FINAL

COMPENSATION POLICY FRAMEWORK AND PROCEDURAL GUIDELINES

for

PARTICIPATORY IRRIGATION SECTOR PROJECT

in

INDONESIA

Government of Indonesia
Ministry of Home Affairs

This report was prepared by the Borrower and is not an ADB document.

May 2005
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>AF</td>
<td>Affected Family</td>
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<td>AP</td>
<td>Affected Person</td>
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<tr>
<td>CPFPG</td>
<td>Compensation Policy Framework and Procedural Guidelines</td>
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<tr>
<td>EMA</td>
<td>External Monitoring Agency</td>
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<tr>
<td>LAC</td>
<td>Land Acquisition Committee</td>
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<td>LAR</td>
<td>Land Acquisition and Resettlement</td>
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<td>LARP</td>
<td>Land Acquisition and Resettlement Plan</td>
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<td>LARU</td>
<td>Land Acquisition and Resettlement Unit</td>
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<tr>
<td>LCO</td>
<td>Local Community Organization</td>
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<tr>
<td>IMP</td>
<td>Irrigation Management plan</td>
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<td>MOHA</td>
<td>Ministry of Home Affairs</td>
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<td>PISP</td>
<td>Participatory Irrigation Sector Project</td>
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<td>WUA</td>
<td>Water Users Association</td>
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<tr>
<td>PCMO</td>
<td>Project Coordination and Management Office</td>
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<td>DGWR</td>
<td>Directorate General of Water resources</td>
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1. **INTRODUCTION AND BACKGROUND**

1. This Compensation Policy and Procedural Guidelines (CPFPG) for the Participatory Irrigation Sector Project (PISP) has been established by the Ministry of Home Affairs (MOHA) of Indonesia with the concurrence of the local governments participation to the Project. The project does not include the construction of new irrigation infrastructure and therefore it is not expected to cause significant land acquisition/resettlement (LAR) impacts. This notwithstanding, some activities connected with the rehabilitation of existing irrigation schemes may involve some low intensity permanent or temporary LAR impacts due to canal training/re-alignment or to the siting of construction materials deposits. The objective of this CPFPG is to regulate compensation and procedures for eventual LAR tasks in accordance to Government regulation and the Involuntary Resettlement Policy of the Asian Development Bank (ADB) (the ADB Policy) as detailed in the: "Handbook on Resettlement: A Guide to Good Practice".

1.1 **The Project**

2. The goal of the Participatory Irrigation Sector Project (PISP) is to increase economic growth and reduce rural poverty in six provinces of rural Indonesia through sustained decentralized management of irrigation schemes and increased yield of irrigated crops. The Project will target some 25 districts (Kabupaten) and possibly up to 3,000 irrigation schemes in the following provinces: (i) Lampung; (ii) Banten; (iii) West Java; (iv) Central Java; (v) East Java; and (vi) South Sulawesi provinces. Project implementation will initially focus on six core-subproject districts, namely: Lampung Selatan (Lampung); Garut (West Java); Cilacap & Banyumas (Central Java); Madiun (East Java); Sinjai (South Sulawesi).

3. PISP will follow a demand-driven approach to irrigation management improvement, accommodating districts’ funding constraints and varying degree of institutional, technical and management capabilities. The assistance scope to each district will vary, and will follow a sector modality. In the context of the Project, the term “subproject” refers to a district with all water resources and irrigation infrastructure, institutions and stakeholders therein, and an irrigation scheme selected for Project support is termed as “subproject scheme”.

4. The Project will pursue an implementation logic fitting the decentralization framework of government currently in development in Indonesia and will comprise three distinct components: (i) **irrigation management** including a **district capacity building** sub-component and an **irrigation systems performance improvement** sub-component; (ii) **water resources information management**; and (iii) **project coordination and monitoring**.

5. Outputs under components (ii) and (iii) will have a management and administrative dimension and will not involve LAR impacts. Outputs under component (i), particularly the **irrigation systems performance improvement** sub-component, will involve physical work on the ground. Although, as already noted, these activities will be in general limited to irrigation schemes rehabilitation they may in certain cases cause minor LAR impacts.

1.2 **Participatory approach and LAR preparation for the subproject schemes**

6. An inclusive participatory process with extensive stakeholder consultation is central to project design. The subproject schemes will be designed and implemented by the WUAs themselves based on an irrigation management plan (IMP) whose preparation involves the full participation of the WUAs’ members and of the beneficiary communities. In case of eventual
schemes involving LAR tasks, the IMP will include a land acquisition and resettlement plan (LARP) to be prepared in compliance with the requirements of this CPFPG. Each scheme LARP will be based on detailed design, will provide compensation budgets based on actual negotiations, and will provide the following information:

i) number of affected people (AP) and affected families (AF);
ii) type and relative amount of impacts;
iii) a summary of the eligibility/framework set forth in this CPFPG;
iv) outcomes of the community participation process including signed endorsement of eventual voluntary contributions by AF for land affected by tertiary and quaternary canals;
v) procedures for grievance redress;
vi) arrangements for compensation, relocation, and income restoration;
vii) institutional framework;
viii) resettlement budget and financing based on negotiated compensation rates;
ix) implementation schedule; and
x) procedures for monitoring and evaluation.

