



Technical Assistance Consultant's Report

Project Number: 43288
November 2014

REG: Mainstreaming Land Acquisition and Resettlement Safeguards in the Central and West Asia Region

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Asian Development Bank

KYRGYZ REPUBLIC

Project Number: 43288 – 01

Regional Technical Assistance (RETA) – 7433: Mainstreaming Land
Acquisition and Resettlement Safeguards in Central and West Asia Region

Social Safeguard Guidance Notes

DRAFT LAST REVISED: 28 AUGUST 2014

KGZ: DRAFT COUNTRY SAFEGUARD GUIDANCE NOTES

INTRODUCTION

1. The Country Safeguard Guidance Notes (CSGN) is prepared to facilitate effective safeguard design and implementation for Asian Development Bank (ADB) financed projects in the Kyrgyz Republic. The CSGN offers practical guidance on safeguard policy principles and procedural requirements for projects. Specifically the CSGN will:

- a. Promote mainstreamed safeguard principles and principle application mechanisms fitting both ADB Safeguard Policy Statement (SPS) (2009) and national laws requirements to ensure safeguard is well designed and implemented for ADB-financed projects;
- b. Complement a set of technical instructions, capacity building initiatives and technical advice provided by ADB to the Kyrgyz Republic to assist with effective safeguard design and implementation;

2. The intent of the guidance notes is mainly to compile good and working practices that have been found successful on safeguard management in projects based on experience from previous and on-going ADB projects. The guidance notes shall clarify specific safeguard issues that are often not fully understood by various LAR stakeholders during processing and implementation. The guidance notes shall offer defined set of actions on dealing with practical issues and difficulties so as to meet the procedural requirements of both ADB SPS (2009) and national laws and policies relevant to safeguards. The guidance notes shall be updated from time to time.

GUIDANCE NOTES RELEVANT TO LAR

3. The following guidance notes provide advice for IA/EA/PMU/PIU staff, consultants, and consultant firms and contractors with regard to meeting the relevant policy and procedural requirements. It presents practical approaches based on actual practices on ground that is found to be effective and useful. There are nine specific guidance notes:

Guidance Notes 1: Harmonized Safeguard Processing and Implementation Timeline

Guidance Notes 2: LARP Preparation and Finalization

Guidance Notes 3: Valuation Procedure and Methods

Guidance Notes 4: Entitlement and Compensation

Guidance Notes 5: Public Consultation and Participation

Guidance Notes 6: Information Disclosure

Guidance Notes 7: Grievance Redress Mechanism

Guidance Notes 8: Monitoring and Reporting

Guidance Notes 9: ESMS for Financial Intermediary

4. The list above and content of each guidance notes are not exhaustive, additional guidance notes covering specific areas of attention shall be added when necessary. The guidance notes is designed to address key safeguard policy differences (table 1) between ADB SPS (2009) and relevant national laws.

Table 1: Policy difference between ADB SPS (2009) and national laws.

Issues	ADB SPS 2009	Kyrgyz Republic	Remarks
1. Entitlements	APs with no legal title are compensated for lost non-land assets	Non-legal APs have no right to be compensated for land and non-land assets	
2. Compensation	<p>a) Loss of indirectly affected assets. Non affected part(s) of assets no longer usable after impact will have to be compensated</p> <p>b) Compensation of affected assets should be based on replacement value</p>	<p>a) Law does not require the compensation for the residual land or assets that become unusable after acquisition</p> <p>b) Compensation of the affected assets should be based on market value</p>	
3. LAR planning	Resettlement Plan. LARP preparation includes: a) impacts assessment/AP census; b) definition of entitlements, income/livelihood restoration strategy, compliance & grievance mechanism, institutional arrangements; c) consultation results, d) monitoring schemes, e) budget and implementation schedule	Resettlement Plan. There are no requirements to prepare integrated and stand-alone LARP. LAR planning entails similar but less extensive/simpler assessment/survey efforts than ADB Policy	LARP becomes a legally binding document for KGZ Govn't only after the ratification of the Financing Agreement and issuance of Govn't Ordinance, endorsing LARP.
4. Assistance to vulnerable households	These APs are to be identified and special assistance is provided to restore/ improve their pre-project level of livelihoods	No special consideration is given to these APs	Vulnerability allowances are specific only for the ADB SPSP 2009

GUIDANCE NOTES	1	Harmonized Safeguard Processing and Implementation Timeline
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ADB and the Kyrgyz Republic Harmonized Project Processing and Implementation Timeline

(LAR dimensions highlighted)

	Asian Development Bank			Kyrgyz Republic			
Milestones	Key Outputs	Key Responsible	Time Required	Time Required	Key Responsible	Key Outputs	Remarks
A. Project Identification							
1. Prioritization based on CPS	– COBP	– Country Director – Sector Director	Feb - Aug	Jul	– Focal government oversight agency	– COBP endorsement by the government	Government's financing amount is prerequisite
B. Project Preparation							
1. PPTA Consultation	– MOU/ AM	– Project team leader	Sep-Oct				
2. PPTA Fact Finding / Project Reconnaissance	– MOU / AM – Project's technical assessment – Assessment of development linkages to poverty and environment – Tentative safeguard assessment – IPSA preparation – Government/EA procurement capacity assessment – Co-financing identification	– Project team leader and relevant team members on mission or through distant support	3-4 weeks		– Focal government oversight agency	– Signed MOU / Endorsed AM – Established basic alignment/design of project	Fact finding may require participation of entire project team MOU/AM is to require EA initiate LAR Commission & launch Cadastral Survey
3. Concept Paper Preparation	– Cost and financing plan – Project classification – Risk categorization – Safeguards tentative categorization – Approved concept paper	– Project team leader – Economists – Safeguard specialists	6-8 weeks	n/a	– Executing agency	– Decree to initiate LAR Commission and carry out Cadastral Survey of resettlement impacts – (for discussion)	

	Asian Development Bank			Kyrgyz Republic			
Milestones	Key Outputs	Key Responsible	Time Required	Time Required	Key Responsible	Key Outputs	Remarks
4. Consultants' Recruitment	<ul style="list-style-type: none"> – Prepared TOR – Mobilized consultants 	<ul style="list-style-type: none"> – Project team leader – Other team members (safeguards, economics, technical, climate, social, gender, governance and procurement) 	16-20 weeks		<ul style="list-style-type: none"> – Executing agency 	<ul style="list-style-type: none"> – Results of Cadastral Survey 	Advanced action required
5. PPTA Implementation	<ul style="list-style-type: none"> – Technical criteria, assessment and design – Preliminary design and cost estimates – Cost and benefits – Economic and financial analysis – Contract packaging and procurement plan – Implementation plan – Social and gender assessment – Climate change impact assessment and opportunities – Assessment of governance – Draft EIA/IEE/EARF – Draft LARP/LARF 	<ul style="list-style-type: none"> – PPTA consultants – Project team (supervision and guidance) 	16-20 weeks		<ul style="list-style-type: none"> – Executing agency – LAR Commission 	<ul style="list-style-type: none"> – Endorsement letters for the various documents – Reviewed documents 	
6. Project Fact-Finding	<ul style="list-style-type: none"> – MOU / AM – Draft FAM/PAM – Draft RRP/PFR 	<ul style="list-style-type: none"> – Project team 	3-4 weeks		<ul style="list-style-type: none"> – Executing agency 	<ul style="list-style-type: none"> – Signed MOU / Endorsed AM – EA or IA level decree/letter endorsing draft LARP/LARF for disclosure 	
7. MRM/SRM	<ul style="list-style-type: none"> – Peer review – Disclosed draft safeguards documents (e.g. IEE, LARP etc.) – Signed SPCM – Approved minutes of meeting – Draft project and legal documents 	<ul style="list-style-type: none"> – Project team 	6-8 weeks	n/a	n/a		
8. Loan Negotiation	<ul style="list-style-type: none"> – Signed loan negotiation minutes of meeting 	<ul style="list-style-type: none"> – Chief negotiator – Counsel 	1-2 weeks		<ul style="list-style-type: none"> – Government negotiating team 	<ul style="list-style-type: none"> – Reviewed and endorsed project documents – Signed minutes of meeting and initialed legal documents 	

