

Resettlement Planning Document

Resettlement Framework
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PHI: Road Sector Institutional Development and Investment Program

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TABLE OF CONTENTS

| | | |
|-------|--|----|
| I. | INTRODUCTION | 1 |
| A. | PROJECT BACKGROUND | 1 |
| II. | LEGAL AND POLICY FRAMEWORK | 1 |
| A. | RELEVANT LAWS AND REGULATIONS IN THE PHILIPPINES | 1 |
| B. | ADB POLICIES ON INVOLUNTARY RESETTLEMENT | 2 |
| C. | ADB POLICIES ON INDIGENOUS PEOPLES & OTHER RELEVANT POLICIES | 3 |
| D. | GAPS OF PHILIPPINE LAWS AND COMPARISON WITH ADB POLICIES | 4 |
| III. | PROJECT OBJECTIVES AND POLICIES | 4 |
| A. | OBJECTIVES | 4 |
| B. | PRINCIPLES | 4 |
| C. | CUT-OFF DATE OF ELIGIBILITY | 7 |
| IV. | PROJECT ENTITLEMENTS | 7 |
| V. | RELOCATION AND REHABILITATION STRATEGY | 9 |
| VI. | SCREENING AND RP PREPARATION | 10 |
| A. | Screening | 10 |
| A. | RP PREPARATION | 10 |
| VII. | VULNERABILITY, GENDER, AND ETHNICITY ISSUES | 12 |
| VIII. | CONSULTATION AND DISCLOSURE | 12 |
| IX. | GRIEVANCE REDRESS | 12 |
| X. | IMPLEMENTATION ARRANGEMENTS | 13 |
| A. | EXECUTING AND IMPLEMENTING AGENCIES | 13 |
| B. | MOBILIZATION OF PROJECT CONSULTANTS | 14 |
| C. | INDEPENDENT LAND APPRAISER | 14 |
| XI. | MONITORING AND EVALUATION | 15 |
| A. | INTERNAL MONITORING | 15 |
| B. | EXTERNAL MONITORING AND EVALUATION | 15 |
| XII. | RP BUDGET AND IMPLEMENTATION | 16 |

ABBREVIATIONS

| | |
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| ADB | Asian Development Bank |
| AH | affected household |
| AP | affected person |
| DEO | District Engineering Office |
| DPWH | Department of Public Works and Highways |
| DMS | detailed measurement survey |
| EA | executing agency |
| ESSO | Environmental and Social Services Office |
| ILA | independent land appraiser |
| IROW | Infrastructure Right of Way |
| LGU | local government unit |
| NHA | National Housing Authority |
| PMO | Project Management Office |
| ROW | Right-of-Way |
| RF | resettlement framework |
| RP | resettlement plan |
| SES | socio-economic survey |

Definition of Terms

| | |
|-----------------------------|---|
| Affected person (AP) | <p>- means any person or persons, household, firm, private or public institution that, on account of changes resulting from the Project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement.</p> <p>In the case of a <u>household</u>, it includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components.</p> |
| Compensation | <p>- means payment in cash or in kind (e.g. land-for-land) to replace losses of land, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market value, plus any transaction costs such as administrative charges, taxes, registration and titling costs. In the absence of functions markets, a compensation structure is required that enables affected people to restore their livelihoods to level at least equivalent to those maintained at the time of dispossession, displacement, or restricted access.</p> |
| Cut-off date | <p>- This refers to the date prior to which the occupation or use of the project area makes residents/users of the same eligible to be categorized as AP, regardless of tenure status. In this Project, the cut-off date will be the start or day 1 of the census of APs and the detailed measurement survey (DMS) of APs' land and/or non-land assets.</p> |
| Detailed Measurement Survey | <p>- This is the process where all fixed assets (i.e., land, structures, crops and trees, other facilities) and their owners/users are identified, fixed assets are measured, and replacement cost calculated following detailed design and parcellary survey. It also includes assessment of severity of impacts on income/source of livelihood due to loss of these fixed assets.</p> |
| Entitlement | <p>- means a range of measures comprising compensation in cash or in kind, income restoration support, transfer assistance, income substitution and relocation support which are due to affected people, depending on the nature of their losses, to restore their economic and social base.</p> |
| Involuntary Resettlement | <p>- addresses social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) change in the use of land, or (iii) restrictions imposed on land.</p> |
| Land acquisition | <p>- means the process whereby an AP is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation equivalent to the replacement costs of affected assets.</p> |
| Professional squatters | <p>As defined by Republic Act 7279, applies to persons who have previously been awarded homelots or housing units by the government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area to non bona fide occupants and to intruders of lands reserved for socialized housing. The term also refers to individuals or groups who occupy lands without the expressed consent of the landowner and who have sufficient income for legitimate housing. This definition excludes individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.</p> |

- Rehabilitation - means assistance provided in cash or in kind to project affected persons due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
- Relocation - means the physical relocation of an affected household from her/his pre-project place of residence.
- Severely affected persons - Those who experience significant/major impacts due to (i) lose 10% or more of their total productive assets (income generating) and/or (ii) being displaced from housing due to the Project.
- Vulnerable groups - are distinct groups of people who might suffer disproportionately or face the risk of being marginalized by the effects of resettlement and specifically include: (i) households headed by women, elderly, or disabled, (ii) households falling under the generally accepted indicator for poverty, (iii) landless households, and (iv) ethnic minorities.

