

Social Safeguard Planning Document

Resettlement Framework and Indigenous People's Planning Framework
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Prepared by Department of Urban Development and Building Construction, Ministry of Physical Planning and Works, Government of Nepal

This combined Resettlement Framework and Indigenous People's Planning Framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

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ABBREVIATIONS

| | | |
|--------|---|---|
| ADB | – | Asian Development Bank |
| AP | – | affected persons |
| BPL | – | below poverty level |
| CBO | – | Community Based Organizations |
| CDC | – | Compensation Determination Committee |
| CDO | – | Chief District Officer |
| CFC | – | Compensation Fixation Committee |
| CPR | – | Community Property Resource |
| DDC | – | District Development Committee |
| DOR | – | Department of Roads |
| DSC | – | Design and Supervision Consultants |
| DUDBC | – | Department of Urban Development and Building Construction |
| EA | – | Executing Agency |
| GON | – | Government of Nepal |
| GRC | – | Grievance Redress Committee |
| HA | – | Hectares |
| HH | – | Households |
| IA | – | Implementing Agency |
| IP | – | Indigenous People |
| IR | – | Involuntary Resettlement |
| LA | – | Land Acquisition |
| LA Act | – | Land Acquisition Act |
| MoPPW | – | Ministry of Physical Planning and Works |
| NGO | – | Non-Government Organizations |
| NRs | – | Nepalese Rupees |
| PCO | – | Project Coordination Office |
| PD | – | Project Director |
| PH | – | Physically Handicapped |
| PIU | – | Project Implementation Unit |
| PCO | – | Project Coordination Office |
| PMSC | – | Project Management and Support Consultant |
| PLI | – | Poverty Level Income |
| PM | – | Project Manager |
| PPTA | – | Project Preparatory Technical Assistance |
| PSA | – | Poverty and Social Assessment |
| RP/IPP | – | Resettlement Plan |
| R&R | – | Resettlement and Rehabilitation |
| TA | – | Technical Assistance |
| ToR | – | Terms of Reference |
| WHH | – | Women Headed Households |
| VDC | – | Village Development Committee |

WEIGHTS AND MEASURES

| | | |
|------|---|--------------|
| Sq.m | – | square meter |
|------|---|--------------|

GLOSSARY OF TERMS

Land Acquisition means the process whereby land and properties are acquired for the RP/IPP of the project construction.

Baseline Socio-economic Sample Survey The RP/IPP of the baseline socioeconomic sample survey is to establish monitoring and evaluation parameters, it will be used as a benchmark for monitoring the socio-economic status of APs. The survey will cover 10% of affected people and 20% of seriously affected people. The survey will also collect gender-disaggregated data to address gender issues in resettlement. The survey will carry out the following: (i) preparation of accurate maps of the sub-project area; and (ii) analysis of social structures and income resources of the population.

Census The RP/IPP of the census is to register and document the status of potentially affected persons within the sub-project impact area. The census will cover 100% of APs. The census will provide a demographic overview of the population, and will cover people's assets and main sources of livelihood.

Compensation means payment in cash or in kind of the replacement value of the acquired property.

Land Acquisition and Compensation Fixation Committee (LACFC) means the committee established under the chair of Chief District Officer as per Land Acquisition Act 2034 for the determination of compensation rate and implementation of compensation taking into consideration replacement value of the properties as guided by the resettlement plan and the use of community valuation methods.

Grievances Resolution Committee (GRC) means the committee established under each sub-project to resolve the local grievances.

Project Affected Person (AP) includes any people including encroachers/ squatters, households, or firms who, on account of changes that result from the project will have their (i) standard of living adversely affected; and/or (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.

Replacement Cost means the method of valuing assets to replace the loss at market value before the project or dispossession, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs.

Resettlement means all the measures taken to mitigate all or any adverse impacts of the project on the APs property and/or livelihoods including compensation, relocation (where relevant), and rehabilitation.

Relocation means the physical relocation of APs from their pre-project place of residence.

Rehabilitation means the measures provided under the resettlement plan other than payment of the compensation of acquired property.

Vulnerable Groups: Social categories whose livelihoods may be particularly vulnerable to disturbances created by the project. This means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement including: female-headed households, marginalized ethnic groups (Dalits, Freed Kamaiya), Muslims/religious minorities, elderly, disabled, indigenous people (margilized IPs), below poverty line—NRs 3,000 HH per month (source: Nepal Living Standards Survey 2003/2004)), landless or households losing 50% of total landholdings (particularly those totally dependent on agriculture for livelihood), as well as remote villages.

I. OVERVIEW

A. Introduction

1. The Project¹ is to improve quality of life and to help achieve higher and socially inclusive economic growth in key regional centers in Nepal through improved and affordable municipal services delivered effectively, efficiently and reliably by accountable local bodies. The Project will implement urban environmental improvement, on an integrated basis, in the areas of sewerage and drainage, solid waste, and urban roads and lanes in the Biratnagar, Birgunj and Butwal municipalities.² In addition, a water supply development subproject in the Kavre valley³ will be implemented. The municipalities have been carefully selected on the basis of (i) economic growth potential, (ii) demands for urban services, and (iii) urban management capacity. Each town is the main urban centre of an industrial corridor and of importance in external trade.

2. The provision for the use of frameworks is required for non-sensitive components of projects where detailed design takes place after Board approval. It therefore covers a range of possible land, structure, and livelihood impacts that could occur, albeit small scale as envisioned for this project. The small scale impacts for future subprojects, if any, will be limited primarily to economic impacts. No physical displacement is envisioned, but the framework provides guidance for all possible events in line with the Asian Development Bank (ADB) Safeguards Policy Statement (2009) and Government of Nepal's Land Acquisition Act, 2034 (1977) and the Indigenous/Nationality Act 2002.

3. The project is Category B for Involuntary Resettlement and Indigenous People. This RF/IPF is intended to guide resettlement and indigenous people planning for the following Project activities not to be defined until after ADB Board approval: (i) small scale-water supply works in Butwal and (ii) public toilet construction in Biratnagar, Birgunj and Butwal municipalities. Land acquisition will be avoided and/or minimized and resettlement impacts, if any, are envisioned to be small scale, consistent with Category B. No Category A (significant) impacts will be considered under the subproject.

4. The framework ensures that IPs do not experience adverse impacts and receive appropriate benefits from subprojects. Most indigenous people in subproject areas are economically and politically integrated into the mainstream society, and considering the nature and scale of these subprojects, impacts on indigenous peoples are limited to a small number of involuntary resettlement and/or land acquisition. Therefore, an indigenous peoples framework has been combined into the resettlement framework, with special assistance measures for vulnerable groups including indigenous people. With improvement of sanitation services, the Project is expected to result in improved health benefits for indigenous people. The Gender Equality and Social Inclusive (GESI) Action Plan also includes specific actions favorable to indigenous people. Combined resettlement plan/Indigenous People's Plans are to be prepared commensurate to the impacts.

¹ The Project was prepared through a Project Preparatory Technical Assistance. ADB. 2008. *Preparing the Secondary Towns Integrated Urban Environmental Improvement Project*. Manila.

² In the National Urban Policy (2007), Biratnagar, Birgunj and Butwal are referred to as possible regional economic centers in Eastern, Central and Western regions, respectively.

³ The subproject, intended to provide water supply to Banepa, Dhulikhel and Panauti municipalities, was planned to be implemented under the ongoing Urban and Environmental Improvement Project (UEIP) (L1966-NEP). However, only the project preparatory work, including detailed design and the Environmental Impact Assessment, will be completed under the UEIP. The Government requested ADB support for the physical investment under the Project.

5. The combined RF/IPPF identifies the broad scope of the project and outlines the policy, procedures and institutional requirements for preparing combined resettlement plans and indigenous people's plans for subprojects based on detailed design. Social safeguard planning documents are "active" documents and are therefore subject to being updated during project implementation and detailed design.

6. The borrower/client will ensure that no physical displacement or economic displacement will occur until (i) compensation at full replacement cost has been paid to each displaced person for project components or sections that are ready to be constructed; (ii) other entitlements listed in the resettlement plan have been provided to displaced persons; and (iii) a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help displaced persons improve, or at least restore, their incomes and livelihoods. While compensation is required to be paid before displacement, full implementation of the resettlement plan might take longer.

7. The combined RF/IPPF (i) explains the general anticipated land acquisition and resettlement impacts of subproject to be financed under the Project; (ii) specifies requirements to be followed for subproject screening, categorization, assessment, and resettlement and indigenous planning, including arrangements for stakeholders consultation and information disclosure; (iii) outlines objectives, policy principles, and procedures for any land acquisition, compensation and other assistance measures for any affected persons (APs), (iv) assesses adequacy of executing agency (EA) capacity to implement national and state laws, policies, and regulations and ADB's SPS and identify needs for capacity building; (v) outlines social impact assessment and census methodologies, (vi) specifies implementation procedures, including budget, institutional, capacity development, and monitoring and reporting requirements; and (vii) describes responsibilities of the EA and ADB in relation to the preparation, implementation, and progress review of IR safeguard documents of subprojects. Finally, all works undertaken are to strictly adhere to all ADB SPS and operational procedures (operational manuals) and Government policies.

B. Scope of Land Acquisition and Resettlement

8. The Project is Category B for Involuntary Resettlement and Indigenous People. This RF/IPPF is intended to guide resettlement and indigenous people planning for the following Project activities not to be defined until after ADB Board approval: (i) small scale-water supply works in Butwal and (ii) public toilet construction in all three municipalities.

9. Land acquisition and resettlement needs will be entirely avoided and/or significantly minimized in the design of these subprojects. Upgrading and rehabilitating existing facilities will be encouraged wherever feasible. The present density of development in these areas is low to medium, and the road right of way (ROW) is clear of any encroachments for drainage and sewerage pipe construction (to be confirmed at detailed design stage). The Environmental Management Plans (EMPs) specify measures to mitigate impacts during construction, particularly those that inhibit access to businesses. Vulnerable persons are also identified, including female-headed households and IPs, and those that lose 50% or more of their total landholdings (see Glossary for full definition of vulnerable groups).