1.3 LAR conditions for subproject and scheme selection and eligibility

7. For sector loans like the PISP, ADB's Policy requires the preparation of: (i) a CPFPG for the whole project and applicable to all irrigation schemes; and (ii) an initial social assessment (ISA) indicating for each individual scheme whether LAR impacts will occur or not. For each PISP subproject schemes, where the ISA indicates LAR impacts, ADB’s policy requires the preparation of a LARPs to be included in the scheme irrigation management plan (IMP).

8. In order to satisfy the above requirements the inclusion in the Project of a scheme will be based on the following LAR processing conditions:

i) For scheme requiring LAR a LARP will be included in the IMP and will be reviewed by the district irrigation commission (IC) for its compliance with the CPFPG. The scheme will be eligible for project financing only if the LARP is approved along with the scheme IMP.

ii) Quarterly project progress reports prepared and submitted by the District to the Project Coordination and management Office (PCMO) will include a list of schemes involving LAR and a summary of impacts including impact type and magnitude.

iii) PCMO will incorporate the information in (ii) above in the semiannual progress report to be submitted to ADB.

iv) No civil works will be undertaken until the LARP has been fully implemented

v) ADB reserves the right to verify the LARP and their implementation status and may refuse to finance the scheme if the LARP is found unsatisfactorily prepared or implemented.
2. LEGAL BACKGROUND

9. This section reviews Indonesian laws and regulations on LAR for public infrastructure projects and compares them with the requirements of the ADB’s guidelines on Involuntary Resettlement. The discussion will then indicate eventual inconsistencies between the two and provide the mechanisms to reconcile them. Both the Indonesian regulations and the ADB Policy will be used for schemes funded by the ADB under the IPSP that will require LAR.

2.1. Indonesian Land Acquisition and Resettlement Law and Regulations

2.1.1. Basic Legal Framework

10. The generic right to compensation and livelihood rehabilitation of parties affected by public projects is recognized in Articles 33 (clause no. 3) and 27 (clause no. 2) of the 1945 Constitution of Indonesia. This right is reinforced by Act No. 5 of 1960 concerning the Basic Regulations on Agrarian Principles (Basic Agrarian Law; Act No. 20 of 1961 on the Expropriation of Land and Objects Attached to the Land, issued as the implementing regulation of Article 18 of Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles. The possibility of resettlement for those who experience loss of their homes and income or means of livelihood resulting from expropriation is mentioned in Law No. 20 of 1961. Other laws related to compensation and rehabilitation for land acquisition exercised under public interest stipulations are: Act No. 24 of 1992 on the Spatial Use Act No. 22 of 1999 on Regional Autonomy; Act No. 25 of 1999 on the Fiscal Balance between Central and Regional Governments; Act No. 39 of 1999 on Human Rights

2.1.2 Presidential Decree No. 55/1993

11. The key regulation for land acquisition under the PISP is provided by the Presidential Decree No. 55/1993 on Land Acquisition for Development Activities in the Public Interest. Drawing upon earlier laws including Law No. 5 of 1960, Decree 55 delineates land ownership/use categories and:

(i.) specifies that land can be acquired only via direct affected party consultation so as to reach an agreement on compensation forms and amounts (Article 1).

(ii.) indicates that compensation can be given in the form of money, replacement land, resettlement, a combination of two or more forms of compensations, and other forms agreed by the parties concerned (Article 13).

(iii.) recognizes that holders of “adat/hak ulayat” are eligible to compensation in form of public facilities or provisions benefiting local communities (Article 14).

(iv.) Indicates that items eligible to compensation are land, buildings, plants, crops and other objects for the land.

(v.) sets that compensation is to be established at replacement rates based on the most recent land-sales value used in determining the Land and Building Tax (NJOP) and by adjusting compensation rates through negotiation with affected parties. The value of buildings and plants/crops will be assessed by the agencies in charge of public works and agriculture, respectively.
(vi.) Decree 55 sets the mechanisms for addressing eventual complaints and grievances (Article 20).

2.1.3 Regulation of State Minister of Agrarian Affairs/Head and National Land Agency No. 1/1994 on the Operational Directive of Decree No. 55/1993

12. This regulation is the enabling instrument for implementing Decree 55/1993. It specifies that each Provincial Governor establishes for all projects covering more than one level II territory a Land Acquisition Committee (Panitia Sembilan) or LAC in each District (Kabupaten) and Municipality (Kotamadya). Chaired by the local Regent (Bupati or Walikota) the LAC will include representatives of Level II Land and Tax offices and Public Works and Agriculture agencies and the heads of affected sub-districts and villages. The LAC has authority and responsibility in matters of (i) impacts inventory/valuation, (ii) legal status determination of affected properties; (iii) information, consultation and compensation negotiation tasks, and (iv) compensation and cash rehabilitation delivery.

13. Under these operational guidelines several additions to Decree 55/1993 are provided which are relevant to this CPFPG are included. These are:

   (i) Regents are allowed to issue project-specific decrees providing specific guidelines for particular compensation and rehabilitation entitlements or procedures deemed necessary by the peculiarities of a project. Project-specific decrees may add compensation provisions as long as they do not contradict the principles of Decree 55/1993.

