



# Resettlement Framework

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## ABBREVIATIONS

ADB	Asian Development Bank
AH	Affected Household
AP	Affected Person
BAPEDA	Provincial / District Development Planning Agency
BAPPENAS	National Development Planning Agency
EA	Executing Agency
LAC	Land Acquisition Committee ( <i>Panitia Sembilan</i> or Committee of Nine)
PIB	Project Information Booklet
PIC	Project Implementing Consultant
RCS	Replacement Cost Study
ROW	Right-of-Way
RF	Resettlement Framework
RP	Resettlement Plan
SES	Social Economic Survey
SPMU	Sub-Project Management Unit

## NOTE

In this report, "\$" refers to US dollars

## Definition of Terms

Affected person (AP)	- 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.  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.
Compensation	- 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.
Cut-off date	- 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 final day of the census of APs and the detailed measurement survey (DMS) of APs' land and/or non-land assets.
Entitlement	- 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.
Involuntary Resettlement	- 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.
Land acquisition	- 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.
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 land, assets and/or income sources due to the Project; and/or (ii) relocate due to insufficient remaining residential land to rebuild.
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.

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## **I. INTRODUCTION**

### **A. PROJECT BACKGROUND**

1. The Project will provide urban sanitation facilities and services to communities in the cities of Medan, Yogyakarta, and Makassar, combined with capacity building for city governments and communities, and sanitation and hygiene behavioral change programs. The Project will provide improved sanitation facilities. Subproject selection at community level will combine elements of poverty targeting with a demand-responsive approach to ensure sustainability of the facilities. The Project aims to: (i) strengthen the community capability to design, cofinance, build, operate, and manage community-based water and sanitation facilities, and to be active in the promotion of public health awareness; (ii) improve access to wastewater treatment services through the construction of adequate sewerage and grey water drainage facilities based on community demand; (iii) improve access to solid waste management services through the construction of adequate solid waste collection and processing facilities based on community demand; and (iv) improve city government capacity for development and project implementation support

2. Of the four Project components above, (i) improving access to wastewater treatment services through the construction of adequate sewerage and grey water drainage facilities and (ii) improving access to solid waste management services through the construction of adequate solid waste collection and processing facilities based on community demand may involve involuntary resettlement (or resettlement impacts), hence, this Resettlement Framework has been prepared and sets out the resettlement screening, policy, and planning procedures that the executing and implementing agencies will follow when preparing resettlement plans. Considering the nature of each subproject, it is expected that there will be no or limited significant resettlement impacts. Only short resettlement plans will be prepared, as required.

## **II. LEGAL AND POLICY FRAMEWORK**

### **A. RELEVANT LAWS AND REGULATIONS IN INDONESIA**

3. The key legal instruments currently in force in Indonesia that are most relevant to involuntary resettlement are Presidential Decree No. 36/2005, entitled "Provision of Land for Realizing the Development for Public Interests", as amended by Presidential Decree No. 65/2006, entitled "On Land Acquisition for Development Purposes in the Public Interest", and National Land Agency (BPN) Regulation No. 3/2007 on Land Acquisition Implementation Guideline for Presidential Decrees 65/2006 and 36/2005. Superseding Presidential Decree No. 36/2005 that earlier amended Presidential Decree No. 55/1993, the 2006 Presidential Decree provides for various forms of compensation for private assets needed to pursue Government development projects.

4. In 2003, consistent with the national thrust to devolve central powers to the local governments, Presidential Decree 34/2003 (*National Policy on Agrarian Affairs*) was issued.