C. Scope of Indigenous People's Impacts

10. In Nepal, not all indigenous groups/nationalities are marginalized or vulnerable. Many of these indigenous groups/nationalities are disadvantaged not in terms of economy and the level

of education but in certain social categories such as language, religion and culture (i.e., social vulnerability). For the reason of historical and social vulnerability, all 59 groups as mentioned in the Indigenous/Nationality Act 2002 are treated as indigenous peoples in this project. On this note, most indigenous people in subproject areas of the three municipalities are economically and politically integrated into the mainstream society. Considering the small scale facilities proposed (public toilets and water supply facilities such as reservoirs and treatment plant), the impact of the project on indigenous peoples is limited to a small number of involuntary resettlement and/or land acquisition, if deemed necessary. The two combined RPs/IPPs prepared for Biratnagar and Birgunj during the PPTA stage reveal that most IPs are urban migrants and land is not considered of ancestral/tribal value. Although most IPs are urban migrants in these areas, special facilities are required to enhance their quality of life if affected. With water supply and sanitation improvements, subprojects are expected to result in improved health and time savings for water collection for IPs and non-IPs. In addition, the project will create short term employment opportunities in infrastructure construction and maintenance where indigenous groups should be given first priority for employment. The Gender Equality and Social Inclusive (GESI) Action Plan also includes specific actions favorable to IPs.

II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Project Principles and Objectives

11. **Resettlement.** The three important elements of the ADB's Safeguards Policy Statement (2009) are (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. In addition, the absence of legal title to land should not be a bar to compensation.

12. **Indigenous People.** The Project will adopt Government and ADB criteria for identifying groups that are considered as IPs. In ADB's SPS, the term IP is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. ADB's policy is triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of IPs or affects the territories or natural or cultural resources that IPs own, use, occupy, or claim as an ancestral domain or asset. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

B. Government of Nepal Laws

1. Resettlement Policies and Acts

13. The Land Acquisition Act, 2034 (1977) is the core legal document to guide tasks related to land acquisition and resettlement activities in Nepal. There is provision in Clause 3 of the Act to acquire land for any public purpose, subject to the award of compensation. According to

Clause 4, institutions seeking land acquisition (such as Water User Committees) may also request GON to acquire the land under the regularity provisions subject to be compensated by such institutions' resources. Clause 27 of the Act provides for land acquisition through the mutual agreement with the plot owners, where the process of land acquisition as per Act is not required. The Act grants the plot owner the right to choose between a mutual agreement process, or the formal process for land acquisition (as described below). Where Clause 27 is enacted, and the plot owner not satisfied with the compensation agreement offered, Clause 18 (sub-clause 2) states that the owner can file a complaint with the Ministry of Home.⁴

14. As per the regulatory provision, while acquiring land, GoN forms a Land Acquisition and Compensation Fixation Committee (LACFC) under the chairmanship of Chief District Officer (CDO) of the restrictive districts. The other members to be included in the Committee comprise of the Chief of Land Revenue Office (LRO), an Officer assigned by CDO, representative from District Development Committee (DDC), Concerned Project Manager, and VDC representative. The Project Chief functions as the Member Secretary of the Committee. In addition, it has become the practice to include representatives from the Affected Persons (APs).⁵ This practice of fixing compensation is known as Community Consensus Valuation (CCV). LACFC determines the amount of compensation considering the following factors: current price of land value, value of standing crop, houses, walls, sheds or other structures, loss incurred as a result of shifting residence or place of business, and consider relevant acts and periodic guidelines of GoN. According to Clause 6, if the land has to be acquired for institutions other than the local governance bodies and institutions fully owned by the government, the Committee has to consider the following in fixing the compensation amount: (i) Price of land prevailing at the time of notification of land acquisition; (ii) Price of standing crops and structures; and (iii) Loss incurred by the AP by being compelled to shift his or her residence or place of business in consequence of the acquisition of land.

15. As revealed in Clause 9 sub-section 3 of the Act, the duration of compensation days will be determined by LACFC. Clause 37 of the Act illustrates that the Committee may extend the period of additional three months, if compensation are not collected by those affected. After termination of extended three months period the amount will be deposited to the Government account.

16. The compensation to be provided for land acquisition should generally be in cash as per current market value. However, there is also a provision under Clause 14 to compensate land-for-land provided government land is available in the area. The Act also envisages the possibility of two separate rates of compensation, distinguishing between families who lose all their land and those who lose only some part of their landholdings. As stipulated in the Clause 10 there is provision for the affected households to take the crops, trees and plants from land and salvageable from the structures. Clause 39 indicates options to allow the affected households to take all salvageable assets without deduction of any costs from the affected households.

17. Any grievances and objections will be referred to the Grievances Redress Committee (GRC) as per Clause 11 of the Land Acquisition Act, 2034 (1977). The Act assigns the CDO as

⁴ Under the Project, a Grievance Redress Committee (GRC) will be set up for each subproject to address any complaints regarding the land acquisition process, therefore offering the AP another venue to express grievances.

⁵ Under the Project, a representative from the affected persons is required to be a member of the LACFC to ensure compensation for assets is at replacement value.

the sole responsibility to chair land acquisition activities and to address the grievances related to the RP implementation activities.

18. Clause 20 of the Act authorises the legal tenant entitlement to 100% compensation for the structure built on the land with the permission of the land owners. Clause 68 (1) of the Forest Act 2049 states that the government may permit the use of forest land for projects under the national priority. According to the clause 68 (2), if any loss to persons or community is involved while permitting use of such land, it is required to compensate the loss.

19. The typical process of land acquisition is indicated in Table 1.

Table 1: Process for land acquisition as per Land Acquisition Act

| S.No. | Steps outlined in the Land Acquisition Act |
|-------|---|
| 1 | Sectoral agency decides to execute a development project at a certain location |
| 2 | Sectoral agency requests the Government to acquire land specifying objectives and committing payments of compensation and other expenses |
| 3 | GoN approves and orders the initiation process and LACFC is formed |
| 4 | Public notification is made at public places in the project area, VDC offices and to the affected households |
| 5 | Necessary preliminary survey including boundary demarcation, agricultural production valuation and social census of affected families takes place |
| 6 | Land Revenue Office report on the area and location of land to be acquired including likely compensation and amount of loss |
| 7 | The local officer (CDO) issues notices including purpose of acquisition and detail of land to be acquired |
| 8 | Land transactions are banned within the notified area |
| 9 | Owner can file complaints within 7 days through the local officer |
| 10 | Resolution of grievance within 15 days of complaint |
| 11 | Acquisition of land and payment of compensation |

20. Another key legislation in Nepal related to land acquisition is the Land Reform Act 2021 (1964). This Act establishes the tiller's right on the land which he is tilling. The LRA additionally specifies the compensation entitlements of registered tenants on land sold by the owner or acquired for the development purposes. The most recent Act Amendment (2001) established a rule that when the State acquires land under tenancy, the tenant and the landlord will each be entitled to 50 percent of the total compensation amount. Tenants are verified through a record of tenancy at the Land Revenue Office.

2. Indigenous People Policies and Acts

21. The Government of Nepal has defined indigenous groups and their number in the National Foundation for Development of Indigenous Nationalities Act, 2002. This established the National Foundation for Development of Indigenous Nationalities (NFDIN). NFDIN has mandate to work for the overall development of indigenous nationalities. According to this Act indigenous or ethnic groups are a tribe, community or ethnic group having its own mother language and traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history (NEFIN 2005). According to this Act, there are 59 indigenous groups/nationalities in Nepal who live in the various ecological settlements: Mountain, Hill, Inner Tarai and Tarai. The total population of these various groups, according to the 2001 Census, was close to 37 percent of the total population. These various groups of people are in various

stages of socioeconomic development. The NEFIN (2005) has classified these various groups into five broad categories with their levels of socioeconomic development or the process of marginalization. See following table.

22. Objectives of the Act:

- (i) To work for the overall development of the indigenous nationalities by formulating and implementing programs relating to the social, educational, economic and cultural development and elevation of the indigenous nationalities,
- (ii) To preserve and promote the numerous languages, scripts, cultures, arts, and histories of the indigenous nationalities,
- (iii) To create a conducive atmosphere for the IPs to participate in the overall national development of the country by winning their hearts and minds and assuring them of the State's sincerity, and endeavoring to build a harmonious relationship between different indigenous groups, caste, tribes and religious communities of Nepal
- (iv) To preserve and promote the traditional knowledge, skills, technologies and special know-how of the IPs and to guide and provide assistance in its vocational use,
- (v) To provide assistance in the making of an equitable society through the social, economic, religious and cultural enhancement of the IPs.

Table. Government listed Indigenous groups

| Mountain | Endangered | Highly marginalized | Marginalized | Disadvantaged | Advantaged |
|-------------|--|---------------------------------|--|--|------------|
| | | Siya, Shingsawa (Lhomi), Thudam | Bhote, Dolpo, Lar-ke, Lhopa, Mugali, Topkegola, Walung | Bara Gaunle, Byanshi, Chhaintan, Marpah ali-Thakali, Sherpa, Tangbe,, Tingaule Thakali | Thakali |
| Hill | Bankariya, Hayu, Kushbadiya, Lepcha, Surel | Baramu, Thami, Chepang | Bhujel, Dura, Pahari Phree,, Sunuwar, Tamang | Chantyal, Gurung, Jhirel, Limbu, Magar, Rai, Yakha, Hyolmo | Newar |
| Inner Tarai | Raji, Raute | Bote, Danuwar, Majhi | Darai, Kumhal | | |
| Tarai | Kisan, Meche | Dhanuk, Jhangad, Satar | Dhimal, Gangai, Rajbanshi, Tajpuriya Tharu | | |
| Total | 10 | 12 | 20 | 15 | 2 |

Source: NEFIN 2005.

23. The Nepal government can change indigenous nationalities by adding or reducing from the list of indigenous nationalities on a recommendation of NFDIN publishing in Nepal Gazette (Section 25). NFDIN can also generate its own fund. In the case of loans, it has to take prior approval from the government whereas for donations, financial assistance, grants from individual or donor agency or INGOs, it has to inform the government (Section 16 (2)).

24. In Nepal, not all indigenous groups/nationalities are marginalized or vulnerable. Many of these indigenous groups/nationalities are disadvantaged not in terms of economy and the level of education but in certain social categories such as language, religion and culture.

C. ADB Safeguards Policy Statement (2009)

1. ADB's SPS (Resettlement)

25. The objectives of ADB's SPS with regard to IR are: (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iii) to improve the standards of living of the displaced poor and other vulnerable groups.

26. ADB's SPS covers 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 (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.

27. For any ADB operation requiring involuntary resettlement, resettlement planning is an integral part of project design, to be dealt with from the earliest stages of the project cycle, taking into account the following basic principles:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- (iii) Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and

socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.

- (v) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

2. ADB's SPS (Indigenous People)

- (i) The objectives of ADB's Safeguards Policy Statement for Indigenous Peoples is to: (i) design and implement projects in a way that fosters full respect for Indigenous Peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the Indigenous Peoples themselves so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.
- (ii) The Indigenous Peoples safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of Indigenous Peoples or affects the territories or natural or cultural resources that Indigenous Peoples own, use, occupy, or claim as an ancestral domain or asset. The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable,

social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.