I. INTRODUCTION

A. PROJECT BACKGROUND

1. The Project includes periodic maintenance and improvement of about 1,900 km national roads throughout the Philippines, improved governance and strengthened institutional capacity in the transport sector, and preparation of detailed engineering design for about 1,680 km of national roads to be maintained or improved under phases 2 and 3. The outputs for phase 1 include periodic maintenance of about 355 km of 9 national roads; improved governance and strengthened institutional capacity; and preparation of detailed engineering design of roads to be improved under phase 2. Periodic maintenance will be carried out on about 355 km of 9 national roads. These roads are concentrated in three areas: the west coast of central Luzon, the southwestern Visayas, and the northern coast of Mindanao.

2. Phase 1 of the project will have no resettlement impact as it only involves overlays of existing pavement (i.e., asset preservation). This Resettlement Framework has been prepared for Phases 2 and 3 subprojects which set out the resettlement screening, policy, and planning procedures that the executing and implementing agencies will follow when preparing resettlement plans.

II. LEGAL AND POLICY FRAMEWORK

A. RELEVANT LAWS AND REGULATIONS IN THE PHILIPPINES

3. The key legal and administrative instruments currently in force in the Philippines that are most relevant to involuntary resettlement, indigenous peoples, and gender are shown below:

- a. DPWH Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples Policy (LARRIP) (March 2007);
- b. Civil Code, Chapter 3, Prescription of Actions, Article 1141 specifies the prescription of thirty (30) years for real actions over immovable objects. All lands which shall have been used by the public as a highway, airport, etc. for a period of thirty (30) years or more, shall be a highway, airport, etc. with the same force and effect as if it had been duly laid out and recorded, as a highway in the cadastral map. Reference is made to the Supreme Court decision on the case of Republic of the Philippines/Mactan-Cebu International Airport Authority vs. Rosa Baltazar-Ramirez, G.R. 148103, July 27, 2006 of which the Court cited Art. 1141 of Civil Code on the prescription of immovable objects such in the case the airport. The claim after thirty-four (34) years, which is beyond the prescription period of thirty (30) years.
- c. DPWH Department Order No. 5, and 327 (series of 2003) requires the preparation of a resettlement action plan in all its projects.

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- d. DPWH Department Order No. 187 (series of 2002) requires all offices to include the cost of ROW acquisition, squatter relocation, and the development of a resettlement site in the total construction cost of any proposed project.
 - e. Republic Act 8974 (2000) which facilitates the acquisition of ROW, site or location for National Government Infrastructure Projects and for other Purposes. Implementing Rules and Regulations of RA8974 was also issued. This mandates the use of replacement value of land and structures (without depreciation).
 - f. Republic Act 7279 (1992) "Urban Development and Housing Act" mandates the provision of a resettlement site, basic services and safeguards for the homeless and underprivileged citizens.
 - g. Republic Act 7160 (1991) "Local Government Code" which allows the local government units to exercise the power of eminent domain for public use,

4. On indigenous peoples, the 2007 Indigenous Peoples' Rights Act (IPRA), "consent" is required from affected indigenous peoples before any land taking and/or relocation from their ancestral domain by the Project. The IPRA, together with the Free and Prior Informed Consent (FPIC) Guidelines of 2006, will serve as the guiding framework on addressing IP issues.

5. The Harmonized Gender and Development Guidelines (2007) aims to provide common set of analytical concepts and tools for integrating gender concerns into development programs and projects; and help achieve gender equity in, and empower women through, projects and programs.

B. ADB POLICIES ON INVOLUNTARY RESETTLEMENT

6. ADB has a set of stringent rules on involuntary resettlement that are aimed at helping ensure that the development initiatives it supports contribute to the reduction of poverty, not otherwise. In other words, projects assisted by the Bank should provide an opportunity for the marginal sectors of the population, especially the affected people, to improve their living standards. Following are the key principles in the Bank's policy on involuntary resettlement.

- a. Involuntary resettlement should be avoided where feasible.
- b. Where population displacement is unavoidable, it should be minimized by exploring all viable project options.
- c. All compensation is based on the principle of replacement cost.
- d. Each involuntary resettlement is conceived and executed as part of a development project or program
- e. Affected people should be fully informed and consulted on compensation and/or resettlement options.
- f. Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- g. The absence of a formal legal title to land is not a bar to ADB policy entitlements.
- h. Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an

eligibility cut-off date, preferably at the project identification stage, to prevent a subsequent influx of encroachers of others who wish to take advantage of such benefits.

- i. Particular attention must be paid to the needs of the poorest affected households and other vulnerable groups that may be at high risk of impoverishment. This may include affected households without legal title to land or other assets, households headed by women, the elderly or disabled, and ethnic minority peoples. Appropriate assistance must be provided to help them improve their socio-economic status.
- j. The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.
- k. Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and ensure compliance with involuntary resettlement procedures during implementation.

C. ADB POLICIES ON INDIGENOUS PEOPLES & OTHER RELEVANT POLICIES

7. ADB's **Policy on Indigenous Peoples** defines "indigenous peoples" as "those with a social or cultural identity distinct from the dominant or mainstream society". "Indigenous peoples" is a generic concept that includes cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, natives, and aboriginals. The Policy recognizes the potential vulnerability of ethnic minorities in the development process; that ethnic minorities must be afforded opportunities to participate in and benefit from development equally with other segments of society; and, have a role and be able to participate in the design of development interventions that affect them.

8. The policy on indigenous peoples is "designed to promote the participation of indigenous peoples in project preparation and implementation, to ensure that they benefit from development interventions that would affect them, and to provide effective safeguards against any adverse impacts". In any ADB interventions, the approaches to be used are as follows: (i) to achieve the greatest possible reduction of poverty among the affected indigenous peoples; (ii) when negative impacts are unavoidable, they should be minimized as much as possible, and appropriate measures will be taken to mitigate the adverse impacts; (iii) in enhancing the benefits of a development intervention for indigenous peoples or reducing negative impacts of a development intervention, clear mechanisms for accurate and objective analysis of their circumstances will be prepared; and (iv) the mechanisms for any intervention must be transparent and should ensure accountability.

