

# **Resettlement and Ethnic Minority Development Framework**

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## **VIE: Integrated Rural Development Sector Project in the Central Provinces (Additional Financing)**

This document is prepared by Government of Vietnam for The Asian Development Bank

This resettlement and ethnic minority development plan 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.

## **CURRENCY EQUIVALENTS**

Currency unit: Vietnam Dong (VND) and US dollar (\$)

Exchange rate on July, 2013: \$1 = 21,060 VND

## **ABBREVIATIONS**

ADB	Asian Development Bank
AH	Affected Household
CCR	Climate Change Resilience
CEMA	Committee for Ethnic Minorities and Mountainous Areas Affairs
CHP	Central Highland Province(s)
CPC	Commune People's Committee
CPMU	Central Project Management Unit
CSB	Community Supervision Board
CWU	Commune Women's Union
DARD	Department of Agriculture and Rural Development
DMS	Detailed Measurement Survey
DoF	Department of Finance
DOLISA	Department of Labour, Invalids and Social Affairs
DONRE	Department of Natural Resources and Environment
DP	Displaced person
DPC	District People's Committee
DRCs	District Resettlement Committees
EA	Executing Agency
EM	Ethnic Minority
GoV	Government of Vietnam
HH	Household
IA	Implementing Agency
IR	Involuntary Resettlement
IPP	Indigenous Peoples Plan
LURC	Land Use Rights Certificate
MARD	Ministry of Agriculture and Rural Development
MC	Main Canal
MoF	Ministry of Finance
MOLISA	Ministry of Labour, Invalids and Social Assistance
MONRE	Ministry of Natural Resources and Environment
NGO	Non-Governmental Organization
PCEM	Provincial Committee of Ethnic Minorities
PPC	Provincial People's Committee
PPMU	Provincial Project Management Unit

PPTA	Project Preparation Technical Assistance
PRA	Participatory Rural Appraisal
PRI / PRIDP	Productive Rural Infrastructure Development Project
PSRC	Provincial Steering Resettlement Committee
ROW	Right of Way
RF	Resettlement Framework
RP	Resettlement Plan
REMDF	Resettlement and Ethnic Minority Development Framework
REMDP	Resettlement and Ethnic Minority Development Plan
SAH	Severely Affected Household
SES	Socioeconomic studies
SPS	Safeguard Policy Statement
ToR	Terms of Reference
USD	United States Dollars
VND	Vietnam Dong

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# GLOSSARY

Compensation	- Means payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Cut-off date	Means the date of the first meeting with DPs to inform about DMS schedule of subproject/component. The DPs will be informed of the cut-off date for each project component, and any people or assets settled or created in the project area after the cut-off date will not be entitled to compensation and assistance under the project.
Detailed Measurement Survey (DMS)	- Based on the approved detailed engineering design, this activity involves the finalisation of subproject land acquisition and resettlement impacts, including final cost of resettlement. This is the process where all fixed assets (i.e., lands used for residence, commerce, agriculture, including ponds; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; trees with commercial value; etc.) and sources of income and livelihood inside the Project right-of-way (project area) are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. Additionally, the severity of impact to the affected assets and the severity of impact to the livelihood and productive capacity of DPs will be determined.
Displaced person (DP)	- Means any person or persons, household, firm, private or public institution that are fully or partially, permanently or temporarily physically displaced (relocated, lost residential land, or lost shelter) and/or economically displaced (lost land, assets, access to assts, income sources or means of livelihood) due to (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. DPs could be of three types: (i) persons with formal legal rights to land lost; (ii) persons who have claims to such lands that are recognized or recognizable under national laws; and (iii) persons who have neither formal legal rights nor recognized or recognizable claims to the lost land. In the case of a household, the term DP includes all members residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components.
Entitlements	- Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the DPs, depending on the type and severity of their losses, to restore their economic and social base.
Eligibility	- Means any person who has settled in the project area before the cut-off date that suffers from (i) loss of shelter, (ii) loss of assets or ability to access such assets, permanently or temporarily, or (iii) loss of income

sources or livelihood, regardless of relocation...will be entitled to compensation and/or assistance.

Income restoration programme	- A programme designed with various activities that aim to support affected persons to recover their income / livelihood to pre-project levels. The programme is designed to address the specific needs of the affected persons based on the socio-economic survey and consultations.
Land acquisition	- Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
Rehabilitation	- This refers to additional support provided to DPs losing productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
Relocation	- This is the physical relocation of a DP from her/his pre-project place of residence and/or business.
Replacement cost	- Means the method of valuing assets at current market value, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Replacement Cost Study	- This refers to the process involved in determining replacement costs of affected assets based on empirical data.
Resettlement	- This includes all measures taken to mitigate any and all adverse impacts of a project on a DP's property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
Resettlement Plan (RP)	- This is a time-bound action plan with budget setting out compensation and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Severely Affected Household (SAH)	- This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets generating income, and/or (ii) have to relocate due to the project.
Vulnerable groups	- These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalised by the effects of resettlement and specifically include households that are: (i) headed by women with dependents, (ii) headed by persons with disability, (iii) falling under the national poverty standard, (iv) with children and elderly who have no other means of support, (v) landless, and (vi) ethnic minorities.

## **1. Introduction**

### **Description of the Project**

1. The Integrated Rural Development Sector Project in Central Provinces (IRDSPCP) under ADB loan number L2357 provides funds for small and medium-scale investments in rural and coastal infrastructure subprojects, such as roads, irrigation, water supply and sanitation, and markets, in thirteen (13) provinces in the Central Region. The Project has been designed to improve the livelihoods of the rural population by increasing access to markets, increasing access to agricultural inputs, increasing access to services such as health and education, increasing employment opportunities and reducing vulnerability to natural disasters. This will be achieved through the rehabilitation and upgrading of strategically important, medium-scale rural infrastructure that has deteriorated over past decades due to war and natural disasters, exacerbated by severe budgetary constraints for maintenance. The types of rural infrastructure to be improved will include rural roads; irrigation drainage and flood control schemes; rural markets; rural water supply schemes and special coastal works such as sand dune stabilization, salinity intrusion prevention and mangrove rehabilitation. The outcome of these improvements will be improved access to markets, inputs, employment opportunities, and health and education services along with reduced vulnerability to natural disasters while the overall impact will be improved livelihoods, incomes and standards of living for the rural population.

2. The project was approved by ADB on 15th October 2007 and commenced in 2008. The Executing Agency (EA) for the IRDSPCP is the Ministry of Agriculture and Rural Development (MARD), with responsibility delegated to the IRDSPCP Central Project Management Unit (CPMU). The Implementing Agencies are the Provincial Project Management Units (PPMUs) established in each participating provinces. Civil works under the project have been completed in December 2012. ADB review missions had determined that the quality of construction of subprojects was good and the executing agency (EA) has developed the expertise needed to effectively implement ADB projects; and that significant benefits are already accruing.

3. At the request of the Government, additional financing in the amount of \$70 million has been recommended and included in the country program for ADB Board consideration in 2013 in view of this potential and the fact that an existing EA with the expertise to implement an expanded project scope is in place. Additional financing was considered justified since the project has (i) delivered expected outputs on a timely basis as measured against the output indicators in the design and monitoring framework (DMF); (ii) satisfactory implementation progress; (iii) satisfactorily complied with safeguard requirements; (iv) successfully managed and overcome the initial risks faced during implementation; and (v) an “on-track” rating.

4. In consultation with the participating provincial governments and field investigation by the CPMU, a total of 23 candidate subprojects were initially identified from the Socio-Economic Development Plans of 6 project provinces (Ha Tinh, Thua Thien Hue, Binh Dinh, Phu Yen, Ninh Thuan, Binh Thuan). These subprojects aim to improve more than 29,000 ha of agricultural land, about 115 km of canal roads and 24.5km of flood protection dikes to improve access to important irrigation infrastructure, and improve farm to market access for farm products<sup>1</sup>. Each subproject costs between \$2-7 million.

### **Anticipated Involuntary Resettlement and Ethnic Minority Impacts**

5. Most of the proposed subprojects involve upgrading of existing facilities within the established right-of-way. Hence, very limited land acquisition is anticipated. Similar to the existing

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<sup>1</sup> Memorandum of Understanding (MOU) between ADB and the Government of Vietnam on a Fact Finding Mission for the Additional Financing for the Integrated Rural Development Sector Project in the Central Provinces, August 2013.

loan, impacts will be limited to permanent loss of small areas of land adjacent to the works and minor damage to structures, crops and trees, and temporary loss or disruption of the use of land or other assets caused by construction works and the movement of construction materials to and from the work sites. Few if any people will be severely affected by land acquisition. The subproject screening criteria excludes any subproject with significant impacts for involuntary resettlement (IR) (category A), and any impacts (temporary and permanent) will be minimized through sub-project design and consultation with communities in target areas and other stakeholders. Based on this, the project is categorized as B for involuntary resettlement.

6. Items that might need permanent land acquisition will be minimized during the detailed design phase. These include:

- (i) new channels and structures on channels
- (ii) new roads, structures and road widening beyond the right of way (ROW)
- (iii) upgrading of dams beyond the ROW

7. Items that might need temporary land acquisition are as follows:

- (i) construction site;
- (ii) temporary access road;
- (iii) borrow pits;
- (iv) disposal areas.

8. In terms of ethnic minorities (EMs), initial screening showed that some subproject areas are inhabited by ethnic minorities. Impacts of the proposed subprojects on ethnic minorities are expected to be overwhelmingly positive since the subprojects are aimed at the overall economic and social improvement of the total population. Impacts to households belonging to ethnic minorities is limited to minor acquisition of land which is not expected to adversely affect their livelihood and will be compensated at replacement cost. Based on this, the project is also categorized as B for indigenous peoples.

9. Initial review conducted during the loan fact finding mission (FFM) confirmed that the 23 candidate subprojects are either category B or C for IR and IP in accordance with ADB's Safeguard Policy Statement (SPS 2009)<sup>2</sup>. This will be reconfirmed at the feasibility and detailed design phase.

10. The Resettlement Framework (RF) under the existing loan (L2357) is updated and renamed as Resettlement and Ethnic Minority Development Framework (REMDF) to reflect the provisions under the ADB SPS (2009) and Government policies on resettlement and ethnic minorities. For subprojects with impacts on land acquisition, resettlement and ethnic minorities, a Resettlement and Ethnic Minority Development Plan (REMDP) will be prepared and implemented. A Resettlement Plan (RP) will be prepared for subprojects with only land acquisition and resettlement impacts.

## **2. Objectives, Policy Framework, and Entitlements**

### **Objective of Resettlement and Ethnic Minority Development Framework (REMDF)**

11. This REMDF prepared by the MARD provides the procedures and key principles of involuntary resettlement and ethnic minorities that will govern all the work items of the IRDPCP, regardless of the financing sources, and implementation based on the provisions of the policy and legal framework of the Government of Viet Nam and ADB SPS (2009) requirements 2, 3 and

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<sup>2</sup> ADB. Safeguard Policy Statement. June 2009. Manila.



4 and cross-cutting policy themes on social development)<sup>3</sup>. The REMDF will be translated into Vietnamese and distributed to the central and local agencies, affected households, and other individuals responsible for project preparation and implementation. It will also be submitted to the ADB for concurrence and posting on the ADB website.

### **Asian Development Bank Safeguard Policy**

12. The ADB Safeguard Policy Statement (2009) consolidates three existing safeguard policies: involuntary resettlement (IR), indigenous peoples (IP), and environment. The objectives of the involuntary resettlement safeguards are (i) to avoid involuntary resettlement wherever possible; (ii) to minimise involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of all displaced persons (DPs) in real terms relative to pre-project levels; and, (iv) to improve the standards of living of the displaced poor and other vulnerable groups.

13. The objectives of the indigenous peoples (IP) safeguards is to 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.