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Article 2 of said Decree mandates that land acquisition, including determining levels of compensation, for public development projects would be carried out by the district and city governments (*Kabupaten/Kota*). Where such authority crosses district boundaries within a single province, land acquisition would be carried out by the provincial government. Additionally, the Decree of the Head of the National Land Agency 2/2003 on *Mechanisms, Norms, and Standards for Government Authority and Management of Agrarian Affairs* provides further detail on how land acquisition and compensation would be carried out. The *Bupati* (Regent) or *Walikota* (Mayor) or the Governor would set up a land acquisition committee, the "Committee of Nine", for the purpose. Members of said Committee of Nine include representatives from the Land Office, Tax Office, Buildings Office, Agriculture Office, the heads of the district and village, and two secretaries. The Committee of Nine has the authority to conduct an inventory of affected land and assets found thereat; to investigate the status of ownership over the affected land; to inform and negotiate with the property owners together with the government agency acquiring the land; to estimate the amount of compensation; and to document and witness payment of compensation.

## **B. ADB POLICIES ON INVOLUNTARY RESETTLEMENT**

5. 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

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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 RELEVANT TO INVOLUNTARY RESETTLEMENT

6. 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. 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.

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

### D. GAPS OF INDONESIAN LAWS AND COMPARISON WITH ADB POLICIES

8. The main limitation of Presidential Decree No. 65/2006, the applicable provisions of Presidential Decree No. 36/2005 and Presidential Decree No. 55/1993, including their enabling decrees, such as the Regulation of the State Minister of Agrarian Affairs and National Land Agency No. 1 of 1994, lies on the fact that they have not been conceived and planned to address a multi-faceted social phenomenon known as *involuntary resettlement*. Said laws are concerned, more than anything else, with acquiring in the most expeditious way properties needed for the right-of-way (ROW) of government projects. But as acquisition and/or clearing of project ROW may involve displacement of people from both material and non-material assets, these people, most of whom are already poor to begin with, are at risk of further impoverishment in the form of landlessness, joblessness, homelessness, economic marginalization, increased morbidity and mortality, food insecurity, loss of access to common property, and disintegration of community and social ties and organizations. Certainly, existing laws and policies on land

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acquisition cannot address these risks.

9. With regard to comparison of Indonesian Law and ADB policies, to begin with, the two are not similar. On the one hand, Indonesian laws on property acquisition for ROW are principally an exercise of the State power on eminent domain. In the acquisition process, government agencies invoking the State power on eminent domain are guided by other laws and regulations pertaining to ownership over the acquired assets and the level of compensation to be provided. Existing financial and auditing procedures must be followed, notwithstanding the fact that the affected property is not being acquired by Government on a "willing seller – willing buyer" situation. Moreover, the focus of the acquisition activity is the object to be acquired; the social situation of the person to be dispossessed of an asset is not considered in the whole transaction.

10. On the other hand, the focus of ADB Policy is the affected person or household; concerns are raised on whether or not acquiring an asset for the project ROW, regardless of the tenure status of the household, would adversely impact the APs current living standards. Questions on whether such acquisition would put the AP at risk of impoverishment and on whether it would bring in an opportunity for the AP to improve its present status are asked. Thus, ADB's *Policy on Involuntary Resettlement* (1995) seeks to restore the pre-project living standard of the AP through the replacement of lost assets in conjunction with other measures that are all aimed at rehabilitating the affected person.

11. The following legal and operational restrictions quite aptly provide a picture of how wide the gap is between existing Indonesian laws and regulations and ADB's *Policy on Involuntary Resettlement*:

- a. Government auditing policies compel Executing Agencies not to compensate at replacement rates for affected fixed assets, such as buildings. The value of the affected asset, even if lost involuntarily, is depreciated and the value of salvageable materials deducted from the amount of compensation.
- b. In the absence of a law for the purpose, Executing Agencies are not compelled to provide compensation or assistance to informal settlers for affected fixed assets. It is up to the Implementing Agency to decide whether or not to give compensation or assistance to these type of APs.
- c. Current legal framework does not include a definition of non-physical losses or how to apply a value to them, no requirement to identify or address vulnerable groups, no provision for any affected people other than title holders, no requirement for disclosure to affected people, and no opportunity for affected people to participate in planning, implementation or monitoring, and no requirement to develop resettlement plans.