- (iii) The policy principles for ADB's SPS for Indigenous People's are as follows:
- (iv) Screen early on to determine (i) whether Indigenous Peoples are present in, or have collective attachment to, the project area; and (ii) whether project impacts on Indigenous Peoples are likely.
- (v) Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Indigenous Peoples prefer in relation to the provision of project benefits and the design of mitigation measures. Identify social and economic benefits for affected Indigenous Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.
- (vi) Undertake meaningful consultations with affected Indigenous Peoples communities and concerned Indigenous Peoples organizations to solicit their participation (i) in designing, implementing, and monitoring measures to avoid adverse impacts or, when avoidance is not possible, to minimize, mitigate, or compensate for such effects; and (ii) in tailoring project benefits for affected Indigenous Peoples communities in a culturally appropriate manner. To enhance Indigenous Peoples' active participation, projects affecting them will provide for culturally appropriate and gender inclusive capacity development. Establish a culturally appropriate and gender inclusive grievance mechanism to receive and facilitate resolution of the Indigenous Peoples' concerns.
- (vii) Ascertain the consent of affected Indigenous Peoples communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Indigenous Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Indigenous Peoples. For the purposes of policy application, the consent of affected Indigenous Peoples communities refers to a collective expression by the affected Indigenous Peoples communities, through individuals and/or their recognized representatives, of broad community support for such project activities. Broad community support may exist even if some individuals or groups object to the project activities.
- (viii) Avoid, to the maximum extent possible, any restricted access to and physical displacement from protected areas and natural resources. Where avoidance is not possible, ensure that the affected Indigenous Peoples communities participate in the design, implementation, and monitoring and evaluation of

management arrangements for such areas and natural resources and that their benefits are equitably shared.

- (ix) Prepare an Indigenous Peoples plan (IPP) that is based on the social impact assessment with the assistance of qualified and experienced experts and that draw on indigenous knowledge and participation by the affected Indigenous Peoples communities. The IPP includes a framework for continued consultation with the affected Indigenous Peoples communities during project implementation; specifies measures to ensure that Indigenous Peoples receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse project impacts; and includes culturally appropriate grievance procedures, monitoring and evaluation arrangements, and a budget and time-bound actions for implementing the planned measures.
- (x) Disclose a draft IPP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected Indigenous Peoples communities and other stakeholders. The final IPP and its updates will also be disclosed to the affected Indigenous Peoples communities and other stakeholders.
- (xi) Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the project involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
- (xii) Monitor implementation of the IPP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the IPP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of IPP monitoring. Disclose monitoring reports.

D. Gap filling between ADB and GoN Policies

1. Resettlement

28. The following overall goals are common between the GON legal frameworks and ADB guidelines related to resettlement:

- (i) Involuntary resettlement shall be avoided to the extent possible or minimized where feasible, exploring all viable alternative project designs.
- (ii) Where displacement is unavoidable, people losing assets, livelihood or other resources shall be assisted in improving status at no cost to themselves.

29. However, there are certain key differences between ADB guidelines and GON legal frameworks which are summarized below in Table 1.

Table 1: Some Difference between ADB Policy and GON Legal Framework

| ADB Policy | GON Legal Framework |
|---|--|
| Compensation to land regardless of legal ownership. | Legal ownership is required, however, registered tenants with the Land Revenue Office also acknowledged. |
| Compensation to all affected structures including encroachers | Encroachers are not entitled for compensation. |

| | |
|--|--|
| Compensation for affected assets as per prevailing market rate | (i) To be determined by Compensation Fixation Committee (CFC) to be formed under CDO, or (ii) according to Clause 27 of the Act provides for land acquisition through the mutual agreement with the plot owners. |
|--|--|

2. Indigenous People

30. In order to trigger the ADB SPS IP policy, IPs must meet the two criteria of being distinct and vulnerable. In Nepal, not all indigenous groups/nationalities are marginalized or vulnerable. However, many of these indigenous groups are disadvantaged not in terms of economy and the level of education but in certain social categories such as language, religion and culture. Therefore, for the purpose of the Project, all 59 groups as mentioned in the Indigenous/Nationality Act 2002 are treated as indigenous peoples.

31. The following overall goals are common between the GON legal frameworks and ADB guidelines related to IPs:

- (i) To preserve and promote indigenous cultures.
- (ii) To preserve and promote the traditional knowledge, skills, technologies and special know-how of Indigenous People.
- (iii) To provide assistance in the making of an equitable society through the social, economic, religious and cultural enhancement of Indigenous People.

E. Screening and Categorization

32. Resettlement screening for subprojects will be carried out during the project identification and prioritization process. The social development specialist in the PIU, with support of a consultant, will use the screening and categorization form in Annex 6 to determine the nature and significance of resettlement effects. 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; (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. Resettlement plans are prepared commensurate to their impacts; or (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. Any subprojects that are determined to cause significant resettlement impacts or indigenous people impacts (Category A) will not be selected.

F. Estimated Number of Affected Persons

33. Given the small scale size of proposed facilities (e.g., public toilets and water supply facilities such as reservoir tanks, water treatment plants, and distribution networks), the impacts will not be significant and consistent with Category B level impacts. Again, any subprojects that are determined to cause significant resettlement impacts (Category A) will not be selected.

G. Eligibility and Entitlements

34. **Eligibility.** All APs who are identified in the project-impacted areas on the cut-off date⁶ will be entitled to compensation for their affected assets, and rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels.

35. **Entitlements.** The entitlement matrix in below summarizes the main types of losses and the corresponding nature and scope of entitlements in accordance with GoN and ADB policies. Following detailed design, the detailed measurement survey (DMS) of AP's land and/or non-land assets and detailed census survey will be used for determining actual impacts, and replacement cost surveys (or asset valuation) will be carried out. This information will be used to inform the LACFC cost determination, or used to inform the negotiation of land value between the municipality and plot owner as per the LAA. Under the Project, a representative from the affected persons is required to be a member of the LACFC to ensure compensation for assets is at replacement value. Where the replacement cost of the LACFC is lower than the market determined value, the municipality and/or government is required to pay the difference. In cases of disputes such as where land records are not updated or where the APs are unable to produce the desired documents, then the compensation amount will be deposited with the CDO till the case is disposed. Where the entitlement matrix does not cover a particular impact it can be enhanced in the resettlement plans based on the findings of the socio-economic assessment and detailed measurement survey. Standards described will not be lowered but can be enhanced in the subproject RPs as required.

⁶ The cut-off date for title holders is based according to the Land Acquisition Act, and for non-titleholders the date of the census survey. Those who encroach into the subproject area after the cut-off date will not be entitled to compensation or any other assistance.

| Entitlement Matrix | | | | | | |
|--------------------|--------------|---|---------------------------|---|--|---------------------------------|
| | Type of Loss | Application | Entitled Person | Entitlement | Implementation Issues | Responsible Institution(s) |
| 1a | Loss of land | Full/partial permanent loss of homestead, agricultural, vacant land | Owner(s) with legal title | <p>Land-for-land arrangements, if government land available, of equal productive capacity satisfactory to AP, or;</p> <p>Cash compensation equivalent to current market rate/replacement value including provision for all fees (documentation fee, etc.), taxes, and other charges as applicable under relevant laws.</p> <p>30 days' advance notice to harvest standing seasonal crops, if harvest is not possible, compensation for share of standing crops at market rates</p> <p>Cash compensation for perennial crops and timber valued trees based on market value</p> <p>If no replacement land is available, HH members involved in farming eligible for skill development training based on their need at the rate of NRs 5,000/person/HH⁷</p> <p>APs prioritized for project employment</p> | <p>As per the LAA, compensation for land determined through either (i) mutual agreement with plot owner, or (ii) the option to allow LACFC determination of compensation. To be determined by plot owner.</p> <p>Under the Project, a representative from the affected persons is required to be a member of the LACFC to ensure compensation for assets is at replacement value.</p> <p>If decided through mutual agreement, PIU to verify satisfaction of plot owner with compensation amount. If owner not satisfied, then can raise with GRC.</p> <p>Harvesting prior to acquisition will be accommodated to the extent possible.</p> <p>PIU (social development officer) and municipality to assist farmers in finding suitable replacement land to continue farming.</p> <p>Value of crops/timber valued trees to be negotiated between landowner and municipality or determined by LACFC with advice from Agriculture Department</p> <p>A list of working members of the affected family will be maintained by PIU. Contractor to be encouraged to hire APs in project works.</p> <p>NGO to provide skill training.</p> | Municipality/PIU, DSC/LACFC/NGO |
| 1b | Loss of land | Full/partial | Tenant(s), | Registered (legal) tenants will be entitled to 50 percent of the total | Tenants are verified through a record of | Municipality/PIU, |

⁷ The training cost includes the cost of training allowance for affected households for the short term training on income generation for a period ranging 4 – 6 days @ Rs. 150 a day, which is Rs. 900. Other costs include the costs for training fee and logistic cost, where the cost of groups of trainees will be involved. The cost is therefore lump sum given as Rs. 5000. This is to be updated based on census at detailed design stage.

| Entitlement Matrix | | | | | | |
|--------------------|-------------------|---|--|--|--|----------------------------------|
| | Type of Loss | Application | Entitled Person | Entitlement | Implementation Issues | Responsible Institution(s) |
| | | permanent loss of homestead, agricultural, vacant land | leaseholder(s), tenant farmer (s) | land compensation amount as per the Land Reform Act. Assistance in finding replacement land. Shifting allowance for households based on actual cost of moving/unloading. | tenancy at the Land Revenue Office (LRO). Landowners will reimburse leaseholders land rental deposit or unexpired lease. | DSC, LACFC |
| 1c | Loss of land | Permanent Loss of agricultural land | Sharecropper | 30 days' advance notice to harvest standing seasonal crops, if harvest is not possible, compensation for share of standing crops at market rates (item 4) Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by average fruit production for next 15 years (or such period as set out in the prevailing law) Sharecropper assisted in finding replacement land to continue farming. If no replacement land is available, HH members involved in farming are eligible for skill development training based on their need at the rate of NRs 5,000/person/HH ⁸ APs eligible for project employment | Harvesting prior to acquisition will be accommodated to the extent possible. Value of crops/fruit trees to be negotiated between sharecropper and municipality or determined by LACFC with advice from Agriculture Department A list of affected people will be maintained by municipality. Contractor encouraged to hire project affected people, prioritizing vulnerable APs. NGO to provide skill training | Municipality/PIU, DSC, LACFC/NGO |
| 1d | Loss of land | Permanent Loss of homestead, agricultural land | Non-title holders (squatter(s) and encroacher(s)) (on government land) | 60 days advance notice to shift from occupied land Assistance in finding alternative land | | Municipality/PIU, DSC, LACFC |
| 2a | Loss of structure | Residential/commercial structure and other assets (e.g. fences, gates, posts) structure | Owner(s) with legal title | Cash compensation equivalent to replacement value of structure/asset with provision of all taxes, registration costs, and other fees incurred for replacement structure; Owners losing total structure are entitled to relocation allowance (cash) equivalent to two month rent ⁹ for moving to alternative premise for re-establishing house/businesses Assistance in finding alternative site. Rights to salvage materials from structure Transfer/shifting allowance to cover the cost of moving | Compensation for structures determined through mutual agreement between plot owners and municipality, or the option for LACFC determination of compensation. Compensation to affected persons to be overseen by PIU. | Municipality/PIU, DSC, LACFC |

⁸ The training cost includes the cost of training allowance for affected households for the short term training on income generation for a period ranging 4 – 6 days @ Rs. 150 a day, which is Rs. 900. Other costs include the costs for training fee and logistic cost, where the cost of groups of trainees will be involved. The cost is therefore lump sum given as Rs. 5000.