14. ADB SPS (2009) applies to all ADB-financed and/or ADB-administered sovereign and non-sovereign projects, and their components regardless of the source of financing including resettlement actions conducted by the borrower/client in anticipation of ADB support.

15. For projects/subprojects involving facilities and/or business activities that already exist or are under construction, the borrower is required to undertake an environment and/or social compliance audit<sup>4</sup>, including on-site assessment, to identify past or present concerns related to impacts on the environment, involuntary resettlement, and indigenous peoples. The audit should determine whether actions were in accordance with ADB's safeguards principles and requirements and identify and plan appropriate measures to address outstanding compliance issues. Where noncompliance is identified, a corrective action plan agreed on by ADB and the borrower will be prepared.

16. For projects/subprojects proposed for financing, ADB is required to conduct safeguard reviews, including reviews of the borrower's/client's safeguard documents, as part of its overall due diligence. Such due diligence and review involves field visits as well as desk reviews to (i) confirm that key impacts and risks have been identified; (ii) effective measures to avoid/minimize/mitigate/compensate for the adverse impacts are incorporated into the safeguard plans and project designs; (iii) ensure that the borrower understands ADP safeguard policy principles and requirements and has adequate capacity and commitment; (iv) the roles of third parties are appropriately defined in the plans; and (v) meaningful consultations with DPs have been conducted.

17. **Involuntary Resettlement** 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 regardless of whether such losses and involuntary restrictions are full or partial, permanent or temporary.

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<sup>3</sup> <http://www.adb.org/site/safeguards/involuntary-resettlement>

<sup>4</sup> Refer to paragraph 12, appendix 4 (Special Requirements for Different Finance Modalities), of ADB SPS (2009)..

18. Projects financed and/or administered by ADB are expected to observe the following policy principles:

- i. Screen early to identify involuntary resettlement impacts and risks and determine the scope of resettlement planning through a survey and/or census of DPs, including a gender analysis, specifically related to resettlement impacts and risks.
- ii. Carry out meaningful consultations with DPs, host communities, and concerned non-government organisations. Inform all DPs of their entitlements and resettlement options and ensure their participation in various stages of the project especially vulnerable and poor groups. Establish a grievance redress mechanism to receive and facilitate resolution of the DPs' concerns. Support the social and cultural institutions of displaced persons and their host population.
- iii. Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation, assistance 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, assistance 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 DPs 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 head of households, 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<sup>5</sup>.
- vii. Ensure that DPs without title to land, or any recognisable legal rights to land, are eligible for resettlement assistance and compensation for loss of non-land assets.
- viii. Prepare a resettlement plan elaborating on DPs' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- ix. Disclose both the draft and final resettlement plan in a form and language understandable to DPs and other stakeholders.
- x. Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider

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<sup>5</sup> ADB involuntary resettlement safeguards is applicable to negotiated settlements if expropriation would result upon the failure of negotiations. Negotiated settlement should be based on meaningful consultation with affected persons, including those without legal title to assets. In doing so, the borrower is required to offer adequate and fair price for land and/or other assets. The borrower is also required to engage an independent external party to document the negotiation and settlement processes. Refer to paragraph 25, Appendix 2 (involuntary resettlement) of ADB SPS (2009).

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 DPs, 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.

19. Calculation of full replacement cost will be based on the following elements: (i) fair current market value at the time of compensation; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. In the calculation, structures will be compensated at replacement costs without deduction for the value of salvageable materials. It is expected that qualified and experienced experts will undertake the valuation of acquired assets<sup>6</sup>.

20. Persons or households without formal legal rights nor recognised or recognisable claims to the acquired land are still entitled to be compensated for their loss of assets other than land, such as dwellings or other improvements on the land at full replacement cost, provided that they have occupied/used the land or structures in the affected land prior to the cut-off date.

21. **Indigenous Peoples Safeguards** The Indigenous Peoples safeguards are triggered if a project/subproject 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. Projects financed and/or administered by ADB are expected to observe the following policy principles related to indigenous people:

- i. 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.
- ii. 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 inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Indigenous Peoples.

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<sup>6</sup> Refer to paragraph 10, Appendix 2 (Involuntary Resettlement) of ADB SPS (2009).

- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. 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.
- viii. 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.
- ix. 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.

24. The ADB **Policy on Gender and Development** (ADB, 1998) adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women

participate in and that their needs are explicitly addressed in the decision-making process for development activities. For projects that have the potential to have substantial gender impacts, a gender plan is prepared to identify strategies to address gender concerns and the involvement of women in the design, implementation and monitoring of the project. ADB's OM F2/OP requires that the findings of a gender analysis be included in the RP, and at all stages, resettlement identification, planning, and management will ensure that gender concerns are incorporated, including gender-specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and land-use rights; and to ensure the restoration of their income and living standards.

25. The ADB **Public Communications Policy** (ADB, 2011) seeks to encourage the participation and understanding of people affected by and other stakeholders to ADB-assisted activities. Information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, in order to facilitate dialogue with affected people and other stakeholders. The Executing Agency should, as necessary, develop a project communications plan and designate a focal point to maintain contact with affected people. With respect to land acquisition, compensation and resettlement, information should be distributed to APs and publicly in the following manner: (i) prior to loan appraisal, the draft Resettlement Plan (RP); (ii) following completion of the final RP, the final RP; and, (iii) following any revisions, the revised RP. This information can be in the form of brochures, leaflets or booklets, in the local language(s) as well as English, the working language of the ADB. When APs include non-literate people, other appropriate methods of communications will be used.

#### **2.4 Laws Regarding Land Acquisition and Ethnic Minorities in Viet Nam**

26. The Constitution of the Socialist Republic of Viet Nam (1992) confirms the right of citizens to own and protect the ownership of a house. In addition, the Government has enacted a number of laws, decrees and regulations that constitute the legal framework for land acquisition, compensation, assistance and resettlement. The principal documents include the Law on Land of 2003, providing Vietnam with a comprehensive land administration law; Decree No. 197/2004/ND-CP, on compensation, assistance, rehabilitation and resettlement in the event of land recovery by the State, as amended by Decree No. 17/2006/NĐ-CP; Decrees No. 188/2004/ND-CP and 123/2007/ND-CP, Decree No. 84/2007/ND-CP specifying the methods for land pricing and land price frameworks in the event of land recovery by the State and Decree No. 69/2009/ND-CP<sup>7</sup> dated 13/8/2009 providing additional guidelines on land use, compensation, assistances and resettlement.

27. Laws, decrees and decisions relevant to public disclosure of information include the Law on Land No. 13/2003/QH11, Article 39, requiring disclosure of information to the DPs prior to recovery of agricultural and non-agricultural lands of a minimum of 90 and 180 days respectively. MONRE also issued Circular No. 14/2009/TT-BTNMT on the allocation of new residential land or a resettlement house or monetary compensation for DPs that need to relocate and granting authority to People's Committees to determine whether certain structures built after 1 July 2004 violated approved land use.

28. At the local level, the provinces issue provincial decisions, consolidating Decree 197/2004/ND-CP and Decree 69/2009/ND-CP and other legal documents relevant to planning and implementation of resettlement at the provincial level. The Provincial Decision stipulates that compensation for land shall be at the market rate following the provincially regulated price-frame that is issued each January, and provides for assistance/allowances for relocation, livelihood and production stabilisation as well as occupational training and other changes.

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<sup>7</sup> <http://vci-legal.com/publications/decreed-no-692009nd-cp>

29. There is basic congruence between Viet Nam's laws and ADB's involuntary resettlement safeguards especially with regard to the entitlement of persons with legal rights/titles. Existing legislation provides guidance in (i) determining market/replacement rates and payment of compensation, assistances for various types of affected assets; (ii) options for land-for-land and cash compensation assistance; (iii) provision of relocation assistance and support to displaced households during the transition; (iv) provision of resettlement land and housing with secure tenure; (v) additional assistance for severely affected and vulnerable households; (vi) assistance to livelihood restoration and training; and (vii) notification/disclosure, consultation, and grievance mechanisms.

30. However, ADB Safeguard Policy does not consider the absence of legal rights of DPs on the acquired land as an impediment to receiving compensation for other assets and for rehabilitation assistance. Non-registration of an DP's business also does not bar them from being assisted in restoring their business. Engagement of an independent external party to document negotiation and settlement process is also only required under ADB policy.

31. With regard to ethnic minorities (EMs)<sup>8</sup>, Viet Nam's constitution (1992) mandates the State to "Implement a policy on equality, unity and support for all ethnic groups in the development of a civilized society, and respect benefits, traditional cultures, languages and religions of ethnic minority groups. Related to this, a ministerial-level government body, Committee for Ethnic Minority and Mountainous Areas Affairs (CEMA) is tasked for developing and overseeing policies and programs to promote the welfare of EMs.

32. Programs that target EMs are numerous and diverse and cover a wide range of issues including poverty reduction, resettlement and sedentarization, forest land allocation, education, health and communication, cash subsidies on land reclamation, improvement of commune and village infrastructure, etc.<sup>9</sup> Following are key regulations involving EMs in Viet Nam.

2011	Decree No. 80/2011/NQ-CP on sustainable poverty reduction, period of 2011-2020
2011	Decree No. 05/2011/NĐ-CP on the work of ethnic minority.
2010	Decree No. 82/2010/ND-CP of government, dated 20 July 2010 on teaching and learning of ethnic minority languages in schools.
2008	Resolution No. 30a/2008/NQ-CP of government, dated 27 Dec. 2008 on support program for rapid and sustainable poverty reduction for 61 poorest districts
2008	Decree No. 60/2008/NĐ-CP dated 9-May-2008 of the government on the functions, tasks, authorities and structure of the Committee for Ethnic Minorities and Mountainous Areas Affairs.
2007	Decision no. 112/2007/QĐ-TTg of the Prime Minister dated 05-March-2007 on the policy of assistance for relocation and agriculture for Ethnic Minorities from 2007 to 2010.
2007	Decision no. 33/2007/QĐ-TTg of the Prime Minister dated 20-July-2007 on the policy of assistance to improve knowledge of laws as a program of 135, phase 2.
2007	Decision no. 01/2007/QĐ-UBND dated 31-May-2007 of the Ethnic Minorities Committee on the recognition of communes, districts in the mountainous areas
2007	Decision no. 05/2007/QĐ-UBND dated 06-September-2007 of the Ethnic Minorities Committee on its acceptance for three regions of ethnic minorities and mountainous areas based on development status

<sup>8</sup> There are 54 ethnic groups in Viet Nam which are classified as either minority or majority groups rather than indigenous or non-indigenous people. The Kinh and Hoa ethnic groups are considered as the ethnic majority groups, while the others are considered as and ethnic minority groups.

<sup>9</sup> Viet Nam: A Widening Poverty Gap for Ethnic Minorities. Hai-Anh Dang. January 2010.

2007	Circular no. 06 dated 20-September-2007 of the Ethnic Minorities Committee guidance on the assistance for services, improved livelihood of people, technical assistance for improving the knowledge on the laws according the decision 112/2007/QD-TTg
2007	Decision no. 06/2007/QD-UBDT dated 12-January-2007 of the Ethnic Minorities Committee on the strategy of media for the program 135-phase 2
1998	Decree no. 59/1998/ND-CP dated 13-August-1998 of the government on the functions, tasks, authorities and structure of the committee for Ethnic Minorities and Mountainous Areas

33. With regard to policy on indigenous peoples, a key difference is in the definition of IPs. In Viet Nam, the term 'ethnic minorities' is used rather than 'indigenous people' to refer to all the 53 ethnic groups other than the majority Kinh (Viet) and Hoa ethnic group as ethnic minorities regardless of collective attachment of the ethnic group to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; and customary cultural, economic, social, or political institutions that are separate from those of the dominant Kinh (Viet) society and culture. In case of development projects, there is also no specific requirement under Viet Nam legislation concerning ethnic minorities particularly for: (a) the conduct of screening; (b) social impact assessment by qualified and experience experts of the indigenous groups in the project area; (c) preparation of an indigenous peoples' plan (IPP) to address adverse impacts on ethnic minorities and maximize positive impacts; (d) assisting ethnic minorities affected by projects in getting recognition of customary rights to lands or long-term renewable custodial or user rights; (e) seeking consent of affected ethnic minorities to projects the cause displacement to traditional/customary land, commercial development of cultural resources and/or commercial development of natural resources within customary lands; and (f) sharing of benefits with ethnic minorities in case of commercial development of natural resources. Key differences between ADB Resettlement Policy and Viet Nam's resettlement legislation, including measures to address the differences, are outlined in table 1 below.