12. It is precisely because of the limitations of and gaps in law that could comprehensively address the complex social issues attendant to ROW acquisition that the Project policies in this Resettlement Framework have been adopted. This is discussed in Section III.



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### III. PROJECT OBJECTIVES AND POLICIES

#### A. OBJECTIVES

13. The Government of Indonesia will use the Project Resettlement Policy (the Project Policy) for the Project specifically because existing national laws and regulations have not been designed to address involuntary resettlement according to international practice, including ADB's policy. The Project Policy is aimed at filling-in any gaps in what local laws and regulations cannot provide in order to help ensure that APs are able to rehabilitate themselves to at least their pre-project condition. This section discusses the principles of the Project Policy and the entitlements of the APs based on the potential impacts or losses. Where there are gaps between the Indonesian 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. Likewise, the Project should serve as an occasion for the local population to participate in its planning and implementation, thereby engendering a sense of ownership over the Project, subprojects and other components. Towards this end, the Implementing Agency will endeavor to carry out the Project and any of its subprojects and components based on 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) or public land of a subproject or component of the Project until and after the RP has been approved both by the Directorate General of Human Settlements 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 survey<sup>1</sup>, irrespective of tenure status, are entitled to compensation and/or assistance sufficient to improve or at least maintain their pre-project living standards, income-earning capacity and production levels

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<sup>1</sup> Detailed measurement survey (DMS) is carried out following detailed design. Inventory of Losses (IOL) is based only on preliminary design. For subproject resettlement plans prepared during implementation (after loan approval), DMS is carried out following detailed design.

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- d. If the project communities or individuals decide to make voluntary contribution of the affected land for the project activities, this shall be acceptable only if the following safeguards are met: (i) ensuring that land donations do not severely affect to the living standards of affected people, and are linked directly to benefits for the affected people; (ii) any voluntary "land donation" will be confirmed through verbal and written record and verified by an independent third party such as a designated non government organization; (iii) Full consultations with the land owners and any non-titled affected people on site selection; and (iv) no affected people (AP) categorized as poor household are allowed to donate their land or other economic assets for the project activity.
  - e. 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.
  - f. APs 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.
  - g. Temporarily affected land and communal/public infrastructure will be restored to pre-project conditions.
  - h. 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.
  - i. There shall be effective mechanisms for hearing and resolving grievances during implementation of the land acquisition and resettlement plans.
  - j. Existing cultural and religious practices shall be respected and, to the maximum extent possible, preserved.
  - k. Special measures will be incorporated in the RPs and in complementary mitigation and enhancement activities to protect socially and economically vulnerable groups at high risk of impoverishment, such as indigenous peoples, women-headed families, 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.
  - l. 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, resettlement 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.
  - m. Appropriate reporting, monitoring and evaluation mechanisms will be identified and set in place as part of the resettlement management system.
  - n. The RPs or their summaries will be translated into Bahasa and, where necessary, other local languages and placed in the village offices for the reference of APs as well as other interested groups.
  - o. The EA will not issue notice to proceed for any civil works contract for any given geographic location, subproject, component, subcomponent or zone unless the

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Government has satisfactorily completed, for that given location, subproject, component or zone, payment of compensation for affected assets and any relocation to new sites, in accordance with the approved RP for that geographic location, subproject, component, subcomponent or zone. Livelihood restoration measures must also be in place but not necessarily completed, as these may be ongoing activities.

