



# Monitoring Report of the Special Project Facilitator

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## Mongolia: Ulaanbaatar Urban Services and Ger Areas Development Investment Program (Tranche 1)

(Complaint Received: 28 March 2018)

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Asian Development Bank

## **ABBREVIATIONS**

ADB	-	Asian Development Bank
MOU	-	memorandum of understanding
MUB	-	Municipality of Ulaanbaatar City
NGO	-	nongovernment organization
OSPF	-	Office of the Special Project Facilitator
PMO	-	project management office

## **NOTE**

In this report, “MNT” refers to Mongolian togrog.

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## I. BACKGROUND

1. **The Project.** The Ulaanbaatar Urban Services and *Ger* Areas Development Investment Program (the Project) supports the Ulaanbaatar City master plan in upgrading priority service and economic hubs in *ger* areas. The Government of Mongolia and Asian Development Bank (ADB) signed a loan agreement to implement the Project through multitranche financing facility program. Combining spatial and sector approaches, the Project proposes an integrated solution to respond to the growing demand for basic urban services and develop subcenters as catalyst for growth in the *ger* areas. It involves financing core urban infrastructure and basic services in priority road sections, investments in socioeconomic facilities based on communities' needs, and the improvement of service providers' operation management. It also supports (i) community participation, awareness, and empowerment; (ii) urban planning and subcenter development; (iii) extensive on-the-job training in project management and implementation; and (iv) sector reform initiatives necessary to support the program road map and policy framework. Overall, the Project aims to improve the living conditions in Ulaanbaatar through a network of livable, competitive, and inclusive subcenters in the *ger* areas. With about 1,400 households affected, the investment program is categorized A for involuntary resettlement.

2. **The Complaint.** On 28 March 2018, the Office of the Special Project Facilitator (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.<sup>1</sup> The Complainants were supported by two Mongolia-based nongovernment organizations (NGOs).<sup>2</sup> A similar complaint was forwarded to the Project Complaint Mechanism of the European Investment Bank, a cofinancier of the Project. The complaint to OSPF was determined eligible after a fact-finding mission was conducted in April 2018. A review and assessment of the complaint was conducted from 27 April to 3 May 2018.

3. **The Problem-Solving Process.** 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<sup>3</sup> and concluded on 14 September 2018. Negotiation meetings facilitated for each complainant ranged from a minimum of one to a maximum of eight negotiating session covering value of assets, livelihood, economic and business reimbursement, transitional and moving assistance, and allocation of land plot to nontitle holders. The OSPF also customized a capacity building program to equip complainants with communication and negotiation skills prior to the negotiations. Throughout the problem-solving process, engagement of all stakeholders was assured through joint meetings where issues were discussed and addressed. Apart from building parties' trust, the extensive meetings improved the likelihood that agreed actions are implemented and followed through.

4. From 109 complainants,<sup>4</sup> 92 claims were resolved in favor of the complainants through case-by-case negotiations. This means that an agreement was reached on land and asset value to be compensated. Twelve complainants were found as non-affected, four refused to sell their land because of land legacy and unreasonable demand for a compensation package which was much higher than stipulated in the MOU, and one passed away.

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<sup>1</sup> A second complaint from 39 Complainants claiming to be affected by the same Project was received on 29 March 2019.

<sup>2</sup> The two NGOs are Oyu Tolgoi Watch and Zurgaan Buudal Residents and Rights and Protection Federation NGO.

<sup>3</sup> Case-by-case negotiations process started in June 2018 at the request of some Complainants for whom land values were adjusted based on the 2 July 2018 MOU.

<sup>4</sup> One complainant was double recorded, as she filed 2 separate claims. At the end of case-to-case negotiations, it has been clarified and a total number of claims was revised from 110 to 109.

5. Upon completion of the general and individual negotiation meetings, implementation and monitoring of the MOU and case-by-case negotiations were jointly developed by the parties with OSPF facilitation, which included timeline for actions leading to payment of compensation (i) ordinance issuance, (ii) concluding contracts, (iii) payment of compensation to all the complainants, and (iv) official hand over of the comparable land to the nontitle holders (36 complainants).