9. ADB's **Policy on Gender and Development** adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women participate and that their needs are explicitly addressed in the decision-making process.

10. Other policies of the ADB that have bearing on resettlement planning and implementation are the (i) Public Communications Policy (March 2005), and (ii) Accountability Mechanism (2003).

D. GAPS OF PHILIPPINE LAWS AND COMPARISON WITH ADB POLICIES

11. Land Donation. Sections 3 and 4, IRR of RA 8974(s. 2000) prescribes donation as the first approach to the acquisition of private lands whereas the policy and requirements of ADB on land donation will only apply following appropriate safeguards: (i) full consultation with landowners and non-titled affected people; (ii) ensuring that voluntary donation do not severely affect the living standards of affected people; (iii) any voluntary donation will be confirmed through verbal and written record by affected people and verified by an independent third party; and (iv) having adequate grievance redress mechanisms in place. Other gaps and how to address these gaps are shown in Table 2.

Table 2: Comparison and Reconciliation of Applicable Philippine Laws and ADB's Policy

| Key Issues | Philippine Laws/ Policies | ADB Policy | Project Policy |
|--|---|---|---|
| 1. Non-titled land users, caretakers/ unregistered tenants of land, sub-leased space not covered by contracts between and among the government and the owners of commercial spaces, and informal settlers of government property | <p>Philippine Constitution, Article XIII, Section 10: Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with the law and in a just humane manner.</p> <p>Focus is given on urban poor as per UDHA. Limited assistance or protection is given to the rural poor unless they are tenured agricultural tenants.</p> <p>The law is not very clear on assistance to small enterprises, shop renters</p> | <p>Non- titled APs are not entitled to compensation of land but APs including renters, informal settlers/ squatters are entitled to payment for non-land assets at replacement cost and assistance in cash or in-kind to restore their pre-project living conditions.</p> <p>If they are poor and vulnerable, appropriate assistance must be provided to help them improve their socio-economic status.</p> | <p>Non- titled APs are not entitled to compensation of land but APs including renters, informal settlers/ squatters are entitled to payment for non-land assets at replacement cost and assistance in cash or in-kind to restore their pre-project living conditions.</p> <p>If they are poor and vulnerable, appropriate assistance must be provided to help them improve their socio-economic status.</p> |
| 2. Compensation of land, commercial stalls, fixed or movable selling stands, residential and selling space with attached residential, cash crops and trees. | <p>R.A. No. 8974, Sections 8, 9, 10 and 13 provides compensation of affected properties based on fair market value. However, land donation is the first approach to the acquisition of private land.</p> <p>Executive Order 1035 (1985) provides for the procedures and guidelines for the expeditious acquisition of properties and rights by the Philippine Government for infrastructure and other government projects.</p> | <p>All compensation is based on the principle of replacement cost.</p> | <p>All compensation will be based on the principle of replacement cost.</p> |
| 3. Provision of rehabilitation assistance to displaced vendors/small or unregistered shop owners | <p>Income restoration/ rehabilitation assistance is available only to resettled and beneficiaries of socialized housing.</p> | <p>All eligible APs including tenants, employees of affected businesses who stand to lose their jobs, incomes or livelihoods because of project impacts</p> | <p>Rehabilitation assistance will be provided to those who will be left with agricultural/ productive land that is no longer viable; lose 10% or more</p> |

| Key Issues | Philippine Laws/ Policies | ADB Policy | Project Policy |
|-------------------|---|---|---|
| Vulnerable groups | <p>There is no policy for displaced vendors and employees of micro/small enterprises that have to shut down their business / to be relocated.</p> <p>The Philippines has law protecting women, elderly and children, persons with disabilities, and indigenous peoples. However, the issue is on proper implementation and attention given to these groups based on resettlement impacts.</p> | <p>are entitled to receive one-time financial assistance to cover losses of the move, as well as economic and social rehabilitation.</p> <p>Measures to include the status of the poor and vulnerable should focus on strategies to avoid future impoverishment and create new opportunities.</p> | <p>of their income generating assets and or physically displaced.</p> <p>Special attention to be provided to create new opportunities to improve income status of the poor and vulnerable people. The type of assistance will depend on the severity of impacts and vulnerability of affected households.</p> |

III. PROJECT OBJECTIVES AND POLICIES

A. OBJECTIVES

13. This section discusses the principles and the entitlements of the APs based on the potential impacts or losses. Where there are gaps between the Philippines legal framework for resettlement and ADB's *Policy on Involuntary Resettlement*, a mutually agreeable strategy or approaches will then be formulated to meet the overall project objectives of improving, if not restoring, the pre-project socio-economic conditions of the project affected people.

B. PRINCIPLES

14. The core principle of the Project Policy is anchored on the philosophy that Government development projects must serve the public good and that, in the design and implementation of such projects, all efforts will be exerted to help ensure that APs are not worse off. Moreover, the Project should provide an opportunity for the local population to derive benefits from it. Towards this end, the Project will follow the following principles:

- a. Acquisition of land and other assets, and resettlement of people will be avoided or minimized as much as possible by identifying possible alternative project designs and appropriate social, economic, operation and engineering solutions that have the least impact on populations in the project area.
- b. No land acquisition or site clearing will be done for the right-of-way (ROW) of a subproject until and after the RP has been approved both by the Department of Public Works and Highways and ADB, and until and after all entitlements due to the APs as provided for under the approved RP have been given.
- c. Affected people residing, working, doing business and/or cultivating land within the project impacted areas as of the date of the latest census and detailed measurement survey¹, irrespective of tenure status, are entitled to compensation and/or assistance

¹ Detailed measurement survey (DMS) is carried out following detailed design and parcellary survey.