### 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. This date has to be disclosed to each affected village by the relevant local governments and the villages have disclosed to their populations. 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. During RP preparation, identification of sites for communal bathing/washing/toilet will be done through consultative process involving local communities and will be located, as much as possible, in vacant communal land. Communal wastewater treatment plants and septic tanks will also be located on vacant public land. Drains and sewer lines will be within the existing road right-of-way (ROW). It should be noted that people may be living or doing business on ROW/public land and these types of APs are not entitled to compensation as per Government law and legislations. However, in practice, the Government has been providing assistance to these households. In line with best practice and as per ADB resettlement policy, these APs will be entitled to assistance in kind or cash to meet the policy objectives of restoring the pre-project condition of APs and for improving the socio-economic conditions of APs who are found to be poor and vulnerable. During RP preparation, the Project will take into account and include persons or households who are living/doing business on the ROW or public land in the census and DMS activities.

17. 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 can only be determined following detailed design and entitlements can only be finalized following census and detailed measurement survey and in consultation with APs and concerned groups. The entitlements below will be revised/enhanced, as necessary, and will be presented in detail in the RP to ensure that losses are restored, if not improved. Any revisions/enhancement in the entitlements will be reflected in the RP for ADB review and approval.

**Table 1: Entitlement Matrix**

Type of Loss/Impacts	Eligible Persons	Entitlements
Loss of Private Residential / Aquaculture / Productive Land	Owners with legal rights to land.	Compensation in cash at replacement cost equivalent to current market value of land plus any transaction costs or land replacement with similar condition.
Loss of Use of	All farmers utilizing	APs will be allowed to harvest their crops prior to construction

Type of Loss/Impacts	Eligible Persons	Entitlements
Productive Land within the ROW / Public Land	ROW land for productive use.	and will be allowed to cultivate remaining portion of ROW.  If during RP preparation, farmers are found to be severely affected (i.e., the loss is equivalent to 10% or more of their total income capacity) and that these farmers have no other land to cultivate, the SPMU and LAC will assist, as much as possible, in finding affordable replacement land with similar productive attributes for these farmers to lease or buy. If there are no available replacement land, in-kind assistance or ongoing community development programs in the area to be determined during RP preparation.
Impacts on Houses or Shops	Owners with legal rights to land	Compensation based on current market value of structures which is based on bills of quantity and bills of materials including labor necessary to construct a duplicate of a structure without application of depreciation.  If owner is required to relocate, provision of relocation assistance and moving cost. Allowance for lost income during transition. Assistance will be in-kind or cash.
	Owners who are within ROW/Public Land	Assistance in cash or in-kind to help dismantle, rebuild, and/or transfer the houses/shops in the residual area of the ROW or outside of the ROW that will be selected by the LAC and which site will be prepared for occupancy by the civil works contractor prior to the transfer of the house. If house not yet available prior to moving, temporary shelter to be provided at no cost to the affected household during dismantling and reconstruction of house.  Provision of assistance in cash or in-kind to cover relocation cost. and lost income during transition
Temporary Loss of Business Income during construction	Business owners with or without permit that may be required to close shop for a few days.	Compensation for lost income (cash or in-kind) based on business tax records for those who have business permits. This will be the average income per day multiplied by the number of days of business disruption.  For those who have no permits or who are on public land, cash/in-kind assistance equivalent to minimum salary in the area multiplied by the number of days of business disruption.
Income from sharecropping arrangements	Owners and Sharecroppers of fishponds regardless of tenure status	If the aquaculture products cannot be harvested on time or prior to construction, payment for loss of income which is equivalent to the current market value of aquaculture products. The payment to owners and sharecroppers will be based on sharecropping agreement.
Loss of, or damage to Crops and trees, aquaculture products (from fishpond)	Owners regardless of tenure status	APs (owners and sharecroppers) will be allowed to harvest annual crops, aquaculture products, and timber products before start of construction.  Perennial trees will be allowed to be harvested and cut. For those that can be balled, SPMU & LAC will assist in balling the trees and transport them for replanting outside of the ROW. Perennial trees will be compensated based on productive value of tree.
Loss of, or damage to Public Facilities	Local government	To be restored and relocated in accessible areas
Higher risks of	APs that fall within the	Greater care and attention will be provided to these APs