	Asian Development Bank			Kyrgyz Republic			
Milestones	Key Outputs	Key Responsible	Time Required	Time Required	Key Responsible	Key Outputs	Remarks
C. Loan Approval							
2. Loan Approval	<ul style="list-style-type: none"> – Approved PFR/RRP – Disclosed RRP 	<ul style="list-style-type: none"> – Project team leader 	4-6 weeks	n/a	n/a	n/a	
3. Loan Signing	<ul style="list-style-type: none"> – Signed loan and project agreements 	<ul style="list-style-type: none"> – Project team leader 	12-16 weeks		<ul style="list-style-type: none"> – Focal government oversight agency – Executing agency – Implementing agency 	<ul style="list-style-type: none"> – Signed loan and project agreements 	ADB Resident Mission must be involved
4. Loan Effectiveness	<ul style="list-style-type: none"> – Effectiveness 	<ul style="list-style-type: none"> – Project team leader – Counsel 	4 weeks		<ul style="list-style-type: none"> – Focal government oversight agency – Executing agency – Ministry of Justice 	<ul style="list-style-type: none"> – Completed internal government procedures required for effectiveness – Legal opinion 	
D. Implementation¹							
5. Establishment of PMU	<ul style="list-style-type: none"> – Mobilized PMU staff – Inception mission 	<ul style="list-style-type: none"> – Project team 			<ul style="list-style-type: none"> – Executing/Implementing agency 	<ul style="list-style-type: none"> – Organizational set-up – Consultants mobilization 	
6. Recruitment of design consultants / project management consultants / supervision consultants	<ul style="list-style-type: none"> – Reviewed TOR – Reviewed Submission 1 to 5 documents based on QCBS – Approval of consultant recruitment – Contract award / PCSS award – Finalized LARP 	<ul style="list-style-type: none"> – Project team – OSFMD-LCU – Safeguards/Procurement specialists 	20-30 weeks	150 calendar days	<ul style="list-style-type: none"> – Executing/Implementing agency – PMU 	<ul style="list-style-type: none"> – Terms of Reference – Consultants selection – Submission 1 – 5 documents (based on QCBS) – Approved project detailed design – Approved project bidding documents – Engineers Estimate 	60 days from CSRN up to approval of shortlist and RFP and 90 days from issuance of RFP up to contract signing
7. Procurement	<ul style="list-style-type: none"> – Reviewed bidding documents – Reviewed bid evaluation report – PC Papers – Contract Award / PCSS – Updated procurement plan 	<ul style="list-style-type: none"> – Project team – Procurement specialist – Counsel – PC committee 	25-30 weeks	192 calendar days	<ul style="list-style-type: none"> – Executing/Implementing agency – PMU 	<ul style="list-style-type: none"> – Bid evaluation report – Pre-qualification docs – Bidding documents – Signed contract – Dispute board set- 	72 days from Bid documents submission up to submission of bids and 120 days from bid submission up

¹ Some sub-steps under implementation can start prior to loan approval.

	Asian Development Bank			Kyrgyz Republic			
Milestones	Key Outputs	Key Responsible	Time Required	Time Required	Key Responsible	Key Outputs	Remarks
						up – Updated procurement plan	to contract award
8. Safeguards implementation / recruitment of external monitor as relevant / monitoring and reporting	<ul style="list-style-type: none"> – Approval of final safeguards document – Approval of safeguards implementation report 	<ul style="list-style-type: none"> – Project team – Safeguards specialists 	24-30 weeks		<ul style="list-style-type: none"> – Executing/Implementing agency – PMU/consultants 	<ul style="list-style-type: none"> – Governmental Ordinance endorsing LARP (for discussion) – Final EMP – Review and endorsement of LARP implementation report 	
9. Physical Implementation	<ul style="list-style-type: none"> – Disclosed monitoring reports – Updated FAM/PAM – Project performance report – Disbursements monitoring – Major/minor change scope and relocation of loan proceeds, if needed – DMF / CAD projections, if needed – Reviewed contract variations/prepared PCUS 	<ul style="list-style-type: none"> – Project team – Safeguards specialists – CTL for disbursements / reallocation – OSFMD / OGC / CTL in case of minor/major change of a project – OSFMD only for DMF or CAD projections revision 	varies		<ul style="list-style-type: none"> – Executing/Implementing agency – PMU – Contractor – PMC/CSC/auditors 	<ul style="list-style-type: none"> – Progress monitoring report – Safeguard monitoring report – Monthly, quarterly and annual progress monitoring reports – Loan covenants compliance report – Contract variation requests – Withdrawal applications – Completion certificates, Taking-over certificates and performance certificates – Audited financial statements 	
10. GRM Monitoring	<ul style="list-style-type: none"> – Project Complaint Tracking System 	<ul style="list-style-type: none"> – Project team 	Entire project duration		<ul style="list-style-type: none"> – PMU/ PMC/CSC 	<ul style="list-style-type: none"> – Report on complaints 	
11. Compliance Review	<ul style="list-style-type: none"> – Concurrence to compliance report 	<ul style="list-style-type: none"> – Project team 	2 weeks		<ul style="list-style-type: none"> – PMU/PMC 	<ul style="list-style-type: none"> – Compliance report 	
E. Post-Implementation							
12. Project Completion	<ul style="list-style-type: none"> – Project Completion Report 	<ul style="list-style-type: none"> – Project team 	10-12 weeks		<ul style="list-style-type: none"> – Executing/Implementing agency 	<ul style="list-style-type: none"> – Executing Agency Project completion report 	

	Asian Development Bank			Kyrgyz Republic			
Milestones	Key Outputs	Key Responsible	Time Required	Time Required	Key Responsible	Key Outputs	Remarks
13. Independent Evaluation	– Evaluation report	– Independent Evaluation Department	As determined by IED	n/a	n/a	n/a	

ADB – Asian Development Bank; AM – aide memoire; CPS – Country Partnership Strategy; COBP – Country Operation Business Plan; EARF – Environmental Assessment and Review Framework; EIA – Environmental Impact Assessment; EMP – Environmental Management Plan; IEE – Initial Environmental Examination; GRM – Grievance Redress Mechanism; LARP – Land Acquisition and Resettlement Plan; LARF – Land Acquisition and Resettlement Framework; MRM – Management Review Meeting; PPTA – Project Preparatory Technical Assistance; MOU – Memorandum of Understanding; PAM – Project Administration Manual; PMU – Project Management Unit; SRM – Staff Review Meeting; SPCM – Safeguard Policy Compliance Memorandum; RRP – Report and Recommendation of the President; QCBS – Quality and Cost-Based Selection.

GUIDANCE NOTES

2

LARP PREPARATION AND FINALIZATION

Policy Requirement	Prepare a resettlement plan, if the proposed project will have involuntary resettlement impacts. The objective of a resettlement plan is to ensure that livelihoods and standards of living of displaced persons are improved, or at least restored to pre-project (physical and/or economic) levels and that the standards of living of the displaced poor and other vulnerable groups are improved, not merely restored, by providing adequate housing, security of land tenure and steady income and livelihood sources.
Policy trigger	<p>A LARP is prepared when:</p> <p>There is physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of</p> <ul style="list-style-type: none"> (i) Involuntary acquisition of land, or (ii) Involuntary restrictions on land use or on access to legally designated parks and protected areas. <p>It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.</p>
Suggested LARP Outline	<p>A. Executive Summary</p> <p>B. Project Description</p> <p>C. Scope of Land Acquisition and Resettlement</p> <ul style="list-style-type: none"> (i) discusses the projects impacts; (ii) describes the scope of land acquisition; (iii) key effects in terms of assets acquired and displaced persons; and (iv) provides details of any common property resources that will be acquired. <p>D. Socioeconomic Information and Profile</p> <ul style="list-style-type: none"> (i) define, identify, and enumerate the people and communities to be affected; (ii) describe the impacts of land and asset acquisition on the people and communities; (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and (iv) identify gender dimension of LAR <p>E. Information Disclosure, Consultation, and Participation</p> <ul style="list-style-type: none"> (i) identifies project stakeholders, especially primary stakeholders; (ii) describes the consultation and participation mechanisms; (iii) describes the activities on project and resettlement information; (iv) summarizes the results of consultations; (v) confirms disclosure of the draft resettlement plan; and (vi) describes the planned information disclosure measures. <p>Please see guidance notes XX, for additional information</p> <p>F. Grievance Redress Mechanisms</p> <p>Please see guidance notes XX, for additional information</p>

	<p>G. Legal Framework</p> <ul style="list-style-type: none"> (i) describes national and local laws and regulations; (ii) describes the legal and policy commitments; (iii) outlines the principles and methodologies used for determining valuations and compensation rates. (iv) describes the land acquisition process. <p>H. Entitlements, Assistance and Benefits</p> <ul style="list-style-type: none"> (i) defines displaced persons' entitlements and eligibility; (ii) specifies all assistance to vulnerable groups; and. (i) outlines opportunities for affected persons. <p>See Guidance Notes XX Compensation etc for additional information</p> <p>I. Relocation of Housing and Settlements</p> <ul style="list-style-type: none"> (i) describes options for relocating housing and other structures; (ii) describes alternative relocation sites considered; (iii) provides timetables for site preparation and transfer; (iv) describes the legal arrangements to regularize tenure; (v) outlines measures to assist displaced persons; (vi) describes plans to provide civic infrastructure; and (vii) explains how integration with host populations will be carried out. <p>J. Income Restoration and Rehabilitation</p> <ul style="list-style-type: none"> (i) describes income restoration programs; (ii) outlines measures to provide social safety net through social insurance and/or project special funds; (iii) describes special measures to support vulnerable groups; (iv) explains gender considerations; and (v) describes training programs. <p>K. Resettlement Budget and Financing Plan</p> <ul style="list-style-type: none"> (i) provides budget for all resettlement activities; (ii) describes the flow of funds; (iii) includes a justification for all assumptions; (iv) information about the source of funding for the resettlement plan budget. <p>L. Institutional Arrangements</p> <ul style="list-style-type: none"> (i) describes institutional arrangement responsibilities and mechanisms; (ii) includes institutional capacity building program; (iii) describes role of NGOs; and (iv) describes how women's groups will be involved. <p>M. Implementation Schedule</p> <p>The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.</p> <p>N. Monitoring and Reporting</p> <p>Describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.</p>
Information necessary for Census and	<p>Affected Persons</p> <ul style="list-style-type: none"> Number of individuals and households Gender, age, occupation or main source of income