⁹ Two months based on the following: first month to find a place, second month to settle.

| Entitlement Matrix | | | | | | |
|--------------------|---------------------------|---|--|---|--|----------------------------------|
| | Type of Loss | Application | Entitled Person | Entitlement | Implementation Issues | Responsible Institution(s) |
| | | | | structures (transport plus loading and unloading) and materials will be paid on actual cost basis or on current market rates. | | |
| 2b | Loss of structure | Residential/commercial structure and other assets (e.g. fences, gates, posts) structure | Tenant(s) and leaseholder(s) | <p>As per the LAA, the tenant is entitled to 100% compensation for the structure built on the land with the permission of the land owners.</p> <p>If structure is constructed by the tenant/leaseholder, cash compensation equivalent to replacement value of structure/asset (or part of structure/asset)</p> <p>Tenant's/leaseholders losing entire structures they built are entitled to relocation allowance (cash) equivalent to two month rent for moving to alternative premise for re-establishing house/businesses</p> <p>Assistance in finding alternative site. Rights to salvage materials from structure if constructed by tenant/leaseholder</p> <p>Transfer/shifting allowance to cover the cost of moving structures (transport plus loading and unloading) and materials will be paid on actual cost basis or on current market rates.</p> | <p>Structure owners will reimburse tenants and leaseholders rental deposit or unexpired lease.</p> <p>Compensation for structure built by tenant through mutual agreement between municipality and tenant or compensation determined by LACFC. Compensation to be overseen by PIU.</p> | Municipality/PIU, DSC, LACFC |
| 2c | Loss of structure | Residential/commercial structure and other assets (e.g. fences, gates, posts) structure | Encroacher(s) and squatter(s) | <p>60-days advance notice</p> <p>Rights to salvage materials from structure</p> <p>Replacement value of structure and lost physical assets.</p> <p>Transfer/shifting allowance to cover the cost of moving structures (transport plus loading and unloading) and materials to be paid on actual cost basis or on current market rates.</p> <p>Assistance in finding alternative land</p> | | Municipality/PIU, DSC, LACFC |
| 3a | Loss of livelihood/Income | Livelihood/ income | Business owner (s), tenant (s), leaseholder(s), employee(s), agricultural worker(s), hawker(s)/ vendors(s) | <p>One-time lump sum grant of two-months¹⁰ income to business owner, leaseholder/tenant, based on the nature and type of losses assessed on a case-to-case basis.</p> <p>For employees: one-time financial assistance equivalent to 30-days minimum wage rates to be within District for respective categories.</p> <p>Those losing main source of livelihood are eligible for skill development training based on need at the rate of NRs 5,000/person/HH.</p> <p>APs eligible for project employment</p> | NGO to provide skill training | Municipality/PIU, DSC, LACFC/NGO |

¹⁰ Based on two months to find replacement income with advanced notice

| Entitlement Matrix | | | | | | |
|--------------------|---|--|---|--|--|----------------------------------|
| | Type of Loss | Application | Entitled Person | Entitlement | Implementation Issues | Responsible Institution(s) |
| 4 | Loss of crops and trees | Standing crops and trees | Owner(s) with legal title, tenant(s), leaseholder(s), sharecropper(s), encroacher(s), squatter(s) | <p>30 days' advance notice to harvest standing seasonal crops, if harvest is not possible, cash compensation for crops (or share of crops) equivalent to prevailing market price</p> <p>Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by average fruit production for next 15 years (or such period as set out in the prevailing law)</p> <p>Compensation for loss of wood-trees at current market value of wood (timber or firewood, as the case may be).</p> | <p>Harvesting prior to acquisition will be accommodated to the extent possible.</p> <p>Value of crops/fruit trees to be negotiated between sharecropper and municipality or determined by LACFC with advice from Agriculture Department</p> | Municipality/PIU, DSC, LACFC |
| 5 | Impacts on vulnerable APs | All impacts | Vulnerable APs (see Glossary for definition of vulnerable groups) | <p>Additional subsistence allowance equivalent to NRs 10,000/HH¹¹ for restoring or enhancing their livelihood.</p> <p>Eligible for skill development training based on need at the rate of NRs 5,000/person/HH</p> <p>Vulnerable households will be prioritized in any project employment Assistance in finding replacement land</p> | <p>Vulnerable households to be identified during detailed measurement surveys conducted as part of the RP/IPP.</p> <p>A list of vulnerable people will be maintained by the PIU/. Contractor to be encouraged to hire project affected people for non-skilled labor, prioritizing vulnerable APs.</p> <p>PIU to assist those losing 50% or more of their total land holdings in finding replacement land</p> <p>NGO to provide training.</p> | Municipality/PIU, DSC, LACFC/NGO |
| 6 | Temporary loss of land for the use of contractors during construction | Land temporarily acquired for the Project | Owner(s) with legal title, | <p>Contractor to negotiate a contract agreement on the rental rate with the owner for temporary acquisition of land.</p> <p>Project and the contractor to ensure that persons other than the owner affected as a result of temporary acquisition are compensated for the temporary period.</p> <p>Land should be returned to the owner at the end of temporary acquisition period, restored to its original condition or improved as agreed with the AP.</p> | | Municipality/PIU, DSC, LACFC |
| 7 | Temporary loss of access | Temporary loss of access to land, structure, utilities, common property resource | Owner(s) with legal title, tenant(s), leaseholder(s), sharecropper(s), encroacher(s), squatter(s) | <p>30 days' advance notice</p> <p>Provision of temporary access (e.g. planks across pipe trench) where possible;</p> <p>Restoration/enhancement of affected land, structure, utilities, common property resource</p> | | Municipality/PIU, DSC, LACFC |

¹¹ NRs 10,000 is based on common practice in Nepal for providing seed money to initiate income activities. The amount is valued at more than two months income at minimum daily wage rate (@150/day).

| Entitlement Matrix | | | | | | |
|--------------------|--|--|---|--|---|----------------------------------|
| | Type of Loss | Application | Entitled Person | Entitlement | Implementation Issues | Responsible Institution(s) |
| 8 | Temporary loss of livelihood (i.e., vendors inside ROW temporarily impacted due to construction) | Temporary loss of livelihood/source of income | Owners of temporary kiosks, mobile vendors, with or without acceptable proof of ownership over the land; with or without building permit | <p>30 days advance notice</p> <p>Provision of alternative sites for continued economic activity (e.g., within available ROW or across road)</p> <p>Use of Project dump trucks to haul goods and relocate shops.</p> <p>Restoration of affected land, structure, utilities, and common property resource</p> <p>For construction activities involving disruption for a period of more than a month, provision of alternative sites for hawkers and vendors for continued economic activities. If not possible, allowance based on minimum wage rate for 1 month or the actual period of disruption whichever is more.</p> | PIU to ensure temporary alternative locations found during construction for continuation of business. | Municipality/PIU, DSC/PIU |
| 9 | Loss of cultural & community structures /facilities | Schools, community centers, markets, places of worship, public trees, natural resources (including water used for irrigation and other livelihood purposes.) | <p>Community</p> <p>IPs who traditionally used water from the source for irrigation</p> <p>Households using the water from the source for different livelihood, and other purposes.</p> | <p>Replacement or restoration (requiring adequate cash compensation to complete these activities) of the affected community facilities – including public water stand posts, temples, shrines, bus shelters etc.</p> <p>Enhancement of community resources</p> <p>For irrigation water, continued provision of water at quantities that will not adversely affect productivity and other output, and/or project benefits given to affected users through consultation and negotiation.</p> <p>25 trees sapling and growth care support per tree in the case of public trees</p> | | Municipality/PIU, DSC, LACFC |
| 10 | Any other loss not identified | | | Unanticipated involuntary impacts shall be documented and mitigated based on the principles provided in ADB's SPS (2009) | | Municipality/PIU/ DSC, LACFC/NGO |

III. SOCIAL IMPACT ASSESSMENT

36. **Surveys.** For sub-projects involving land acquisition and resettlement impacts, the PIU and social officer with assistance from the Social Development Specialist of the Design Supervision Consultant will undertake social impact assessment (SIA) for each identified subproject, on the basis of preliminary technical design. These surveys will help in determining the magnitude of displacement, prospective losses, better targeting of vulnerable groups, ascertaining actual costs of resettlement, and preparing and implementing a resettlement plan.

37. **Census.** The purpose of the census is to register and document the status of potentially affected persons within the subproject's direct impact zone. The census will cover 100 percent of APs. The census will provide a demographic overview of the population, and will cover people's assets and main sources of livelihood. A sample questionnaire for the Census of APs is provided as an Appendix. The survey of the direct impact zone will cover the following: (i) boundaries of the site identified for the proposed subproject elements in case of subprojects involving new interventions, (ii) proposed right-of-way (RoW) boundaries which will include titleholders and non-titleholders occupying the proposed RoW, (iii) current occupants of the subproject site including businesses, vendors, whether titleholders or otherwise and experience temporary disruptions during construction, and (iv) losses of APs.