**Table 1: Discrepancies Between Viet Nam Regulations and ADB SPS (2009)**

	<b>Viet Nam Regulations</b>	<b>ADB SPS (2009)</b>	<b>Project Policy</b>
<b>Severely impacted DPs losing productive land</b>	<b>Decree 69, Art 20:</b> DPs losing at least 30% of productive agriculture land are considered severely impacted and are entitled to livelihood restoration measures.	DPs who are (i) physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating) are considered severely impacted.	DPs losing 10% or more of the household's productive assets (income generating) or who are physically displaced from housing shall be considered as severely impacted
<b>DPs without LURC</b>	<b>Decree 69: Article 23:</b> Persons whose main income is derived from agricultural production whose land is acquired by the Government and cannot satisfy LURC and compensation conditions stipulated in Article 8 of Decree No. 197/2004/ND-CP and Articles 44, 45 and 46 of Decree No. 84/2007/ND-CP will be referred to the Provincial Peoples' Committee for consideration of the level of assistance to be provided in conformity with the locality's actual conditions	DPs losing land who have neither formal legal rights nor recognized or recognizable claims to such land are entitled to be compensated for the loss of assets other than land, such as dwellings, and also for other improvements to the land, at full replacement cost (including temporary and partial losses), provided they occupy the land or structures prior to the cutoff date for eligibility for resettlement assistance	DPs, without legal or recognisable legal claims to land acquired, will be equally entitled to participation in consultations and project benefit schemes where possible, and be compensated for their lost non-land assets such as dwellings and structures occupied before cut-off date. They will be entitled to resettlement assistance and other compensation and social support to assist them to improve or at least restore their pre-project living standards and income levels.
<b>Compensation for lost land</b>	<b>Article 9, Decree 197:</b> The compensation rates for land shall be determined by the PPC in accordance with the Government regulations for the type of land which has been used for at the time of land acquisition. <b>Decree 69, Art 11, Art 16,</b> Compensation is land for same-use land. If not available the DP can be compensated in cash based upon the market transfer price of such land at the time of the decision to acquire. Compensation limited to the allowable land quota, unless land over limit due to inheritance or legally transferred from other persons, or unused land developed according to the land use plan approved by the authorities. If not, compensation	Whenever replacement land is offered, DPs are provided with land for which a combination of productive potential, locational advantages and other factors is at least equivalent to the advantages of the land taken. If land is not the preferred option of the DPs, or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets at	Where appropriate land-based compensation is not viable, cash compensation shall be provided. Replacement cost surveys will be carried out by an independent appraiser to ensure that project rates for all categories of loss will be equivalent to replacement cost at current market value, to be updated at the time of compensation and combined with other assistance and livelihood restoration measures to ensure full restoration and



	<b>Viet Nam Regulations</b>	<b>ADB SPS (2009)</b>	<b>Project Policy</b>
	only for improvements on that land.	full replacement cost.	improvements. Provided DP has legal or recognisable claim, compensation is for full amount of land acquired.
<b>Differences between compensation rates and market rates</b>	<b>Dec 69 Art 14(2):</b> If compensation is through new land or allocation of land at a resettlement area or by housing and the replacement is valued at less than the land acquired, the price difference will be paid in cash. <b>Dec 69 Art 14(2a)</b> If replacement residential land or the amount compensated to purchase a replacement house is higher than the actual replacement cost, the DP still receives the full amount. <b>Dec 69 Art 14(2b)</b> if the compensated amount is less than the replacement residential land and house the DP will pay the difference themselves except for cases covered by Art 19(1). This will not apply to poor DPs who will be assisted by the State. If the DP does not receive land or house at the resettlement site the DP will receive the cash difference.	Provide physically and economically DPs with needed assistance including 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 DPs economically and socially into host communities, ii) transitional support and development assistance such as land development, credit facilities, training or employment opportunities, and, iii) civil infrastructure as required.	Physically displaced (relocated) DPs are to receive relocation assistance, secured tenure to relocated land, with comparable access to production and employment opportunities, and civic infrastructure and community services as required, transitional support and development assistance such as land development, credit facilities, training or employment opportunities.
<b>Compensation for structures</b>	<b>Dec 69 Art 24– Compensation for House, Structures on Acquired Land.</b> Clause (1) – Compensation for residential structures is based on value of newly constructed structure equal to technical standard issued by DOC and based on house area and unit prices issued by PPC. Clause(2) other structures- compensation equal to: a) total present value based on unit costs for newly constructed structure using DOC technical standards and depreciated to present value of acquired structure. Maximum value cannot exceed 100% of new value of acquired structure. Structure constructed on land ineligible for compensation but no conflict with announced planning at time of construction will be supported up to 80% of the value of affected structure value	Rate of compensation for acquired housing, land and other assets will be calculated at full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments. No deduction and depreciation of salvageable materials.	Full compensation at replacement cost will be paid for all affected houses/structures without any deductions for salvageable materials or depreciation, full replacement costs, based upon: i) fair market value, ii) transaction costs, iii) interest accrued, iv) transitional and restoration costs, v) other applicable payments

	<b>Viet Nam Regulations</b>	<b>ADB SPS (2009)</b>	<b>Project Policy</b>
	(Decree 197, Art 20, 2b)		
<b>Compensation for registered businesses</b>	<b>Articles 26, Decree 197:</b> Only registered businesses are eligible for assistance. <b>Decree 69 Art 20(2)</b> if business must be suspended, DP is compensated with max 30% of after tax income of one year, averaged over last 3 years as certified by Tax Dept.	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.	Affected business owners are entitled to i) costs of re-establishing commercial activities elsewhere, ii) the net income lost during the transition period, iii) costs of transferring and reinstalling plant, machinery and equipment.
<b>Compensation for non-registered businesses</b>	<b>Decree 69</b> Unregistered businesses are not entitled to compensation for lost income	No distinction between registered or non-registered businesses in regards to compensation entitlement for lost income and other assistance.	DPs affected by loss of income will be finalized during conduct of DMS. Compensation will be based on the minimum wage in the province and the number of days of business disruption.
<b>Monitoring</b>	No monitoring indicators indicated	Monitoring indicators specified for internal and external monitoring and reporting. In case of significant or sensitive impacts, an external monitoring organization is required to conduct monitoring on RP and IPP implementation	The EA must undertake internal monitoring according to the critical indicators. Anticipated negative impacts of the project are minor, it is no need to recruit an external monitoring organization.
<b>Third-party validation of consultations related to land donations</b>	Not required.	The borrower is required to engage an independent third-party to document the negotiation and settlement processes to openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions.	In case of land donations involving marginal portions of land, the LIC will verify and report on the negotiation and settlement processes as part of the due diligence report. A voluntary donation form signed by the respective landowners, witnesses, and village leaders will be attached in the report.
	Defines all 53 ethnic groups other than the Kinh (Viet) ethnic groups as ethnic minority groups (EMs).	Defines IPs as distinct, vulnerable, social and cultural groups that (i) identify themselves and by others as an ethnic minority group; (ii) attached collectively to a	Ethnic minority groups in the subproject area that are assessed to be distinct, vulnerable, social and cultural group possessing characteristics as

	<b>Viet Nam Regulations</b>	<b>ADB SPS (2009)</b>	<b>Project Policy</b>
		geographically distinct habitat or ancestral territory; (iii) have customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) have a distinct language, often different from the official language of the country or region.	defined under ADB SPS (2009) will be considered as ethnic minorities.
	Impact assessment is required for all persons displaced by development projects, whether or not they belong to an ethnic minority group or not. Identification of customary/traditional leadership structure (i.e. 'zia lang'), practices and belief system is also not required.	Requires (a) conduct of screening; (b) social impact assessment by qualified and experience experts of the indigenous groups in the project area; (c) preparation of an indigenous peoples' plan (IPP) to address adverse impacts on ethnic minorities and maximize positive impacts; (d) assisting ethnic minorities affected by projects in getting recognition of customary rights to lands or long-term renewable custodial or user rights; (e) seeking consent of affected ethnic minorities to projects the cause displacement to traditional/customary land, commercial development of cultural resources and/or commercial development of natural resources within customary lands; and (f) sharing of benefits with ethnic minorities in case of commercial development of natural resources.	All subprojects will be screened for presence of ethnic minorities in the subproject area and impacts on ethnic minorities. Traditional leaders will be identified and culturally appropriate forms of consultations will be conducted. In case there are potential adverse impacts (including minor land acquisition), an REMDP will be prepared. For subproject with only positive impacts on ethnic minorities, the subproject preparation and implementation will include measures for ensuring their participation and inclusion in subproject benefits as elaborated in the Project Administration Manual.

34. Decree no. 38/2013/ND-CP on management and use of ODA fund regulates that compensation, assistance and resettlement for ODA-funded programs and projects shall comply with existing regulations and International treaties on ODA and concessional loans to which the Socialist Republic of Vietnam is a contracting party. In cases where there is discrepancy between provisions of Vietnamese laws and the international treaties, such international treaties shall prevail.

### **Project principles:**

35. To address the discrepancies between ADB SPS (2009) and relevant GOV regulations as described in the table above, the project principles on resettlement policy are as follows:

- (i) Involuntary resettlement and impacts on land, structures and other fixed assets will be avoided or minimised where possible by exploring all alternative options.
- (ii) All subprojects will be screened in terms of impacts related to involuntary resettlement. Safeguards due diligence for existing facilities and previous resettlement activities conducted in anticipation of the Project will also be conducted and corrective action will be prepared in case of non-compliance.
- (iii) Compensation and assistance will be based on the principle of replacement cost at the time of acquisition.
- (iv) Severely affected household (SAH) is considered when they are losing 10% or more of the household's productive land or other assets (generating income) or are physically displaced from housing.
- (v) Displaced persons (DPs) without title or any recognizable legal rights to land are eligible for resettlement assistances and compensation for non-land assets at replacement cost.
- (vi) Residential and agricultural land for replacement should be close to the previous places as much as possible and be suitable to DPs.
- (vii) Meaningful consultation will be carried out with the DPs and concerned groups and ensure participation from planning up to implementation. The comments and suggestions of the DPs and communities will be taken into account.
- (viii) The RP/REMDP will be disclosed to DPs in a form and language(s) understandable to them prior to submission to ADB. RPs/REMDPs will be disclosed on the ADB website.
- (ix) Resettlement identification, planning and management will ensure that gender concerns are incorporated.
- (x) Special measures will be incorporated in the resettlement plan to protect socially and economically vulnerable groups such as households headed by women, children, disabled, the elderly, landless and people living below the generally accepted poverty line.
- (xi) Existing cultural and religious practices will be respected and preserved, to the maximum extent practical.
- (xii) Culturally appropriate and gender-sensitive social impact assessment and monitoring will be carried out in various stages of the project.
- (xiii) Resettlement transition stage should be minimised. Restoration measures will be provided to DPs before the expected starting date of construction in the specific location.
- (xiv) Budget for payment of compensation, assistance, and resettlement and support will be prepared sufficiently and made available during project implementation and by the project provinces.
- (xv) Reporting and internal monitoring should be defined clearly as part of the management system of resettlement. Internal monitoring on implementation of resettlement and ethnic minority development plan should be carried out by PPMUs and CPMU. Monitoring reports will be disclosed on the ADB website.
- (xvi) The CPMU will not issue notice of possession to contractors until the CPMU are officially confirmed in writing that (i) payment has been fully disbursed to the DPs and

- rehabilitation measures are in place (ii) already-compensated, assisted DPs have cleared the area in a timely manner; and (iii) the area is free from any encumbrances.
- (xvii) Cut-off date is the date of the first meeting with DPs to inform them about the census and the DMS for which land and/or assets affected by the subproject are inventoried.
- (xviii) All subprojects will be screened for presence of ethnic minorities in the subproject area and impacts on ethnic minorities (EMs). Subprojects with significant adverse impacts on EMs will be excluded.
- (xix) Local patriarchs (zia lang) will be engaged in the conduct of consultations for the preparation of the subproject. In case there are potential adverse impacts (including minor land acquisition), an REMDP will be prepared. For subproject with only positive impacts on ethnic minorities, the subproject preparation and implementation will include measures for ensuring their participation and inclusion in subproject benefits as elaborated in the Project Administration Manual.