socioeconomic surveys	<p>Affected Persons Income Agricultural income Off-farm labor income Informal sector activities/income</p> <p>Vulnerability Elderly, with disability, children, ethnicity/tribal</p> <p>Structures Houses, farm buildings, shops and commercial structures, etc.</p> <p>Land type Irrigated or non-irrigated, timber land, grass land, waste land, etc. Describe and estimate the value of standing crop on land.</p> <p>Common Properties / Structures Village common land, foraging land, fishing areas, etc Schools, health facilities, burial grounds, temples, community centers, public transport, etc.</p>
Protocol for LARP Preparation	<p>As soon as LAR impacts are identified and a LARP was determined to be prepared as part of project preparation activities (PPTA):</p> <ul style="list-style-type: none"> • A LAR Action Plan shall be prepared by EA in consultation with the consultants to determine the activities to be fulfilled and corresponding specific time of completion. • The EA shall determine the adequacy of time required to prepare and finalize LARP, in relation to its category. Category A LARP would normally require additional two weeks review time. • LAR Action Plan shall be submitted to ADB for review and information, particularly check the time schedule related to ADB review of LARP and clearance as required by ADB SPS. • The EA shall periodically (ideally weekly) inform ADB of the progress of LARP preparation in relation time schedule set forth in the LAR Action Plan. • When necessary, LAR Action Plan can be updated by the EA to reflect unanticipated hurdles or issues that may affect the overall timeline.
Protocol for LARP Endorsement	<p>For LARP at preliminary design stage</p> <ul style="list-style-type: none"> • After the LARP has been completed, and comments and inputs from APs and other relevant stakeholders has been incorporated, the LARP is then submitted to ADB for review • ADB safeguard specialists provide comments/ suggestions based on the policy requirements of SPS. • EA considers / incorporate the comments /suggestions.

	<ul style="list-style-type: none"> • ADB safeguard specialists confirm all comments and suggestions are incorporated in the LARP. • EA formally endorses the LARP to ADB for disclosure <p>For LARP at final design stage</p> <ul style="list-style-type: none"> • The EA updates the LARP based on final design and submits to ADB for review. • ADB safeguard specialists provide comments/ suggestions based on the policy requirements of SPS. • EA considers / incorporate the comments /suggestions. • ADB safeguard specialists confirm all comments and suggestions are incorporated in the LARP. • EA secures approval from OPM. • EA endorses LARP to ADB for disclosure.
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Policy Requirement	<p>Compensation for acquired housing, land, and other assets is to be calculated at full replacement value. Replacement value is based on: (i) fair market value; (ii) transaction costs; (iii) interest accrued; (iv) transitional and restoration costs; (v) other applicable payments, as relevant. When applying valuation methods, depreciation should not be taken into account.</p> <p>In case of physically displaced persons, the compensation package should include: (i) relocation assistance, secured tenure to relocation land, better housing at resettlement site with comparable access to employment and production opportunities, and civic infrastructure and community services, as relevant; (ii) transitional support and development assistance; (iii) opportunities to derive appropriate benefits from the project.</p> <p>In case of economic displacement, the compensation should include loss of income or livelihood sources at full replacement cost. In case the land acquisition affects commercial structures, the affected business owners are entitled to: (i) costs of re-establishing commercial activities elsewhere; (ii) net income lost during the transition period and; (iii) costs of transferring and re-installing plant, machinery or other equipment.</p>
Key Pointers	<p>The valuation process during the project processing and implementation involves: (a) developing ToR for the valuation based on the requirements of the SPS 2009 and KGZ legislation; (b) conducting a valuation survey; (c) preparing a valuation report; (d) validating the valuation report through a positive legal opinion of the State Agency for Construction and Communal Services (SACCS)² and; e) updating the valuation report if the valued property are not acquired within 1 year.</p> <ul style="list-style-type: none"> (i) Detailed ToR for the valuation is to be developed by the ADB safeguard specialist and agreed with the project IA or EA. (ii) Qualified valuator is to be recruited, briefed by the ADB safeguard specialist on the key provisions of SPS 2009, supplied with the results of detailed measurement survey (DMS), and then fielded to the project site. The results of the field visit are used to inform the development of the valuation methodology for affected assets/incomes/livelihood, which is then cleared with both ADB safeguard specialist and IA or EA. <i>The valuation survey is then implemented based on the agreed methodology.</i> (iii) Drafting the valuation report (iv) Final draft of the valuation report is to be submitted to the Gosstroy for a legal opinion. In case of negative legal opinion, the recommended revisions should be made and revised valuation report is then submitted again to the Gosstroy. Once a positive legal opinion is issued, the valuation report can be used as the basis to finalize the relevant sections of the LARP.

² Validation of the valuation report is carried out to: i) verify an extent to which the valuation report is prepared in accordance with the agreed ToR; ii) check if all relevant national laws and regulations are complied with and; iii) preclude possible fraudulent activities that may affect fair calculation of compensation package for the affected parties.

	<p>(v) If the valued property is not acquired within one year, the valuation report should be updated, taking into account key market indexes such as the Real Estate Sales Index (issued on a monthly basis)³ and Capital Construction Investment Index (issued quarterly)⁴. In situations when the Capital Construction Investment Index points to significant changes in the cost estimates of the capital construction, the valuation report may need to be adjusted accordingly on a quarterly basis, depending on expected date of the property acquisition.</p>
Suggested outline for Valuation Report	<p>(i) Executive summary (ii) Background information (iii) Methodology (iv) Valuation results (v) Limiting factors and constraints (vi) Information about the valuator(s) (vii) Annexes</p>
Template ToR for the valuation	<p>Scope of Work:</p> <p>Following the conduct of the DMS, the Independent Valuator (IV) will carry out a full Valuation Survey (VS) to prepare the land and asset acquisition and compensation budget for the LARP, following the replacement cost principles of the ADB SPS (2009) and local standards and norms for valuation report preparation in the Kyrgyz Republic.</p> <p>As a part of valuation process, the IV will:</p> <p>(i) Assess the replacement cost both either at market rates or cadastral values (whichever is higher) for each affected privately-owned land and asset to be taken;</p> <p style="padding-left: 40px;">a. Market value or cadastral values⁵ (whichever the highest) of total affected lands (both in case the whole land plot or in case the affected part of it is taken) by land use type (agricultural, commercial, residential, communal forest, etc);</p> <p style="padding-left: 40px;">b. Replacement cost /market value/ of affected structures by structure type, materials, size etc. Compensation will be free of deductions for depreciation, transaction costs and salvageable materials;</p> <p>(ii) In case replacement land is offered, assess the equivalence of the</p>

³ **Real Estate Sales Index (RESI)** is an indicator that GosRegister issues every month to show an average market price for the real estate in both urban and rural areas. RESI is disaggregated by *raion* and reflects an averaged value of the sale and purchase transactions.

⁴ **Capital Construction Investment Index (CCII)** is a composite indicator that shows a cost estimate for the capital construction. Unlike RESI, CCII provides an estimate of the replacement value for the capital construction. CCII is based on the estimate of the following costs: *i) construction materials, ii) labor, iii) overhead expenses, iv) taxes and, v) contingency.*

⁵ **Cadastral value** is the value set by the Government for a property to calculate taxes, determine the rent for the land plots, and establish the purchase price for the property being acquired through *eminent domain*.