Type of Loss/Impacts	Eligible Persons	Entitlements
hardship due to project impacts due to impacts on house and shops, loss of paddy land and aquaculture land	official category of "poor" (i.e., earning less than \$1 per day), and those that are headed by females and/or those headed by the disabled and with no other gainfully employed or earning members of the household, Sharecroppers who have no other fishpond land.	during the transfer of their structures which will be spearheaded by the SPMU and LAC and civil works contractor to spare them any additional hardship on account of the Project. Will be given priority in any livelihood program, income restoration, and/or social program of the local government.
Impacts during Construction		<ul style="list-style-type: none"> <li>Contractors will be responsible for paying 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.</li> <li>Non-land assets within the residual area of the ROW will be replaced through in-kind support while those outside of the ROW that are adversely impacted by construction activities will be compensated in-kind or cash at replacement cost by the civil works contractor.</li> </ul>

## V. RELOCATION AND REHABILITATION STRATEGY

18. 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, the SPMU and LAC will assist in finding replacement land for these households by allowing them to move back on remaining ROW, in a group resettlement site or individual sites with similar or better conditions as before. The arrangements will be on a renewable lease agreement, lease-to buy arrangements or at no cost to APs. In-kind support will be provided such as provision of labor and/or transport by the civil works contractors.

19. For independent shops/stalls, they will also be allowed to move back on remaining ROW, 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 LAC, 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. In-kind support will be provided such as provision of labor and/or transport by the civil works contractors.

20. 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 type of APs.

21. It was noted during consultation with the three cities that there are some community development programs in the area. For example, in Yogyakarta, street shops in Giwangan which have no place to relocate, were relocated to a new market site. In Mangkubumi, shop owners were given access to micro-finance programs. During RP preparation, good practices with regard to relocation as carried out by the concerned cities will be explored and adopted while ongoing community development programs will be identified and consider possible linkages to the Project if suitable programs are found.

## **VI. SCREENING AND RP PREPARATION**

### **A. Screening**

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

23. 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 RP 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**

24. 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)<sup>3</sup> 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)<sup>4</sup> of at least 10% of all affected households, 20% of severely affected households and ethnic minorities population.
- (iv) Undertake a replacement cost survey for various types of affected assets as a basis for determining compensation rates at replacement cost. Determine the losses in accordance with the entitlement matrix.

<sup>3</sup> Data will be disaggregated by gender and ethnicity.

<sup>4</sup> It will include gender analysis and data will be disaggregated by gender and ethnicity.

- (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) Finalize the subproject RP and translate in local language.
- (viii) Disclose the draft and final RP in accordance with ADB's policy on public communications<sup>5</sup> to the affected communities and on ADB's website. The draft RP will be disclosed to APs prior to submission to ADB for approval. The final RP will be disclosed after approval.

**Table 4 : Surveys for RP Preparation**

<b>Detailed Measurement Survey (DMS)</b>	<p>The <b>census and detailed measurement survey (DMS)</b> of lost assets will collect data on the affected assets from 100% of APs following detailed engineering design and community-decision. 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"> <li>• Total and affected areas of land, by type of land assets;</li> <li>• Total and affected areas of structures, by type of structure (main or secondary);</li> <li>• Legal status of affected land and structure assets, and duration of tenure and ownership;</li> <li>• Quantity and types of affected crops and trees;</li> <li>• Quantity of other losses, e.g., business or other income, jobs or other productive assets; estimated daily net income from informal shops;</li> <li>• Quantity/area of affected common property, community or public assets, by type;</li> <li>• 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;</li> <li>• Identify whether affected land or source of income is primary source of income; and</li> <li>• AP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures.</li> </ul>
<b>Socioeconomic Survey</b>	<p>At a minimum, the socioeconomic survey (SES) will collect information from a sample of 10% of affected people and 20% of severely affected households, 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"> <li>A. Household head: name, sex, age, livelihood or occupation, income, education and ethnicity;</li> <li>B. Household members: number, livelihood or occupation, school age children and school attendance, and literacy, disaggregated by gender;</li> <li>C. Living conditions: access to water, sanitation and energy for cooking and lighting; ownership of durable goods; and</li> <li>D. Access to basic services and facilities.</li> </ul>
<b>Replacement Cost Survey</b>	<p>The <b>replacement cost survey (RCS)</b> 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.</p>