### **3. Eligibility and Entitlements**

#### **Eligibility**

36. Eligibility will be determined with regard to the cut-off date, which is taken to be the date of the first meeting with DPs to make plan for DMS which land and/or assets affected by the projects will be measured. The DPs will be informed of the cut-off date for each project component, and any people or assets settled or created in the project area after the cut-off date will not be entitled to compensation and/or assistance under the project.

37. In addition, legal rights to the land concerned determine the extent of eligibility for compensation with regard to land. There are three types of DPs: i) persons with Land Use Rights Certificates (LURCs) to land lost in entirety or partially, ii) persons who lost land they occupy in its entirety or partially who do not currently possess a LURC but have a claim that is recognisable under national laws, or, iii) persons who lost land they occupy in its entirety or partially who do not have any recognisable claim to that land. DPs included under i) and ii) above shall be compensated for the affected land and assets upon land. DPs included under iii) shall not be compensated for the affected land, but for the affected assets upon land and are entitled to assistance if they have to relocate.

#### **Entitlements**

38. Households or individuals with sufficient basis for compensation will be compensated for affected land and other assets equivalent to the market price of such land and assets. Those without sufficient legal rights are also assisted as described in the entitlement matrix below.

39. The unit rates or amount for allowances indicated in the entitlement matrix can be adjusted during RP updating to reflect actual situation at the time of implementation. However, the adjusted amounts and unit rates cannot be lower than the provisions in the entitlement matrix. Table 2 below is the entitlement matrix that should be following when preparing the Resettlement Plan.

**Table 2: Entitlement Matrix<sup>10</sup>**

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
<b>A. AGRICULTURAL LAND</b>			
<b>A.1: Temporarily Affected Agricultural Land</b>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC; and organizations	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Project will: a/ Pay cash compensation for loss of standing crops and trees at market prices (if any) (see D, below) and the rent in cash for the duration of temporary use, which will be no less than the net income that would have been derived from the affected property during disruption , b/ Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land.	Project is responsible to restore the borrowed land or negotiates with DPs to restore and pay restoration costs for them.  PPMU is in charge of monitoring on restoration of the affected land.
	Loss of use of land exceeds 1 year.	No compensation for land; however, the Project will: a/ Pay the rent in cash for the continued duration of temporary use, which will be no less than the net income that would have been derived from the affected property during disruption. b/ Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land. Or DP can ask the Project to acquire permanently that land affected and compensate at replacement cost.	
User with lease or temporary right	Loss of use of the land for a period less than 1 year	No compensation for land; however, the Project will: a/ Pay cash compensation for loss of standing crops and trees at market prices (if any) (see D, below) and the rent in cash for the duration of temporary use, which will be no less than the net income that would have been derived from the affected property during disruption. , b/ Restore of land before returning to the affected household to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land	Project is responsible to restore the borrowed land or negotiates with DPs to restore and pay restoration costs for them. .  PPMU is in charge of monitoring on restoration of the affected land
	Loss of use of land exceeds 1 year.	No compensation for land if returned to original user; however, the Project will: a/ Pay cash compensation for loss of	

<sup>10</sup> In case there are categories of impacts and and DPs that are identified during the preparation of the RP/REMDP that are not included in this matrix, appropriate entitlements/compensation will be agreed between MARD and ADB. In no instance can the provisions in this matrix be lowered in the preparation of RP/REMDP.

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
		standing crops and trees at market prices (if any) (see D, below) and the rent in cash for the duration of temporary use which will be no less than the net income that would have been derived from the affected property during disruption.  b/ Restore of land before returning to its previous or better quality OR pay full restoration costs to the land owner if it fails to restore the affected land within 1 month after use of land. Or DP entitled to compensation for the remaining value of the lease contract and the remaining investment costs in the land.	
Non-titled user		No compensation for land; however, the Project will pay cash compensation for loss of standing crops and trees at market prices (if any) (see D, below).	
<b>A.2 Permanently affected agricultural land</b>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Losing 10 percent or more of total productive landholding	a/ As a priority, allocation of replacement land: (i) equal in area to affected land up to a maximum of land quota in the locality; (ii) of same category (or productive capacity); (iii) at a location satisfactory to DP; (iv) with full title in the names of both the household head and his/her spouse; and (v) without charge for taxes, registration and land transfer charges; and b/ Cash compensation for standing crops at market price (if any); and c/ Economic rehabilitation package (see E, below); Or, if DP opts, a/ Cash compensation at replacement cost for land and at market price for standing crops; and b/ Economic rehabilitation package (see E, below); and job training/creation assistance equivalent to 1.5 to 5 time of acquired land value but not exceed quota of agricultural land allocation in locality, if the affected land is not within rural/urban resident area.	If remaining land area is not economically viable i.e. is too small or unshaped to be economically cultivated, the Project will acquire the entire affected land parcel and compensate at replacement cost. Level of assistance for job training/creation. decided by PPC. Implemented by DRCs.
	Losing less than 10 percent of total productive landholding	Cash compensation at replacement cost at current market prices for affected portion; if the remaining land is not viable cash compensation at replacement cost for entire affected land parcel; and Compensation for standing crops at market price (if any); and job training/creation assistance equivalent to 1.5 to 5 time of acquired land value but not exceed quota of agricultural land allocation in locality, if the affected land is not within rural/urban resident area.	Level of assistance for job training/creation. decided by PPC. Implemented by DRCs

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Affected landholding located in urban, peri-urban or rural residential area, as per approved land use plan	a/ Cash compensation at replacement cost for affected land; and b/ Additional cash allowance equal to 20 percent to 50% of the average residential land value in the area but the supported area is not exceeding 5 (five) times of the residential land allocation quota in the locality.	Level of additional allowance decided by PPC.  Implemented by DRCs
	Affected land lying intermixed with residential areas but un-certified as residential land; pond and garden land lying on the same residential area containing houses, or along canals and along transportation lines.	a/ Cash compensation at replacement cost for affected land; and b/ Additional cash allowance equal to 30-70 percent of the affected residential land value but the supported area is not exceeding 5 (five) times of the residential land allocation quota in the locality.	Level of additional allowance decided by PPC.  Implemented by DRCs
	Affected landholding is under dispute.	Compensation (for land and all non-land affected assets on the affected land and relevant assistances) held in escrow account until land dispute is resolved.	Implemented by DRCs
User with lease or temporary rights		No compensation for land but cash compensation for standing crops at market price (if any); and Cash compensation for the remaining value of investment in the affected land and value of the remaining contract.	Preceding note on viability of remaining (unaffected) portion of plot also applies  Implemented by DRCs
Non-titled user		a/ No compensation for land but compensation for standing crops on the affected land other affected non-land assets and investments on land; and, b/ Economic rehabilitation package (see E, below).	For non-titled DPs with no other productive landholdings, local authorities will allocate replacement land with temporary or lease land rights, if land is available
Public organizations		a/ No compensation for affected land but support equivalent with not exceeding 100% of compensation value of the affected land; and b/ Cash compensation at current market prices for standing crops on the affected land, If any.	The compensation amount must be paid to account of affected commune and used for infrastructure improvement of the commune
<b>B. RESIDENTIAL AND/OR NON-AGRICULTURAL LAND (e.g., commercial)</b>			
<b><i>B.1. Temporarily Affected Residential and/or Non-Agricultural Land</i></b>			



Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Temporary loss of use of land	No compensation for land; however, a/ The Project will pay rent to DPs during temporary use; and b/ Compensation for any demolished structures at replacement cost and when rebuilding the structure, the building permit will be at no cost to the DP; and, c/ Restore land before returning to the affected user to its previous or better.	For commercial land, rent will be not less than the amount of income foregone due to the temporary loss of this land. For residential land, rent is based on the rent market price in locality, otherwise on negotiation with the user.  PPMU and monitoring unit are in charge of monitoring contractors on restoration of the affected land.
User with lease or temporary right	Temporary loss of use of land	No compensation for land; however, the Project will pay: a/ rent to DPs during the temporary use period or compensation for the remaining value of the contract; and b/ Compensation for any demolished structures at replacement cost and when rebuilding the structure, the building permit will be at no cost to the DP; and, c/ Restore land before returning to the user to its previous or better quality.	For commercial land, rent will be not less than the amount of income foregone due to the temporary loss of this land. For residential land, rent is based on the rent market price in locality, otherwise on negotiation with the user.  PPMU and monitoring unit are in charge of monitoring contractors on restoration of the affected land.
<b>B.2. Permanently Affected Residential and/or Non-Agricultural Land</b>			
Owners with LURC, owners in process of acquiring LURC, owners eligible to acquire LURC	Loss of residential and/or non-agricultural landholding without houses and structures built thereon.	As a priority, allocation of replacement land: (i) equal to area and same type of affected land up to a maximum of land quota in province of project at a location satisfactory to DP; (ii) with full title in the names of both the household head and his/her spouse; and (iii) without charge for taxes, registration and land transfer charges; or, if DP opts, Cash compensation at replacement cost for the affected land. The compensated area does not exceed the residential land quota in the locality; and  Cash compensation for the area greater than land quota at replacement cost based on current market prices for agricultural land plus an allowance equal to 20 to 50% (as per provincial decision) of the average affected residential land value.	a/ The DRC will determine availability of replacement land b/ If affected landholding is under dispute: Compensation held in escrow account until land dispute is resolved.
	Loss of residential land/or non-agricultural landholding with houses and structures built	DP will be entitled to one of the following options: (i) Stay and rebuild their houses/structures on the remaining land if viable, and cash compensation at replacement cost for the affected land area and the affected	The resettlement sites are all close to the affected area and with completed infrastructures.  If affected landholding is under dispute:

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	thereon.	house/structures without depreciation of salvable materials, plus package of rehabilitation and relocation allowances (see E); OR (ii) Relocation in resettlement site with cash compensation at replacement cost for the affected house/structures without depreciation of salvable materials, plus package of rehabilitation allowances (See E). If amount of compensation and assistance is lower than value of a standard plot or apartment in resettlement site, the difference payment is not required; OR (iii) Self-relocation with cash compensation at replacement cost for affected land and house/structures without depreciation of salvable materials, plus package of rehabilitation and relocation allowances (see E); and relocation household is entitled to support by cash for preparation of housing foundation equal to the average investment value in infrastructure of a standard plot in resettlement site.	Compensation held in escrow account until land dispute is resolved.
User with lease or temporary use rights of public land	Loss of residential land/or non-agricultural land	a/ Cash compensation for the remaining value of contract, or support equal to 30% of affected land value, depending whichever is higher; and b/ Cash compensation at replacement cost for house/structures on affected land, and c/ Package of rehabilitation and relocation assistances (see E below).	Local authorities assist DP to find alternative land.
Non-titled user	Loss of residential land or non-agriculture land	No compensation for affected land; however, a/ Non-titled DP entitled to full compensation for affected structures at replacement cost, and b/ Package of rehabilitation and relocation allowances (see E below)	a/ In case of non-titled DP has no other residential place in affected commune/ward: Local authorities should consider to allocate replacement residential land or house with full title and plus package of rehabilitation allowances. b/ In case of non-titled DP has no other non-agriculture land: Local authorities should consider to allocate replacement non-agriculture land with temporary of lease land right.