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- sufficient to improve or at least maintain their pre-project living standards, income-earning capacity and production levels.
- d. Lack of legal rights to the assets lost or adversely affected tenure status and social or economic status will not bar the AP from entitlements to such compensation, assistance and rehabilitation measures.
 - e. APs, including host communities, will be fully consulted and given the opportunity to participate in matters that will have adverse impacts on their lives during the design, RP preparation and implementation. This will include consultation with host communities.
 - f. Temporarily affected land and communal/public infrastructure will be restored to pre-project conditions.
 - g. Shop owners and operators will be allowed to construct a replacement of their stalls before demolishing the existing ones in order to minimize, if not avoid, income loss arising from the disruption of business operation.
 - h. There shall be effective mechanisms for hearing and resolving grievances during implementation of the land acquisition and resettlement plans.
 - i. Existing cultural and religious practices shall be respected and, to the maximum extent possible, preserved.
 - j. Special measures will be incorporated in the RPs to protect socially and economically vulnerable groups at high risk of impoverishment, such as indigenous peoples, families headed by women, disabled-headed households, landless households, children and elderly people without support structures, and people living in poverty. Appropriate assistance will be provided to help them improve their socio-economic status.
 - k. Adequate resources will be identified and committed during land acquisition and resettlement planning. This includes adequate budgetary support fully committed and made available to cover the costs of land acquisition, compensation, relocation and rehabilitation within the agreed implementation period for the Project; and, adequate human resources for supervision, liaison and monitoring of land acquisition, resettlement and rehabilitation activities.
 - l. Appropriate reporting, monitoring and evaluation mechanisms will be identified and set in place as part of the resettlement management system.
 - m. The RPs or their summaries will be translated into local languages and placed in the village offices for the reference of APs as well as other interested groups.
 - n. DPWH will not issue a "notice to proceed" to commence in any subproject road or specific sections of the subproject road unless DPWH has satisfactorily completed payment of compensation and allowances to the APs, relocating APs have shifted to their new locations for that subproject road or specific sections of the subproject road. Livelihood restoration measures must also be in place but not necessarily completed, as these may be ongoing activities².

² The subproject road, as agreed between ADB and DPWH will be divided into sections to allow commencement of construction activities on specific sections where there will be no land acquisition and resettlement impacts.

C. CUT-OFF DATE OF ELIGIBILITY

15. The cut-off-date of eligibility refers to the date prior to which the occupation or use of the project area (i.e., area within the COI) makes residents/users of the same eligible to be categorized as AP and be eligible to Project entitlements. In this Project, the cut-off date will be the starting date of the census of APs and the detailed measurement survey (DMS) of APs' land and/or non-land assets. The establishment of the eligibility cut-off date is intended to prevent the influx of ineligible non-residents who might take advantage of Project entitlements.

IV. PROJECT ENTITLEMENTS

16. Resettlement impacts will be avoided as much as possible. The entitlements below are based on potential resettlement impacts and corresponding compensation and/or assistance to APs, regardless of tenure status. It should be noted that actual impacts and corresponding entitlements can only be determined following detailed design and parcellary survey and in consultation with APs and concerned groups. The entitlements below will be enhanced/strengthened, as necessary, and will be presented in detail in the RP to ensure that losses are restored, if not improved. Any enhancement/strengthening in the entitlements will be reflected in the RP for ADB review and approval.

Table 1: Entitlement Matrix

| Type of Impacts | Application | Entitled Person | Compensation/Entitlements |
|--|---|--|--|
| Land classified as agricultural, aquaculture, residential, commercial) | Marginal impacts wherein remaining portion of the land is still viable for continued use. Severe impacts wherein remaining portion of the land is no longer viable for continued use | AP with TCT or tax declaration (Tax declaration can be legalized to full title) or who are covered by customary law. | <ul style="list-style-type: none"> • If marginal impacts, compensation equivalent to current market value of land as determined by an independent land appraiser. • If severe impacts on land, compensation equivalent to current market value as determined by qualified independent land appraiser OR if feasible, "land for land", will be provided in terms of new parcel of land of equivalent market value, at a location acceptable under zoning laws, or a plot of equivalent value, whichever is larger, in a nearby resettlement area with adequate physical and social infrastructure. When the affected holding has a higher value than the relocation plot, cash compensation will cover the difference in value. |
| | | Holders of Free Patent, homestead patents and CLOAs under CA 141 or the Public Lands Act | <ul style="list-style-type: none"> • No compensation for land if "first taking" but compensation will be paid at replacement cost for improvements (structures, crops, trees, facilities). If the land is already subject to "second taking", compensation for land equivalent to current market value as determined by an independent land appraiser. |
| | | Holders of CLOA granted under Comprehensive Agrarian Reform Act | <ul style="list-style-type: none"> • Compensation for land pursuant to the provisions of RA 8974 which is at zonal value plus top-up allowance to cover the difference between current market value and zonal value. The current market value of land will be determined by an independent land appraiser. |

