

THE UNITED REPUBLIC OF TANZANIA

PRESIDENT'S OFFICE

REGIONAL ADMINISTRATION AND LOCAL GOVERNMENT

(PO-RALG)



Tanzania Strategic Cities Project (TSCP)

Resettlement Action Plan Update Report for the ARUSHA Landfill-Buffer Zone

TSCP ADDITIONAL FINANCING PROJECT

Report Prepared by

Beatrice S Mchome

OCTOBER, 2016

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1.0 Introduction and Project Background

The President's Office, Regional Administration and Local Government (PO-RALG) formerly known as Prime Minister's Office, Regional Administration and Local Government (PMO-RALG) is implementing the Tanzania Strategic Cities Project (TSCP). Its main objective is to improve the quality of and access to basic urban services in the seven selected Local Government Authorities (LGAs) of *Mwanza, Tanga, Mbeya* and *Arusha* Cities as well as *Dodoma, Kigoma-Ujiji* and *Mtwara-Mikindani* Municipalities and the Capital Development Authority (CDA).

During the design and preparation of TSCP, the participating LGAs/CDA prioritized infrastructure sub-projects that would substantially enable the project objectives to be achieved. At the project appraisal, it was determined that due to cost estimates being far above the available funds under the credit, only a limited number of the prioritized projects in the list were to be financed under the project and the remaining sub-projects would be considered in future in case additional financing becomes available. Notably, there was no Resettlement Policy Framework (RPF) prepared for the original project.

The office prepared a new credit for the TSCP Additional Financing (TSCP-AF) under the World Bank (through the International Development Association (IDA)) to fund the sub-projects that were not financed and thus not implemented. There are three types of sub-projects being implemented under the Core Urban Infrastructure and Services component of TSCP-AF:

- **Type 1 subprojects** entailing additional works to improve completed infrastructure. This category of infrastructure will include some areas of the completed infrastructure that have been identified where improvements need to be made. Anticipated sub-projects types range from minor finishing works to small scale works on completed roads and drainage infrastructure such as expansion and /or extensions (by a few meters to less than ten kilometres) of access road or storm water discharge drains from completed facilities, addition of road furniture, access/cuts across drains to houses/property, pedestrian walkways, street lighting). Other additional works will entail rehabilitation / construction of parking areas for various vehicle types and associated facilities such as sheds, shelters, storage etc. sports grounds and additional of cells at solid waste sanitary landfills.
- **Type 2 subprojects** which were prepared under TSCP but not implemented
- **Type 3 subprojects** which are new proposals constituting infrastructure important for functionality of existing sub-projects will all be new investments entailing upgrading / rehabilitation of urban roads and drainage, including associated structures; solid waste management infrastructure and transport and local infrastructure.

Some of the investments in the 3 categories of sub-projects Type 1, 2, and 3 triggered involuntary resettlement and related issues through acquisition of land.

1.1 The Arusha City Municipal Council Landfill

The Arusha City landfill that was initially a crude dumping site is located in the Murriet area, Sokoni 1 ward, about 6.5kilometers from the Arusha City Centre. The current total size of the landfill is 12.9 acres that comprises land for construction of all the required facilities. This RAP update covers only the buffer zone for the landfill, the need for the buffer zone was for ensuring safety and environmental consideration of people residing close to the already existing landfill. The major project activities for the Arusha Landfill sub project is development of a landfill site for controlled solid waste disposal; including creation of cells, construction of inner and access roads, storm water drains and leachate discharge facilities and landfill site/guard house.

1.2 Objective of the RAP update

The RAP for the Murriet Landfill buffer zone sub project is updated to ensure that:

- To update the total amount of compensation that has changed as a result of additional PAPs as well as to accommodate various grievances as some PAPs were not satisfied with the amount of their valuated properties for compensation and after review some of their compensation rates were increased and properties that were left out included in the compensation
- Consult PAPs that have pending grievances
- Disclose the updated RAP study report.

2.0 Methodology

Various methods were used in preparation of this RAP update report that include; Literature review, consultations and interviews, and field visits formed the main methodology for this RAP update work.

Literature review: In conducting the literature review, the following documents were read and analyzed in order to understand the land acquisition process and to identify any gaps in terms of coverage and compliance. The documents include the following:

- The TSCP-AF RPF -2014
- Land Act No. 4 of 1999
- Land Regulations (Assessment of the Value of Land for Compensation; Compensation Claims; and Scheme of Regularization) of 2001
- World Bank Operational Policies OP 4.12 and
- Project design drawings and concepts
- The Resettlement Action Plan Report for the Arusha Landfill
- Valuation Report for Arusha –Muriet landfill

Consultation, field visits and interviews: This was a key element of the RAP update exercise in which affected persons were consulted to determine their current status, opinion and views regarding the resettlement exercise. Consultation included meetings with Arusha City Council Officials (City Director, Valuers, Engineers, Lawyer and Community Development Officials). The City Mayor who is also the Ward Councilor of Murriet was also consulted as well as other local leaders in the area. Others consulted include the affected PAPs, local leaders and the Grievance Redress Committee.