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
Public organizations	Loss of non-agricultural land	a/ No compensation for land if land use fee is unpaid or paid by state funds, otherwise cash compensation for land at replacement cost; and b/ Cash compensation for affected structures at replacement cost and allowance of relocation if any.	
<b>C. COMPENSATION FOR AFFECTED HOUSE AND STRUCTURE</b>			
<b>C.1. Main Structures (Houses and/or Shops)</b>			
Owners of houses/ structures	House/Structure partially affected and remaining portion can be used	a/ Cash compensation at replacement cost for affected portion with no deduction for depreciation or salvageable materials; and b/ Repair allowance (see E, below).	
Owners of house or combined house/shop structures	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a/ Cash compensation at replacement cost for whole affected structure with no deduction for depreciation or salvageable materials; and b/ Relocation and subsistence allowances (see E, below).	
Owners of shop	Structure totally affected OR Structure partially affected and remaining portion no longer viable	a/ Cash compensation at replacement cost for whole affected structure with no deduction for depreciation or salvageable materials; and b/ Relocation allowance (see E, below).	
Tenant of private owner	Structure partially affected and remaining portion viable	a/ Cash compensation to the structure owner for the affected portion at replacement cost with no deduction for depreciation or salvageable materials; and b/ Repair allowance to the structure owner (see E, below). c/ Tenant may remain with owner's agreement. If Tenant opts to move, below entitlements will be provided.	Notice to tenants by owner at least 6 months in advance or as early as possible
	Remaining structure no longer viable, OR Tenant opts to move	a/ Cash compensation to the structure owner for the whole affected structure at replacement cost with no deduction for depreciation or salvageable materials; and b/ Rent allowance equivalent to 6 months' rent or the remaining value of the rental contract (whichever is higher); and, c/ Assistance to find new, affordable rental accommodation; and d/ Relocation allowance (see E, below)	
Tenant of state owner or self-management organization	Structure partially affected and remaining portion viable	a/ Cash compensation to the structure owner for the affected portion at replacement cost with no deduction for depreciation or salvageable materials; and b/ Repair allowance to the structure owner (see E, below).	Notice to tenants by owner at least 6 months in advance or as early as possible

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Remaining structure no longer viable, OR Tenant opts to move	<p>Tenant could select below entitlements:</p> <p>a/ Cash compensation to expense for upgrading the structure (if any); and b/ Arrange house/apartment for rent in resettlement sites; and c/ Relocation allowance (see E, below) OR a/ Cash compensation to expense for upgrading the structure (if any); and b/ Assistance to find new shelter, equal to 60% of structure value and 60% of land value; and d/ Relocation allowance (see E, below)</p>	<p>Notice to tenants by owner at least 6 months in advance or as early as possible</p> <p>Level of allowance to find new shelter decided by PPC</p>
<b>C.2. Other Structures, e.g., kitchens, toilets, animal sheds, fences, foundations, etc.</b>			
Owners of structures	Partially or totally affected structures or other property	<p>Cash compensation at full replacement cost for materials and labour and with no deduction for depreciation or salvageable materials; OR</p> <p>Cash or in-kind assistance to relocate affected structures or property; OR</p> <p>Cash assistance to repair of property to original or better condition.</p>	<p>Owners of structures are entitled to compensation regardless of whether or not they possess a) land use rights to the land OR b) construction permits for the structures.</p> <p>Costs for repairing the remaining house/structure should be negotiate with DP.</p>
	Graves / tombs-yard/cemetery	<p>All costs of excavation, relocation and reburial will be reimbursed in cash to the affected family as prescribed in PPC's regulation.</p> <p>If the tombs-yard is required, the place and layout of the yard shall be decided by the affected households and the costs for the yard constructions shall be made by the Project.</p>	<p>Compensation to be paid directly to DPs.</p> <p>For ownerless affected graves / tombs, compensation will be given to Commune PC to relocate them to a new site.</p> <p>Graves to be exhumed and relocated in culturally sensitive and appropriate ways.</p> <p>The place and layout of the yard shall be consulted with communities and affected peoples.</p>
<b>D. COMPENSATION FOR AFFECTED CROPS AND TREES</b>			
Owners of crops and/or trees	Loss of annual crops	If standing crops are ripening and cannot be harvested, cash compensation of un-harvested crops at market values based on the average production over past 3 years.	A minimum of 3 months' notice to harvest crops; Owners of crops and/or trees are entitled to compensation regardless of whether they possess land use rights

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
	Loss of perennial crops, fruit and timber trees and tree fences	Cash compensation at current market prices given the type, age and productive value of the affected crops and/or trees.	Compensation must equal in value to crops that would be harvested had acquisition not occurred.  A market survey shall be carried out when updating the RPs
<b>E .PACKAGE OF ECONOMIC REHABILITATION AND RELOCATION ASSISTANCE</b>			
<b>E 1 Economic Rehabilitation Assistance</b>			
Severely affected DPs (displaced from housing or losing 10% or more of their productive, income generating asset irrespective of tenure status.	Assistance to restore livelihoods and incomes following acquisition of agricultural land or other productive assets	AHs directly cultivating on the affected land entitled: (i) Losing from 10 to 30% of agricultural land holding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;  (ii) Losing more than 30% to 70% of total agriculture landholding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;  (iii) Losing more than 70% of total agriculture landholding: Cash assistance equal to 30 kg of rice (valued at market price) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area; AND  (iv) In-kind assistance to be decided in consultation with eligible AHs. Forms of assistance may include, but are not limited to, agricultural extension assistance, and training for non-agricultural occupations. And  (v) Participation in income restoration programs.	Value of in kind assistance to be determined during RP implementation.  If necessary, an income Restoration Programs will be designed during project implementation with the assistance of an agency specialized in livelihoods/labor or vocational assistance and with the active involvement of the AHs.
	Job training/Creation allowance	Cash assistance equal to 1.5 to 5 times of compensation value for affected land area but not exceed 5 (five) times of land quota in locality.  If DP requests for training, he/she will be entitled to a free training course	Eligibility will be confirmed during DMS.  Level of assistance for job training/creation decided by PPC
<b>E 2. Relocation assistance</b>			

Entitled Persons	Type & Level Of Impact	Compensation Policy	Implementation Issues
All AHs that relocate	Relocation of household and/or business effects and salvaged and new building materials.	<p>a/ minimum of VND 3,000,000 cash assistance if AH is relocating within the same province ; OR minimum of VND 5,000,000 cash assistance if AH is relocating to another province or based on regulation per province, whichever is higher.</p> <p>b/ housing rent allowance for 6 months for temporary relocation during rebuilding new house,</p> <p>NB. Not applicable for AHs rebuilding on the same plot.</p>	<p>Eligible AHs include owners of residential structures that are totally or partially affected and remaining portion is not viable; non-titled AHs allocated alternative residential land or housing; tenants; and, businesses and eligible land use/management organizations that relocate.</p> <p>At the time of compensation, the level of allowance will be re-evaluated to ensure the DPs have enough assistance to relocate.</p> <p>If allocation of land for relocation household is delayed, an additional allowance equal to duration of delay multiplying with monthly renting rate need to be provided.</p> <p>The resettlement sites are all close to the affected area and with completed infrastructure</p>
<b>E. 3 Special allowance for social and economically vulnerable households</b>			
Vulnerable households: (i) headed by women with dependents, (ii) headed by persons with disability , (iii) falling under the national poverty standard, (iv) with children and elderly who have no other means of support, (v) landless, and (vi) ethnic minorities.	Assistance to poor and vulnerable households to improve their social and economic conditions.	<p>a) Poor households, cash assistance equal to 30 kg of rice (at market price) per each family member per month for at least 36 months, according to Decree 17/2006/ND-CP.</p> <p>b) Other vulnerable households: assistance of minimum VND 2,000,000 per household to improve their social and economic conditions or based on regulation per province, whichever is higher</p> <p>c) All vulnerable households: participation in income restoration program regardless of severity of impact</p>	Eligible households are those who are classed as vulnerable under relevant definitions of MOLISA and this document .

#### **4. Socio-economic Information**

##### **Screening and Categorization of Impacts**

40. Initial screening will be conducted as early as possible in the subproject cycle to categorize the impacts and identify subsequent approaches and resource requirements to address IR (involuntary resettlement) and EM (ethnic minority) issues. The screening will identify the potential for loss of land, asset/structures, livelihoods, willingness of the community to collaborate in the implementation of the project, and their impacts through primary and secondary data information collection. The social survey team with the local community representatives will make a walkthrough survey of each subproject. The team will visit the subproject site and arrange public meetings in selected settlements including village leaders and traditional patriarchs (zia lang) to provide information about the subproject and collect their views on resettlement impact and willingness of DPs about the subproject and ensure community support for the subproject.

41. Resettlement and ethnic minority issues screening will also enable the categorization of subprojects based on their level of social impacts. CPMU will screen out all IR or IP Category A<sup>11</sup> subprojects. If there is no resettlement impact identified, a confirmation of the PPMU should be submitted to the CPMU, confirming that there is no resettlement impact by the subproject. The Local Implementation Consultant shall certify the scope of resettlement planning. The screening and categorization will then be prepared during the subproject preparation. Once finalized, the due diligence report (DDR) and categorization form will be included in subproject feasibility/design report to be submitted to ADB. Appendix 1 shows the template for the screening form.

42. The DDR for all subprojects will establish the following (a) confirm if the subproject has or has no land acquisition or resettlement impacts; (b) confirm if there are no outstanding land acquisition or resettlement issues in the existing facilities to be upgraded/rehabilitated; and (c) establish if there are ethnic minority groups in the subproject area as defined under the project.

##### **Detailed Measurement Survey (DMS), Census, and Socio-economic studies (SES)**

43. Depending on the extent of impacts on IR and magnitude of impacts on EMs the surveys will be contracted out to a competent firm or service provider. The data, analysis and reports will lead to the preparation of the Resettlement and Ethnic Minority Development Plans (REMDP) and provide understanding of the socio-economic circumstances people in the subproject area – including poverty, gender and ethnic minorities. The information collected should be presented and discussed in the REMDP, and disaggregated by gender and ethnic group. The activities of the survey team are as follows:

- i) Detailed Measurement Survey (DMS) and Census – Based on the detailed design, a DMS of all affected assets (land and structure) and census of all affected households (AHs) quantifying the possible social impact in terms of loss of land, assets and income will be conducted. The DMS will include information on: (a) total and affected areas of land by type of land assets, (b) total and affected areas of structures, by type of structure (main or secondary), (c) legal status of affected land and structure assets and duration of tenure and ownership, (d) quantity and types of affected crops and trees, quantity of other losses, and (e) quantity/area of affected common property, community or public assets by type. On the other hand, the census will cover summary data on the affected households such as ethnicity, gender of household head, household size, vulnerability status, primary and secondary income sources and their knowledge and preferences for compensation and, as required, relocation sites and rehabilitation measures.;

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<sup>11</sup> A subproject is considered as category A for IR if 200 or more people will experience major impacts defined as being physically displaced from housing, or losing 10% or more of their productive (income generating) assets. A subproject is considered as category A for IP if it is likely to have significant on ethnic minorities..

- ii) Socio-Economic study will also be pursued by the survey team. The coverage of the study will include (i) 20%<sup>12</sup> of total AHs (marginally affected households to be surveyed will be selected via simple random sampling) and 100% of Severely Affected household (SAHs) and vulnerable affected Households (VAHs). Socioeconomic information on the community and AHs should include, among others: demographic information; economic profile such as major economic and livelihood activities, ethnicity profile, number of AH members who are gainfully employed; household health and sanitation practices/facilities and community's access to health and education facilities. A description of the availability and conditions of public infrastructure in the community should also be included.