6. During a 21-25 August 2018 OSPF monitoring mission, it was clear that all stakeholders have engaged in a constructive way and developed an implementation plan. However, the Municipality of Ulaanbaatar City (MUB) and project management office (PMO) were unable to meet a few of the committed deadlines as stipulated in the MOU and case-by-case negotiation agreements. Thus, the OSPF mission facilitated agreement of the parties on a new timeline for delivering the agreed actions and the implementation and monitoring plan was updated. With this, it was concluded that the problem-solving process reached its final stage and OSPF would continue monitoring the implementation plan.

## II. STATUS OF IMPLEMENTATION AND MONITORING PLAN

7. **Review and Monitoring Mission.** From 16-19 April 2019, the OSPF fielded a review and monitoring mission. Meetings were held with the Complainants, ADB Project team, PMO, and Chair of one of the supporting NGOs.<sup>5</sup> The OSPF took stock of the implementation of the agreed actions and discussed pending actions. Appendix 1 describes the status of the implementation of agreed of actions.

8. As of 21 May 2019, out of the 92 cases that were successfully resolved in favor of the complainants through case-by-case negotiations facilitated by the OSPF facilitator, 88 complainants have received their full compensation. Template of the minutes of the negotiation meeting with complainants is presented in Appendix 2.<sup>6</sup> Cash compensation for one complainant is in progress. Three complainants have inadequate documentation and requested the OSPF's support in communicating and handling the existing issues with MUB, Land Agency, and PMO. Replacement land for 35 nontitle holders (complainants) have been allocated and a formal ordinance by the Mayor issuing the land title to them is pending. OSPF is following up closely on the progress of this procedure and continues to be engaged primarily in a monitoring role and will facilitate further negotiations as needed.

9. The OSPF discussed and agreed with the ADB Project team and PMO on the following requests from the Complainants/NGO: (i) expedite the allocation of comparable land and land titling for the remaining households; (ii) conduct a detailed needs assessment on livelihood impacts and provide livelihood restoration support for affected households on a case-by-case basis, as the current assistance provided did not restore the loss of livelihood for these affected households; and (iii) expedite the payment of transition period assistance and additional compensation to the households.

10. Discussions with a few Complainants confirmed that they are satisfied with the compensation amounts they received and have been able to restore their losses including buying new apartments with the money they received. They appreciated the entire problem-solving process and the partnership of all key stakeholders particularly the PMO for their constructive engagement and dialogue with the Complainants. During the meeting, the Chair of Oyu Tolgoi Watch expressed the need to further strengthen the functionality of the grievance

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<sup>5</sup> Oyu Tolgoi Watch

<sup>6</sup> Detailed minutes of the negotiation meeting with complainants are with OSPF.

redress mechanism and requested to analyze the systems, processes and procedures, and build the capacity of staff handling complaints.

11. **Next Steps.** The PMO and ADB Project team will follow-up on (i) issuance of the formal ordinance on allocating 53 land parcels for the Project to meet the agreed actions for nontitle holders based on the MOU and (ii) transfer the additional compensation to the project-affected persons. The MUB needs to allocate over MNT 3 billion for this purpose.

**Monitoring and Implementation Plan of the Actions Stipulated in the Memorandum of Understanding**

#	<i>Implementation &amp; monitoring actions</i>	<i>Responsible body</i>	<i>Duration/ Deadline</i>	<i>Status</i>
1	<p>92 cases<sup>7</sup> have been resolved in favor of the complainants. In relation to these case-to-case negotiation agreements, Office of the Special Project Facilitator (OSPF) shall monitor the implementation of the following:</p> <p>1.1 Mayor’s order issuance and the signing of the contract between the Land Agency and the complainants must be completed within the relevant timeframe to enable the full compensation to be paid to 86 complainants by 5 October 2018.<sup>8</sup></p> <p>1.2 Offer options for moving out of the site and agree on the date (case-to-case).</p>	<p>Working Group of the Municipality of Ulaanbaatar City (MUB WG)</p> <p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p> <p>D. Enkhtur, Working group member, Director of the Resettlement Division, Land Agency</p> <p>D. Avirmed, Project Coordinator, Project Management Office (PMO)</p>	<p>2018.10.05</p> <p>2018.10.25</p>	<p>88 Complainants fully received their compensation.</p> <p>One complainants’ compensation is being processed. Mayor’s ordinance is issued, finance dept is processing the payment.</p> <p>Three complainants from 2 land plots have documentation issues to resolve.</p> <p>Currently 75 complainants moved out and another 8 complainants, who are partially affected vacated the relevant partially affected land.</p>
2	<p>2.1 Municipality of Ulaanbaatar City (MUB) to provide a written assurance about its commitment to implement the memorandum of understanding (MOU) and additional implementation</p>	<p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p>	<p>2018.08.23</p>	<p>Provided a letter and numerous follow up meetings are being conducted with new management of the MUB.</p>