	<p>replacement land with the land taken in terms of productive potential, locational advantages, and other factors, and address the legal requirements needed to complete the land swap process;</p> <p>(iii) Determine a detailed compensation budget according to estimated market cost of identified trees and crops to be compensated (both in case the trees/crops on the whole land plot or on the affected part of it are taken);</p> <p>(iv) Determine a detailed compensation budget for utilities for public services such as water, gas and electric supply infrastructure, etc.;</p> <p>(v) Determine a detailed compensation budget for temporary and permanent business and employment losses;</p> <p>(vi) Determine a detailed compensation budget for relocation needs (market value of buildings, businesses to be relocated, etc., transportation cost, acquisition of land plot with similar quality and area);</p> <p>(vii) Determine the value of the allowance for the poor and vulnerable APs based on the national legislation and standards (e.g. severe impact allowance)</p> <p>Output/Reporting Requirements:</p> <p>The IV will coordinate regularly with the IA or EA, Consultants, and the ADB. The IV is expected to produce the valuation report for each affected object following the standards and norms for valuation reporting in the Kyrgyz Republic, a summary valuation table for each type of impact and a list of affected assets, including the computed values. Reports are to be prepared in the Russian and English languages.</p> <p>Qualification Requirements:</p> <p>The IV must have at least 5 years of experience in land/asset valuation with a valid license for valuation, solid knowledge of the relevant legislation and technical requirements (e.g. SNIP, SunPin, GOST) and be familiar with the social safeguards requirements of the ADB or WB.</p>	
Valuation process	<p>Project Cycle</p> <p>1) Project Identification: - n/a</p> <p>2) Project Preparation Technical Assistance:</p> <p>a) Preparing ToR for the valuation</p> <p>b) Engaging a qualified valuator</p> <p>c) Conducting the valuation survey</p> <p>d) Preparing draft valuation report</p> <p>3) Loan Approval: - n/a</p> <p>4) Loan Implementation:</p> <p>e) Updating (finalizing) the valuation report</p> <p>f) Obtaining a positive legal opinion from the Gosstroy to the valuation report</p> <p>g) In case the property is not acquired within one year the valuation report is to be updated and a positive legal opinion should be secured again</p>	<p>Valuation Tasks</p>

GUIDANCE NOTES**4****ENTITLEMENT AND COMPENSATION**

Policy Requirement	<p>Provide adequate and appropriate replacement land and structures OR cash compensation at full replacement cost for lost land, structure or opportunities.</p> <p>Provide adequate compensation for partially damaged structures, and relocation assistance, if applicable to:</p> <ul style="list-style-type: none">• Persons with formal legal rights to land in its entirety or in part;• Persons who lost the land they occupy in its entirety or in part who have no formal legal rights to such land, but who have claims to such lands that are recognized under national laws. <p>For persons who have no legal rights or recognizable claim to the land, compensation will only be for loss of assets other than land, at full replacement cost.</p>
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Generic Entitlement Matrix for different LAR impacts
Entitlement matrix

Type of impact	Eligible AP	Entitlement	Remarks
Temporary acquisition of land	Land owner	Rental value of the land based on market or cadastral value (whichever is higher) and restoration of the land and all assets thereon to pre-project condition (e.g. easements)	
	Illegal user	Replacement or compensation of all assets damaged or removed. In case of income loss, the disturbance allowance set on the basis of an official minimum subsistence level for one week of disturbance calculated on pro rata basis.	Official minimum subsistence level for every oblast is posted on the website of the National Statistics Committee on a quarterly basis
Permanent acquisition of land for works, construction or the first line of sanitary / protection zone	Land owner	Land for land compensation with plots of equal value and productivity to plots lost. Failing land availability, the cash compensation for affected land at market value. If the remainder of the land is not economically viable, the entire plot is purchased.	Economic viability of the remainder of the plot is determined by the LAR Commission
	Illegal user	Replacement or relocation of all assets removed to the equivalent site. Failing the availability of land, cash compensation for all assets at replacement cost. In case of income loss, the disturbance allowance set on the basis of an official minimum subsistence level for up to a maximum of 3	No compensation is provided for the land

		months.	
Residential land	Title-holders	Land for land compensation with plots of equal value and productivity to plots lost. Failing land availability, the cash compensation for affected land at market value.	
	Lease-holders	3 months rental allowance for equivalent accommodation at prevailing market price.	
	Squatters	1 month rental allowance for equivalent accommodation	
Permanent acquisition of legal structures	Owner of structure	Replacement structure or cash compensation at replacement cost of a new structure, plus full compensation for all costs needed to make the new structure legal	Replacement rate is based on costs of materials, labour, transport of materials, reinstallation of facilities, free of salvageable materials, depreciation and transaction costs.
Permanent acquisition of the illegal structures	Owner of structure	Replacement structure or cash compensation at replacement cost.	
Temporary or permanent loss of business	All relevant APs	Cash compensation equal to one year net income, if loss is permanent. Cash compensation for the period of business interruption, if the loss if temporary.	Compensation of estimated business loss is assessed from records of preceding 6 months or equivalent business, if no records available.
Temporary or permanent loss of work or employment	All APs including squatters	Cash compensation for lost wages for the period of business interruption, if the employment loss is temporary. Cash compensation for lost wages equivalent to 3 months, if the employment loss is permanent.	
Productive trees	Tree owner	Price of a sapling and cash compensation for the value for harvest multiplied by the number of years it will take for the sapling to reach same productive level.	
Non-productive trees	Tree owner	Cash compensation at commercial value of the wood multiplied by its volume.	

		Calculated by its diameter.	
Crops	Owner	Allowed to take a standing crop and cash compensation for annual crop yield at market rate.	
Relocation	All APs affected by relocation	Relocation subsidy including relocation allowance to cover transfer costs and transitional livelihood expenses equivalent to 1 month of an official minimum subsistence level.	
Severe impact allowance	If more than 10 % of productive assets or income is affected	3 month allowance equivalent to official minimum subsistence level for a given region.	
Vulnerable people	Identified on the basis of social payments (poor, disabled, pensioners, widows, female-headed households)	3 month allowance equivalent to official minimum subsistence level for a given region	

Policy Requirement	Conduct of meaningful consultation with affected persons that (i) begins early in the project cycle; (ii) is timely disclosure of relevant and adequate information; (iii) is free of intimidation or coercion; and (iv) is inclusive and responsive.
Key Pointers	<p>Consultation and participation goes with information disclosure. The flow of information is two-way between the borrower/client and AP, and where all relevant information is taken into consideration in project planning and implementation.</p> <p>Consultation and participation can be optimized by utilizing existing community organizations (both formal and informal) and local government entities. Project information can be disseminated quickly if coursed through these organizations. Relevant project information needs to be disseminated first before any meaningful consultation can take place, which is why, at least 3 days before the schedule meeting with APs, project information brochure need to be handed over to APs.</p> <p>As a minimum, Project Information Brochure should cover the following:</p> <ul style="list-style-type: none"> (i) nature of the project (ii) reason for and scope of project impact (iii) relevant policy framework and objectives (iv) choices available regarding the future (options) (v) rights of APs to participate in project planning and implementation, and (vi) grievance mechanisms <p>Where possible vulnerable groups need to be included during consultation, these ethnic groups, women, elder and other vulnerable groups. To ensure participation is solicited among these groups, appropriate facilitators (e.g. a woman or someone respected) should be engaged so that no alienation will take place, and communication becomes easy and free flowing.</p> <p>Consultations proceedings should be properly documented by recording the discussion, listing the key issues raised, agreed upon actions, and photos. Consultations participants must be encouraged to register their name.</p>
Protocol for engaging project stakeholders	<p>Public consultation activities covering ALL identified project stakeholders shall be done at least twice during project preparation phase:</p> <ul style="list-style-type: none"> • One during preliminary project design phase; and • One during final project design phase. <p>From the initial assessment or feasibility study of the project, the EA identifies the potential project stakeholders. Project stakeholders need to be group together in order to identify specific consultation needs, requirements or approach need to be determined.</p> <p>At least one formal project consultation has to be conducted by the EA solely for relevant civil society organizations and non-government organization. However, all public consultation activities shall be made know and open to such groups for their participation.</p> <p>All planned public consultation activities shall be posted in the EA's website for the information of general public.</p>

Policy Requirement	Provide relevant project information in a timely manner, in an accessible place and in a form and language(s) understandable to affected persons and other stakeholders. For illiterate people, suitable other communication methods will be used.
Key Pointers	<p>Information disclosure involves delivering information about a proposed project to affected people and other stakeholders. SPS information disclosure requirements are intended to facilitate the engagement of people so as to establish and maintain a constructive relationship among the parties over the life of the project.</p> <p>Ultimately the draft safeguard plan prepared for appraisal must be disseminated transparently to the displaced people, other stakeholders, and the public in general. The entire draft resettlement plan, final resettlement plan, and revised resettlement plan should be posted on ADB's website. In addition, each version of the entire plan will be made available in the language of the affected people at a project information office at the project site and/or in the locale of project impacts. In addition, a simple summary of the resettlement plan is recommended, emphasizing the resettlement policy and displaced people's entitlements, assistance, and benefits, in the language of the people has to be disseminated in (i) village common areas in formats such as booklets, pamphlets, maps, etc.; (ii) via newspapers, radio, TV, video, etc; and (iii) verbally in presentations to meetings among displaced people and project officials. Where significant number of displaced people are illiterate pictorial depictions and/or oral representations can utilized.</p> <p>Prior to drafting the resettlement plan, however, there are important moments of information disclosure. During stakeholder analysis and carrying out the SIA, census, and property inventory, the project staff responsible need to explain the nature of the project and the intentions to plan a resettlement operation that will enhance, or at least restore, the livelihoods of displaced people.</p> <p>An effective and efficient means of dissemination information in the impact area is to form resettlement committees among the displaced and host populations. Such committees can serve as the focal point for (i) information dissemination, (ii) data collection, (iii) negotiation, consultation and participation, and (iv) transmission of concerns, complaints, and grievances to project authorities. Such local committees may also assist with verification of lists of land parcels affected and structures to be acquired and channel queries, protests, and finalization of such lists.</p> <p>A. Preparation of Project Information Brochure</p> <p>Suggested outline of the Information</p> <ol style="list-style-type: none"> Introduction Project / Subproject Description Relevant policies governing the project Project / Subproject potential safeguard impacts Public consultation / communication plan Affected persons entitlements Institutional arrangement and grievance redress <p>B. Translation to Kyrgyz and Russian (English as default)</p> <p>All safeguard documents, information materials and communications to affected people or potentially affected people must be translated into <u>Kyrgyz and Russian languages</u>.</p>