During the consultation stakeholders were informed about the project and its likely benefits and associated impacts well as the objective of the RAP update- of which is mainly to assess the status of the land acquisition process; Grievances if any as well as updating any data associated with PAPs.

Stakeholders particularly PAPs also had an opportunity to provide their views and concerns regarding the land acquisition process, concerns/query that could be responded on site where provided with responses from the team conducting the RAP update.

3.0 The Findings

This section provides finding from the RAP Audit for the Arusha City Council Murriet land fill, the findings are from the various methods used in preparing this RAP update report that mainly include stakeholders consultation, interviews as well as literature review.

Background and History of the Murriet Landfill land issues:

Under the parent TSCP, a RAP (attached) was prepared and disclosed in 2010 for all the sub projects in Arusha, including the Murriet dump site (which was upgraded to a landfill under the project) and its 100 meters buffer zone. According to this RAP, there were 42 PAPs in the buffer zone with 56 residential structures, 8 commercial and 18 incomplete structures. All these 42 PAPs were to be compensated for their assets, including the structures they had (as noted above, 56 residential, 8 commercial, and 18 unfinished) but not for land. In the same RAP (pg 4) it was also noted:

“In a village meeting held on 22nd January 2008 at the MurrietSokoni 1 Village office, the consensus was that those individuals owning housing structures within the set aside 100m buffer zone would be compensated for the buildings only and that they would give their land rights for the dumpsite. Apparently the Murriet Dumpsite was first agreed as a project in 1994 (see Minutes of meeting held on 15th June 1994 attached). Villagers were asked to contribute land upon which a modern dump site would be developed. 10 acres of land was set aside for this purpose but in subsequent years this land was invaded and occupied by individuals. On 15th June 2001, 62 individuals who were found to have built on the land were each compensated Tshs 80,000 to enable them remove the structures. Information obtained from these sources was used to develop a resettlement eligibility matrix. It was then possible to reflect on the national laws and practices as well as World Bank OP 4.12 to determine the required resettlement levels in the project area.”

In August 2011 there was a RAP implementation verification report that talks about the 42 PAPs and the fact that they have refused to take their compensation. It also indicates that the buffer zone was reduced to minimize impact. Here is the main para under “Key Outstanding Compensation Issues” regarding this issue:

“From this verification exercise, the only key outstanding issue is the compensation of 42 PAPs identified in the original RAP for Murriet landfill site in Arusha Municipal Council, which they have deferred, because they are waiting for 201 other people who claim to be PAPs and so eligible for compensation. Deliberations on this are well documented in the Aide Memoire of the last implementation support mission for TSCP in May 2011. The Council is alternatively set to relocate the buffer zone further into the existing dump site, thereby reducing the effective size of the proposed Landfill area from the existing 29.11 Hectares to 14.25 Hectares. That new spatial alternative is a technical way of settling with the claimants, and it is envisaged that they will withdraw the Civil Case filed (Land Case No. 4 of 2008) against Council in the Land Arbitration Court in Arusha, which led to the suspension of the payment of compensation to 42 eligible PAPs. The option was conveyed to the Design Consultant for technical revision and revised designs have been completed, and the Council is now liaising with PMO-RALG for submission to the World Bank for consideration. The Council reported that it had also received approval from the National Environment Management Council (NEMC) for the revised designs.

There appears to be confusion over the ownership of the land outside the current fenced landfill site required as a buffer zone for the proposed new dumping facility. Community leaders pointed out that, apart from 42 PAPs with tangible properties in the area, the consultant who prepared the original RAP also listed the names of all owners of bare land in the proposed 100 meter-buffer zone, but this could not be confirmed by the Council. However, behind this saga, it is believed that political interests are also at play for encouraging claimants to construct new structures in the proposed buffer zone. About 5 new houses have recently been constructed in the disputed buffer zone.”

The third consultation was with the local leadership at City, District and Ward level. This was necessitated by the need to clarify on matters that had clouded the assessment of compensation for the Murriet Dump Site. The project desire to set aside a 100m buffer corridor between the dump site and the immediate neighbourhood had been realized sometime back by the Municipal Council which had acquired the area. Unfortunately, since the Municipal Government did not take prompt possession of the acquired land, the land was subsequently squatted upon. A number of new structures have been erected on the land and following consultations and legal advice it had been decided that the structures be removed and their owner be compensated for the loss of the assets but not the land. These facts were not made clear to the valuation survey teams at the beginning of the exercise. It therefore became important that subsequent joint meetings with the

affected persons and the local leadership as well as the Project Consultants be held during April 2010.