| Type of Impacts | Application | Entitled Person | Compensation/Entitlements |
|---|---|---|--|
| | | AP with no TCT or other acceptable proof of ownership | <ul style="list-style-type: none"> No compensation for land but compensation at replacement cost for improvements (structures, crops, trees, facilities) only. |
| Houses and shops including improvements Secondary structures: fence, deepwell, | For partially affected and totally affected households | AP regardless of tenure status | <ul style="list-style-type: none"> For totally affected or remaining structures no longer viable, compensation in cash equivalent to current cost of materials and labor, as determined by the concerned appraisal committee, with no deduction for salvaged building materials. For partially affected structures (main and secondary structures and still viable for continued use, compensation in cash at for affected portion of the structure, including cost of restoring remaining structure as determined by the concerned appraisal committee with no deduction for salvaged building materials. For other improvements affected such as water, phone and power, compensation in cash to cover the cost of reconnecting the facilities. |
| | | Professional squatters | <ul style="list-style-type: none"> No compensation for structures but they are allowed to collect their salvageable materials. |
| Crops, Trees and Perennials | | Owners regardless of tenure status | <ul style="list-style-type: none"> Cash compensation as prescribed by concerned LGUs and DENR. |
| Severe impacts on agricultural land | Wherein remaining portion of land is no longer economically viable or it will no longer function as intended or 20% or more of total land area is affected. | AP regardless of tenure status | <ul style="list-style-type: none"> Disturbance compensation equivalent to five times the average of the gross harvest for the past 3 years but not less than PhP15,000. |
| Relocating households (house and shopowners) | Households rebuilding house/shop on residual land | AP regardless of tenure status. | <ul style="list-style-type: none"> Inconvenience allowance in the amount of PhP10,000 for relocating households. Two months rental subsidy during reconstruction of house/shop. The amount will be equivalent to the prevailing monthly rental for a similar structure of equal type and dimension to the house/shop lost. |
| Relocating households (house and shopowners) | Households returning to their place of origin or to government relocation sites or other sites they own/purchased. | AP regardless of tenure status | <ul style="list-style-type: none"> Inconvenience allowance in the amount of PhP10,000 for relocating households Transportation allowance. The amount to be determined during RP preparation. Two months rental subsidy during reconstruction of house/shop. The amount will be equivalent to the prevailing monthly rental for a similar structure of equal type and dimension to the house/shop lost. |
| Renters losing leased structures | Renters who will be required to look for new structures to lease. | Renters including shanty dwellers | <ul style="list-style-type: none"> Transportation allowance in cash or kind. The amount to be determined during RP preparation Two months rent allowance for a similar structure of equal type and dimension. |
| Loss of livelihood (i.e., means of livelihood is no longer viable | | Severely affected households (from loss of land or business). | <ul style="list-style-type: none"> Rehabilitation assistance in the form of skills training equivalent to the amount of ₱15, 000.00, per family, if the present means of livelihood is no longer viable and the AF will have to engage in a new income |

| Type of Impacts | Application | Entitled Person | Compensation/Entitlements |
|---|-------------|---|--|
| and the AP have to engage in new activity. | | | activity. |
| Temporary closure of Shops/Business due to relocation | | Unregistered shop owners and renters | <ul style="list-style-type: none"> Income rehabilitation allowance not to exceed PhP15,000 to cover for their computed income loss during the period that their business is interrupted. The amount will be based on the minimum wage in the project-affected area multiplied by the number of days of business disruption. |
| | | Registered shop owners and renters | <ul style="list-style-type: none"> Income rehabilitation allowance not to exceed PhP15,000 or to be based on the latest copy of owner's or renter's tax record for the period corresponding to the stoppage of business activities. |
| Public Structures | | | <ul style="list-style-type: none"> Compensation in cash at replacement cost to respective barangay governments. |
| Temporary Impacts on Land during construction, use of detour or contractor's working space | | AP with TCT or tax declaration (Tax declaration can be legalized to full title) or who are covered by customary law. Holders of Free Patent, homestead patents and CLOAs under CA 141 or the Public Lands Act Holders of CLOA granted under Comprehensive Agrarian Reform Act | <ul style="list-style-type: none"> Payment of rental in cash for land outside the ROW which will be no less than the net income that would have been derived from the affected property during disruption. Restoration of land will be done immediately after use. Affected improvements will be paid at replacement cost. At the request of landowner, payment of rent can be through filling and leveling of land to be negotiated with contractor as supervised by PMU/ESSO staff. |

V. RELOCATION AND REHABILITATION STRATEGY

17. Households will be consulted with regard to their option for relocation. For households who are entitled to payment for land, it will either be land-for-land in a resettlement site or individual site or cash compensation at replacement cost. For those who have no rights to their land, DPWH will coordinate/collaborate with the National Housing Authority (NHA) and other government agencies and the LGUs in finding replacement land in a group resettlement site or individual sites with similar or better conditions as before. For land that are outside the ROW, the arrangements will be on a renewable lease agreement, lease-to buy arrangements or at no cost to APs. Cash or in-kind support will be provided such as provision of labor and/or transport during relocation.

18. For independent shops/stalls, they will also be assisted to find a place/plot to lease/rent with similar commercial advantage either in existing market sites or a plot of land suitable for putting up stalls/shops (new market) with lease arrangement with a provision to renew. The shop owners will be assisted in gradually dismantling/re-organizing or setting up their shops in a way that will allow them to gradually phase out their operation in their old place and gradually

begin their operation in their new place. Under this arrangement, the shop owners will not experience any stoppage in their operation. Moreover, through the RIC, the shop owners and other affected households will be informed about the start of civil works in a specific section at least 3 months in advance. Cash or in-kind support will be provided such as provision of labor and/or transport.

19. The amount of the lease will be determined in consultation with APs, and will take into account the ability to pay. For vulnerable households who may not have the ability to generate much income, consideration will be given to either adjusting the lease amount accordingly until they are able to increase their income level sufficiently to be able to pay the full amount of the lease or providing replacement land to at no cost to these types of APs.

VI. SCREENING AND RP PREPARATION

A. Screening

20. Any subproject falling under Category A (Significant impacts) will be excluded as it will not be eligible for funding.