	C. Contact Information Format (Suggested Format) For additional information on the Project / Subproject, please contact the following:	
Example of contact person	Mr. / Ms. *** First Deputy of ** in ** City Name of Agency Address *** City, Kyrgyz Republic Tel: Email:	Mr. / Ms. ** ** Safeguards Specialist Name of Agency Address *** City, Kyrgyz Republic Tel: Email:
	Project Information and the disclosed Safeguard Plans are also accessible on the EA and ADB websites: www.***.kg and www.adb.org	
Protocol for disclosing project information	<ul style="list-style-type: none"> • The EA determines the sensitivity of information to be publicly disclosed. As a general rule, all information can be disclosed except for those that are considered confidential or private such project financial matter or compensation amount to a particular affected person, including the person's name. • Project information to be disclosed should be done in a timely manner. • Project information to be disclosed should be in the form that can be understood or read by the general public. • Project information disclosure includes, among other, uploading information in the EA's AND ADB website. • Should the project undergo updating, all publicly disclosed information should also be updated in a timely manner. • The EA assumes full responsibility in terms of correctness and accuracy of information that is disclosed. 	

Policy Requirement	IA or EA is to establish a functional mechanism to receive and facilitate the resolution of the AP's concerns and grievances regarding physical and economic displacement and project's environmental performance. The grievance redress mechanism (GRM) should be scaled to the risks and adverse impacts anticipated in the project. GRM should be: a) efficient, b) understandable to APs, c) transparent, d) sensitive to gender and other vulnerable groups, e) culturally appropriate, f) readily accessible to the APs with no costs and without retribution. GRM should not impede the access of APs to country's judicial or administrative remedies. It is the responsibility of the IA or EA to inform APs about the GRM.
Key Pointers	<p>Purpose of GRM</p> <p>The grievance mechanism is a formalized way for the IA/EA to identify and resolve the APs concerns and grievances related to the project activities. It offers the APs the forum where they can voice their concerns, seek clarification for their queries, or register a complaint regarding the project's performance.</p> <p>Scope of grievances</p> <p>The scope of the GRM is limited to the issues on the involuntary resettlement, environmental performance, and information disclosure. Although the GRM does register the complaints on fraud and corruption, such matters are handled through a separate procedures under Anti-Corruption Policy (1998).</p> <p>Design of GRM</p> <ul style="list-style-type: none"> (i) <u>Registering a complaint.</u> Receiving and registering a complaint should be a straightforward process, where APs can convey their concerns directly or through third parties to the IA or EA. The complaint reception and registration procedures should include: a) central focal person; b) multiple intake points for grievances; c) procedure for acknowledging the receipt of the complaints and informing the aggrieved person about the expected timeframe for the complaint review and; d) procedures to maintain a log of complaints and queries. (ii) <u>Screening the complaint for eligibility.</u> Simple screening procedures should be put in place to determine if the complaint is eligible for the GRM. These procedures should establish clear parameters for qualifying complaints as (in)eligible and should not involve judging the substantive merit of the complaint. Specifically, the GRM does not review the grievances that: <ul style="list-style-type: none"> a) are not related to the project; b) are reviewed by a separate, more appropriate procedures (e.g. issues of fraud and corruption) c) nature of the issue that is beyond the official mandate of the GRM (e.g.) d) complainant has no standing to lodge a grievance <p>If the complaint is found eligible, it should be assigned to one of the following categories:</p> <ul style="list-style-type: none"> a) Type A – inquiry, clarification, suggestion, request;

	<p>b) Type B – complaint regarding alleged breach of the SPS 2009 or Public Communication Policy 2011;</p> <p>c) Type C – allegation of fraud or corruption.</p> <p>(iii) <u>Reviewing the complaint.</u> Reviewing the complaint involves establishing a Grievance Redress Group (GRG) and developing eligibility criteria for judging if the complaint is valid or not. To establish legitimacy of the GRG to review and judge on the substantive merit of the AP's complaint, the composition of the GRG should be balanced and include an independent observer to ensure that impartiality and transparency of the complaint review process. The following composition of the GRG is proposed for the GRMs under the ADB-funded projects:</p> <p>Composition of the Grievance Review Group</p> <table> <tr> <th>Members</th><th>Position</th></tr> <tr> <td>(a) Representative of IA or EA</td><td>Chairperson</td></tr> <tr> <td>(b) Representative of safeguards team (PIU)</td><td>Member</td></tr> <tr> <td>(c) Focal person for GRM</td><td>Member</td></tr> <tr> <td>(d) Certified technical expert, as relevant</td><td>Member</td></tr> <tr> <td>(e) Representative of Local Govn't</td><td>Member</td></tr> <tr> <td>(f) Representative of Consultant/Contractor</td><td>Member</td></tr> <tr> <td>(g) Representative of the APs</td><td>Member</td></tr> <tr> <td>(h) Independent party (Ombudsman Office or CSO)</td><td>Observer</td></tr> </table> <p>To make for effective complaint processing, the role and responsibilities of each GRG member should be carefully elaborated and explained to them. It is advisable to develop and circulate a step-by-step instructions and ToR for the GRG members, so they can use these as a guidance material every time they need to review and judge on the complaint. Sample ToR for each GRG member is provided below (please see next section).</p> <p>The central focal person should initiate the grievance review and convene the GRG meeting no later than 5 days since the complaint was registered as eligible for the GRM. All supporting documents – photo and video materials, required certificates, legal opinions, technical expert opinions – should be prepared prior to the meeting. The minutes of the each meeting should be agreed and signed by all members of the GRG no later than 3 days following the gathering.</p> <p>The complaint registered with the GRM should be reviewed and addressed (declared valid or invalid) within 14 calendar days⁶. If the case is a complex and requires an investigation (e.g. scrutiny by technical experts or legal opinion from the state or certified private entities) complaint review period may be extended maximum up to 30 calendar days. In such cases, the written notification should be sent to the complainant, explaining reasons for extension, describing the process and indicating an expected dates for delivering the results of</p>	Members	Position	(a) Representative of IA or EA	Chairperson	(b) Representative of safeguards team (PIU)	Member	(c) Focal person for GRM	Member	(d) Certified technical expert, as relevant	Member	(e) Representative of Local Govn't	Member	(f) Representative of Consultant/Contractor	Member	(g) Representative of the APs	Member	(h) Independent party (Ombudsman Office or CSO)	Observer
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⁶ As per the recent amendments to the Law on Grievance of the Kyrgyz Republic passed on 31 May 2013. The law becomes effective as of 1 January 2014.