   (ii) The recognition that some compensation called “santunan” can be given to people using the land without formal title. Compensation amounts in this case will be determined by the LAC based on the guidelines issued by the Regent.

   (iii) Expropriation procedures relative to the properties of affected parties disagreeing with the compensation amounts proposed during the negotiations by the Project sponsor can initiate when at least 75 percent of the area requested for land acquisition or 75 percent of the land rights holders have accepted and received their compensation.

   (iv) The principle that compensation is to be given in such a way as to maintain the livelihood patterns of the affected patterns is stressed (Article 16 para. 4).

2.1.4 Additional Regulation Relevant for the Project

14. Additional LAR and impacts rehabilitation regulation can be found in:

   (i) Government Regulation No. 24/1997 (Article 24) stating that affected parties possessing a plot of land without written title are not barred from the right to get a land-right certificate provided it is proven that he or his predecessors held the land uninterruptedly for 20 years, without claims from other parties and the fact is supported by a reliable witness.

   (ii) Government Regulation No. 51/1993 on Environmental Impact Assessment requiring a management and monitoring plan for environmental
impacts including LAR and sanctioning social impact mitigation, public disclosure and community consultation.

(iii) **Regulation on Decentralized Governance (Act No. 22 of 1999 on Regional Governance; Act No. 25 of 1999 on Fiscal Balance between Central and Regional Governments and; Government Regulation No. 25 of 2000 on the Authority of the Central Government and the Provincial Government as Autonomous Regions)** This new regulation body mandates that (i) as autonomous regions, the Districts and Cities have authority and freedom of action in forming and carrying out policies according to the initiatives and aspirations of the public [including LAR planning, implementation and supervision] based on transparent public participation; (ii) financial responsibility for development activities [including LAR] is the responsibility of the regional governments; (iii) the regions can borrow from foreign sources.

(iv) **Act No. 39 of 1999 on Human Rights** and guaranteeing protection of economic rights for each individual. In Section Seven of the law (Article 36) on the right for prosperity (*kesejahteraan*) it is stated that: each person has the right to ownership, either by themselves or together with others to develop themselves, their family, their community, and their nation with methods that are not against the law (clause (1); nobody can take a persons belongings arbitrarily that is against the law (clause (2); and ownership has a social function (clause (3)). Further in Article 37 the law states that: ‘Canceling ownership for the public good, may only be done with compensation that is fair and immediate as well as implemented according to the stipulations in the regulations and laws (clause (1); When a specific object based on legal stipulations for the public interest must be destroyed or empowered both forever or for temporary period, it must be carried out with compensation in accordance with the regulations and laws, unless otherwise specified [clause 2]. Finally the law states that: in relation to the vulnerable groups in Article 5 clause (3) in Act 39 of 1999, it states that ‘Every person in the vulnerable group has the right to receive treatment and protection in accordance with their situation’. Especially for those customary societies, it states in Article 6 that ‘In the enforcement of human rights, differences and needs of these customary communities must be protected by the law, the public and the government (clause (1). The cultural identification of the customary communities includes their communal ownership of land that must be protected, in accordance with future development (clause 2).

2.2 The Asian Development Bank Policy on Involuntary Resettlement

15. In November 1995, ADB adopted its Involuntary Resettlement. The policy guidelines are given in the ADB Handbook on Resettlement (1998). This resettlement policy has the following objectives and principles:

i) Involuntary resettlement should be avoided whenever feasible.

ii) Where displacement of people is unavoidable, it should be minimized by exploring all viable options.
iii) People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the project.

iv) People affected should be informed fully and consulted on resettlement and compensation options.

v) Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities.

vi) The absence of a formal legal title to land by some affected group should not be a bar to compensation; particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance provided to help them improve their status.

vii) As far as possible, involuntary resettlement should be conceived and executed as a part of the project.

viii) The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.

16. In order to ensure that the above principles are met ADB requires that:

i) affected items are compensated at replacement cost or market rates, and

ii) Compensation and resettlement subsidies will be provided in full prior to ground leveling and demolition.

2.3 Reconciliation of Indonesian Regulation and ADB policy

17. If the Indonesian legal framework for LAR and ADB’s Involuntary Resettlement Policy tend to be generally consistent with each other (in principle both of them adhere not only on the objective of AF compensation but also on the objective of AD rehabilitation) still some divergence remains on how rehabilitation is to be achieved in practice. In particular, although Indonesian law stresses in several points that the AF post-project livelihood conditions need to be comparable to those prior to the project, it does not offer clear guidelines on the action needed to rehabilitate non-physical impacts such as impacts on income losses or impacts which may severely impair the livelihood of the AFs.

18. To fill these minor gaps between Indonesian regulation and ADB policy, MSRI and the local governments agreed to set up a compensation policy (see next chapter) for the PISP that includes subsidies/allowances for AFs that may have to be relocated, suffer business losses, or be severely affected by land acquisition. In addition to these provisions the PISP compensation policy will ensure that the land acquired will be compensated disregarding its legal status. Such adjustments are legally possible since Indonesian law allows local governments a certain degree of latitude in establishing special compensation provisions for projects implemented in their jurisdictions.
3. THE PISP COMPENSATION POLICY

19. LAR tasks for the PISP will be carried out according to a set of basic principles and compensation eligibility/entitlement provisions established by MOHA with the concurrence of relevant local governments. These compensation principles and eligibility/entitlement provisions for the PISP fit both Indonesian law/regulation and ADB Policy.