12. The screening criteria based on the degree of resettlement impacts are:

- (i) Significant (Category A) - as a result of the subproject, 200 or more people will experience major impacts, that is, being physically displaced from housing, or losing 10% or more of their productive (income-generating) assets. A full RP is required.
- (ii) Not significant (Category B) - as a result of the subproject, fewer than 200 people will be physically displaced from housing or lose less than 10% of their productive (income-generating) assets. A short is required.
- (iii) No resettlement effect (Category C) - the subproject does not require temporary or permanent land acquisition, and there are no impacts involving the loss of land, structures, crops and trees, businesses or income. No resettlement plan is required.

A. RP PREPARATION

21. If resettlement impacts are unavoidable and preparation of a resettlement plan is therefore required, a RP will be prepared following detailed design using the following procedures:

- (i) Undertake a census of all APs.
- (ii) Undertake detailed measurement survey (DMS)³ of all losses of all APs . At the same time, inform potential APs, without discrimination, of the subproject, its likely impacts, and principles and entitlements as per the RF.
- (iii) Undertake a socioeconomic survey (SES) of the affected households whose land and/or structures are severely affected, disaggregated by gender and ethnicity. If the impacts on all affected households are all marginal, at least 10% of the total affected households will be surveyed.
- (iv) Undertake a replacement cost survey for various types of affected assets as a basis for determining compensation rates at replacement cost. Determine the

³ Data will be disaggregated by gender and ethnicity.

losses and corresponding entitlements, including costs, in accordance with the entitlement matrix. An Independent Land Appraiser (ILA) will be hired if there is land acquisition.

- (v) Provide project and resettlement information to all persons affected in a form and language that are understandable to them, and closely consult them on compensation and resettlement options, including relocation sites and economic rehabilitation.
- (vi) Prepare the draft RP with time-bound implementation schedule, procedures for grievance mechanism and monitoring and evaluation, and a budget.
- (vii) Disclose the draft and final RP in accordance with ADB's policy on public communications⁴ to the affected communities and on ADB's website.

Table 4 : Surveys for RP Preparation

| | |
|--|---|
| <p>Detailed Measurement Survey (DMS) (also known as parcellary survey)</p> | <p>The census and detailed measurement survey (DMS) of lost assets will collect data on the affected assets from 100% of APs following detailed engineering design. The data collected during the DMS will constitute the formal basis for determining AP entitlements and levels of compensation. For each AP, the scope of the data will include:</p> <ul style="list-style-type: none"> • Total and affected areas of land, by type of land assets; • Total and affected areas of structures, by type of structure (main or secondary); • Legal status of affected land and structure assets, and duration of tenure and ownership; • Quantity and types of affected crops and trees; • Quantity of other losses, e.g., business or other income, jobs or other productive assets; estimated daily net income from informal shops; • Quantity/area of affected common property, community or public assets, by type; • Summary data on households, by ethnicity, gender of head of household, household size, primary and secondary source of household income viz-a-viz poverty line, income level, whether household is headed by women, elderly, disabled, poor or indigenous peoples; • Identify whether affected land or source of income is primary source of income; and • AP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures. |
| <p>Socioeconomic Survey</p> | <p>The socioeconomic survey (SES) will collect information from all APs whose land /income generating assets and/or structures will be severely affected, disaggregated by gender and ethnicity. The purpose of the socioeconomic survey is to provide baseline data on households to assess resettlement impacts, and to be sure proposed entitlements are appropriate, and to be used for resettlement monitoring. The scope of data to be collected includes:</p> <ul style="list-style-type: none"> A. Household head: name, sex, age, livelihood or occupation, income, education and ethnicity; B. Household members: number, livelihood or occupation, school age children and school attendance, and literacy, disaggregated by gender; C. Living conditions: access to water, sanitation and energy for cooking and lighting; ownership of durable goods; and D. Access to basic services and facilities. <p>If the impacts on all affected households are all marginal, at least 10% of the total affected households will be surveyed.</p> |
| <p>Replacement Cost Survey</p> | <p>The replacement cost survey (RCS) will be done in parallel with DMS and SES activities by collecting information from both secondary sources and primary sources (direct interviews with people in the affected area, material suppliers, house contractors), and from both those affected and those not affected. The government rates will be adjusted, as necessary, based on the findings of a RCS. Compensation rates will be continuously updated to ensure that APs receive compensation at replacement cost at the time of compensation payment. The RP preparer will estimate the compensation and entitlements for affected structures, other improvements and trees. An independent land appraiser will be hired if there is land acquisition.</p> |

⁴ ADB, 2005, Public Communications Policy. Manila.

VII. VULNERABILITY, GENDER, AND ETHNICITY ISSUES

22. Vulnerable households are distinct groups of people who might suffer disproportionately of face the risk of being further marginalized by the effects of resettlement. These are female-headed households with dependents, disabled household heads, households falling under the generally accepted indicator for poverty, women, children and elderly who are landless and with no other means of support, landless households, and indigenous peoples. Particular attention will be given to poor and vulnerable households affected by loss of land and/or structures and other improvements during RP preparation and implementation. Separate consultation meetings will be conducted with these households on specific resettlement concerns, such as compensation and entitlements, rehabilitation of livelihoods and relocation as relevant. All public information and consultation meetings will ensure that vulnerable households are present.

VIII. CONSULTATION AND DISCLOSURE

23. Consultation activities will be conducted with relevant stakeholders including the APs, particularly with the vulnerable and severely affected houses to determine needs and preferences of the APs that can be incorporated into the design arrangements where practicable. Consultations will be undertaken through focus group discussions or community meetings. All consultation activities will be properly documented. All minutes of meetings, photos, attendance sheets will be prepared and recorded.

24. Following the consultation activities with the APs and concerned groups, the issues and suggestions raised to ensure compliance to the Project policies will be incorporated in the RP. All written publication such as flyers, posters will be made accessible to the APs and will be written in a language which is easily understood by them before submitting the Draft RP to ADB.