## VII. VULNERABILITY, GENDER, AND ETHNICITY ISSUES

25. Vulnerable households are distinct groups of people who might suffer disproportionately

<sup>5</sup> ADB, 2005, Public Communications Policy. Manila.

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, ethnic minorities. Particular attention will be given to poor and vulnerable households during RP preparation and implementation. Separate consultation meetings will be conducted with these households and women group 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**

26. Consultations/socialization 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.

27. Following the socialization activities with the APs and concerned groups, the issues and suggestions raised to ensure compliance to the Project policies will be incorporated in the draft RP. The said draft RP will be disclosed to APs (verbally or in written form) prior to submission to ADB for review and approval. All written publication will be made accessible to the APs and will be written in a language which is easily understood by them.

28. The EA will disclose to APs the (i) draft RP prior to submission for review and approval by ADB; (ii) final RP approved by both the EA and ADB, and (iii) 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.

29. 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**

30. 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:

### **1. First Stage**

31. An aggrieved AP may bring his/her complaint before any member of SPMU or



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LAC, either in writing or verbally. It is incumbent upon said member of the SPMU or LAC to notify the Village Chief about the complaint who, in turn, will inform the *Camat*. The Sub-district Chief together with the Village Chief will have 14 days following the lodging of the complaint by the aggrieved AP to act on the case. He/she may call, as needed, any member of the SPMU or LAC, to help him/her come up with an acceptable resolution of the complaint. The *Kecamatan* (Sub-district government) is responsible for documenting and keeping file of all complaints that it handles.

## **2. Second Stage**

32. If after 14 days the aggrieved AP does not hear from the *Camat* or the *Desa/Lurah* about the complaint, or if the AP is not satisfied with the decision taken by the *Camat*, the AP may bring the complaint, either in writing or verbally, to the *Walikota* (City Mayor). The *Walikota* in turn will have 30 days following the lodging of the complaint by the aggrieved AP to act on the case. He/she may call, as needed, any member of the SPMU or LAC, to help him/her come up with an acceptable resolution of the complaint. The *Kabupaten* or *Kota* (City Government) is responsible for documenting and keeping file of all complaints that it handles.

## **3. Third Stage**

33. If after 30 days the aggrieved AP does not hear from the *Kabupaten* or *Kota*, or if the AP is not satisfied with the decision taken by the *Walikota*, the AP may bring the complaint, either in writing or verbally, to the Office of the Provincial Governor. The Governor has 30 days within which to resolve the complaint to the satisfaction of all concerned. The Office of the Governor is responsible for documenting and keeping file of all complaints that reaches the same.

## **4. Final Stage, the Court of Law Arbitrates**

34. If after 30 days following the lodging of the complaint, the aggrieved AP does not hear from the Office of the Provincial Governor or if he/she is not satisfied with the decision taken by the Provincial Governor, the complaint may be brought to a court of law for adjudication. The rules of court will be followed in the adjudication of the complaint.

# **X. IMPLEMENTATION ARRANGEMENTS**

## **A. EXECUTING AND IMPLEMENTING AGENCIES**

35. The Directorate General of Human Settlements (DGHS) of the Ministry of Public Works will be the executing agency (EA). A central project management unit (CPMU) will be established at the DGHS. A steering committee, chaired by the National Development Planning Board (Bappenas) and including representatives from Ministry of Public Works, Ministry of Finance, Ministry of Home Affairs, Ministry of Health and Ministry of Environment will provide guidance and coordination to the Project, and make policy and strategic decisions. Specific to resettlement, the CPMU will monitor RP preparation and implementation activities and submit quarterly monitoring reports to ADB.