3.1 Basic Compensation Principles

20. Compensation and rehabilitation tasks for the Project will be carried out in accordance to the following set of principles:

i) Involuntary resettlement should be avoided where feasible.

ii) Where population displacement is unavoidable, it should be minimized by exploring all viable options.

iii) People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the project.

iv) People affected should be informed fully and consulted on resettlement and compensation options.

v) Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities.

vi) The absence of a formal legal title to land by some affected group should not be a bar to compensation: particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and ethnic minorities, and appropriate assistance provided to help them improve their status.

vii) As far as possible, involuntary resettlement should be conceived and executed as a part of the project.

viii) The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.

ix) affected items are compensated at replacement cost or market rates

x) Compensation and resettlement subsidies will be provided in full prior to ground leveling and demolition.

3.1 Eligibility Framework

21. Affected People (AP) entitled for compensation under the Project are:

- Holders of the land rights with or without a land certificate
- Adat communities whose ulayat land is acquired for development activities
Those who utilize the land under usufruct arrangements
- Tenants cultivating the land under share-cropping or rent arrangements
- Nadzir, for waqf land (religious land)
- Wage laborers
- Owners of buildings, plants, or other objects attached to the land
- Those who have interest over the land and/or building, plants or other objects attached to the land.
- Owners of businesses affected by the project.

3.1.1 Eligibility Cut-off date

22. Compensation eligibility for impacts caused by rehabilitation of a scheme under the Project will be limited by a cut-off date to be specifically established for each scheme. The cut-off date will be set on the day corresponding to the beginning of the impacts assessment survey for a scheme. Affected parties who settled in the affected areas after the cut-off date will not be eligible to compensation.

3.2 Special provisions for voluntary contributions

23. As subproject schemes will be planned, designed and implemented directly by the affected communities through a fully participatory process, specific entitlements may be considered for the acquisition of land in form of voluntary contributions. This will be possible when: (i) only minimal land plots are affected; (ii) impacts correspond to a direct benefit to the AFs in form of land productivity and; (iii) land losses have no fundamental negative effect on the AFs livelihood. Land can be contributed at no cost to the scheme provided the AFs’ agreement is fully documented with signatures in the LARP. It is expected that cases under this special provision will correspond to impacts caused by tertiary or quaternary canals. All other impacts and in particular eventual impacts on houses, will have to be compensated in full at replacement rates.

3.3 Special provisions for severely affected AFs

24. In order to ensure the rehabilitation of severely affected AFs defined as AFs that lose more than 20% of their land, the Project has established a special rehabilitation allowance in cash corresponding to one year’s produce of the land acquired. The same will be provided to tenants and farmers with usufruct rights in public land losing more than 20% of their land. This allowance will allow the affected parties to maintain the same incomes they had before the project for one year, a period which should be sufficient to purchase new land or establish new rent or land usufruct contracts.

3.4 Compensation Entitlements

25. Entitlements for AP losing land, houses and income and rehabilitation subsidies will include provisions for: permanent land losses, temporary land losses, crops losses and community infrastructure. The Project will also provide to AFs losing a house a relocation subsidy. A special rehabilitation allowances will be provided to severely affected APs and APs incurring in Business losses.

26. Compensation entitlements for each impact category are defined below:

   (i) Permanent Land Losses. Land losses caused by primary or secondary canals these losses will be compensated in full through “land for land”
mechanisms with plots of equal value/productivity as the plots lost, or in cash at replacement rates based on negotiated values. AFs with land permanently affected by tertiary and quaternary canals may contribute their land to the project for free as long as their agreement is fully documented in the irrigation management plan.

(ii) **Temporary Land Losses.** These will not be compensated

(iii) **Residential Land losses.** Because of the project features this impact is unlikely. However, in the eventuality of such losses the affected plots will be fully compensated regardless of the type of canal or impact causing the loss. Compensation will be in cash at replacement rates based on negotiated costs.

(iv) **House/buildings losses.** Considering the project features this impact is highly unlikely. However in the eventuality that this impact occurs the affected houses will be compensated in full at replacement cost inclusive of labor and materials. House attachments and deposits will be compensated as independent items in the same fashion as the houses.

(v) **Plants/crops losses.** Annual crops will be compensated in cash based on the current market value of the crop lost. Perennial crops will be compensated in cash by item based on the reproduction cost of the item lost.

(vi) **Community infrastructure.** This will be replaced or rehabilitated in full by the project at no cost for the affected communities

27. In addition to compensation for lost items AFs suffering specific losses will receive various subsidies and allowances as defined below:

(i) **Relocation subsidy.** This subsidy applies to all AFs that lose a house and are therefore forced to relocate. The Relocation Subsidy will provide a fixed lump sum of Rp. 500,000 at 2002 prices adjusted annually to take care of inflation to cover transport and other relocation expenses.

(ii) **Rehabilitation allowance for severely affected AFs.** This cash allowance will be provided to all AFs severely affected by permanent land acquisition (AFs losing more than 20% of their land). This provision will be equivalent to the market value of one year produce from the affected land.