Table 2: Surveys for RP and IPP Preparation

| | |
|---------------|---|
| Census | <p>The census (also known as a detailed measurement survey – DMS) of lost assets will collect data on the affected assets from 100% of APs following detailed engineering design. The data collected during the census will constitute the formal basis for determining AP entitlements and levels of compensation. For each AP, the scope of the data will include:</p> <ul style="list-style-type: none"> • Total and affected areas of land, by type of land assets; • Total and affected areas of structures, by type of structure (main or secondary); • Legal status of affected land and structure assets, and duration of tenure and ownership; • Quantity and types of affected crops and trees; • Quantity of other losses, e.g. business or other income, jobs or other productive assets, estimated daily net income from informal shops; • Quantity/area of affected common property, community or public assets, by type; • Summary data on AP households, by ethnicity, gender of head of household, household size, primary and secondary source of household income viz-a-viz whether household is headed by women, or consists of marginalized ethnic groups (Dalits, Freed Kamaiya), Muslims/religious minorities, elderly, disabled, indigenous people (highly marginalized, marginalized, and, disadvantaged IPs), below poverty line of NRs 3000/month), landless or households losing 50% of total landholdings (particularly those totally dependent on agriculture for livelihood), as well as remote villages. • Identify whether affected land or source of income is primary source of income; and • AP knowledge of the subproject and preferences for compensation and, as required, relocation sites and rehabilitation measures. |
| Socio- | At a minimum, the SES will collect information from a sample of 10% of affected |

| | |
|--------------------------------|--|
| Economic Survey | <p>people and 20% of severely affected APs, disaggregated by gender and ethnicity. The purpose of the socioeconomic survey is to provide baseline data on APs to assess resettlement impacts, and to be sure that 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"> • Household head: name, sex, age, livelihood or occupation, income, education and ethnicity; • Household members: number, livelihood or occupation, school age children and school attendance, and literacy, disaggregated by gender; • Living conditions: access to water, sanitation and energy for cooking and lighting; ownership of durable goods; and • Access to basic services and facilities. |
| Replacement Cost Survey | <p>The replacement cost survey (RCS) will be done in parallel with DMS and SES activities by collecting information from both secondary sources and primary sources (direct interviews with people in the affected area, material suppliers, house contractors), and from both those affected and those not affected. The government rates will be adjusted, as necessary, based on the findings of a LACFC. Compensation rates will be continuously updated to ensure that APs receive compensation at replacement cost at the time of compensation payment.</p> |

IV. RESETTLEMENT AND INDIGENOUS PEOPLE PLAN PREPARATION

38. Resettlement Plans (RPs) and if necessary Indigenous People's Plans (IPP) will be prepared for subprojects based on the results of the census and from information drawn from the baseline socio-economic sample survey. If an IPP is required and given the small scale impacts, a combined RP/IPP can be prepared. The database of APs should be completed before RP preparation. RPs will be commensurate with subproject IR impacts. All RPs will be reviewed and approved by ADB before land acquisition and commencement of civil works.

39. RPs will be prepared by the project implementation unit (PIU) through a Social Development Specialist under the Design and Supervision Consultants (DSC). Work will be guided by the social officer of the Project Coordination Office which utilizes the Social Development Specialist of the Project Management and Support Consultants (PMSC). The RP will be brought to the notice of APs and host communities and comments will be addressed in subsequent revisions of the RP. The RP will be prepared in English, main content translated in local language, and notified to the public (this can include posters and/or resettlement booklets). The completed RP will include the census of APs, and their entitlements to restore losses, institutional mechanisms and schedules, budgets, assessment of feasible income restoration mechanisms, avenues for grievance redressal, and participatory results monitoring mechanism. The RP will be structured in the following manner:

- Executive Summary
- Project Description
- Scope of Land Acquisition and Resettlement
- Socio-economic Information and Profile
- Information Disclosure, Consultation, and Participation
- Grievance Redress Mechanisms
- Legal Framework
- Entitlements, Assistance and Benefits
- Relocation of Housing and Settlements

- Income Restoration and Rehabilitation
- Resettlement Budget and Financing Plan
- Institutional Arrangements
- Implementation Schedule
- Monitoring and Reporting

A. Gender Impacts and Mitigation Measures

40. Negative impacts of subproject on female-headed households will be taken up on case-to-case basis and assistance to these households will be prioritized under the subprojects. The RP will formulate measures to ensure that socio-economic conditions, needs, and priorities of women are identified and the process of land acquisition and resettlement does not disadvantage women. The RP will ensure that gender impacts are adequately addressed and mitigated. Women's focus group discussions will be conducted to address specific women's issues. During disbursement of assistance and compensation, priority will be given to female headed households. Joint ownership in the name of husband and wife will be offered in case of non-female headed households where the asset was acquired during their marriage. In addition to the measures provided for addressing the gender concerns of the affected households, the RP will be implemented in accordance with the GESI.

V. CONSULTATION, INFORMATION DISCLOSURE, AND GRIEVANCES

A. Public Consultation

41. A range of formal and informal consultative methods will be carried out for all sub-projects including, but not limited to: focus group discussions (FGDs), public meetings, community discussions, and in-depth and key informant interviews; in addition to the censuses and socio-economic surveys. Consultations will be held with special emphasis on vulnerable groups. Encouraging public participation in consultations informs the public and serves as a venue for the public to express their opinion on priorities which the Project should address.

42. The key stakeholders to be consulted during sub-project preparation, RP implementation, and program implementation includes:

- (i) all APs, including vulnerable households;
- (ii) project beneficiaries;
- (iii) host populations in resettlement sites (if any);
- (iv) elected representatives, community leaders, and representatives of community-based organizations;
- (v) local NGOs;
- (vi) local government (VDC, DDC) and relevant government agency representatives.

43. Consultations with APs during RP preparation will ensure that views of APs on compensation and resettlement assistance measures are fully incorporated while consultations conducted during RP implementation will identify necessary assistance required by APs during rehabilitation. Continuing involvement of those affected by sub-projects is necessary in the resettlement process. The municipality with support and guidance from the PIU and DSC consultant will ensure that APs and other stakeholders are informed and consulted about the sub-project, its impact, their entitlements and options, and allowed to participate actively in the development of the sub-project. This will be done particularly in the case of vulnerable APs, who will be encouraged to choose options that entail the lowest risk. This exercise will be conducted

throughout the sub-project—during preparation, implementation, and monitoring of sub-project results and impacts.

44. The PIU will ensure that views of APs, particularly those who are vulnerable, related to the resettlement process are looked into and addressed. The PIU will ensure that APs consulted are informed of the outcome of the decision-making process, and will confirm how their views were incorporated. Since resettlement is a continuous process and baseline data/information will be collected, the PIU will regularly update the baseline information.

B. Information Disclosure and Dissemination

45. Summaries of the RP/PPs will be made available in Nepali language to the APs, local NGOs, and public offices in the sub-project site. Copies of these documents will be provided to any requester by charging the photocopy cost. The draft and final RF and RPs will be disclosed in ADB's website (and DUDBC website) and made available to APs; information dissemination and consultation will continue throughout program implementation.

46. For all sub-projects, information will be disseminated to APs at various stages. In the initial stage, the municipality will be responsible for informing potential APs and the general public of the project and land acquisition requirements through leaflets and publication in local media outlets and newspapers. PIU will conduct consultations and disseminate information to all APs during these initial stages to create awareness of the project.

47. In the implementation stage, the municipality will provide information to APs on IR policies and features of the RP. Basic information such as sub-project location, impact estimates, entitlements, and implementation schedule will be presented to APs. This will enable stakeholders to provide inputs on the resettlement process, prior to award of civil work contracts.

48. An information dissemination campaign for APs will be conducted by the municipality with assistance from PIU at the outset of RP implementation. All the comments made by the APs will be documented in the sub-project records and summarized in sub-project monitoring reports. A summary of consultation and disclosure activities to be followed for each sub-project is in the Table 3 below.

49. Details and responsibility for consultation and disclosure activities are given in Table below.

Table 3: Consultation and Disclosure Roles and Responsibilities

| Project Phase | Activities | Details | Responsible Agency |
|--------------------------|---|---|---------------------------|
| Project Initiation Stage | Sub-project information dissemination; Disclosure of proposed land acquisition to APs | Leaflets containing information on the Project and sub-project to be prepared. Public notice issued in public places including newspapers and direct consultation with APs | PIU/DSC |

| Project Phase | Activities | Details | Responsible Agency |
|-------------------------|---|---|--------------------|
| RP Preparation Phase | Stakeholder consultations | Further consultations with affected persons and households, titled and non-titled. Summary RF made available to all APs. | DSC/DSC |
| | Disclosure of final entitlements and rehabilitation packages and disclosure of draft RP | RPs disclosed to all APs in local language | DSC/PIU |
| | Finalization of RP | Review and approval of RP by EA. Review and approval of RP by ADB. Web disclosure of the RP. | PCO/PIU and ADB |
| RP Implementation Stage | Consultation with APs during RP implementation | Consultations with APs. | PIU/DSC |

ADB = Asian Development Bank, AP = affected persons, EA = executing agency, DSC = Design Supervision Consultant, MPPW = Ministry of Physical Planning and Works, NGO = nongovernment organization, RF = resettlement framework, RP = resettlement plan, PIU = Project Implementaiton Unit.

C. Complaints and Grievances

50. Any grievances and objections will be referred to the Grievances Redress Committee (GRC). The constitutional basis of the Grievance Redress Committee (GRC) for RP/IPP activities is Clause 11 of the Land Acquisition Act of Nepal 2034 (1977). The Act assigns CDO as the sole responsibility to chair land acquisition activities. In keeping with the legal provision mentioned in the Act, the basic process of grievances redressal to be undertaken under the Project will be as follows:

- (i) Decisions should be given within fifteen days after receiving the grievances.
- (ii) Further processing of the grievances or any decision should be taken only after consultation with the CDO and also the Project Officer, if deemed necessary.
- (iii) Ministry of Home Affairs can exercise legal authority through the District court while investigating in the matter of such grievances.

51. When plot owner and municipality negotiate directly and come to mutual agreement, GRC as per the LAA is not required. In these cases, the Project will form its own Project GRC formulated by the municipality. The project formulated grievance mechanism will be split into three phases: In the first phase, a GRC chaired by EO will come up with remedial measures. Only if the complainant is not satisfied with this decision, the issue will be brought up to the municipal board, as the second phase. If the person is still not satisfied, then he/she can go to either the court or MPPW, as a third phase. This is illustrated in the figure below.