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36. Each City will have a Sub-Project Management Unit (SPMU) and will have one (1) senior resettlement expert and 2-3 social development/ resettlement experts. If Land Acquisition Committee (or LAC) is established as mandated by the Presidential Regulation No. 65/2006 on Land Acquisition for Development Purposes, i.e., land acquisition of more than 1 hectare will be done by the LAC. SPMU will act as members of LAC. The functions of the SPMU or LAC include the following:

- a. Carry out the necessary surveys and field investigation needed in the preparation of the RP;
- b. Carry out consultation-meetings with the APs, including the distribution of the PIB/disclosure of the draft and final RP;
- c. Review and approve the results of the replacement cost survey;
- d. Prepare relocation plan in consultation with APs. Ensure that no AP will be displaced until suitable sites have been found and that RP has been approved by ADB;
- e. Provide special attention to poor and vulnerable households and ensure that their concerns and special needs are addressed during RP preparation and implementation;
- f. As required, design and implement income restoration measures or programs, and monitor said activities and provide modifications in the program to improve implementation as and when necessary;
- g. Prepare the necessary vouchers and other documentation to facilitate the expeditious processing and delivery of entitlements to APs;
- h. Properly receive and documents concerns or complaints, verbal or written, from the APs and ensure that these are brought to the attention of the *Walikota* for appropriate action;
- i. Maintain a record of all public meetings, complaints, and actions taken to address complaints and grievances at the City level; and
- j. Submit quarterly progress reports on RP preparation and implementation (payment, relocation, income restoration) to the SPMU.

## **B. CITY GOVERNMENT**

37. The *Kota*, through the Office of the *Walikota* (Mayor) will provide the main workforce in the preparation and implementation of the RP. The *Kota* will have the following functions:

- a. Organize the committee for resettlement by way of a Decree;
- b. Issue a local regulation on the unit costs of affected assets based on replacement cost and/or market rates;

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- c. Issue a local regulation with regard to assistance to informal settlers on ROW or state land
  - d. Manage and disburse the funds with regard to compensation, assistance and administration costs; and
  - e. Assist in the expeditious and judicious resolution of complaints of APs.

### **C. MOBILIZATION OF PROJECT IMPLEMENTATION CONSULTANTS**

38. The Project Implementation Consultants (PIC) will be composed of one international and a team of domestic resettlement/domestic consultants to assist the executing and implementing agencies in the preparation and implementation of the RP. The PIC 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). A Land Acquisition Committee (LAC) together with the PIC will carry out replacement cost survey for land and non-land assets. The RCS report will be reflected in the RP. The Project may also engage a qualified appraiser to carry out its independent valuation of land and non-land assets.

## **XI. MONITORING AND EVALUATION**

### **A. INTERNAL MONITORING**

39. The SPMU will serve as the Project's internal monitoring body. Quarterly reports will be submitted to the EA starting from the commencement of RP preparation, which coincides with the conduct of the detailed measurement survey and other RP activities. The EA 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.

40. 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 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 resettled.

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## **B. EXTERNAL MONITORING AND EVALUATION**

41 An external monitoring and evaluation group 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.

42 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.

43. 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.

44 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.

45. The external monitoring activities will be conducted twice a year. Semi-annual reports will be submitted to CPMU and ADB. The cost of the activities will be included in the project cost.

## **XII. RP BUDGET AND IMPLEMENTATION**

46 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 or ADB Loan. For 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.

48 The Resettlement Plan prepared for each subproject will identify key activities for which funds will be used, any disbursal milestones and auditing requirements that will facilitate appropriate and timely delivery.

49 The RP will be prepared following detailed design. 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. The IA and LAC will not allow construction activities in specific sites until all resettlement activities have been satisfactorily completed, agreed rehabilitation assistance is in place, and that the site is free of all encumbrances.