(iii) **Rehabilitation allowance for tenants or holders of usufruct rights.** This will be equivalent to the market value of one year produce from the affected land. Local authorities in affected areas will also ensure that holders of usufruct rights will receive new public land in usufruct.

(iv) **Business losses allowance.** This cash allowance will be provided to all AFs losing a business. Its unit will be a sum equal to 1 month of minimum salary in subproject areas, or will correspond to the monthly business income as per the tax declaration. The allowance will be provided for the period necessary to re-establish the business up to a maximum of 6 months.
(v) **Rehabilitation services.** These may include provisions in services to be requested if deemed necessary by the affected communities. These may include the provision of various rehabilitation items such as (i) training for alternative livelihood activities and for employment in project-derived jobs; (ii) agricultural extension; or (iii) micro-credit.

28.  The above provisions are schematized next page in the entitlement matrix.

### Table No. 1. Entitlements Matrix

<table>
<thead>
<tr>
<th>LOSS TYPE</th>
<th>STAKEHOLDER</th>
<th>ENTITLEMENT</th>
<th>NOTES</th>
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<tbody>
<tr>
<td>Permanent agricultural Land acquisition</td>
<td>Land users of affected plots under hak milik, hak guna usha, hak guna bangun, hak pakai, adat and ulayat tenure status</td>
<td>1. Cash compensation at market rate, or 2. Compensation through “land for land” mechanisms</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Users without title</td>
<td></td>
<td>To be provided to owners, sharecroppers and renters</td>
</tr>
<tr>
<td></td>
<td>Severely affected AFs (losing more than 20% of their land)</td>
<td>One year of produce of affected land in cash</td>
<td>To be provided to owners, sharecroppers and renters</td>
</tr>
<tr>
<td>Temporary agricultural land acquisition</td>
<td>Users of the plots</td>
<td>If needed, cash compensation for rehabilitation work</td>
<td></td>
</tr>
<tr>
<td>Residential land</td>
<td>House owners</td>
<td>Cash compensation at replacement rate</td>
<td></td>
</tr>
<tr>
<td>Trees</td>
<td>Tree owner</td>
<td>Cash compensation based on productive value of the tree</td>
<td></td>
</tr>
<tr>
<td>Annual Crops</td>
<td>User</td>
<td>Cash at market prices</td>
<td></td>
</tr>
<tr>
<td>Houses</td>
<td>House owner</td>
<td>Cash at replacement cost</td>
<td></td>
</tr>
<tr>
<td>Relocation allowance</td>
<td>House owner</td>
<td>Cash allowance of Rp. 500,000</td>
<td>The allowance will be provided monthly for the transitional period up to 6 months</td>
</tr>
<tr>
<td>Business losses allowance</td>
<td>Business owner</td>
<td>1. Cash allowance equivalent to 1 Month of minimum salary in subproject areas Or 2. Cash allowance equivalent to 1 month of business profits based on tax declaration</td>
<td></td>
</tr>
<tr>
<td>Public infrastructure</td>
<td>Local communities</td>
<td>Full replacement or rehabilitation of the affected item at no cost for the community</td>
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4. IMPACTS DATA DOCUMENTATION AND ASSET VALUATION

4.1 Impact database

29. When a scheme requires LAR, the relative impacts will be fully documented in the LARP included in the IMP. Each LARP will provide a brief (i) indicating when the impact survey was carried out and who carried it out; (ii) detailing the results of the impact assessment and of the AF census; and (iii) describing the procedures followed for asset and subsidy/allowance evaluation. The impacts assessment and AF census data will be based on scheme detailed design and will have to be assessed on the ground by a survey team including representatives of the affected families.

30. The impact assessment will require the following data:

(i) Permanent Land impacts area to be subdivided in the relevant land-types and in impacts for which compensation will be provided and cases where Land acquisition will be dealt through "voluntary contributions" (essentially land required for the rehabilitation of tertiary and quaternary canals). The permanent land impacts survey will also measure the amount of land lost by severely affected AFs (losing more than 20% of their plots) and subdivide it by crop-type.

(ii) AF/AP census data indicating total number of Families and people affected by land acquisition and number of eventual severely affected AFs (losing more than 20% of their plots).

(iii) Annual crops area affected to be subdivided by crop-type

(iv) Number of trees affected to be subdivided by tree-type

31. If a scheme affects more than land the items for which data have to be collected are:

(i) Number and area of houses affected to be subdivided by house type

(ii) Number of businesses affected

(iii) Number and area of Public facilities affected to be subdivided by type

4.2 Affected Items Valuation

32. Each LARP will also provide a detailed discussion of affected assets valuation indicating the compensation rates for each affected item and type. In order to ensure that sufficient LAR funds are allocated the LAR budget for each scheme will have to be based on the compensation rates agreed by the WUA members in the course of the negotiations between them and the District.

33. The determination of final compensation rates will reflect replacement cost and will follow the procedures outlined below:
a. **Permanent land impacts**

(i) Land will be first valued at the actual commercial value of the land used for determining the Land and Building Tax;

(ii.) The initial valuation will then be adjusted to take into account land location, current land use, eventual land improvements, and other factors that may influence land prices;

(iii) Valuation procedures will then be further adjusted by means of negotiations with the landowners or the land users so as to ensure the determination of the land replacement cost.

b. **Land compensation for items other than land impacts.** This will be decided as follows:

(i) Annual Crops will be valued at current market prices on m² basis while the value of the trees will be negotiated with the APs based on the income they produce.