52. The project manager of the PIU is to activate the project GRC. This process is not to supersede or impeded on the country's formal grievance processes. The GRC will meet as needed to determine the merit of each grievance, and resolve grievances within a month of receiving the complaint. The GRC with a minimum of three members will be headed by the

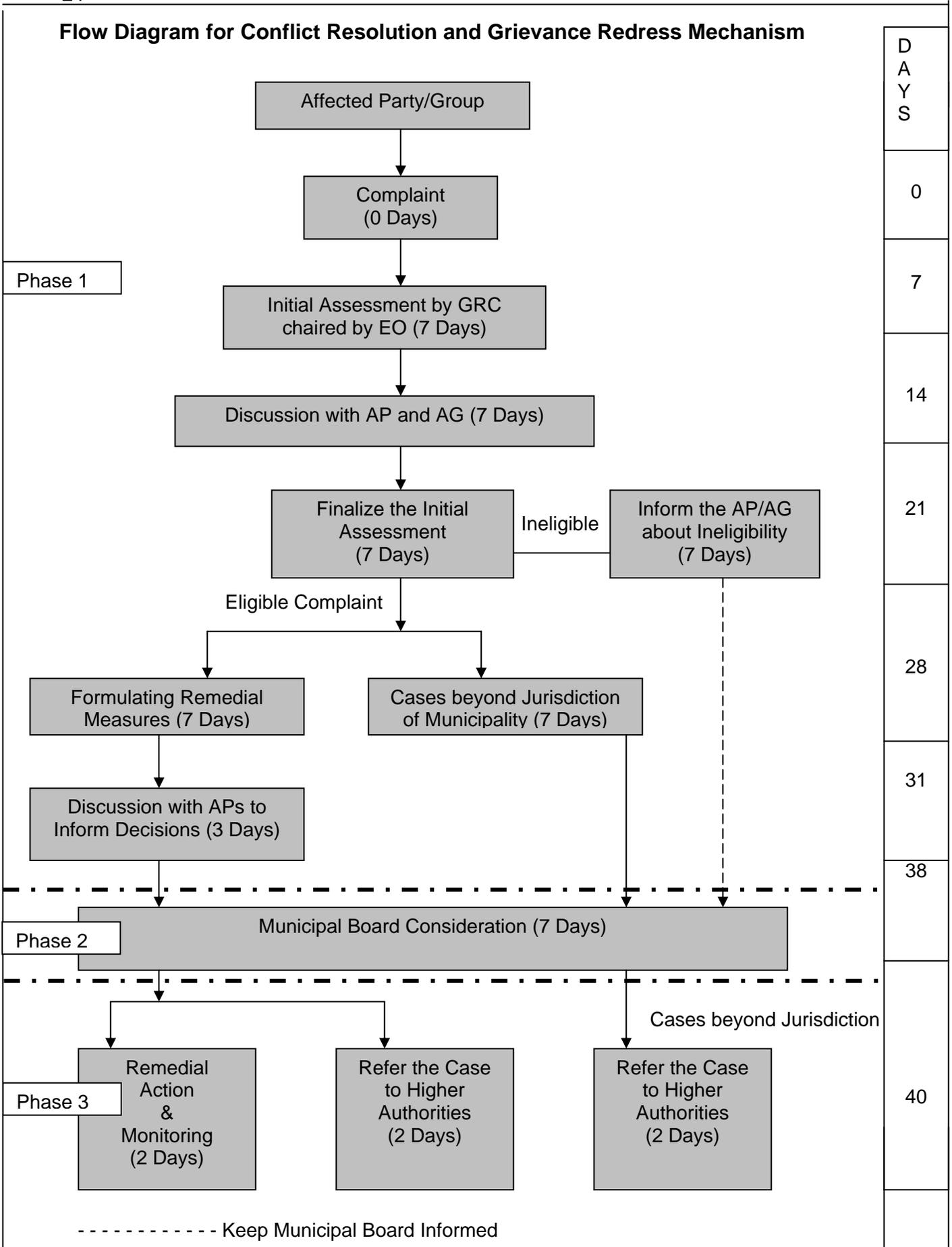
Executive Officer. Members of the committee may also include local government representative (VDC, DDC), representatives of APs with one male and one female, a representative of vulnerable people's organisations active in the area concerned, social safeguards consultant, the NGO, and a representative from the Project. The Committee thus appointed should be sanctioned by the municipal board. The time bound GRC process is illustrated in the figure below.

53. Complaints should be addressed to the PIU or municipality. The PIU will keep records of all grievances received including: contact details of complainant, date the complaint was received, nature of grievance, agreed corrective actions and the date these were effected, and final outcome. The GRC should provide the concerns of the complainants on issues relating to negative and physical impacts that they conceive would occur by the implementation of the particular project sub-component. All complaints should be signed with complete information on name, contact address, phone number if any so that the person can be contacted when required. An acknowledgement to the effect that the complaint has been received by the coordinator's office should be promptly sent to the complainants. All complaints received should be first registered, categorized and prioritized. They should be analyzed and assessed the concerns raised by the affected parties and have discussion and consultation with them. Records of all such proceedings should be maintained, for future reference, and the attendance of all participants with their signature, in particular the complainants and affected groups should be recorded. If grievances cannot be addressed, the matters are brought to higher authorities (which could be the municipal board, court or central government).

54. The various queries, complaints and problems that are likely to be generated among the APs and that might require mitigation, include the following:

- (i) APs not enlisted;
- (ii) Losses not identified correctly;
- (iii) Compensation/assistance inadequate or not as per entitlement matrix;
- (iv) Dispute about ownership;
- (v) Delay in disbursement of compensation/assistance; and
- (vi) Improper distribution of compensation/ assistance in case of joint ownership.

Flow Diagram for Conflict Resolution and Grievance Redress Mechanism



| DAYS |
|------|
| 0 |
| 7 |
| 14 |
| 21 |
| 28 |
| 31 |
| 38 |
| 40 |

VI. COMPENSATION, INCOME RESTORATION, AND RELOCATION

55. Income restoration assistance to the affected persons includes both short and medium term strategies. Short term income restoration strategies are for immediate assistance during relocation and include the following:

- (i) Compensation for land, structures, and all other lost assets is paid in full before construction activity begins;
- (ii) APs losing entire structure are entitled to subsistence allowance (cash) equivalent to two month rent for moving to alternative premise for re-establishing house/business
- (iii) Assistance in finding replacement land for continuation of livelihood/living arrangements
- (iv) Shifting allowance for households based on actual cost of moving/unloading
- (v) 30 days' advance notice to harvest standing seasonal crops, if harvest is not possible, compensation for share of standing crops at market rates
- (vi) Business owner/tenants including farmers earning livelihood from crops and experiencing
- (vii) loss of income are entitled to one-time lump sum grant of two-month income based on the nature and type of losses assessed on a case-to-case basis.
- (viii) Employees losing income are entitled to one-time financial assistance equivalent to 30 days minimum wage rates to be within District for respective categories.
- (ix) For vulnerable groups, additional subsistence allowance equivalent to NRs 10,000/HH for restoring or enhancing their livelihood. Vulnerable households will be prioritized in any project employment¹²

56. Those eligible for medium-term income restoration activities which include skill development training based on need at the rate of NRs 5,000/person/HH include instances where no replacement land is available to continue livelihood activity (including sharecroppers, tenant farmers), those losing main source of livelihood, and vulnerable people.

57. Where necessary, training may include (i) capacity building, enterprise training, and facilitating economic activities to landowners; (ii) training for self employment to agricultural laborers. Training for self-employment that would be given by a NGO for skill development may include but not limited to (i) plumbing, (ii) electrical, (iii) automobile repair, and (iv) electronic repair and service. Training will be imparted to any willing member of the household. Where NGOs are not capable of training, suitable trainers or local resources will be identified by the PIU or local NGO in consultation with local training institutes.

58. During the construction stage the APs, especially vulnerable APs, will be given preference over others in being engaged in project activities suitable to their skills. In order to make the APs employable, an NGO will identify the required skills for the construction activities prior to the commencement of the construction and provide the required training to the APs. The contract document for the project shall include a provision for employment under the social requirements.

¹² Double payment is to be avoided for those under (vii) and (ix)

VII. INSTITUTIONAL RESPONSIBILITIES AND ARRANGEMENT

A. Institutional Roles and Responsibilities

59. The Ministry of Physical Planning and Works (MPPW) will be the Executing Agency (EA), working through its Department of Urban Development and Building Construction (DUDBC), which will establish a project coordination office (PCO) for the Project headed by project director. The PCO will be staffed with a social development officer to confirm smooth implementation of the RP/IPP and take corrective actions if necessary. Biratnagar, Birgunj Butwal and Kavre Valey municipalities will be the Implementing Agencies (IAs) for the subprojects, each with a project implementation unit (PIU) headed by project manager and staffed with a social development officer. The PCO will ensure that the respective PIUs will update the resettlement plan during the detailed design stage, if required, and implement the final plan. In each municipality, a municipal project management committee (MPMC) will be established in order to discuss project implementation issues, including land acquisition and resettlement issues, enhance collaboration among relevant departments and organizations, and expedite decision-making processes with an aim at achieving intended project output and outcome. MPMSC will be chaired by the executive officer¹³, and comprise relevant department heads of the respective municipality, chief of the divisional office of DUDBC, DWSS and other relevant government departments, a representative from district development committee, four members representing the local disadvantaged communities, NGOs, women's groups and the private sector, and the respective project manager working as secretariat.¹⁴

60. The PIU in the municipality will implement resettlement activities. The PMSC will also monitor the smooth implementation of RP/IPP. The PIU will work closely with the DSC-Resettlement Specialist consultant during detailed design to verify APs. The PIU will continue further consultation with APs during project implementation and solicit views regarding compensation, and relocation options. The PCO will verify the implementation of all RP/IPP requirements and confirm whether APs received entitlements as per the RP/IPP prior to the award of civil work contracts. NGOs will be responsible for linking APs to relevant government programs related to social and economic rehabilitation. The PIU will submit quarterly progress reports to the PCO, who will then review and take corrective actions if necessary. The PCO will with assistance from the PMSC consultants consolidate their reports into semiannual monitoring reports and submit to ADB. These reports are to describe the progress of the implementation of resettlement activities and any compliance issues and corrective actions. In cases where the municipality and plot owner negotiate directly, the DSC-consultant and PIU will verify the satisfaction of the plot owner with the agreed compensation amount. NGOs will also facilitate necessary livelihood training as part of the rehabilitation measures. The PIU and PMSC are to ensure all RPs are implemented and ensure all entitlements are paid accordingly before land acquisition and commencement of civil works.

Table 4: Institutional Roles and Responsibilities

| Activity | Responsible Agency |
|--|------------------------|
| Sub-project Initiation Stage | |
| Disclosure of proposed sub-project details by issuing Public Notice | PIU/PCO |
| Disclosure of proposed land acquisition | PIU/PCO |
| RP Preparation and Updating Stage | |
| AP identification and verification | PIU |
| Conducting detailed census, socioeconomic, and replacement cost surveys of all APs | PIU with help from DSC |

¹³ Composition will be reviewed if local election takes place.