### **Valuation and Replacement of Assets**

44. The resettlement Unit, local officers and a representative of the District Committee's People (DPC) and DP representatives will form the District Resettlement Committee (DRC) and agree rates of compensation with the DP. DPs will be compensated at replacement cost for any involuntary land acquisition. The District survey team will assess the various categories of loss envisaged in the entitlement matrix and fix prices/costs for compensation according to the compensation entitlements agreed by the DPC. Disagreements over valuations and extent of land-take should be negotiated as quickly as possible in order to reduce delays to letting contracts to start of civil works. If further disagreement over the value of land or assets, the complaint may be brought to the grievance committee as explained in chapter 9.

45. In case of land in the mountains with low value as per land revenue transaction statement and where very few transaction of land is effected, the land value maybe estimated as per present transaction rate but also considering an added value of five years (or more) of production to compensate the non-availability of value of present market rate.

46. The DRC will disburse compensation payments. A transparent system for checking entitlement against payment is needed with a monitoring exercise to ensure that payment has been made as assessed to the right person. Payments are made by check and DPs may need help in opening and operating bank accounts. Safeguards for poor and socially disadvantaged groups will be facilitated by the presence of NGO representative as necessary. Designated third-party or NGO will confirm "no coercion clause" in any voluntary contribution of land.

### **Resettlement Plan Preparation**

47. The RP will be prepared based on the results of the census, DMS and SES. The RP will include measures to ensure that the socioeconomic condition, needs, and priorities of women are identified, and that the process of land acquisition will not disadvantage women. If any adverse impacts on the Ethnic Minority People (EMPs) are identified, a REMDP is required to address adequately those impacts. The PPMU will prepare RPs/REMDPs for subprojects based on the engineering design of the infrastructures, and in consultation with DPs, local representatives, and local NGOs. The RP/REMDPs will be prepared in English and translated to local language and notified to the public.

48. The content of resettlement plan (RP) includes a statement of involuntary resettlement objective and strategy, with (i) executive summary, (ii) project description; (iii) scope of land acquisition and resettlement; (iv) socio-economic information and profile; (v) information disclosure, consultation and participation; (vi) grievance redress mechanisms; (vii) legal framework; (viii) entitlement, assistance and benefits; (ix) relocation of housing and settlements; (x) income restoration and rehabilitation; (xi) resettlement budget and financing plan; (xii) institutional arrangements; (xiii) implementation schedule; and (xiv) monitoring and reporting plan, showing how activities will be scheduled with time-bound actions in coordination with the civil works. The RP will establish an eligibility cut-off date.

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<sup>12</sup> For subprojects with less than 100 AHs, all AHs will be covered in the socio-economic studies.



49. The content of Resettlement and Ethnic Minority Development Plan (REMDP) includes a statement of involuntary resettlement and ethnic minority development objective and strategy, with (i) executive summary, (ii) project description; (iii) scope of land acquisition and resettlement; (iv) socio-economic information and profile, including information and profile of EM groups; (v) potential positive and negative impacts on EMPs and mitigation measures and beneficial measures; (vi) information disclosure, consultation and participation; (vii) grievance redress mechanisms; (viii) legal framework; (ix) entitlement, assistance and benefits; (x) relocation of housing and settlements; (xi) income restoration and rehabilitation; (xii) resettlement budget and financing plan; (xiii) institutional arrangements; (xiv) implementation schedule; and (xv) monitoring and reporting plan, showing how activities will be scheduled with time-bound actions in coordination with the civil works. The REMDP will establish an eligibility cut-off date.

50. Where subprojects involve voluntary land donation, the RP/REMDP will also include arrangements to deal with losses on a voluntary basis with appropriate safeguards. Such land donations will require a written agreement with the respective landowners. It may be in a form of MOU between the landowner(s) and the CPC or other documentation acceptable to ADB, including a no coercion clause witnessed by an independent third party e.g. NGO. Such agreement sample is provided in Appendix 2. Voluntary land donation will only be accepted if this does not severely affect the living standards and livelihood of DPs.

51. The PPMU will organize a consultation meeting with DPs and local stakeholders to share the draft RP/REMDP and inform them about how the concerns raised by them during the screening and walk-through survey have or have not been addressed in the project design. In order to ensure that the subproject design have incorporated concerns raised locally and measures to minimize adverse impacts and enhance project benefits, the RP/REMDP will be finalized only after the final consultation with DPs. A meeting minute on endorsement of entitlements proposed in the RP/REMDP duly signed by DPs will also be annexed to the RP/REMDP.

52. The RPs/REMDPs for the subprojects will be submitted to the PPC for review before submitting to CPMU and ADB for review and approval. The RP/REMDP shall follow the provisions and procedures specified in this Resettlement and Indigenous People Framework. An outline of an RP (REMDP) is attached as appendix 3 to the REMDF.

53. In case RP/REMDP compensation payment is delayed for more than 6 months, compensation rates should be reviewed to update any changes in market prices for replacement values. If rates and prices are found to be out of date, revised updated costs based on the latest market rate must be used. In case there are households that will be severely affected (physically displaced from housing or lose 10% or more of their productive land), an income restoration programme (IRP) will be prepared. DPs must be consulted in the preparation of the RP/REMDP. The RPs/REMDPs will be sent to ADB for approval and uploaded to ADB's website.

54. No section or part thereof under the civil works contract shall be handed over to the contractor nor initiated before the required compensation and allowances based on the approved RP/REMDP have been provided to the DPs and verified by the LIC.

## **5. ETHNIC MINORITY STRATEGIES**

55. Although adverse impacts on households belonging to ethnic minorities (EMs) are likely to be minimal, some households may be less able to restore their living conditions, livelihoods and income levels; and therefore, are at greater risk of impoverishment when their land and other assets are affected. Moreover, needs or conditions of EMs may not be considered in the design and operation of the upgraded facilities. To address these, the following specific actions will be conducted:

- (i) CPMU, assisted by its consultants, will undertake screening and social impact assessment of all subproject areas to determine presence of EMs, and assess potential adverse and positive impacts on them.
- (ii) The CPMU will coordinate with local/traditional patriarchs (zia lang) in the conduct of consultations, information dissemination and grievance redress involving households from ethnic minorities.
- (iii) In villages with ethnic minorities, a representative from each EM group will be included in the district/village resettlement committee.
- (iv) During the DMS, the district/village RC will ensure that both men and women, and female-headed EM households are informed and participate. They will provide translation as needed to ensure that AHs belonging to EMs understand and are in agreement with the DMS results. Adversely impacted EMs are considered vulnerable and will be entitled to support for vulnerable households.
- (v) Where EM households are required to rebuild or relocate, rehabilitation options and sites will be acceptable to the household and ensure they are able to continue their existing livelihood and lifestyle, and remain within their community (if they so choose).
- (vi) All public information and consultation meetings in ethnic minority villages will include local translation in minority languages so that information and exchange of views is facilitated for all men and women DPs. Village meetings will be held to raise DP awareness and understanding of resettlement related issues such as project timing, entitlements, compensation determination and payments, grievance process, support for relocation/ rebuilding etc., and specific women focus groups will also be held to cover the same issues.
- (vii) Rehabilitation measures for businesses will ensure that EM households and/or female headed households as well as other DPs are treated equitably in terms of assistance to find and/or allocation of replacement land, and in the provision of allowances (including business income loss, transition and vulnerable allowances).
- (viii) The design of livelihood restoration activities involving EMs will be done in close consultation with representatives of ethnic minorities and take into account their specific conditions.
- (ix) Where EM households live within villages of another ethnicity, The district will pay special attention to their compensation and transition. LIC will also review these cases.
- (x) CPMU will ensure that ethnic minority households receive equitable treatment with regard to: a) assistance to self-relocate (find land, etc.), b) allocation of housing and/or commercial sites (e.g., in resettlement sites); c) village support in moving, and contractor support to improve lands; and d) provision of allowances (including business income loss, transition and vulnerability allowances).

- (xi) Monitoring of consultation and awareness generation activities, as well as DP rehabilitation and satisfaction will be undertaken by the PPMUs and CPMU using gender and ethnicity disaggregated data.
- (xii) Internal monitoring will ensure consultation incorporates translation to EM languages in minority villages and for minorities living in villages of other ethnicity.
- (xiii) Both male and female EM members will be able to participate in the jobs that are created during road upgrading and post-construction in the Project area. In the surveys and stakeholder meetings held, all EM groups expressed interest in the job opportunities as well as increasing their incomes from agriculture and other activities.

## **6. GENDER STRATEGIES**

56. The subproject RPs/REMDPs shall address the following issues related to gender:

- (i) Prior to the final RP preparation, an orientation will be held with district and commune representatives to enable the DMS and survey teams to do their respective task in relation to gender issues and concerns.
- (ii) During the DMS, both men and women DPs will be encouraged to participate in discussions related to land acquisition/resettlement and other issues related to subproject design and preparation.
- (iii) Livelihood restoration activities for severely affected and vulnerable households will be planned with the active involvement of women DPs. Needs assessments for livelihood activities and skills development will be conducted separately for households headed by women. In designing livelihood activities, appropriate economic activities for women will be included in the program
- (iv) For those who have to shift elsewhere, separate discussion with women from AHs, will be held to discuss and agree on the relocation site, housing structure, and other social infrastructure.
- (v) Compensation for AHs will be given under the name of both spouses.
- (vi) Replacement land, if applicable, will be registered in the name of both husband and wife.
- (vii) Disaggregated monitoring indicators by gender of the head of AHs will be developed for monitoring on capacity development training program, livelihood program, participation, and other resettlement activities.

## **7. Consultation, Participation, and Disclosure**

### **Information Disclosure, Consultation and Participation**

57. Information disclosure is an on-going process beginning early in the project cycle and continuing throughout project preparation and implementation. The process must provide timely information to communities in order that they may meaningfully contribute to project design, decision-making and mitigation measures. Provision of timely and accurate information will avoid misinformation and inaccurate rumours from circulating in communities. During consultations particular attention will be given to vulnerable households in the community to ensure their understanding and collective input. In accordance with both ADB and GoV policy (contained in Decree 69 Articles 29, 30 and 31 and 2) the PPC and DPC must ensure that public notice is given and disseminate details of the approved REMDF and draft RP and disclosed on the ADB website before project appraisal. Following the census of DPs, the final resettlement plan, as endorsed by the GoV and ADB, will be disseminated to the DPs and posted on the ADB website.

Any updates or revisions to the final RP/REMDP must also be disseminated to DPs and posted on the ADB website.

58. The PPMUs, with assistance from relevant provincial and district agencies, will conduct a series of public meetings to provide information regarding project activities and the proposed resettlement and compensation arrangements. These public meetings will be needed to: (i) inform and get feedback from the subproject beneficiaries and communities of the subproject design, construction schedule, likely impacts and mitigation measures (ii) disseminate information on inventory and pricing results, (iii) inform the DPs on amounts of compensation and supports of each affected household, (iv) to listen to their feedback and suggestions and (v), for revising or adjusting the inaccurate data, if any. It is important that DPs are informed well in advance, of the date, time and location of each meeting, and that reminders are also provided. It is essential that these meetings enjoy maximum participation, as this will reduce misunderstandings and potential for conflict. For removal or relocation of tombs/graveyards or other religious or cultural significant items, special consultation should take place and a record of consultation should be made available which includes: (i) nature and type of tombs; (ii) how old are the tomb and status of land where the tombs are located; (iii) new location and status of land; (iv) if the tombs are owned by ethnic minorities or not and the implications of impact on the religious and cultural sentiments of the community; (v) agreed ritual process, cost and time of removal of tombs, and other arrangements as deemed necessary.