(ii) Houses eventually affected will be valued at replacement cost on a m² basis inclusive of cost of materials plus labor. A final negotiation of the compensation between the rate will allow for adjustments requested by the house owners.

(iii) Businesses eventually affected will be compensated on the basis of an allowance corresponding either to a fixed lump-sum equivalent to one month of the minimum salary in subproject areas or to the monthly profit of the business based on tax declarations. (As per this CPFPG provisions the allowance will be provided for each month of the transitional period up to a maximum of six months)
5. INSTITUTIONAL FRAMEWORK

34. The Project Coordination and Monitoring Office (PCMO) under the National Steering Committee (NST) has overall coordination responsibility for LAR tasks, for external monitoring and for all matters needing reporting to ADB. The core responsibility for the implementation of LAR in subproject schemes will rest with the participating subproject Districts. Other units with responsibility for preparation and implementation of LAR are the WUAs, the Land Acquisition Committee (LAC); and the Province. The distribution of tasks and responsibilities for LAR is described in the following paragraphs. A chart describing the institutional framework and the tasks for LAR preparation/implementation is included at the end of this chapter.

5.1 The PCMO role in LAR implementation

35. As the coordination unit of all Project tasks the PCMO will coordinate internal monitoring activities carried out by the Districts and will make sure that they are sent to ADB for review in the quarterly project implementation reports. The PCMO will also be responsible for coordination and financing External Monitoring functions to be carried out by an Independent Agency such an NG or an academic institution. Finally the PCMO will coordinate LAR training to Districts, WUAs and Land acquisition Committees (LAC).

5.2 The Districts role in LAR planning and implementation

36. The engagement of the District in LAR tasks will begin in the early phases of subproject preparation. First of all Districts endorses this CPFPG and make sure that its eligibility/entitlements provisions are accepted by the LAC. Then, at the time of the definition of the list of schemes for a subproject, Districts will have to screen each proposed scheme for eventual LAR and, if necessary, prepare an initial social assessment (ISA) for schemes where those issues are relevant.

37. The District will also establish a Land Acquisition and Resettlement Unit (LARU) in the Irrigation Commission (IC). The LARU will provide technical and administrative facilitation to the WUAs for the preparation implementation of the LARP's and will carry out LAR internal monitoring functions including monitor income restoration. The LARU will be trained on LAR issues by an agency (local community organization [LCO], academic institution or a consultant) with the appropriate experience and qualifications.

38. Another function assigned to the Districts, and in particular to the ICs, is the review of the LARP's prepared by the WUAs to ensure its compliance with this CPFPG provisions. Once the scheme is approved the Districts will also be responsible for ensuring that the all relevant costs are budgeted in the LARP. In addition, the District will be also responsible for covering the administrative costs connected to LARP preparation and implementation.

5.3 The WUAs role in LAR planning and implementation

39. Together with other planning tasks the WUAs will be directly involved in the preparation of eventual LARP's if needed. Through a genuine participatory mechanism directly involving their members and endorsed by them the WUAs will be responsible for triggering and managing the participatory process that will lead the preparation of all LARP tasks including impact minimization, impact measurement, AF/AP census, and negotiation of compensation rates. The WUA will also identify properties (i.e. land affected by tertiary and quaternary canals) which under the CPFPG can
be acquired through voluntary contributions and will ensure that this is done with the full agreement of their owners. Finally the WUA will be responsible to prepare a LARP to be included in the IMP for the scheme under their management.

40. In order to carry out impact assessment tasks in the field and write the LARP sections for the IMP the WUAs will be assisted by technical personnel from the District LARU. The WUAs will also provide a first-level forum to address eventual complaint and grievance issues. The WUAs will be trained on LAR issues by the LARU with the assistance of an agency (LCO, academic institution or a consultant) with the appropriate experience and qualifications.

41. Financial support for LARP preparation tasks carried out by the WUAs will be provided by the District.

5.4 The Land Acquisition Committee (LAC) role in LAR planning and Implementation

42. A Land Acquisition Committee (LAC) will be established in each participating subproject District as provided by Indonesian law. The LAC will be responsible for monitoring the final negotiation of compensation rates and for physically deliver the compensation for land, house, and allowances to the AFs.

43. The LAC will also be responsible to mediate complaints and grievances issues if previous agreement has not been reached within the WUAs

5.5 The Province role in LAR planning and Implementation

44. The Province, in particular the office of the Governor, will be responsible to establish the LAC and mediate complaints and grievances for cases brought to their attention after a solution was not reached at the level of the LAC.
FIGURE 2: LAR ORGANIZATIONAL FRAMEWORK

NSC(PCMO)

- General Coordination
- Training and Independent monitoring

PROVINCE

Land Acquisition Committee

- Adjustment through negotiation of compensation rates
- Delivery of compensation

DISTRIBUTION

- Negotiation of IMP inclusive of LARP

WUAs

- Participatory planning of LAR issues and IMP preparation

AFFECTED FAMILIES AND PEOPLE

Administrative/planning tasks
Financial tasks
Coordination tasks
6. LAR INFORMATION, CONSULTATION/PARTICIPATION AND DISCLOSURE

6.1 Public consultation and participation

45. Being based on intensive community-driven design, scheme preparation will bring both beneficiary communities and AF into a continuous participatory process concerning decisions on the irrigation rehabilitation activities needed, the options available for impact minimization, and, if LAR is needed, the application of this CPFPG requirements within the practical situation of each scheme.