¹⁴ Other members can be included, such as representatives from political parties represented in the local political mechanism, as deemed appropriate by the municipality concerned.

| Activity | Responsible Agency |
|--|--|
| Conducting consultations with APs and other stakeholders through FGDs/meetings/workshops. Summary RF available in local language | PIU with help from DSC |
| Computation of replacement values of land/assets proposed for acquisition and finalizing rehabilitation measures | PIU with help from DSC |
| Determining final compensation for land/property (as per government law) | municipality with land owner, or LACFC |
| Review of RP | PIU/PCO/ADB |
| Disclosure of final entitlements and rehabilitation packages | PIU |
| Approval of RP | MPPW/ADB |
| Translating draft and final RPs into local language | PIU |
| Disclosing of RPs to APs | PIU with help from DSC |
| RP Implementation Stage | |
| Information dissemination to APs | PIU with help from DSC |
| Compensation paid to APs before award of civil contracts | PIU with help from DSC |
| Implementation of proposed rehabilitation measures | PIU/NGO |
| Consultations with APs during rehabilitation activities | PIU with help from DSC |
| Grievances Redressal | GRC/PIU |
| Internal monitoring | PIU/PCO |

ADB = Asian Development Bank, AP = affected persons, EA = executing agency, DSC = Design Supervision Consultant, MPPW = Ministry of Physical Planning and Works, NGO = nongovernment organization, RF = resettlement framework, RP = resettlement plan, PIU = Project Implementaiton Unit

VIII. BUDGETING AND FUND FLOW MECHANISM

61. The resettlement cost estimate includes all costs related to resettlement including compensation, relocation, transfer costs, displacement allowances, rehabilitation costs, administrative costs, special assistance for vulnerable households, consultation, and costs of monitoring and evaluation. All land acquisition funds will be paid to APs by the municipality (overseen by PIU), and backed by the central government (through MPPW). Loan Assurances will guarantee APs are compensated for all losses as per the RP before land acquisition and commencement of civil works on relevant sections and PIU will verify whether compensation was paid and to the satisfaction of the AP. Detailed budget estimates for involuntary resettlement will be prepared by DSC/PIU for each RP. Details in the budget will include the full costs of each item.

62. Where the national law does not meet the replacement cost, this will be supplemented as necessary by the municipality and/or government. Replacement cost is based on market value before the project or dispossession, whichever is higher.

63. The municipality will ensure that funds are delivered on time to the APs. Civil works in relevant sections will not commence unless required compensation payment has been completed. However, income rehabilitation measures may continue and be completed even after civil works has begun. All land acquisition and resettlement assistance will be considered as an integral component of project costs. In cases where compensation is set by the LACFC (when the plot owner does not negotiate directly with municipality) and the replacement value is lower than the prevailing market price, the PIU will verify the replacement value, and the municipality will pay the difference. The table 4 below shows the estimated budget for implementing RPs for sub-projects in the three municipalities.

Table 4: Estimated Resettlement Costs¹⁵

| Municipality | Component | Total (NRs) |
|--------------|--|-------------------------|
| Biratnagar | Public toilets | 600,000 ¹⁶ |
| Birgunj | Public toilets | 600,000 ¹⁷ |
| Butwal | Public toilets; water supply facilities (reservoirs and WTP) | 3,000,000 ¹⁸ |
| Total | | 4200000 |

IX. IMPLEMENTATION SCHEDULE

64. Land acquisition, compensation and relocation of APs cannot commence until the RP has been reviewed and approved by ADB. The project will be implemented over five years. The process for RP preparation and income rehabilitation measures may continue before and after the civil works has begun. The major activities to be carried out during the project period include; (i) payment of compensation and other allowances before land acquisition and commencement of civil works in relevant sections, (ii) handing over of site to the municipality, and (iii) income restoration assistance.

Table 5: RP Implementation Schedule

| | Feasibility Study | | Detailed Design | | Contract Bidding | Award for Civil Work Contracts | Construction | | | | | | | | |
|---|-------------------|----|-----------------|----|------------------|--------------------------------|--------------|----|----|-----|-----|-----|-----|-----|-----|
| | 1Q | 2Q | 3Q | 4Q | 5Q | 6Q | 7Q | 8Q | 9Q | 10Q | 11Q | 12Q | 13Q | 14Q | 15Q |
| Resettlement Planning | | | | | | | | | | | | | | | |
| Approval of RP by ADB and by MPPW | | | | ♦ | | | | | | | | | | | |
| Disclosure of RP | | ♦ | | ♦ | | | | | | | | | | | |
| Distribution of RP Report and Brochure | | ♦ | | ♦ | | | | | | | | | | | |
| Recruitment of NGO | ♦ | | ♦ | | | | | | | | | | | | |
| Socio-economic survey by DSC and list of APs | ♦ | ♦ | ♦ | ♦ | | | | | | | | | | | |
| Issue of identity cards | ♦ | ♦ | | | | | | | | | | | | | |
| Identify and confirm poor and vulnerable APs | ♦ | ♦ | ♦ | ♦ | | | | | | | | | | | |
| Form Grievance Redress Committee | | | | ♦ | ♦ | | | | | | | | | | |
| Grievance Redressing Activities | | | | ♦ | ♦ | | | | | | | | | | |
| Land Acquisition, Temporary Land Occupation and Resettlement | | | | | | | | | | | | | | | |

¹⁵ Costs include compensation for land and additional allowances

¹⁶ Assuming Rs 3 lacks per katha and 2 katha land requirement for public toilets

¹⁷ Assuming Rs 3 lacks per katha and 2 katha land requirement for public toilets

¹⁸ Assuming an average of Rs.1 lacks per katha and 1 ha land requirement for reservoirs and WTP

| | Feasibility Study | | Detailed Design | | Contract Bidding | Award for Civil Work Contracts | Construction | | | | | | | | |
|--|--|----|-----------------|----|------------------|--------------------------------|--------------|----|----|-----|-----|-----|-----|-----|-----|
| | 1Q | 2Q | 3Q | 4Q | 5Q | 6Q | 7Q | 8Q | 9Q | 10Q | 11Q | 12Q | 13Q | 14Q | 15Q |
| Announce start date of RP implementation through public notification | | | | ♦ | | | | | | | | | | | |
| Disburse compensation payment and assistance for relocation | | | | ♦ | ♦ | | | | | | | | | | |
| Handing over of lands to the contractor for construction ¹⁹ | | | | | | | ♦ | | | | | | | | |
| Livelihood and Income Restoration | | | | | | | | | | | | | | | |
| Disburse livelihood restoration assistance | | | | ♦ | ♦ | ♦ | | | | | | | | | |
| Organize skill development training for vulnerable APs | | | | ♦ | ♦ | ♦ | | | | | | | | | |
| Capacity Building | All through the RP implementation period | | | | | | | | | | | | | | |
| Internal monitoring | All through the RP implementation period | | | | | | | | | | | | | | |

Note: The census will be the cut-off date for non-titled APs. For titled APs, the cut-off date is the date of notification as per the Nepal LA Act (1977). The RP will be updated based on final detailed design and AP census and surveys. Endorsement and disclosure of finalized RPs consistent with the RF to be undertaken.

A. Staff Training in Resettlement Implementation

65. Staff at DUDBC PCO, and PIUs involved in land acquisition and resettlement activities will undergo training in ADB's safeguards policy and management conducted by the PMSC social safeguards specialist. The training session will focus on the following:

- (i) Principles and procedures of land acquisition;
- (ii) Public consultation and participation;
- (iii) Entitlements and compensation & assistance disbursement mechanisms;
- (iv) Grievance redressal; and
- (v) Resettlement data-base management.

X. MONITORING AND REPORTING

A. Need for Monitoring

66. Monitoring is a major part of the resettlement management system to ensure its goals are met. RP implementation will be monitored internally. The RP/IPP implementation activities will be closely monitored internally by the PIU and PCO. This will involve: (i) administrative

¹⁹ For components not involving land acquisition, the handing over of project sites to the contractor will be possible from the first quarter. For the other components involving land acquisition and resettlement, the project sites will be handed over for civil works by the sixth quarter.

monitoring to ensure that implementation is on schedule and problems are dealt with on a timely basis; (ii) socio-economic monitoring during and after any resettlement impact utilizing baseline information from sub-project preparation; (iii) overall monitoring to assess AP status; and (iv) preparation of quarterly progress reports to be submitted to PCO by the PIU, reporting actual achievements against the targets fixed and reasons for shortfalls, if any.

67. The PIU will prepare quarterly progress reports on resettlement activities and submit to PCO. The PCO will with assistance from the PMSC consultants consolidate their reports into semiannual monitoring and submit to ADB. These reports are to describe the progress of the implementation of resettlement activities and any compliance issues and corrective actions. Reports to ADB should clarify whether or not resettlement goals have been achieved, more importantly analysis of whether livelihoods and living standards have been restored/enhanced (especially for vulnerable APs) is mandatory and suggestion of suitable recommendations for improvement must be made. Any problems or issues identified are followed-up (including recommendation of mitigation measures and supplementary budget); and learning from such issues must be recorded which would help to deal with issues such as these more effectively.

B. Internal Monitoring

68. The DUDBC through its PCO will be responsible for internal monitoring. The PIU will provide necessary oversight and monitor the RP implementation at the ground level and submit quarterly progress reports to PCO. Correct actions to be taken, if necessary. This will be done in coordination with the municipality.

69. The PIU will maintain a record of all transactions in their resettlement database, followed by entitlement records signed by AP and survey based monitoring of resettlement / land acquisition progress on a monthly basis. Monitoring will ensure:

- (i) That all internal training of relevant safeguards staff occurred;
- (ii) Verification that there are no outstanding or unresolved land acquisition issues with respect to the project and that property valuation and economic rehabilitation has been carried out in accordance with the provisions of the plan;
- (iii) Information campaign and consultation has been carried out with APs;
- (iv) Status of land acquisition and payments on land compensation;
- (v) Value of entitlement received is equal to that of original structure or land acquired;
- (vi) Effective utilization of entitlements received;
- (vii) Compensation for affected structures and other assets;
- (viii) Relocation of APs; if applicable;
- (ix) Payments for loss of income;
- (x) That all economic rehabilitation measures are implemented, as approved;
- (xi) Effective operation of both the Grievance Committees;
- (xii) Funds for implementing land acquisition and economic rehabilitation activities are available in a timely manner, are sufficient for the purposes, and are spent in accordance with the plan.

70. PIU will also be responsible for carrying out field level monitoring through:

- (i) Review of census information for all APs;
- (ii) Consultation and informal interviews with APs;
- (iii) In-depth case studies;
- (iv) Informal sample survey of APs;
- (v) Key informant interviews; and

- (vi) Community public meetings.

71. A performance data sheet will be developed by PCO to monitor the project at the field level. Quarterly monitoring reports will be prepared by PIU and submitted to the PCO for overall project level monitoring. Semiannual reports will be sent to ADB which report the progress of all aspects of resettlement activities. Monitoring and evaluation reports documenting progress on resettlement implementation and the completion report will be provided by the MPPW to ADB for review.