<sup>7</sup> One complainant was double recorded, as she filed 2 separate claims. At the end of case-to-case negotiations, it has been clarified and a total number of successful case negotiation was revised from 93 to 92.

<sup>8</sup> Subject to an official letter sent by the MUB WG Chair on 23 August 2018.



	actions specified in this plan.			
3	<p>3.1 Carry out supplemental assessment under the Asian Development Bank-funded small scale technical assistance (SSTA),<sup>9</sup> to finalize and strengthen the social impact assessment on affected households (AHs), including gender impact assessment, and assessment of the losses of livelihoods, economic &amp; business activities<sup>10</sup> in consultation with the AHs and their advisor nongovernment organizations (NGOs). The assessment is based on a sample of 100 affected people which are potentially or highly vulnerable. Below is the report schedule (each report will be shared with the NGOs for their feedback):</p> <p>3.1.1 Share the scope, content and work plan for social impact assessment</p> <p>3.1.2 Provide comments on the scope, content and work</p>	<p>SSTA consultant team</p> <p>SSTA team</p> <p>NGOs and community representative, ADB, PMO</p>	<p>2018.07.02-2018.11.20</p> <p>2018.09.15</p> <p>2018.09.20</p>	<p>Draft livelihood support plans based on a needs assessment of 100 AHs which are potentially or highly vulnerable were prepared and shared with NGOs and affected persons (APs).</p>

<sup>9</sup> SSTA approved consultants are already mobilized. NGOs & APs provided suggestions on the terms of reference; international external livelihood monitor to conduct the workshop/ training.

<sup>10</sup> Livelihood, economic and business activities refer to any activities within the affected land that provide source of income for the family. For example, source of income from the land itself (fruit-bearing plants/trees that they sell to the market), doing business inside the house, or using their house as shops.

	plan for social impact assessment			
	3.1.5 Draft social impact assessment report including proposal for livelihoods, economic & business restoration and improvement activities in consultation with the affected persons and their advisor NGOs.	SSTA team	2018.10.31	SSTA presented the draft report in January 2019 to the affected persons and the advisor NGO. The report included the findings of the needs assessment and the proposals for livelihood support.
	3.1.6 Report to the affected people on the definition of poverty and vulnerability,	SSTA team	2018.10.31	Carried out as part of the needs assessment.
	3.1.7 Review and comment on draft report for social impact assessment	SSTA team	2018.10.31	Based on comments received from NGO, the following actions were taken: (i) expansion of the SSTA scope to cover 87 AHs whose livelihoods were impacted under Tranche 1, and (ii) extension of the SSTA completion date to October 2019.
	3.1.8 Finalize social impact assessment report incorporating comments	NGOs and community representative, ADB, PMO, OSPF	2018.11.10	
	3.2 Assessments of the lost opportunity for previously considered as an affected person as per official cut-off date but no longer affected person now if any:	SSTA team	2018.11.20	12 of the complainants have been identified as non-affected by the project due to refusal of land acquisition by few affected households which resulted in change in alignment/ design and scope of the project. .  Given the limited resources availability under the SSTA, these complainants will be eligible to receive livelihood support and capacity building measures as part of the transaction technical assistance, commencing July 2019.
	3.2.1 Identify any complainants that are affected no longer		2018.09.30	
	3.2.2 Assessment of the lost		2018.09.05	