46. Eventual LARPs, to be included in the IMPs will document this process by listing and summarizing all meetings on LAR held among WUA members, indicating the number of each meeting participants, and providing signed proof of AFs agreement to its provisions.

6.2 Training and Capacity Building

47. As LARU, WUAs and LAC level, stakeholders may have little experience with the ADB resettlement policy, the project will ensure that the provisions of this CPFPG are well understood by them. This objective will be pursued through training and capacity building.

48. Training inclusive of a LAR workshop will be carried out by an appropriate agency in each participating subproject District. The training and the workshop will involve the local LARU, LAC and representatives of each WUA in the District. In the course of the workshop, the Indonesian LAR regulation, and the ADB policy in Involuntary Resettlement will be discussed and the specificities of the compensation policy for the PISP illustrated both in theory and in practice through the use of case studies.

49. In addition to the main training and workshop at District level, training and minor workshops will also be carried for each scheme requiring LAR. The WUAs training will involve officers of the LARU and by the training agency. The WUA training will be planned so as to allow the participation not only of WUA leaders but also that of its members at large. During the scheme workshop an information pamphlet summarizing the CPFPG provisions will be discussed and distributed to the participants.

6.3 Information and Disclosure Tasks

50. Finally, particular attention will be put to ensure a transparent subproject preparation process and allow the involvement of the beneficiary communities when the decision-making process occurs outside of the WUAs. In these cases, WUAs leaders will be invited to participate in meetings held at District level or involving the LAC or the Province. WUAs will also be periodically informed of the results of monitoring and evaluation activities or of the outcome of eventual complaints and grievances cases.

51. The CPFPG in English will be disclosed at ADB headquarters in Manila and on the ADB website. The CPFPG in Bahasa and each IMP (including if applicable a LARP) will be available at the LARU office and made available to the public. Copies of a pamphlet in Bahasa summarizing the CPFPG will be provided to all WUAs of schemes requiring LAR.
7. **GRIEVANCE PROCEDURES**

52. AFs consultation and participation mechanisms should provide an affective ground to minimize the occurrence of major grievances. However, in order to ensure that the affected people have avenues for addressing grievances related to any aspect of the preparation, implementation and monitoring of LAR, specific procedures have been established for the Project. These procedures are in accordance with the Presidential Decree No. 55/1993, Art. 19-21 and Regulation No. 1/1994, Art. 18 & 22 and are described below:

   (i) Any grievances should first be addressed within the WUAs.
   (ii) If the issue cannot be resolved satisfactorily within the WUA, the APs can then appeal to the Land Acquisition Committee for assistance in the negotiation. The Land Acquisition Committee is chaired by the Head of the District (Bupati) and has the power to decide the matter.
   (iii) If the AP is still not satisfied with the response then he has the legal right to submit the appeal to the Governor of the Province.

53. In addition to the above procedure it was agreed that in the case of the PISP APs that will remain unsatisfied after lodging their case to the Governor of the province may if they wish seek satisfaction through the appropriate court of law.

54. The AP may request their village leader or an independent agency (i.e an LCO) to assist them in lodging their complaints. The grievance lodged by an affected person can relate to any aspect of the land acquisition and resettlement program, including the compensation rates being offered for their losses.
8. MONITORING AND EVALUATION

55. As a policy requirement of the ADB, both routine and independent monitoring of the Resettlement Plan are to be carried out. Monitoring takes place against the activities, entitlements, time frame and budget set out in the individual resettlement plans of the sub-project. The time and effort spent on monitoring should be commensurate with the scale and magnitude of LAR.

8.1 Routine Monitoring

56. The District LARUs will be responsible for conducting routine monitoring of the LAR program and reporting to the PCMO which in turn will include the reports to the NSC and in the semiannual reports to ADB.

57. During implementation of the resettlement plan, routine monitoring will be undertaken regularly. Post-land acquisition and resettlement monitoring will be undertaken internally every six months. The main monitoring indicators will include:

(i) payment of compensation on a timely basis and to the agreed amount;

(ii) payment of compensation to all eligible affected people, and only to eligible persons;

(iii) allotment of housing in accordance with the options expressed by the APs. The number of people who have been allocated housing on a given date will be recorded. Distance of new houses from the original locations will be documented. In order to compare the standards of new housing with that of the old, photographs of all affected houses and structures will be taken and kept in the project files of each affected household;

(iv) planning and implementation of income and livelihood restoration measures;

(v) assessment of progress on income restoration and maintaining / improving on pre-project standards of living.

(vi) restoration of temporarily used land to pre-existing condition;

(vii) construction/establishment of infrastructure facilities as compensation for community land;

(viii) inspection of the complaints registered and actions taken for resolution of conflicts.