59. In accordance with Decree 69/ND-CP Article 30(2b) the posting must be recorded in official minutes and confirmed by the CPC, the Commune Fatherland Front and DPs. As per Decree 69/ND-CP Article 30 Clause 3(a), following expiration of this period the agency in charge of compensation will summarise all opinions and comments received, including numbers of DPs and stakeholders who agree and disagree, with the compensation and land acquisition and assistance offered in the resettlement plan. Interviews with DPs will be conducted in order to check the adequacy of compensation prices issued by the provinces. Further public consultations will be carried out during the implementation stage with a focus on specific activities including assessment of compensation, acquisition of land, and design of rehabilitation assistance planning. These measures are undertaken to ensure that DPs are satisfied with the compensation arrangements and will not object to the disruption and that they will not suffer enduring negative impacts due to the project and be able to fully restore and further improve their livelihoods.

### **Gender and Ethnic Minorities Consideration**

60. Gender and social economic analysis, including ethnic minorities, gender division of labour related to DPs in the specific subproject area must be conducted. Based on these analyses, special attention will be given to address women's concerns during the preparation of RP (REMDP), updating process and implementation. Participation and involvement of the Women's Union at all levels should be encouraged especially for supervision and monitoring of the resettlement process and its implementation, and to help inform communities and women's groups as to the subproject potential impacts. Ensurances should be given that women have full and equitable access to the subproject's resources and benefits including income restoration programmes and skills training. Adequate resources including a financial and social safeguard specialist must be allocated to support the resettlement process and its implementation. Women must be present during consultations made when conducting the DMS, census and visit to resettlement site. This is to ensure that all information and opinions can be collected and that they include the women's perspectives. Names of both husband and wife must be in the land use rights certificates. Women must be present when compensation payments are made to ensure that any decisions regarding use of compensation monies will be open to decisions made by husband and wife. Sex-disaggregated data must be collected in the census, DMS and SES. Gender sensitive and culturally appropriate approach and methods need to be applied when dealing with EM women and they need to be consulted accordingly.

## **8. Compensation, Income Restoration, and Relocation**

61. In the event that any households will be severely affected (i.e. be physically displaced from housing or lose 10% or more of their productive asset) by the subproject or vulnerable households are affected, the RP/REMDP will include a income restoration program (IRP) that will include:

- I. Description of the measures proposed for income restoration, including compensation and special measures to help vulnerable households improve their living standards;
- II. Explanation of measures to provide replacement land<sup>13</sup> (very unlikely);
- III. Description of support to be provided for host populations;
- IV. Budget, financing, and implementation arrangements.

## **9. Grievance Redress Mechanism**

62. In order to ensure that all DPs' grievances and complaints on any aspect of land acquisition, compensation and resettlement are addressed in a timely and satisfactory manner, and that all possible avenues are available to DPs to air their grievances, a well-defined grievance redress mechanism needs to be established. All DPs can send any questions to implementation agencies about their rights in relation with entitlement of compensation, compensation policy, rates, land acquisition, resettlement, allowance and income restoration. Furthermore, DPs will not be ordered to pay any fee during the grievance and complaints at any level of trial and court. Complaints will pass through 3 stages before they could be elevated to a court of law as a last resort. The EA will shoulder all administrative and legal fees that might be incurred in the resolution of grievance and complaints.

63. The following stages for grievance redress are established based on Complaint Law no. 02/2011/QH13, dated 11/11/2011:

**First Stage, Commune People's Committee:** The aggrieved affected household can bring his/her complaint in writing or verbally to any member of the Commune People's Committee, either through the Village Chief or directly to the CPC. It is incumbent upon said member of CPC or the village chief to notify the CPC about the complaint. The CPC will meet personally with the aggrieved affected household and will have 30 days and maximum of 60 days following the lodging of the complaint, depending on complicated case or remote area, to resolve it. The CPC secretariat is responsible for documenting and keeping file of all complaints that it handles.

**Second Stage, District People's Committee:** If after 30 days or 45 days (in remote area) the aggrieved affected household does not hear from the CPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected household may bring the case, either in writing, to any member of the DPC. The DPC in turn will have 30 days or maximum of 70 days following the lodging of the complaint, depending on complicated case or remote area, to resolve the case. The DPC is responsible for documenting and keeping file of all complaints that it handles and will inform the DRC of any determination made and the DRC is responsible for supporting DPC to resolve AH's complaint. The DPC must ensure their decision is notified to the complainant.

**Third Stage, Provincial People's Committee:** If after 30 days or 45 days (in remote area) the aggrieved affected household does not hear from the DPC, or if the affected household is not satisfied with the decision taken on his/her complaint, the affected

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<sup>13</sup> This option is unlikely given the nature of impact (i.e. only marginal portions of plots are affected) and subject to the availability of comparable land.

household may bring the case, either in writing, to any member of the PPC. The PPC has 30 days or maximum of 70 days, depending on complicated case or remote area, to resolve the complaint to the satisfaction of all concerned. The PPC is responsible for documenting and keeping file of all complaints that reaches the same.

**Final Stage, the Court of Law Arbitrates:** If after 30 days following the lodging of the complaint with the PPC, the aggrieved affected household does not hear from the PPC, or if he/she is not satisfied with the decision taken on his/her complaint, the complainant can appeal again to the PPC. If the complainant is not satisfied with the second decision of the PPC, the case may be brought to a Court of law for adjudication. If the court rules in favour of the complainant, then PPC will have to increase the compensation at a level to be decided by the court. In case the court will rule in favour of PPC, then the complainant will receive compensation approved by PPC.

64. The above grievance redress mechanism will be disclosed and discussed with the DPs to ensure that the DPs understand the process. PPMU/ DRCs and monitoring unit are responsible for follow up of the grievance process. Notwithstanding the provisions of the grievance process, local laws and regulations will take precedence. Amount of compensation and allowances of the complainant should be deposited in an escrow account until his/her complaint resolved satisfactorily. Note further that the above cited procedures do not prevent a complainant to seek resolution of his/her complaint directly to the court at any stage of the complaint resolution process.

## **10. Institutional Arrangements and Implementation**

### **Institutional Arrangements**

65. Implementation of the resettlement plan requires the participation of relevant agencies from the central, provincial, district, and commune levels. The Executing Agency (MARD) has the overall responsibility for the implementation of the RPs/REMDPs. District Resettlement Committees (DRCs) or Center for land Fund Development will be established at district level according to Decree 197/2004/NĐ-CP and Decree 69/2009/NĐ-CP to implement the RPs/REMDPs. Through the implementation of the first project under Loan 2357, MARD and all the 6 participating have become familiar with ADB safeguards requirement (under the previous policy) and developed the capacity to identify, and address safeguards issues in subprojects. PPCs will either retain or upgrade the existing PPMUs to ensure that safeguards are adequately addressed. Contract of the loan implementation consultant (LIC) under Loan 2357 will also be extended to orient the participating provinces on some changes made in the policy framework under the supplemental loan and assist CPMU in the due diligence activities and the PPMUs in the preparation of the required safeguards documents.

#### **10.1.1 Institutional Features at Central level**

66. Following the institutional set-up under Loan 2357, MARD will delegate responsibility of the Executing Agency to Central Project Management Unit (CPMU). The CPMU will be led by a Project Director with fully delegated responsibility for decision making. The CPMU comprises full-time qualified and experienced staff. Current CPMU staff will be retained to ensure that the supplemental loan benefits from the capacity gained under the previous loan. Loan implementation consultants (LIC) will assist the CPMU with these tasks.

67. The CPMU will:

- i provide overall management and coordination of the project;
- ii liaise with IAs to carry out all project components;
- iii coordinate with ADB in providing resettlement consultant services for the project;
- iv conduct subproject safeguards screening and due diligence, with assistance from the LIC;

- v support the PPMU for preparing and updating RPs/REMDPs of the project's components to get approval of PPCs and ADB ;
- vi consolidate project progress reports on land acquisition and resettlement submitted by the PPMUs for relevant ministries and ADB; and,
- vii supervise resettlement implementation of the project components.

### **10.1.2 Institutional Features at Provincial Level**

68. The Implementing Agency (IA) will be the Provincial People's Committee (PPC). The PPC will be responsible for issuing all decisions and approvals relating to the implementation of RPs/REMDPs including those relating to its formal adoption, unit compensation costs, notices and approvals for updated RPs/REMDPs, information disclosure, land acquisition and compensation payments, allocations of replacement land (if applicable) and grievance redress. The PPC will also be responsible for establishing the Land Valuation Council and allocation of responsibilities to district-based organisations.

69. PPC will authorise DARD to oversee the land acquisition, resettlement and compensation component for subprojects under this Project. Within its authorisation, DARD established the Provincial Project Management Unit (PPMU) for implementation of the Project components and to undertake the internal monitoring on implementation of the RPs/REMDPs for the Project.

70. The PPMU will oversee all activities of District Resettlement Committees (DRCs) in regard to the implementation of the RPs/REMDPs. The PPMU will also be responsible for:

- (i) Preparing, updating, and supervising RP/REMDP implementation of project components;
- (ii) Guiding DRC to implement all resettlement activities in compliance with the approved RPs/REMDPs; and resolving any mistakes or shortcomings identified by internal monitoring to ensure that the objectives of the RPs/REMDPs are met; and otherwise, to provide appropriate technical, financial and equipment supports to DRC and Commune-level Inventory Working Groups.
- (iii) Conducting, in combination with DRCs and CPCs, information campaigns and stakeholder consultation in accordance with established project guidelines;
- (iv) Coordinating with other line agencies to ensure delivery of restoration and rehabilitation measures to APs;
- (v) Implementing internal resettlement monitoring, establishing and maintaining AP databases for each component in accordance with established project procedures and providing regular reports to CPMU;
- (vi) Implementing prompt corrective actions in response to internal monitoring.

71. The membership of the PPMU should include the Vice-Director of DARD who will be the Head of the PPMU.

### **10.1.3 District Level**

72. The Peoples' Committees of the District concerned will establish District Resettlement Committees (DRCs) or Center for Land Fund Development to implement the RPs/REMDPs; Direct CPCs in combination with DRCs to implement RPs/REMDPs; approval of compensation plan if authorised by PPC; resolving complaints and grievances of APs.

73. DRC in combination with PPMU, CPCs and under the direction of the PPMU, will carry out resettlement activities of the project, in particular:

- (i) Conducting dissemination of the Public Information Brochure and other publicity material to ensure that APs are aware of the LAR process.

- (ii) Planning and carrying out the DMS and the disbursement of compensation payments.
- (iii) Identifying severely affected and vulnerable APs and the planning and implementing rehabilitation measures for these APs.
- (iv) Supporting for identifying any resettlement sites and new farming land for APs who cannot remain their present location.
- (v) Assisting DPC in the resolution of AP grievances.

#### **10.1.4 Commune Level**

74. The CPC will assist the DRC in their resettlement tasks. Specifically, the CPC will be responsible for the following:

- (i) In co-operation with District level and with commune level local mass organizations, mobilize people who will be acquired to implement the compensation, assistance and settlement policy according to approved RP/REMDPs;
- (ii) Co-operate with DRC and Working groups to disclose project information and resettlement policy; notify and publicize all resettlement options on compensation, assistance and resettlement which are approved by DPC;
- (iii) Assign Commune officials to assist the DRC in implementation of resettlement activities;
- (iv) Identify replacement land for affected households;
- (v) Sign the Agreement Compensation Forms along with the AHs;
- (vi) Assist in the resolution of grievances.