	<p>opportunity</p> <p>3.2.3 Discussion and agreement of the lost opportunities</p> <p>3.2.4 Develop and implement mitigation plan for lost opportunities (this can be implemented in coordination with 3.5. below) or compensation for the lost opportunities</p> <p>3.3 Estimation of the necessary budget to extend the TA scope to all affected people that are potentially vulnerable, highly vulnerable and to the complainant and to the implement the livelihood improvement activities</p> <p>3.4 Additional resources to be seek from ADB, to cover the upscale the SSTA scope and to support the implementation of livelihood improvement activities</p> <p>3.5 Implement social impact mitigation plan including restoration measures for the households with livelihood activities on affected land &amp; properties in consultation with</p>	<p>SSTA team</p> <p>SSTA, PMO</p> <p>A. Heckmann, Principal Urban Development Specialist, ADB</p> <p>SSTA consultants, PMO/MUB, ADB, NGOs and communities representative</p>	<p>2018.10.10</p> <p>2018.11.20 – 2019.06.30</p>	<p>Estimation of the necessary budget completed. The project team obtained management consent on utilization of internal technical assistance (TA) fund resources to expand the SSTA scope to all affected persons.</p> <p>The TA will be approved in May 2019 and implemented from July 2019 for a period of 24 months.</p> <p>Implementation of livelihood support and training measures to the 44 AHs identified as beneficiaries under the SSTA is underway and expected to be completed by May 2019. The SSTA scope is currently being expanded to include 87 AHs which have been reported to have livelihood impacts on their plots under Tranche 1 of the multitranche financing facility.</p>
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	the affected persons and their advisor NGOs.			
4	4.1 Prepare a report on how many affected persons, who are entitled for the state social protection/ welfare services programs, but were unable to receive the benefits, received the relevant services & program benefits.	MUB WG  G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department  D. Avirmed, Project Coordinator, PMO	2018.10.15	No affected person has requested such support until now. If any such support is requested, they will be paid as eligible under the prevailing agreement.
5	5.1 Appoint Z. Enkhtuya, G. Enkhtuya from Selbe and Z. Javzandulam from Bayankhoshuu as affected person representative in the Land Acquisition Resettlement Working Group (LAR WG) that is mandated to monitor the implementation of the land acquisition & resettlement within the scope of this project  5.1.1 Officially re-issue the Mayors Resolution on the Establishment of LAR WG and include Z. Enkhtuya, G. Enkhtuya and Z. Javzandulam in the LAR WG  5.1.2 Provide information on the LAR WG mandate, activities, role of the affected persons' representatives to the representatives of Ahs	MUB WG  G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department  G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department  G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department	2018.07.02  2018.10.15  2018.09.20	AP representatives will be invited and included in the LAR WG as agreed. There have been no LAR WG meetings yet.

6	<p>6.1 Carry out “Due Diligence” for the project &amp; implement proposed recommendations as corrective actions. Present the findings and recommendation related to the affected persons and allow the affected persons to monitor the implementation of the recommendations.</p> <p>6.1.1 Presentation of the findings to the AHs and agreement on the implementation of the recommendations and corrective actions</p> <p>6.1.2 Implementation of the recommendations and</p>	<p>MUB WG</p> <p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p> <p>D. Enkhtur, Working group member, Director of the Resettlement Division, Land Agency</p> <p>D. Avirmed, Project Coordinator, PMO</p> <p>A. Heckmann, Principal Urban Development Specialist, ADB</p> <p>MUB/PMO, AHs, ADB</p> <p>MUB/PMO</p> <p>AHs and their representative NGOs, MUB/PMO, ADB</p> <p>MUB LAR WG</p>	<p>2018.05.01-2018.12.31</p> <p>2018.09.05</p> <p>2018.12.31</p>	<p>MUB/PMO committed to and initiated implementation of MOU recommendations to all affected persons.</p> <p>PMO communicated in August 2018 to all affected persons that they will be entitled to receive additional compensation and assistance based on the MOU provisions.</p> <p>While PMO initiated payments of the differential compensation and assistance to</p>