8.2 Independent Monitoring

58. Independent monitoring in each participating subproject targeted District will be assigned to an Independent monitoring agency (IMA) such as a qualified LCO or a university. The IMA will have qualified staff with extensive experience in socio-economic survey, LAR planning, and monitoring and evaluation and should be acceptable to ADB.
59. Independent monitoring will be carried out on a selective basis depending on impacts an/or their magnitude. Independent monitoring for a selected scheme will typically comprise two field visits: one during compensation and resettlement and one six months after resettlement. Independent Monitoring reports will be prepared every six months and will be submitted to the District which in turn will pass them to the PCMO for submission to the NSC and ADB.

60. The monitoring and evaluation will be carried out based on planning and implementation data provided by the respective LARU. Further data and information will be gathered through various methodologies, such as:

- interviews with affected households
- discussion with village leaders
- community meetings
- questionnaires surveys
- specific focus group interviews with vulnerable persons
- site investigation.

61. Independent monitoring during land acquisition and resettlement will in principle check the same indicators as the internal monitoring, but in addition the external agency will take efforts to register opinions and comments of the affected people on the process.

62. Independent monitoring also serves to verify results of the internal monitoring.

8.3 Post-project Evaluation

63. The objective of the post-evaluation is to verify the results of the whole LAR program and assess the rehabilitation and satisfaction of the AFs. Post-evaluation will focus on the medium-term effects, in particular with regard to rehabilitation and income restoration, and the effectiveness of the procedures applied, such as:

- restoration of temporarily used land to its pre-construction condition;
- development of economic productivity: re-allocation of cultivated land, land restoration, job and training opportunities available to APs, number of APs employed or unemployed;
- implementation of preferential policies and income restoration measures;
- level of satisfaction of APs with various aspects of the land acquisition and resettlement program;
- speed and effectiveness of the mechanisms for grievance redress.

64. Special attention will be paid to the poor and vulnerable groups during monitoring. These include:

- change in women’s status, function and situations
- living conditions of vulnerable groups after land acquisition and resettlement.
9. LAR BUDGETS AND FINANCES

65. Each LARP will document in detail (i) unit compensation rates related to LAR tasks and (ii) provide the detailed costs for LAR. LAR costs will be divided into four main groups:
   (i) compensation of assets,
   (ii) income restoration,
   (iii) LARU operational and administrative expenditure,
   (iv) training and monitoring/evaluation,

9.1 Land Acquisition and Compensation of Assets

66. LAR impacts will be paid, in cash or kind at replacement cost, from the District contribution. The cost of subsidies and allowances for severely affected AF, for families that need to be relocated, and for business losses will also be covered by the District.

67. Compensation of assets includes the compensation for land, structures, trees and other crops at replacement cost. Compensation can be in cash, in kind (land for land), or by any other method agreed between parties.

68. The improvement of the infrastructure of the host community will be paid from the civil works budget but will have to be reflected in the LARPs.

9.2 Income Restoration

69. The funds needed to conduct advisory services for the income restoration program such as training or agricultural extension. These will be financed under the loan and will be administered by the Districts.

9.3 Administrative Costs

70. The operational and administrative costs of LAR. WUA and LAC and the funds to finance LAR training will be provided by the District.

9.4 Training and Monitoring/Evaluation

71. LAR training to LARUs, ICs, LACs and WUA will be provided by an LCO or an academic institution and will be financed by the project through PCMO.

72. Routine monitoring/evaluation of LAR progress will be done by the LARUs. Expenditure is therefore covered by the operational and administrative budget of the District Irrigation Commission. Independent monitoring will be financed under the loan and administered through the PCMO.
APPENDIX 1: STANDARD LARP OUTLINE

1. LAR issues for the scheme
   • This chapter describes the scheme activities and items requiring LAR; alternative options, if any, considered to minimize land acquisition and its effects; and why remaining effects are unavoidable.

2. Scope of land acquisition and resettlement
   • This chapter describes the preparation of the impacts (who carried it out and when it was initiated); provides a full assessment of each type of impacts and a census of affected peoples as described in the CPFP. The chapter includes also a description of the methodology followed to determine unit-compensation rates for each affected item and subsidy/allowance.

3. Objectives, policy framework, and entitlements
   • Based on the CPFPG this chapter outlines the eligibility and compensation framework for the scheme.

4. Consultation, and grievance redress participation
   • This chapter summarizes procedures for redress of grievances by people affected described in CPFGP and describe the consultation/participation process and grievance redress that occurred in sub-project at hand.

5. Compensation, relocation, and income restoration
   • This chapter outlines the income restoration measures to be implemented.

5. Institutional framework
   • This chapter outlines the institutional arrangements for the scheme based on this CPFPG. Issues to be included in the chapter are responsibilities for main tasks and for planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring and evaluating land acquisition and resettlement.

6. Resettlement budget and financing
   • This chapter provides the unit compensation rates for each affected item and assesses the LAR budget for the scheme. The LAR budget will include Land acquisition and eventual land acquisition costs, amounts due for crop compensation and for the subsidies and allowances, monitoring and evaluation costs, administrative costs and. Will be adjusted for inflation and applicable taxes.

7. Implementation schedule
   • This chapter provides a time schedule showing the LAR process and linking LAR tasks with civil-works implementation.

8. Monitoring and evaluation
   • This chapter specifies arrangements for Routine and Independent monitoring and evaluation activities.