25. DPWH together with RIC will disclose to the APs the (i) final RP agreed by both DPWH and ADB, and (ii) any revisions to the RP as a result of design layout. Key information in the RP to be disclosed to the affected households will include (i) compensation, relocation and rehabilitation options, (ii) DMS results, (iii) detailed asset valuations, (iv) entitlements and special provisions, (v) grievance procedures, (vi) timing of payments, and (vii) displacement schedule. As indicated above, information will be made publicly available in Project and village offices. Affected households will also be given copies of an information leaflet or brochure.

26. This Resettlement Framework will be uploaded on ADB website. Likewise, the draft and final resettlement plans and social monitoring reports prepared during implementation will be uploaded on the ADB website.

IX. GRIEVANCE REDRESS

27. Grievances related to any aspect of the subproject will be handled through negotiation aimed at achieving consensus. Complaints will pass through 3 stages before they could be elevated to a court of law as a last resort, thus:

- First Stage: The grievance shall be filed by the AP with the Resettlement Implementation Committee (RIC) who will act within 15 days upon receipt thereof,

except complaints and grievances that specifically pertain to the valuation of affected assets, since such will be decided upon by the proper courts;

- Second Stage: If no understanding or amicable solution can be reached, or if the AP does not receive a response from the RIC within 15 days of registry of the complaint, he/she can appeal to the concerned Regional Office, which should act on the complaint/grievance within 15 days from the day of its filing;
- Third Stage: If the AP is not satisfied with the decision of the Regional Office, he/she, as a last resort, can submit the complaint to any court of law.

X. IMPLEMENTATION ARRANGEMENTS

A. EXECUTING AND IMPLEMENTING AGENCIES

28. The ADB **Project Management Office** in charge of the project shall have the overall responsibility for implementing the project. It shall:

- Manage and supervise the sub-project(s) including land acquisition and resettlement in coordination with other offices within the Department as well as other relevant Government agencies;
- ensure that funds are available so that the RP can be implemented in a timely manner; and
- ensure that all funds disbursed in relation to RP implementation is properly accounted for

29. The **Environmental and Social Services Office** (ESSO) shall be responsible for providing technical support, guidance, and assistance to the IO/PMO in preparing and implementing the resettlement plan for each sub-project. It shall also be responsible for the following resettlement activities:

- Overall preparation and planning of the Resettlement Plan
- Submittal of RP budget plans, including compensation, relocation and operation costs for approval and allocation of needed resources by the DPWH Central Office
- Provision of guidance to Regional and District Engineering Offices (DEOs) in their tasks pertaining to resettlement, such as verification of APs, final inventory of affected assets, and information dissemination, in accordance with the RF;
- In cooperation with the Regional ESSO and DEO, address grievances or outstanding issues identified during the conduct of Internal and External Monitoring activities;
- In collaboration with the Regional ESSO, follow up with Regional Office the processing of compensation claims of APs;
- In collaboration with the PMO, monitor actual payment of compensation to APs and other resettlement-related activities; and
- In cooperation with the Regional ESSO, prepare periodic supervision and monitoring reports on RP implementation for submittal to the PMO and the ADB.

30. Concerned **District Engineering Offices** (DEOs), as the major implementers, in accordance with the RP shall act as Technical Coordinators and shall be responsible for overseeing the staking out, verification, and validation of the APs' assets using a prepared compensation form, as well as in monitoring and implementing the RP. In addition, it shall also:

-
- Assist the RIC and National Commission on Indigenous Peoples (NCIP) staff in identifying who among the APs are IPs or belong to indigenous cultural communities (ICCs);
 - Assist the RIC staff engaged in the RP activities in the public information campaign, public participation, and consultation;
 - Assist the RIC in the payment of compensation to APs;
 - Receive complaints and grievances from APs and other stakeholders, as referred by the RIC and act accordingly;
 - Maintain a record of all public meetings, complaints, and actions taken to address complaints and grievances, and
 - Assist in the enforcement of laws/ordinances, in coordination with concerned government authorities, regarding encroachment into the project site or ROW after the cut-off-date.

31 The DEOs shall in turn, be assisted by the **Resettlement Implementation Committee** (RIC), which shall be formed through a Memorandum of Understanding (MOU) between the DPWH, the concerned Local Government Units (LGUs), and the NCIP Regional or Provincial Office, in case IPs/ICCs are involved. Its functions are:

- Assist the DPWH staff engaged in LARP activities in (a) validating the list of APs; (b) validating the assets of the APs that will be affected by the project (using a prepared compensation form); and (c) monitoring and implementing the LARP;
- Assist the DPWH staff engaged in the LARP activities in the public information campaign, public participation and consultation;
- Assist DPWH in the payment of compensation to APs;
- Receive complaints and grievances from APs and other stakeholders and act accordingly;
- Maintain a record of all public meetings, complaints, and actions taken to address complaints and grievances; and
- In coordination with concerned government authorities, assist in the enforcement of laws/ordinances regarding encroachment into the project site or ROW after the cut-off-date.

B. MOBILIZATION OF PROJECT CONSULTANTS

32 The Project Consultants will be composed of one international and a team of domestic resettlement consultants to assist the executing and implementing agencies in the preparation and implementation of the RP. The PC resettlement consultants will also assess the capacity of the implementing agencies and provide the necessary capacity building interventions (such as orientation, workshops, on-the-job training).

C. INDEPENDENT LAND APPRAISER

33. An independent land appraiser will be hired to undertake valuation of land if there will be land acquisition involved.

XI. MONITORING AND EVALUATION

A. INTERNAL MONITORING

34. The ESSO will serve as the Project's internal monitoring body on resettlement. Quarterly reports will be submitted to the PMO starting from the commencement of RP preparation, which coincides with the conduct of the detailed measurement survey and other RP activities. The PMO in turn will include updates on resettlement in its regular progress reports to ADB. Social monitoring reports will be made available to the affected households and will be submitted to ADB for web posting.