Audit Report of July 2016

The last round of safeguard due diligence and RAP audit for the Arusha Muriet Landfill conducted in July 2016 found that since 2013, there have been 3 court cases against the Arusha CC, 2 have been dismissed and 1 is ongoing. The main issue raised by PAPs is that their land was acquired without compensation. While the PAPs claim to own the land, the Arusha CC denies this and claims that the land is Government property. There is also further dispute on the number of PAPs - according to the Arusha CC, only 42 PAPs and an additional 2 PAPs have assets on the affected land (almost certainly the one also covered under the 2010 RAP); and they have been compensated for the lost structure and not land; whereas the current court case includes 115 PAPs who claim to have lost land (it should be noted that the 42 who have been compensated for their assets and not land are included in this 115, meaning 73 PAPs only claim to have lost land whereas 42 to have lost assets as well as land, though compensated already for their assets).

The information under the Background section taken from various sources indicates that there were already such land issues even going back to the 90s. Therefore it is not clear if land for the landfill was at one point voluntarily promised by the residents and whether it was later withdrawn; or the land indeed belonged to the Arusha CC.

Grievance Redress Mechanism

The Resettlement Action Plan for TSCP projects in the Arusha City provided a simplified means of resolving grievances that enabled timely settlement of grievances to the PAPs. The mechanism enabled the two PAPs to file their complaint that was later handled. However for the PAPs claims that have led to court cases the GRC at all levels conducted a series of meetings with the communities but the PAPs decision has been to file for a Court case.

Social Economic Characteristics of PAPs

It is clearly evident that currently, there is a court case opened by PAPs for the sub-project. The main issue raised by PAPs is that **their land was acquired without any compensation**. While the PAPs claim to own the land, the Arusha City councils denies this and claim that the land is

Government property. This is evident with the valuation report which clearly indicates that none of the PAPs received compensation for loss of land.

According to the Arusha City Council, only **42 PAPs and additional 2 PAPs** who had assets on the affected land, these have been compensated while according to PAPs, there is a total of 115 PAPs who have lost land and various properties.

Therefore, RAP update could not have detailed consultation with the PAPs so as to allow the court process to continue in order to allow affected persons to seek redress in the court of law. Because of the legal requirements when a case is opened in the court of law it cannot be discussed outside the court until it is resolved.

PAPs affected Properties

The Murriet landfill sub project is located about 6.5kilometers from the centre of the Arusha city, the general characteristic of the current land use is mainly a un surveyed residential area with locals contracting houses while some have small plots used as farms for subsistence use as well as animal husbandry. Therefore according to the current valuation report, the most affected properties was residential structures as summarized in the table below:

	Type of affected property	No of PAPs
1	Residential structures	56
2	Commercial structures	8
	Incomplete structures	18
3	Permanent crops	26
4	Graves	7
5	Additional PAPs structures	2

Note: other PAPs own more than one of the affected properties

Source: Valuation report

Update of the Ongoing Court Case

On the 12th August 2016, the court case number three filed by the PAPs of the Murriet landfill buffer zone was again dismissed by the judge at the Arusha on technical grounds. It is however not clear if the PAPs intend to again re fail the case; Once this is established, the RAP report will be updated accordingly.

Additional Budget for RAP Implementation

As a result of additional PAPs and adjustments of the PAPs compensation payments as a result of PAPs filing complaints following the grievance procedure, a total of TZS 20,234,108.00 was compensated by the City Council. The payment includes compensation for structures and disturbance allowance.

The compensation amount for the Original RAP was **252,521,440** million Tanzanian Shillings, with the updated RAP the current figure is **280,838,350.00** million Tanzanian Shillings as indicated in the table below.

The total compensation for the affected properties and other associated allowances is as follows:

	Type of affected property and allowances	Amount (Tshs)
1	Land	-
2	Structures	210,687,350.00
3	Permanent crops	3,532,575.00
4	Graves	2,100,000.00
5	Disturbance allowance	14,138,515.00
6	Loss of Business allowance	3,420,000.00
7	Loss of accommodation	13,572,000.00
8	Transport allowance	5,250,000.00
9	Total cost from grievances	20,234,108.00
10	Additional cost from 2 PAPs	8,082,802.00
	Total	280,838,350.00

Note: None of the PAPs received compensation for loss of land

Therefore the CURRENT TOTAL COMPENSATION FOR THE MURRIET LAND FILL BUFFER ZONE STANDS AT 280,838,350.00

4.0 Conclusions

This RAP update makes the following general conclusions:

Court Case filed by PAPs: The RAP update could not have detailed consultation with the PAPs so as to allow the court process to continue in order to allow affected persons to seek redress in the court of law. Because of the legal requirements when a case is opened in the court of law it cannot be discussed outside the court until it is resolved.

Therefore once the court has ruled the case, the following will be undertaken

- Update of the actual number of PAPs
- Finalize all other pending grievance
- Update compensation budget
- Consult PAPs and prepare their social economic baseline

The time line for such implementation will be determined by when the Court case is finalized.

NOTE: Though the court case has been dismissed, it is still not clear if the PAPs are satisfied considering that the dismissal is on technical ground, this RAP date still concludes that “some time” needs to be given before PAPs are approached to finalise the RAP.