, and establishing easements that affect the citizens’ rights and legally protected interests.

Citizens are invited to participate in review of issues concerning their rights and legally protected interests, in relation to land acquisition, by application to local councils or executive committees, by participation in local referenda by participating in the public environmental assessment process, by participating in meetings, as well as through public associations, as prescribed by the legislation (Article 22 of the Land Code of the Republic of Belarus).

Article 66 of the Land Code of the Republic of Belarus states that land withdrawal is conducted by decision of a government body in charge of government regulation and management in the field of land use and protection, according to its authority established by this Code and other regulations, or by a court Decision. If a person with recognized use rights disagrees with a land acquisition decision, this decision may be disputed in accordance with the procedure established by part three of Article 71 of the Land Code. An appeal against a decision on land acquisition suspends its execution until court proceedings are concluded.

In the event that any issues involving land acquisition (withdrawal) processes arise during project implementation, persons may apply to the land planning service in the area of registration of the land parcel, where they will receive all necessary consultations. This provides an opportunity for the affected persons to address issues throughout the construction process.

As the land is within the jurisdiction of local government bodies (village, township, district, city and oblast executive committees), affected persons also can address a complaint to these agencies, which, pursuant to the current legislation of the Republic of Belarus (Law of the Republic of Belarus No. 498 of June 6, 1996 “on Petitions from Citizens, Edict No. 498 of the President of the Republic of Belarus of September 15, 2007 “On Additional Measures of Processing Petitions from Citizens and Legal Entities”), shall review the complaint and provide a substantiated response to the complainant.

**VI Contents of Land Acquisition (Withdrawal) Plans**

Prior to initiation of any civil works causing adverse impacts as defined in this LARPF, the Belarus Republic will prepare and submit one or more Land Acquisition (Withdrawal) Plans for Bank review and acceptance.

As relevant, depending on the scope and scale of impacts involved, these plans cover the following subjects:

1. Census survey of affected persons and inventory of assets.
2. Amount and category of land taken.
3. Percentage of land lost for each affected legal entity or household (as an indicator of possible impact on income).
4. Description of valuation procedures and clear establishment of all necessary compensation rates and procedures. .
5. Consultation with affected persons about acceptable alternatives to compensation or other relevant concerns.
6. Land acquisition (withdrawal) timetable and budget arrangements establishing responsibility for payment of compensation and any other necessary expenditures.
7. Full description of grievance addressal procedures.
8. Resettlement monitoring arrangements, covering timely provision of compensation or alternatives, settlements of filed appeals or claims, and other construction-related problems

If Land Acquisition (Withdrawal) Plans are necessary, the State-Owned Enterprise Belkomtehinvest will provide annual monitoring reports covering all aspects of land acquisition (withdrawal) and resettlement mitigation activities to the Bank .