	<p>the review.</p> <p>If the complaint is found invalid, the GRG formulates a response and sends a written letter to the complainant, explaining reasons for the rejection. The complainant can appeal the decision and bring the case to the ADB Accountability Mechanism or the local courts. The project level GRM does not in any way impede the access of the APs to the ADB Accountability Mechanism (AM) or the country's judicial or administrative remedies. Should the AP wish to register a complaint with the ADB AM, the focal person should provide the complainants the following contact information:</p> <p><u>Office of the Special Project Facilitator:</u></p> <p>Email: to be access from www.adb.org/site/accountability-mechanism/contacts Fax number: (63-2) 636-2490 Special Project Facilitator Asian Development Bank 6 ADB Avenue, Mandaluyong City 1550 Metro Manila, Philippines</p> <p><u>Compliance Review Panel</u></p> <p>Email: to be access from www.adb.org/site/accountability-mechanism/contacts Fax number: (63 2) 636 2088 Secretary Asian Development Bank 6 ADB Avenue, Mandaluyong City 1550 Metro Manila, Philippines</p> <p>(iv) <u>Deciding on a complaint resolution process.</u> If the complaint (Type A and B) is found valid by the GRG, a time bound action plan is prepared to address the complaint. The action plan is drafted by the IA/EA or safeguards unit of PIU, discussed with the independent party, complainant(s), and other relevant stakeholders, and then cleared by the IA/EA and ADB for implementation.</p> <p>Complaints related to the integrity issues (Type C) are registered at the complaints log and forwarded to the ADB Office of Anticorruption and Integrity (OAI) for further review, as relevant. In case of Type C complaints, the focal person should refer the complainants to the ADB OAI and provide the following contract information:</p> <p>Email: integrity@adb.org / anticorruption@adb.org Confidential fax number: (63 2) 636 2152 Address for mail correspondence: Office of Anticorruption and Integrity (OAI), Asian Development Bank, 6 ADB Avenue, Mandaluyong City, 1550 Metro Manila, Philippines</p> <p>(v) <u>Resolve the complaint and close the case.</u> The IA/EA oversees the implementation of the agreed action plan to resolve the complaint. Once the action plan is executed, the IA/EA organizes a complaint closure meeting, where the complainant(s) confirms that closure of the complaint. In case the complaint is not fully resolved, the IA/EA prepares a additional action plan to address the residual issues and</p>
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	<p>agrees it with the complainant(s) for implementation.</p> <p>Capacity building of the GRG</p> <p>Establishing a functional GRM involves identifying the capacity gaps within the IA/EA and implementing a capacity building plan designed to address the capacity deficiencies. The elements of the capacity building plan include:</p> <ul style="list-style-type: none"> (i) assessment of an existing grievance mechanism, if relevant, and capacity needs of the IA/EA; (ii) developing the mechanisms or procedures designed to bridge the capacity gaps within the IA/EA; (iii) delivering a briefing for the GRM members so they can manage implementation of the mechanisms or procedures; (iv) coaching the GRM members across the entire project processing and implementation cycle. <p>Monitoring, reporting and evaluation</p> <p>The IA/EA and Consultant monitor the implementation the complaint resolution process and incorporates the monitoring results to the LARP Implementation Report (in case of category A project for IR – by the independent monitoring agency).</p>
TOR of GRG members	<p>Local Focal Point (LFP)</p> <p>Once the AP files a complaint, the LPC is to undertake and complete the following tasks:</p> <ul style="list-style-type: none"> (i) screen the complaint for eligibility and, if found eligible, registers it in the complaints log; (ii) draft a complaint memo to be signed by the complainant, indicating name of complainant, date and place of complaint submission, gathering supporting documents, as necessary; (iii) send the complaint memo to all members of the GRG, agree the date of the meeting and convene them for a GRG meeting; (iv) request village authorities to organize the meeting(s); (v) facilitate the GRG meetings by providing a storyline for the complaint informed by and based on the actual facts; (vi) communicate requests and queries of the complainants to the members of the GRG/IA/EA and ADB; (vii) maintain records of the meetings and communication between GRG and the complainants; (viii) ensure an administrative and organizational support to the GRG members; (ix) raise awareness on the GRM of local stakeholders, including CSOs, APs and local authorities. <p>Representatives of the APs</p> <p>At least one representative of the APs from the affected community should participate in the GRG meetings. The specific tasks of the AP representative(s) includes:</p> <ul style="list-style-type: none"> (i) participate to all grievance redress meetings; (ii) provide relevant information related to the submitted complaints; (iii) provide other GRG members as relevant with a position note to be

	<p>reflected in the final meeting report.</p> <p>Consultant (Construction Supervision or Design and Supervision Consultant)</p> <p>Once a complaint is lodged with the GRM, the Consultant is to undertake the following tasks:</p> <ul style="list-style-type: none"> (i) contact the complainant(s) and draft a note with Consultant's understanding of underlying reasons that prompted a complaint; (ii) participate to all grievance meetings, provide expert opinions and participate in the investigation, as necessary; (iii) provide other GRG members as relevant with a position note to be reflected in the final meeting report. <p>Independent party (Office of Ombudsman of CSO)</p> <p>After the registration of the complaint with the GRM, the copy of the complaint should be sent to the Independent Party (Office of Ombudsman or designated CSO) on the same day. The Independent Party is tasked with the following responsibilities:</p> <ul style="list-style-type: none"> (i) monitor complaint handling process, ensure that review process is transparent, objective and complies with the policy principles set for by the SPS 2009. (ii) provide recommendations and intervene in the complaint handling process if the process is viewed as biased or breaching the policy principles laid out in the SPS 2009; (iii) advise the complainant(s) on their rights and entitlements, as necessary; (iv) participate to all GRG meetings and site visits; (v) prepare a position memo at the end of the meeting(s) and forward it to the members of the GRG. <p>Representative of IA/EA/PIU (chairperson)</p> <p>After the complaint is filed with the GRM, the representative of the IA/EA will:</p> <ul style="list-style-type: none"> (i) contact the complainant(s), ascertain the facts/gather missing details, and draft a note with his/her understanding of the complaint; (ii) chair the GRG meetings and ensure that minutes of the meeting are shared with all relevant parties; (iii) review the content of each response-letter prepared after deliberations to ensure accuracy of answers provided to the complainants; (iv) ensure the administrative and organizational support for GRG members; (v) prepare the chronology of events to understand sequence of developments prompting the complaint; (vi) ensure agreements reached by the GRG are implemented and that the follow-up actions are taken to address residual issues, as needed. <p>Technical Expert(s)</p> <p>In case the case proves to be complex and requires a technical expertise for the GRG to be able to judge the substantive merit of the complaint, the CFP engages a qualified technical expert from the authorized state agency or certified private</p>
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	<p>entities. The technical expert is specifically expected to:</p> <ul style="list-style-type: none">(i) conduct a due diligence, relevant tests or an investigation;(ii) prepare a short report based on the results of the examination completed;(iii) recommend if further or additional legal opinion or expertise is needed to judge on the substance of the case.
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Policy Requirement	Monitor and measure the progress of implementation of the resettlement plan. Prepare semiannual monitoring reports that describe the progress of the implementation of resettlement activities and any compliance issues and corrective actions.
Key Pointers	<p>An internal project monitoring provides quarterly reports to project management and ADB. The monitoring system has two aspects. First monitoring focuses upon the timely delivery of planned works, goods, and services to the displaced population, which is an essential management tool to ensure corrective actions are taken if shortfalls are experienced. To be most effective, monitoring should involve various groups at the local level verifying and reporting progress. The implementation plan in the documentation provides the schedule of activities and the quarterly monitoring report should assess progress in each activity.</p> <p>For Category A projects, an external resettlement monitoring consultant is engaged (see TOR below).</p> <p>For Category B projects, monitoring and reporting is included in the required periodic monitoring and reporting. It can be done by relevant specialist in the project management unit or by the supervision consultants</p>
TOR for External Resettlement Monitoring Consultant (Category A)	<p>I. Introduction</p> <p>II. Objectives</p> <p>ADB policy requires that external monitoring be carried out in parallel with the implementation of the RP and its internal monitoring. The main goal of external monitoring is to assess relevance, efficiency, effectiveness and impact of the LAR processes and to suggest any corrective measures, if necessary. The Resettlement Monitoring Consultant (RMC) will monitor and verify RP preparation and implementation to determine whether resettlement goals have been achieved, livelihood and living standards have been restored and provide recommendation for improvement, if needed. The RMC scope of work will also include analysis of site conditions, compensation disbursement and grievance redress procedures.</p> <p>The RMC is expected to submit monthly reports of the resettlement progress, RP Implementation Review, Quarterly Reports, and RP Compliance Report, which indicates whether the compensation program has been carried out based on the provisions of the RP and ADB policy and with the satisfaction of the displaced persons (DPs). The RP Compliance Report is a precondition to the commencement of civil works.</p> <p>The objectives of the RMC will be the followings:</p> <ul style="list-style-type: none"> • Verify that resettlement has been implemented in accordance with the approved final RP; • Monitor and evaluate the schedules and the achievement of targets related to land acquisition and resettlement activities; • Ensure that DPs have been able to at least restore their livelihoods and living standards; • Review the project impacts on vulnerable groups and assess the effectiveness of the mitigation measures adopted;