	<p>corrective actions</p> <p>6.1.3 Monitoring of the implementation of the recommendations and corrective actions</p>		<p>2018.12.31</p>	<p>other affected persons in 2018, the disbursement of compensation to all affected persons has been delayed pending administrative approvals and is expected to be completed by June 2019.</p> <p>ADB project team continues to monitor PMO's follow-up with MUB LAR WG and MUB on implementation of the pending actions. The external resettlement monitor will monitor and assess implementation of the MOU recommendations and corrective actions.</p>
7	<p>7.1 Comparable land shall be handed over to 35<sup>11</sup> nontitle holders by 15 October 2018</p> <p>7.2 Cadastre plan drawing and the land certificate shall be issued to 35 nontitle holders by October 15, 2018.</p>	<p>MUB WG</p> <p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p> <p>D. Enkhtur, Working group member, Director of the Resettlement Division, Land Agency</p> <p>D. Avirmed, Project Coordinator, PMO</p>	<p>2018.10.15</p>	<p>Comparable land has been allocated to 35 Complainant nontitle holders, but formal ordinance by the Mayor issuing the replacement land is pending.</p>
8.	<p>8.1 PMO and MUB shall ensure that all children of the complainants, who moved to the resettlement areas are enrolled at schools and kindergartens.</p>	<p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p> <p>D. Avirmed, Project Coordinator, PMO</p>	<p>2018.10.05</p>	<p>One household has received such support. There were no other requests from the complainants related to enrolment at schools and kindergartens that were brought to the notice of OSPF or the PMO.</p>

<sup>11</sup> The final list of Complainant nontitle holders are 35.

9.	<p>9.1 Grant the complainants and all AHs the priority privilege to participate in the social/affordable housing scheme in Selbe &amp; Bayankhoshuu under the proposed Ulaanbaatar Green Affordable Housing &amp; Resilient Urban Renewal Project (AHURP) funded by the ADB, and other housing projects implemented by MUB such as social housing by 2020/2021.</p> <p>9.1.1 Include in the MOU the commitment of MUB to provide the priority privilege to participate in the social/affordable housing scheme in Selbe &amp; Bayankhohsuu subcenters</p> <p>9.1.2 Inform the complainants and AHs the progress of AHURP</p> <p>9.1.3 Start the involvement of the complainants and AHs in the AHURP</p>	<p>MUB WG</p> <p>G. Ulziibayar, Head of the Working Group, Director of the Policy, Planning Department</p> <p>D. Avirmed, Project Coordinator, Project Management Office</p> <p>MUB</p> <p>AHURP PMO, MUB and ADB</p> <p>AHURP PMO, MUB and ADB</p>	<p>2018.07.02</p> <p>2018.07.02</p> <p>on semi-annual basis until the project implementation starts</p> <p>When the project starts in 2020/2021</p>	<p>MUB is committed to provide priority to the affected persons to participate in social /affordable housing in Selbe and Bayankhoshuu subcenters.</p>
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### Minutes of the Negotiation Meeting with Complainants Template

Date:

Time:

Venue:

#### Summary of Dialogue:

Complainant

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PMO

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MUB/Land Agency

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Valuation company

•

*Summary of dialogue depends on the composition of the meeting participants*

#### **Agreed actions**

#	Agreed actions	Who	When
1.	Discussed the fully affected XXXm2 land and assets valuation and agreed to provide a total compensation of XXXXXXXX MNT including 1,800,000₮ as transitional assistance stipulated in 10.2 of the MoU and 250,000₮ for moving as stated in 10.2.2 of the MoU to the complainant XXXXX.	Participants	2018.07.16
2.	Compensation shall be paid 100 % to the complainants within 14-21 days after signing the contract.	Participants	2018.07.16
3.	Complainant agreed to vacate the land and move within 14-21 days after receiving the compensation.	Participants	2018.07.16
4.	More agreed actions... depending on the context of a complaint		

#### **Agreed by:**

1. XXXX, Complainant
2. XXXX, Resettlement Specialist, PMO
3. B. Nandinchimeg, Consultant (Facilitator), OSPF, ADB

*Negotiation meeting notes were recorded by B. Nandinchimeg, Consultant (Facilitator), OSPF, ADB*