C. Reporting Requirements

72. The PIU will submit quarterly²⁰ progress reports to the PCO, who will then review and take corrective actions if necessary. The PCO will with assistance from the PMSC consultants consolidate their reports into semiannual monitoring and submit to ADB. These reports are to describe the progress of the implementation of resettlement activities and any compliance issues and corrective actions. Any problems or issues identified are followed-up (including recommendation of mitigation measures and supplementary budget); and learning from such issues must be recorded which would help to deal with issues such as these more effectively.

²⁰ DSC to submit monthly reports to PIU; PIU submits quarterly reports to PCO; PCO submits semi-annual reports to ADB.

CENSUS AND BASELINE SOCIO-ECONOMIC SURVEY GUIDELINES

A. Cut-Off Date

1. The cut-off date for titleholders will be the date of notification under the land acquisition act and for the non-titleholders will be the census date. People moving into the sub-project area after this cut-off date will not be entitled to support. Persons, who were not enumerated during the census but can show documentation or evidence that he/she is rightfully an Affected Person (AP), will be included. The PIU is responsible for such verification. Only those APs within the sub-project impact area will be considered eligible for support under the sub-project.

B. Census Requirement and Contents

2. Census of households and individuals located within the sub-project has to be undertaken to register and document the status of potentially affected population within the sub-project impact area. It will provide a demographic overview of the population covered by the Resettlement Plan (RP) and profiles of household assets and main sources of livelihood. It will cover 100% of the potentially affected population within the sub-project impact area.

- (i) **Resource Base.** The resource base including land, water, and forest, etc., with an assessment of its development and ecological potential in the pre-project conditions. During the conduct of the census, legal boundaries of affected properties and the right of way (ROW) are to be verified. Structures, trees and other assets are to be recorded.
- (ii) **Economy Base.** The economy base of the affected people including the modes and magnitude of production, consumption pattern, related economic institutions.
- (iii) **Household Census.** Household census covering immovable property owned by the APs and other resources in their possession/use. These surveys would be carried out in association with local and host communities as well as with the local representatives.
- (iv) **Social Structures.** The social structure, norms, customs, cultural centers, traditions, patterns of leadership and institutions of social network.
- (v) **Affected Persons.** The census will prima-facie identify tenants, leaseholders, sharecroppers, encroachers, squatters, and agricultural workers. During such census, those APs dependent on the existing infrastructure link for their livelihood, shall also be identified and listed along with their identified income. Besides this, the census will also identify APs who are from Scheduled Tribes (STs), and vulnerable APs such as the poor, female-headed, old, handicapped, infirm, orphaned, and destitute.

C. Census Procedures

3. The following procedure is to be adopted in carrying out the census:
- (i) Preliminary screening to provide initial information on social impacts;
 - (ii) Verification of legal boundaries of the sub-project area, to document existing structures, land plots, and others physical assets. This involves:
 - (a) Identification of suitable resettlement sites, in close proximity to the affected area if required;
 - (b) All encroachments, private land holdings and others assets in the sub-project area is to be documented;
 - (c) Assets, structures, land holdings, trees, etc. to be recorded; and

- (d) All information is to be computerized; photography to be used to document existing structures.
- (iii) The baseline socio-economic survey shall cover information on the various categories of losses and other adverse impacts likely under the sub-project;
- (iv) The census will identify potentially affected populations with special attention to vulnerable groups; and
- (v) Assessment on the value of various assets to be made.

D. Database Management

- (i) **Data Sources.** As a pre-requisite for conducting the primary household surveys, relevant information is to be collected from secondary sources. These include:
 - (a) Revenue records maintained, with regard to land particulars for facilitating acquisition of properties and resettlement of displaced;
 - (b) Census records for demographic information;
 - (c) Development agencies to get information on various development programs for special sections of population like those living below poverty line, Scheduled Tribes, Schedule Castes, etc.; and
 - (d) Local organizations including NGOs in order to involve them and integrate their activities in the economic development programs of the displaced population.
- (ii) **Data Collection.** Household level contacts and interviews with each affected family for completing the household socio-economic profile. Each of the households surveyed and the structure/land likely to be affected by the sub-project has to be numbered, documented and photographed. Public consultation exercises in different sub-project areas to be conducted with the involvement of Affected Persons. In these exercises, women among the Affected Persons are to be involved to elicit their views and options on the overall planning of resettlement activities. Discussions with a cross-section of affected population will help towards understanding the problems and preference of the APs.
- (iii) **Data Analysis.** The analysis would cover the following: population, population density, age, sex ratio, literacy rates/education, gender issues, tribal issues, religious groups, income, occupation and poverty line.
- (iv) **Data Update.** Since there is generally a time gap between the census and land acquisition procedure, it implies that actual physical relocation of APs may be delayed. Therefore, it is suggested that PIUs or NGOs responsible for implementation of RP, should conduct a rapid appraisal to continuously update information.

Resettlement Supervision Milestones

| No. | Resettlement Tasks | Target | Responsible | Completion | Status and Additional Deadlines |
|------------|---|-----------------|-------------|------------|---------------------------------|
| 1. | Disclosure | | | | |
| 1.1 | Information booklet | # of copies | | | |
| 1.2 | Resettlement plan distribution to resettlement offices/villages/APs | # of copies | | | |
| 1.3 | RP placed on ADB website | | | | |
| 2. | Detailed Measurement Survey (DMS) | | | | |
| 2.1 | Updated RP based on DMS Distribution to resettlement offices/villages/APs | # of copies | | | |
| 2.2 | Updated RP based on DMS | | | | |
| 3. | Detailed Rehabilitation Plans | | | | |
| 3.1 | Initial village rehabilitation plans (if | # of villages | | | |
| 3.2 | Refined village rehabilitation plans (if | # of villages | | | |
| 3.3 | Farmland adjustment agreements(if applicable) | | | | |
| 3.4 | Assistance for Vulnerable Groups | # of APs | | | |
| 3.5 | Technical training plan for AF | # of APs | | | |
| 4. | Resettlement Plan and Budget | # of APs | | | |
| 4.1 | Complete redline survey (map) | | | | |
| 4.2 | Approval of RP & budget | | | | |
| 4.3 | Approval of compensation rates | | | | |
| 4.4 | Staking survey | | | | |
| 5. | Compensation Agreements | | | | |
| 5.1 | Village agreements | # of villages | | | |
| 5.2 | Enterprise agreements | # of businesses | | | |
| 5.3 | Household agreements | # of APs | | | |
| 6. | Implementation Capacity | | | | |
| 6.1 | district resettlement staff | # of staff | | | |
| 6.2 | Designate village representatives | # of staff | | | |
| 6.3 | Training of staff | # of staff | | | |
| 6.3 | Setting up grievance redress | # of staff | | | |
| 7. | Monitoring and Evaluation | | | | |
| 7.1 | Baseline survey | Sample | | | |
| 7.2 | Set-up internal supervision | As per RP | | | |
| 7.3 | Contract external monitor (though external monitoring not relevant in this project) | As per RP | | | |
| 7.4 | Internal monitoring reports | Quarterly | | | |
| 7.5 | External monitoring reports | Semi-annual | | | |
| 7.6 | Evaluation reports (tracer surveys) | Annual | | | |
| 7.7 | Resettlement Completion Report | | | | |
| 8. | Documentation of Consultation | As per RP | | | |
| 9. | Documentation of Grievances | As required | | | |
| 10. | Flow of Funds / Compensation | | | | |

| | | | | | |
|------------|---|---------------|--|--|--|
| 10.1 | Executing or Implementing Agency | | | | |
| 10.2 | Project Management Office – Resettlement Unit or NGO Resettlement Implementer | | | | |
| 10.3 | To affected households | # of APs | | | |
| 11. | Commence Resettlement | | | | |
| 11.1 | Land acquisition | # of hectares | | | |
| 11.2 | House removal | # of APs | | | |

INVOLUNTARY RESETTLEMENT SCREENING/ CATEGORIZATION

| Probable Involuntary Resettlement Effects | Yes | No | Not Known | Remarks |
|--|-----|----|-----------|---------|
| Involuntary Acquisition of Land | | | | |
| 1. Will there be land acquisition? | | | | |
| 2. Is the site for land acquisition known? | | | | |
| 3. Is the ownership status and current usage of land to be acquired known? | | | | |
| 4. Will easement be utilized within an existing Right of Way (ROW)? | | | | |
| 5. Will there be loss of shelter and residential land due to land acquisition? | | | | |
| 6. Will there be loss of agricultural and other productive assets due to land acquisition? | | | | |
| 7. Will there be losses of crops, trees, and fixed assets due to land acquisition? | | | | |
| 8. Will there be loss of businesses or enterprises due to land acquisition? | | | | |
| 9. Will there be loss of income sources and means of livelihoods due to land acquisition? | | | | |
| Involuntary restrictions on land use or on access to legally designated parks and protected areas | | | | |
| 10. Will people lose access to natural resources, communal facilities and services? | | | | |
| 11. If land use is changed, will it have an adverse impact on social and economic activities? | | | | |
| 12. Will access to land and resources owned communally or by the state be restricted? | | | | |
| Information on Displaced Persons: | | | | |
| Any estimate of the likely number of persons that will be displaced by the Project? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many? _____ | | | | |
| Are any of them poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes | | | | |
| Are any displaced persons from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes | | | | |

IP IMPACT SCREENING CHECKLIST OF SAMPLE SUB PROJECTS

IP Impact Screening Checklist for Himalayan Waters Sanctuary Destination Sub-project –
Himachal Pradesh

| Impact on the indigenous peoples (IPs)/Ethnic Minority (EM) | Yes | No | Remarks or identified problems, if any |
|---|------------|-----------|---|
| Are there any IPs or EM groups present in the project locations? | | No | The improvements in the HWSD destination sub-project, and do not envisage permanent land acquisition. There are no pockets / villages inhabited by ST households. The ST population in the project locations is less than 1% of the population. While designated as STs, they are mainstreamed and have no distinct characteristics compared with other residents at these locations. |
| Do they maintain distinctive customs or economic activities that may make them vulnerable to hardships? | | No | |
| Will the project restrict their economic and social activity and make them particularly vulnerable in the context of the project? | | No | |
| Will the project change their socio economic and cultural integrity? | | No | |
| Will the project disrupt their community life? | | No | |
| Will the project positively affect their health, education, livelihood or social security status? | | No | |
| Will the project alter or undermine the recognition of their knowledge, preclude customary behaviours or undermine customary institutions? | | No | |
| In case no disruption of indigenous community life as a whole, will there be loss of housing, strip of land, crops, trees and other fixed assets owned or controlled by individual indigenous households? | | No | |