	<ul style="list-style-type: none"> Assess resettlement relevance, efficiency, effectiveness and impact drawing both on policies and practices and to suggest any corrective measures, if necessary. <p>III. Scope of Work</p> <p>The RMC will be involved in ongoing monitoring of the resettlement efforts by the PIU. The major tasks of the RMC are the followings:</p> <ul style="list-style-type: none"> Develop specific monitoring indicators for LAR; Monitor the progress of the land acquisition and resettlement activities against the targeted performance indicators; Verify claims through random check at the field level to assess whether resettlement objectives have been generally met; Identify the strengths and weaknesses of the resettlement objectives and approaches, and implementation strategies; Review and verify the progress in RP implementation and prepare quarterly reports for the PIU and ADB; Evaluate the adequacy of compensation given to the DPs as well as livelihood opportunities and incomes and quality of life of DPs; Evaluate the adequacy and effectiveness of the consultative process with DPs, particularly those vulnerable, including the adequacy and effectiveness of grievance procedures and legal redress available to the DPs, and dissemination of information about these; Monitor land acquisition timelines and terms of temporary land acquisition, and, if needed, recommend adjustment of timelines/terms; and Conduct baseline update surveys with DPs who incurred damages resulting from construction works under the Project, in order to identify the level of satisfaction with types and sizes of compensation. <p>IV. External Monitoring Methodology and Procedure</p> <p>The following research methodologies and procedures are suggested for monitoring and evaluation of RP preparation, implementation and post-implementation activities:</p> <ul style="list-style-type: none"> Desk review (secondary data analysis); Baseline survey (face to face interviews); Participatory rapid assessment (focus groups, interviews, observations). <p>The monitoring and evaluation of RP progress against the targeted performance indicators will be based on data from secondary and primary sources. RMC will use field visits and interviews with a representative sample of the DPs.</p> <p>The work of the RMC can be subdivided into two phases:</p> <p>a. Assessing pre-RP implementation status – this involves establishing the pre-RP implementation conditions of the DPs to allow for the measurement of the initial impacts of the compensation and assistance provided in the course of RP implementation. In this phase, the RMC will undertake:</p> <p>a1. Desk review / secondary data analysis – review the socio-economic baseline survey, land acquisition and resettlement information available with PIU and confirm its accuracy and validity. The completeness of the profiles for all the affected land plots/structures/businesses should be checked, which includes desk review of the information available at PIU. In order to obtain insight on</p>
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	<p>the number and types of DPs and impacts and determine the sampling plan for the conduct of surveys, the RMC shall review the socio-economic survey / census / valuation information. The RMC will propose a methodology for confirming the results of socio-economic survey and census, as provided in the RP, through sample random checks of a representative number of DPs. The RMC will identify and select appropriate indicators to measure the impact of the RP, including possible impact differences on men and women DPs.</p> <p>a2. Baseline survey – having confirmed the validity of available socio-economic survey and census data available with the PIU, the RMC will undertake a baseline survey for the Project. To ensure that adequate pre-project data is collected and available for monitoring, the baseline survey shall be conducted, to the extent possible, prior to the implementation of the RP. The survey will cover a representative sample of DPs based on the census list, stratified according to types and severity of impacts. The survey shall follow the general rule of taking 10% of all DPs and at least 20% of vulnerable DPs. However, adjustment in the sample size can be made to ensure that the error margin is +/- 5% at a CI of 95%. The sampling procedures for the baseline survey and the subsequent formal survey should be consistent to ensure comparability of samples. The results of the survey will be reported through Baseline Survey Report.</p> <p>a3. Public Consultation Process – RMC will observe the public consultations organized by PIU. This will allow evaluating the effectiveness of the public participation and the cooperative attitude of the DPs towards the LAR process. Monitoring of public consultation process shall to the extent possible be conducted before the resettlement implementation.</p> <p>b. RP implementation review and preparation of RP Compliance Report – this involves the review of RP implementation process to ensure that activities are implemented in accordance with the approved RP. Upon the completion of the RP implementation, an evaluation shall be made as to what extent the RP was able to accomplish its objectives. This evaluation shall be used as basis for issuing the Notice-To-Proceed to Construction Contractor(s). In this phase the RMC shall undertake:</p> <p>b1. Verification of compliance with RP – this includes review of reports prepared by the PIU. The RMC shall review and verify in the field the results of the reports prepared by the PIU. The review shall involve a random check of payment/compensation records. Field verification will be done through interviews with DPs. The RMC shall also review the compliance of compensation process with procedures / methodologies / mechanisms stated in the approved RP. The RMC shall check if the valuation, consultations, disclosure, payments, and related processes are done in accordance with the approved RP.</p> <p>b2. Assess the impact of the RP – this will be carried out through formal and informal surveys with the DPs. Upon completion of compensation payments / assistance, the RMC shall conduct a survey of a representative sample of DPs to determine changes that have occurred on the DPs. Focus group discussions, conversational open-ended interviews and other unstructured data gathering methods will also be used for DP groups to supplement the findings from the</p>
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survey. The assessment will also look into potential impacts or benefits that men and women DPs experienced from the resettlement activities.

b3. Assess DPs satisfaction on the valuation of assets and entitlements, timing of payments, etc. Through post-RP survey, the RMC shall ascertain the degree of satisfaction of DPs on the valuation of assets, as well as, the scope and timing of assistance provided under the RP.

b4. Post-RP evaluation shall be carried out to find out if the objectives of the RP have been attained or not and to assess resettlement efficiency, drawing lessons for future resettlement planning. The Post-RP Report will be developed at this stage. Should the outcome of the study show that the objectives of the RP have not been attained; the RMC will recommend appropriate supplemental assistance for the DPs.

The following data is considered to serve as the basis for developing the Post-RP Report:

- (i) Socio-economic conditions of the DPs in the post-resettlement period;
- (ii) Communications with DPs and reaction from DPs on entitlements, compensation options, alternatives and relocation timetables, etc.;
- (iii) Changes in housing conditions and income levels;
- (iv) Rehabilitation of informal settlers;
- (v) Grievance procedures;
- (vi) Disbursement of compensation; and
- (vii) Level of satisfaction of DPs in the post-resettlement period.

b5. Prepare the RP Compliance Report that shall demonstrate as to what extent the RP was able to accomplish its objectives. The RP Compliance Report will be used as precondition to allow for commencement of the construction works. As part of the RP Compliance Report, the RMC will also assess the status of project affected vulnerable groups, such as households with income below subsistence minimum, households headed by single women, large households with 5 or more children below 18 years, and households with disabled member. Prior to submission of the RP Compliance Report, the RMC shall ensure that informal and formal meetings are held with the men and women DPs, PIU and other key officials and seek feedback on the contents / analysis presented in the report. Highlights of these consultations will also be attached as an annex to the RP Compliance Report. HHs below the poverty line; single women headed HHs;

V. Implementation Arrangements

The RMC shall report directly to the PIU and carry out the works in close collaboration with the PIU's Resettlement Specialist and appropriate representatives of EA. The RMC will deliver copies of all monitoring reports to ADB. The RMC assignment is on an intermittent basis following the pace of the progress of RP verification, finalization and implementation for the Project.

VI. Reporting Requirements

	<p>The RMC is expected to prepare and submit to the PIU and ADB the following deliverables:</p> <ul style="list-style-type: none"> • An Inception Report and detailed Work Plan including draft formats (as appropriate for various outputs, such as questionnaires, guides, etc.) and draft outlines for various reports (including Baseline Survey Report, RP Implementation Review Quarterly Report, Post-RP Report, RP Compliance Report) in 1 month upon signing of the contract; • Baseline Survey Report; • RP Implementation Review Quarterly Reports; • Post-RP Report • RP Compliance Report; • Final Report upon completion of the assignment. <p>In addition to the abovementioned programmatic reports, the RMC will submit to PIU and ADB the monthly progress reports describing their activities undertaken during the specific month of assignment.</p> <p>The RMC shall submit the deliverables in Kyrgyz/Russian and English languages in electronic and hard copies along with the cover letter.</p> <p>VII. Consultant Qualifications</p> <p>National Consulting Firm or a Non-Governmental Organization or Individual Consultant, may be engaged as RMC. The consultant shall have prior experience in conducting external resettlement monitoring for development projects. Familiarity with ADB Safeguards Policy Statement (2009) and LAR related Kyrgyz laws and regulations are an advantage.</p>
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Policy Requirement	<p>Financial intermediary (FI) will be required to have in place or establish an appropriate environmental and social management system (ESMS) to be maintained as part of their overall management system to meet national laws and/or ADB's requirements for FI projects.</p> <p>Where investments of the FI have minimal or no adverse social or environmental risks, the FI project will be treated as category C project. For such FI a basic ESMS containing the screening checklist shall be devised in order to ensure all specific investments are classified as category C.</p>
Key Pointers	<p>The ESMS will incorporate the following elements:</p> <ul style="list-style-type: none"> • environmental and social policies; • screening, categorization, and review procedure; • organizational structure and staffing <p>including skills and competencies in environmental and social areas;</p> <ul style="list-style-type: none"> • training requirements; and • monitoring and reporting. <p>The ESMS will be documented and agreed on by ADB and the FI.</p> <p>The FI should appoint a member of its management or one or more staff or consultant(s) responsible for day-to-day implementation of the ESMS to have overall responsibility for environmental and social matters.</p> <p>An approved ESMS shall be submitted to ADB before its first disbursement to the FI.</p> <p>FI will prepare and submit periodic reports at least annually on the implementation status of its ESMS. If the reports or ADB's reviews conclude that the ESMS is not functioning, the FI will prepare and submit a corrective action plan agreed to with ADB and implement it.</p>
Content of an ESMS	<p>INTRODUCTION</p> <p>ENVIRONMENTAL AND SOCIAL MANAGEMENT POLICY AND APPLICABLE REQUIREMENTS</p> <p>A. Policy</p> <p>1. The environmental and social management policy of [Name of Bank] was approved by the Board of Directors (or signed by [the President], or indicate other position/designation) on [date/month/year] and states that:</p> <p>1. The objectives of the environmental and social management system are:</p> <ul style="list-style-type: none"> (i) To avoid, and when avoidance is not possible, to minimize and mitigate adverse impacts of subprojects on the environment and affected people; and (ii) To maximize opportunities for environmental and social benefits. <p>1. [Name of Bank] continually endeavors to ensure and enhance effective environmental and social management practices in all its activities, products and</p>

