

IMPLEMENTATION OF REMEDIAL MEASURES TO ADDRESS INVOLUNTARY RESETTLEMENT-RELATED COMPLAINTS IN TRANCHE 1

A. Background

1. During the implementation of Tranche 1, there were two complaints filed with the Asian Development Bank's (ADB) Office of the Special Project Facilitator (OSPF) regarding land acquisition and resettlement provisions.

- (i) **Complaint no. 1.** On 28 March 2018, the OSPF received a complaint from a group of project-affected people alleging damages and negative impacts due to land acquisition and property valuation of the project. The complainants were also supported by two Mongolia-based nongovernmental organizations.¹ The complaint was determined eligible after a fact-finding mission was conducted in April 2018. A series of round table discussions were conducted and culminated with the signing of a memorandum of understanding (MOU) on 2 July 2018 which also served as a guiding document for the case-by-case negotiations initiated in June 2018 and concluded on 14 September 2018.
- (ii) **Complaint no. 2.** A second complaint from 39 complainants claiming to be affected by the same project was received on 29 March 2019, which was found eligible by OSPF. The second complaint included similar issues related to delayed payment of compensation, non-allotment of replacement lands, and concerns related to property valuation in the project. Implementation of the provisions agreed in the MOU for the first complaint was considered adequate to address the concerns raised by the complainants as part of complaint no. 2.

2. The implementation of the MOU actions has been taken up by the Municipality of Ulaanbaatar (MUB) with support from OSPF and the ADB project team. Based on the current assessment of progress made on the two complaints, OSPF is targeting closure of the complaints in the second quarter of 2020. The project team will work closely with the program management office (PMO) to achieve an early closure of the complaints. As agreed during the finalization of MOU, the remedial measures for the complainants will be applicable to all affected persons in Tranche 1, and the enhanced resettlement compensation and assistance agreed will be provided to all the 907 affected households.

B. Current status of MOU Implementation

3. The status of the implementation of key actions related to the closure of the two complaints are summarized below:

- (i) **Payment of additional compensation to affected persons.** Of the total 907 affected households impacted under Tranche 1, additional compensation has been paid to 895 affected households as of 1 April 2020. PMO is making efforts to reach out to the 12 affected households who are yet to sign the contract for different reasons (two passed away, two in jail, two have deposited their land certificates in banks as collateral, two persons in country side, one lives abroad, and three expected to sign the contract in April 2020).
- (ii) **Finalization of resettlement options for affected households without titles.** Resettlement options (moving to a relocation plot with access to infrastructure and services or moving to a social housing apartment complex either on a rental or

¹ The two nongovernment organizations are Oyu Tolgoi Watch and Zurgaan Buudal Residents and Rights and Protection Federation.

rent-to-own basis) were proposed to the 253 affected households without titles. As of 1 April 2020, 221 affected households have finalized their relocation options and signed their agreements for either a relocation plot or social housing. PMO with support from MUB is carrying out negotiations to agree with the 32 pending affected households on finalization of the resettlement options, and is expected to be completed by April 2020.

- (iii) **Handing over of resettlement sites and social housing.** PMO with MUB is working towards expediting the handing over of resettlement site in Moringiin Davaa and the social housing at Khaanin Material. While the finalization of the detailed designs for the two locations is completed, the procurement of contractors for civil works is expected to be completed by June 2020. The project team will follow up with the borrower to expedite the physical handing over of the resettlement sites, and also in ensuring that the titles and documents for the affected households are made available at the earliest.
- (iv) **Livelihood restoration of affected households with livelihood impacts.** Implementation of a small-scale transaction technical assistance (TA) to Mongolia for Livelihood Support Demonstration in *Ger* Areas (TA 9528-MON) was completed in November 2019. A total of 96 affected persons benefited from the livelihood support measures, contributing to income restoration. In addition, a transaction TA for Capacity Building for Sustainable Livelihood Support in *Ger* Areas (TA 9749-MON) has been approved in June 2019 and is being implemented. It covers the following outputs: (a) livelihood restoration and support programs for affected households implemented; (b) a sustainable model on integrating livelihood support to persons affected by urban resettlement planning in Mongolia established; and (c) the capacity of the MUB to develop and implement livelihood support programs strengthened.
- (v) **Other issues.** PMO has been working closely with the affected households and MUB in implementing the MOU actions, including the provision of (a) training and capacity building on ADB's Safeguard Policy Statement (2009), conflict resolution, and effective communication to complainants, PMO, Land Management Agency, consultant teams, and other key stakeholders; (b) privilege to affected households to participate in social or affordable housing programs; (c) support to children in affected households requiring relocation for enrolment to kindergartens and schools; and (d) 100% payment of compensation for land and structures impacted prior to relocation. These actions will be continued during the implementation of Tranches 2 and 3.

C. Key Lessons for Tranche 3 Resettlement Plan Implementation

4. Based on the experiences gained in the implementation of resettlement provisions in Tranche 1, key lessons for PMO and MUB to ensure timely implementation of resettlement plan provisions are summarized below:

- (i) meaningful consultation with the affected persons and sharing of information related to the project and land acquisition at an early stage;
- (ii) ensure fair and adequate valuation of land and properties impacted by the project interventions; assessment and compensation for livelihoods, both formal and informal, as these form valuable sources of income and are disrupted due to resettlement;
- (iii) adequate allocation of budget for land acquisition and resettlement including livelihood restoration of affected households;

- (iv) timely payment of compensation and assistance as agreed in the negotiation agreements with the affected persons;
- (v) undertake all preparatory actions to ensure timely provision of entitlements such as replacement plots or social housing to the non-titled households;
- (vi) minimize the time taken for transfer of titles and registration for affected persons;
- (vii) have an effective and functional grievance redress mechanism in place, with clear roles and responsibilities and budget allocated to address grievances;
- (viii) strengthen internal monitoring arrangements within the PMO and MUB to ensure that issues or risks are identified and addressed in a timely and satisfactory manner;
- (ix) undertake capacity building of MUB staff including Land Management Agency officials on ADB policies and procedures to ensure that there is no delay in the approvals for compensation payments, and the grievances of the affected persons are resolved satisfactorily in a timely manner; and
- (x) ensure that no land acquisition or resettlement activities are initiated on ground, prior to the approval of the land acquisition and resettlement plan by ADB and full payment of compensation to the affected persons.

5. Continued implementation of the remedial measures consistent with the provisions of the resettlement framework for Tranches 2 and 3 has been agreed with MUB. Implementation of these resettlement provisions is part of the loan covenants for Tranche 3. The project team will continue to monitor the implementation of these corrective measures and also support the capacity building of PMO and MUB during implementation of Tranche 3.