35. Internal monitoring and supervision will have the following objectives:

- a. Preparation of RP are in accordance with the approved RF;
- b. Compensation and/or other entitlements are provided as per approved RP, with no discrimination according to gender, vulnerability, or any other factor;
- c. Livelihood restoration measures/programs are designed and implemented including modifications in the programs and provision of additional cash and in-kind assistance to the participating affected households as and when necessary;
- d. Public information, public consultation and grievance redress procedures are followed as described in the approved RP;
- e. Capacity of APs to restore/re-establish livelihoods and living standards in the new relocation sites. Special attention given to severely affected and vulnerable households. Focus will also be given to assess and if the objective of improving socio-economic condition of vulnerable households is achieved.
- f. Affected public facilities and infrastructure are restored promptly; and
- g. The transition between resettlement and commencement of civil works is smooth and that sites are not handed over for civil works until affected households have been satisfactorily compensated, assisted and relocated.

B. EXTERNAL MONITORING AND EVALUATION

36. An external monitoring agency will be mobilized one month prior to commencement of DMS activities. The group can be from a good reputable research or consulting agency, university, or development NGO.

37. The main objective of external monitoring is to provide an independent periodic review and assessment of (i) achievement of resettlement objectives; (ii) changes in income, living standards and livelihoods; (iii) restoration and/or improvement of the economic and social base of the affected people; (iv) effectiveness and sustainability of entitlements; and (v) the need for further mitigation measures.

38. Strategic lessons for future policy formulation and planning will also be drawn from the monitoring and evaluation of resettlement. This is possible through a Post-Resettlement Implementation Evaluation Study that will be carried out carry out 6-12 months following completion of all resettlement activities.

39. Relative to compliance monitoring during resettlement implementation, the main activities of the external monitor will revolve around the following: (i) review existing baseline data and gather additional socio-economic information, as necessary, on sample affected households; (ii) monitor preparation and implementation of the RP; (iii) identify any discrepancy between policy requirements and actual implementation of resettlement; (iv) monitor the

resolution of complaints and grievances of affected households; (v) provide recommendations for improving resettlement preparation and implementation; and (vi) review compliance with regard to use funds for land acquisition and resettlement.

40. External monitoring will be conducted on a semi-annual basis. Semi-Annual reports will be submitted to PMO and ADB.

41. The EMA will submit to PMO and ADB a "Resettlement Compliance Report" following completion of resettlement activities per subproject or specific sections of the subproject road⁵. This will allow ADB to review and issue a no objection letter (NOL) to commence construction activities following review of resettlement compliance report.

XII. RP BUDGET AND IMPLEMENTATION

42. The budget will cover compensation costs, allowances, relocation and rehabilitation measures, administration costs, and contingency. RP cost or part of it will either be part of the Government's counterpart fund. The Government will ensure timely provision of counterpart funds for resettlement to meet any unforeseen obligations in excess of the resettlement budget estimates in order to satisfy resettlement requirements and objectives.

43. The RP will be prepared following detailed design and parcellary survey. All resettlement activities will be coordinated with the civil works schedule. Land acquisition and relocation of affected households cannot commence until the RP has been reviewed and approved by ADB. ADB will issue its no objection letter to allow construction activities until the Resettlement Compliance Report for each subproject or specific section of the subproject road confirms that all resettlement activities have been satisfactorily completed, agreed rehabilitation assistance is in place, and that the site is free of all encumbrances. Table 5 shows the specific resettlement planning and implementation activities.

Table 5: RP Activities

| | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr | 1st Qtr | 2nd Qtr | 3rd Qtr | 4th Qtr |
|--|----------------------|------------|------------|------------|------------|----------------------|----------------------|----------------------|
| A RP Preparation | | | | | | | | |
| Consultation Activities | ████████████████████ | | | | | | | |
| Detailed design | ████████████████████ | | | | | | | |
| Parcellary survey | ██████████ | ██████████ | | | | | | |
| Detailed Measurement Survey | ██████████ | ██████████ | | | | | | |
| Socio-economic survey | ██████████ | ██████████ | | | | | | |
| Land Valuation | ██ | ██ | ██ | | | | | |
| Preparation of Draft RP | | | ██ | | | | | |
| Disclosure of Draft RP to APs | | | ██ | | | | | |
| Finalize Draft RP and Submit to ADB for review | | | █ | | | | | |
| ADB sends note of compliance and Upload of RP on ADB website | | | ██ | | | | | |
| B RP Implementation | | | | | | | | |
| Disbursement of Payment to APs | | | | ██████████ | | | | |
| Clearance of land | | | | ██████████ | | | | |
| Development of Relocation Sites and Relocation of households | | | | ██████████ | | | | |
| Special assistance to poor and vulnerable | | | | ██████████ | | | | |
| Internal Monitoring | ██████████ | ██████████ | ██████████ | ██████████ | | | | |
| Monitoring by External Monitor (EM) | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ | ██████████ |
| C Completion of RP Implementation | | | | | | | | |
| Submission of Resettlement Completion Report (RCR) by EM | | | | | ██ | | | |
| ADB reviews RCR and send NOL to commence construction activities | | | | | █ | | | |
| D Civil Works Construction | | | | | | ████████████████████ | ████████████████████ | ████████████████████ |
| E Post-Resettlement Implementation Evaluation Study by EM | | | | | | | ██ | |

⁵ The subproject road, as agreed between ADB and DPWH, will be divided into sections to allow commencement of construction activities on specific sections where there will be no land acquisition and resettlement impacts.