	<p>services with a special focus on the following:</p> <ul style="list-style-type: none"> (i) Ensuring that applicable environmental and social safeguard requirements, as defined in Section II (B) are met for all subprojects; (ii) Financing subprojects only when they are expected to be designed, constructed, operated, and maintained in a manner consistent with applicable environmental and social safeguard requirements, as defined in Section II (B); (iii) Integrating environmental and social risk into its internal risk management analysis; (iv) Ensuring appropriate consultation and transparency in its subproject company's activities; (v) Working together with subproject companies to put into practice applicable environmental and social safeguard requirements; and (vi) Promoting subprojects with environmental and social benefits. <p>1. This policy will be communicated to all staff and operational employees of the company.</p> <p>B. Applicable Environmental, Social Safeguard and Social Protection Requirements</p> <p>1. [Name of Bank] will ensure that:</p> <ul style="list-style-type: none"> (i) All subprojects using ADB funds are screened against the Prohibited Investment Activities List (PIAL) of the ADB Safeguard Policy Statement; (ii) All subprojects using ADB funds with potential significant environmental and/or social impacts are reviewed and evaluated against Safeguard Requirements 1-3 of the ADB Safeguard Policy Statement (2009); (iii) All subprojects are reviewed and evaluated against the national laws, regulations, and standards on environment, health, safety, involuntary resettlement and land acquisition, indigenous peoples, and physical cultural resources; (iv) Gender issues will be identified and women's needs and concerns addressed. Specifically, (i) gender analysis be included as part of the environmental and social impact assessment, (ii) women will be involved during consultations, (iii) mitigating measures will be developed to address impacts on women, and (iv) opportunities to assist and benefit women will be explored; (v) Ensuring that the subproject's contracts with civil works contractors, subcontractors, and other providers of goods and services include provisions to employ local labor whenever possible and ensure compliance with ADB's social protection requirements. <p>ENVIRONMENTAL AND SOCIAL MANAGEMENT PROCEDURES</p> <p>B. Screening and Categorization</p> <p>1. At an initial stage of identifying a subproject, the Environmental and Social Safeguard Manager (or other designated staff) will apply ADB's PIAL. If the subproject involves a prohibited activity, the subproject company will be informed that the subproject will not be considered. Otherwise, the Environmental and Social Safeguard Manager (or other designated staff) will indicate the applicable environmental and social safeguard requirements for the subproject.</p>
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1. Once it is confirmed that the project is not in ADB's PIAL, the Environmental and Social Safeguard Manager (or other designated officer) will work with the subproject company to make a rapid assessment of the likely environmental and involuntary resettlement impacts and effects on indigenous peoples.

1. Once the checklists and the verification work are completed by the deal team of [Name of Bank], the subproject will be classified as one of the following categories: category A (with potential significant environmental and/or social impacts); category B (with less significant environmental and/or social impacts), and category C (with minimal or no impacts).

1. The deal team of [Name of Bank] will take care to assure that the subproject company is fully aware of the applicable requirements as presented in Section II (B) and summarized in Table 1 that the subproject is expected to comply with. For subprojects with potential significant environmental and/or social impacts, the deal team will advise the subproject company that (i) Safeguard Requirements 1-3 of the ADB Safeguard Policy Statement will apply, including preparation of an environmental impact assessment (EIA) report and an environmental management plan (EMP), a resettlement plan (RP) and/or an indigenous peoples plan (IPP); and (ii) the subproject company shall submit these reports to [Name of Bank] for review. [Name of Bank] will also submit these reports to ADB for review.

Table 1: Safeguard Requirements

Category (Risk Rating)	Environmental Safeguards	Involuntary Resettlement Safeguards
Category A (with potential significant impacts)	Comply with (i) ADB's PIAL and (ii) Safeguard Requirements 1 of the ADB Safeguard Policy Statement, including EIA preparation & submission, and (ii) national laws	Comply with (i) ADB's PIAL and (ii) Safeguard Requirements 2 of the ADB Safeguard Policy Statement, including RP preparation & submission, and (ii) national laws
Category B (with less significant impacts)	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL
Category C (with minimal or no impacts)	Comply with national laws and ADB's PIAL	Comply with national laws and ADB's PIAL

C. Due Diligence

1. The Environmental and Social Safeguard Manager (or other designated staff) of the deal team of [Name of Bank] will undertake environmental and social due diligence. Depending on the complexity of the subproject, due diligence can be a desk review (for category C subprojects), based on a site visit (for category B subprojects), or a full-scale review conducted by qualified staff in charge of environmental and social safeguards, or by consultant(s) (for category A subprojects). The subproject company must provide all requested information to the deal team, and should be able to demonstrate responsiveness with regard to the applicable environmental and social safeguard requirements. A due diligence report will be prepared for category A and B subprojects and the results of the due diligence will be reflected in the report to the subproject committee of [Name of Bank], which will take into account these issues in approving the subproject.

1. For a subproject using ADB funds and likely to be classified as category A

for any of their environment, involuntary resettlement, or indigenous peoples impacts, [Name of Bank] will refer the subproject to ADB and provide relevant environmental and social information to ADB early in its due diligence process, and submit the draft EIA report, RP, and/or IPP to ADB for review and clearance before the subproject is approved by [Name of Bank]. The draft EIA report will be made publicly available at least 120 days before the approval of the subproject, and the draft RP and draft IPP will be made publicly available before the approval of the subproject.

1. All subproject investment agreements will contain appropriate environmental and social covenants requiring subproject to be in compliance in all material respects with the applicable environmental and social safeguard requirements as defined in Section II (B).

D. Compliance Monitoring and Reporting

1. After a category A or B subproject is approved, the Environmental and Social Safeguard Manager (or other designated staff) (i) communicates with the subproject and confirms from time to time that the subproject company is undertaking the obligations of compliance with all applicable environmental and social safeguard requirements; and (ii) [Name of Bank] will promptly report to ADB any actual or potential breach of the compliance requirements after becoming aware of it. For a category A subproject, the Environmental and Social Safeguard Manager (or other designated staff) will visit the site to monitor the implementation of EMP and RP and submit semi-annual monitoring report to ADB for public disclosure.

1. Environmental and social performance will be evaluated on an annual basis. The benchmark for performance will be the ongoing compliance against the applicable environmental and social safeguard requirements. [Name of Bank] will ensure that the subproject company prepares and submits an annual environmental and social monitoring report, and will review and assess the subproject company's performance on environmental and social safeguard issues.

1. Based on the review of the semi-annual monitoring reports for Category A and B subprojects prepared by the subproject company, and the status of implementation of the FI's ESMS, the Environmental and Social Safeguard Manager will prepare an annual environmental and social performance report, and submit it to the [Name of Bank] management and ADB.

II. ORGANIZATIONAL RESPONSIBILITIES, RESOURCES AND CAPACITY

1. **Organization and Responsibilities.** The Environmental and Social Safeguard Manager (or other designated staff) reports to the [Chief Executive Officer] of [Name of Bank]. The Environment and Social Manager has oversight for environmental and social issues, ensures the resources are made available for environmental and social management, and should sign and submit the annual environmental and social performance report to ADB. S/he should ensure that the ADB is notified if and when the responsible staff has been changed or replaced with new staff.

1. **Resources and Capabilities.** The Environmental and Social Safeguard Manager (or other designated staff) should work with the management of [name of the bank] to ensure that adequate resources have been committed to allow for the effective implementation of this ESMS policy and procedures. S/he will need to be technically qualified to be able to carry out the screening and due diligence or able to review the work carried out by consultant(s). S/he should attend ADB-sponsored

	<p>or approved environmental and social safeguard training related to compliance and monitoring activities. [Name of Bank] should also maintain a pool of qualified environmental and social consultants who can be called upon to assist in conducting environmental and social reviews as appropriate.</p>
Elements of a Basic ESMS	<p>A. Screening Mechanism</p> <p>Environment Safeguard - only subprojects that have minimal or no environmental impacts and risks will be eligible for funding.</p> <p>Involuntary Resettlement Safeguard - only subproject with no land acquisition and resettlement impacts and risks will be eligible for funding. Subprojects that will require involuntary acquisition of land for operation or expansion of operations will not be eligible for funding.</p> <p>Indigenous Peoples Safeguard - only subproject with no impact to indigenous people will be eligible for funding. Subproject should not entail direct or indirect impact to the dignity, human rights, livelihood systems or culture of the indigenous peoples.</p> <p>ADB Prohibited Investments and Activities List (PIAL) - subprojects included in the list will not be eligible for funding.</p> <p>B. Institutional Arrangement</p> <p>The ESMS Manager (or other designated staff or consultant) (i) communicates with the subproject owner and confirms that the subproject is in compliance with all applicable requirements of the basic ESMS; and (ii) FI will promptly report to the EA and ADB any actual or potential breach of the compliance requirements after becoming aware of it.</p> <p>C. Monitoring and Reporting</p> <p>The ESMS Manager (or other designated staff or consultant) reports to the [Chief Executive Officer] of FI. The ESMS Manager has oversight for environmental and social issues, ensures the resources are made available for environmental and social management, and should sign and submit the annual environmental and social performance report to the EA and ADB. S/he should ensure that the ADB is notified if and when the responsible staff has been changed or replaced with new staff.</p>