#### **Implementation**

75. The implementation process is as follows:

- (i) Safeguards screening and due diligence. Following the detailed design, the CPMU (assisted by the LIC) will conduct safeguards screening to ensure that none of the proposed subprojects are category A for IR and ethnic minorities. Due diligence will also be done to identify if there are pending/outstanding IR/ethnic minority issues in the existing facilities to be upgraded and assess compliance to the REMDF principles and requirements of any resettlement activities conducted in anticipation of the project.
- (ii) Establishment of the DRCs. The DPC will establish DRCs for the projects, and entrust tasks to relevant agencies and entities.
- (iii) Land clearance/boundary setting for the Project. After receiving the PPC and DPCs in revoking land and handing over land to the PPMU for implementing the projects, PPMU will cooperate with the provincial Department of Natural Resources, Environment and the specialised cadastral agency having a contract with PPMU to determine the project land clearance red line and setting out boundary at the field, handing over land to implement resettlement tasks for the DPs, in order to clear land for the project. Relevant Offices of Natural Resources, Environment of districts and Commune People's Committees of the project will assign their staff working as members of DRCs to implement this task.
- (iv) Information campaign before DMS. According to Decree No.197/2004/ND-CP, before land acquisition, within 90 days in case of agricultural land and 180 days in case of non-agricultural land, the DRCS must send written notices to affected land owners in respect of reasons for land acquisition, time and plan of displacement, resettlement options, land clearance and resettlement.
- (v) Before census and detailed measurement survey, PPMU in cooperation with local authorities of districts and communes will provide project information to residents in the project area. Information will be broadcasted via the public address system of the locality in combination with other multi-media such as radios, press, television, brochures or letters delivered to households to be open posted in public areas.
- (vi) Orientation meetings will be held in the project affected commune to notify the affected community about the scope and scale of the project, impacts, policies and rights for all



- kinds of damages, implementation schedule, responsibilities for organisation, and complaint mechanism. Brochures including (images, photos or books) related to project implementation will be prepared and delivered to all affected communes in the meetings.
- (vii) Conduct of Replacement Cost Survey by a Qualified Agency. A qualified agency will be engaged by CPMU to assist PPC in determining the current market price under normal condition of land and non-land assets. If there is a significant difference between compensation price and market price as per replacement cost survey carried out by a qualified agency, PPC will update the compensation unit price according to regulations and implementation guidance of Decree No.197/2004/CP and 17/2006/ND-CP.
  - (viii) Detailed Measurement Survey. DMS will be undertaken once detailed design is finalised. These surveys will be the basis for the preparation of compensation plan and for preparation of the RPs/REMDPs.
  - (ix) Preparation of Compensation Plan. DRCs are responsible for applying prices and preparing compensation tables for each affected commune. PPMU and DPCs will appraise these tables in respect of prices, quantities of affected assets, rights that the DPs are entitled to, etc. before notifying each commune for review and comments. All tables of compensation price application must be checked and signed by the DPs to prove their consensus. PPMU and DRCs will submit the proposed unit rates as per result of the replacement cost survey to PPC for review and approval. The unit rates to be applied will be based on the approved unit rates of PPC.
  - (x) Submission of RP/REMDP and ADB concurrence. PPMU will prepare Updated Resettlement Plan, disclose key information of the Updated RP to the DPs and submit the same to ADB for review and concurrence.
  - (xi) RP/REMDP Uploading on ADB website. Once the RP/REMDP is acceptable to ADB, the RP/REMDPs will be uploaded on the ADB website.
  - (xii) Implementation of RP/REMDPs. Compensation and assistance will be paid directly to the DPs by DRC under the supervision of representatives of commune authorities and representatives of the DPs. Income restoration and relocation plan will be implemented in close consultation with the APs and concerned agencies.

76. Internal monitoring as outlined in Chapter 12. will be implemented from RP/REMDP preparation to implementation. Grievances received will be addressed through the grievance redress mechanism set up for the project. One post-project assessment survey will be undertaken within 6 to 12 months after completion of compensation and resettlement activities.

## **11. Budget and Financing**

### **Budget and Financing**

77. Resettlement budget is required for all resettlement activities, including compensation for land acquisition (if any), affected assets, administrative cost, monitoring, income restoration, etc. and included in the subproject cost. Estimated costs will be updated based on the DMS and RCS results following detailed designs. The RP/REMDP will identify key activities for which funds will be used. Land acquisition/resettlement cost will be funded under the Project to ensure that sufficient resettlement budget is provided, and in a timely manner.

## **12. Monitoring and Reporting**

78. The Project will establish systems for internal monitoring and evaluation. The main purpose of the monitoring and evaluation programme is to ensure that matters related to involuntary resettlement have been implemented in accordance with the policies and procedures of the RPs following ADB SPS 2009 and the REMDF. Monitoring will be done by the PPMU and the CPMU (assisted by its Loan Implementation Consultant). Engagement of external experts is not required

for this project because only minor involuntary resettlement impacts are anticipated in the subprojects.

79. The objectives of the monitoring and evaluation programme are to (i) report on the status and assess compliance with the agreed REMDF and subproject RPs/REMDPs; (ii) confirm the availability/handover of land for the proposed subprojects; (iii) monitor contractors' compliance to the REMDF provisions related to temporary land acquisition impacts during civil works; (iii) ensure that the standard of living of DPs is restored or improved; (iv) monitor whether the time-lines are being met; (v) assess if compensation, rehabilitation measures and social development support programmes are sufficient; (vi) identify problems or potential problems; and (vii) identify methods of responding immediately to mitigate problems.

80. The PPMU will establish an internal monitoring system and prepare progress reports on all aspects of land acquisition and resettlement activities for each subproject under its jurisdiction. Internal reports of RP/REMDP implementation will be prepared by the PPMU and submitted to the CPMU. The PPMU will conduct the internal monitoring of RP/REMDPs implementation to identify as early as possible the activities achieved and the cause(s) of problems encountered so that arrangements in RP implementation can be adjusted. Related information will be collected monthly from the field to assess the progress of RP implementation and included in the project's quarterly progress reports.

81. The CPMU will submit semi-annual safeguards monitoring report to ADB. For subprojects requiring land acquisition, compensation payments and provision of allowances related to permanent land acquisition impacts are expected to be completed within 6-months from the approval of the RP/REMDP. Related to this, the first monitoring report to be prepared by CPMU will report on the completion of compensation payments and allowances and start of implementation of income restoration program (for severely affected and vulnerable households). No-objection to the commencement of civil works for the subproject will only be issued if the monitoring report can confirm that all compensation payments and allowances as provided in the RP/REMDP have been provided and that there are no pending complaints on these payments.

82. The subsequent semi-annual monitoring reports by the CPMU will cover update on the temporary land acquisition impacts during construction, status of grievances noted, and progress in the income restoration activities. The CPMU will incorporate the status of RP/REMDP implementation in the overall Project progress report to ADB.

**Table 3: Monitoring and Evaluation Indicators**

Type	Indicator	Examples of Variables
<b>INPUTS INDICATORS</b>	Staffing and Equipment	<ul style="list-style-type: none"> <li>• Number of project dedicated PPMU staff</li> <li>• Formation of DRC and VRC</li> <li>• Number of DRC members and job function</li> <li>• Adequate equipment for performing functions (including grievance recording)</li> <li>• Training undertaken for all implementing agencies</li> <li>• Construction Contractor meeting local employment targets for unskilled labor</li> </ul>
	Finance	<ul style="list-style-type: none"> <li>• Resettlement budgets disbursed to DRC and DPs in timely manner</li> </ul>
<b>PROCESS INDICATORS</b>	Consultation, Participation, and Grievance Resolution	<ul style="list-style-type: none"> <li>• Distribution of PIB to all DPs</li> <li>• RP/REMDP available in all districts</li> <li>• Translation at ethnic minority villages and for individual minority DPs in villages of other ethnicity</li> <li>• Consultations and participation undertaken as scheduled in the RP/REMDP</li> <li>• Grievances by type and resolution</li> <li>• Number of local-based organizations participating in subproject</li> </ul>
<b>OUTPUT INDICATORS</b>	Acquisition of Land	<ul style="list-style-type: none"> <li>• Area of cultivation land acquired</li> <li>• Area of residential land acquired</li> <li>• Fishponds acquired</li> </ul>

Type	Indicator	Examples of Variables
	Buildings	<ul style="list-style-type: none"> <li>Number, type and size of private houses/structures acquired</li> <li>Number, type and size of community buildings acquired</li> <li>Number, type and size of government assets affected</li> </ul>
	Trees and Crops	<ul style="list-style-type: none"> <li>Number and type of private trees acquired</li> <li>Number and type of government/community trees acquired</li> <li>Number and type of crops acquired</li> <li>Crops destroyed by area, type and number of owners</li> </ul>
	Compensation and Rehabilitation	<ul style="list-style-type: none"> <li>Number of households affected (land, buildings, trees, crops)</li> <li>Number of owners compensated by type of loss</li> <li>Amount compensated by type and owner</li> <li>Number and amount of payment paid</li> <li>Compensation payments made on time</li> <li>Compensation payments according to agreed rates</li> <li>Number of houses demolished</li> <li>Number of porches/kitchens dismantled</li> <li>Number of replacement houses built by DPs on the same plot</li> <li>Number of replacement houses built by DPs on other plots they own</li> <li>Number of replacement houses built by DPs on allocated plots</li> <li>Number of replacement businesses constructed by DPs</li> <li>Number of owners requesting assistance for additional replacement land</li> <li>Number of replacement land purchases effected</li> <li>Number of land titles issued</li> <li>Number of vulnerable groups provided additional assistance</li> <li>Number of DPs who received support under livelihood restoration program</li> </ul>
	Reestablishment of Community Resources	<ul style="list-style-type: none"> <li>Number of community buildings repaired or replaced</li> <li>Number of seedlings supplied by type</li> </ul>

Appendix 1  
Subproject Social Safeguards Screening Form

<b>Province:</b>		<b>District(s):</b>	
<b>Subproject Title:</b>			
<b>Subproject components:</b>			
<b>Design stage:</b>			

A. Introduction

1. Subprojects are assigned an involuntary resettlement category depending on the *significance* of the probable involuntary resettlement impacts. Subprojects are categorized as A, B or C depending on the number of persons that will experience major impacts which is defined as (i) being physically displaced from housing, or (ii) losing 10% or more of productive assets or both. Subprojects where 200 or more persons will experience major impacts are categorized as 'A' for IR and are excluded from the project.

2. Subprojects are also categorized as A, B or C with regard to ethnic minorities (EM) depending on the significance of adverse impacts to EMs. Subprojects that will cause significant adverse impacts on customary rights to land/natural resources, socioeconomic status, cultural and communal integrity, health, education, livelihood and social security of EMs are categorized as 'A' for IP and are also excluded from the project.

2. Initial screening has been conducted for the 23 initial list of subproject during the preparation of the Subproject Identification Proposal. None of these subprojects were found to be category A for IR or IP. Follow-up screening is required to be done at the detailed design phase when the exact boundaries of the subproject and activities have been established. This follow-up screening should be attached as appendix to the due diligence report for each subproject.

B. Instructions

- (i) The checklist and categorization form is to be completed by the PPMU with the assistance of Resettlement Specialists and attached to the DDR to be prepared by the LIC for the CPMU.
- (ii) The social safeguard categorization of a subproject is a continuing process. If there is a change in a subproject that may result in category change, the CPMU/PPMU should resubmit a categorization form for endorsement by the Project Manager and approval by ADB Project Officer and Resettlement Specialist. The previous checklist should be attached to the revised checklist for reference.

C. Screening Questions for Resettlement Categorization

Screening Questions	Yes	No	Not Known	Remarks
<b>A. Involuntary Resettlement</b>				
1. Does the subproject include upgrading or rehabilitation of existing physical facilities?				

Screening Questions	Yes	No	Not Known	Remarks
2. Are there pending or unresolved land acquisition-related impacts related to the existing facility to be upgraded/expanded under the subproject?				
3. Are there resettlement/land acquisition actions conducted by the PPC or DPC in the subproject prior (within 3 years) to the approval of the supplemental loan?				
4. Are there any subproject effects likely to lead to loss of housing, other assets, resource use or incomes/livelihoods?				
5. Is land acquisition likely to be necessary?				
Is the site for land acquisition known?				
6. Is the ownership status and current usage of the land known?				
6. Are there non-titled people/households who put up/established improvements/crops/trees/structures at the subproject site or within the right of way?				
7. Are there any non-titled people who live or earn their livelihood at the site or within the Right of Way?				
8. Will there be loss of housing?				
9. Will there be loss of agricultural plots?				
10. Will there be losses of crops, trees, and fixed assets?				
11. Will there be loss of businesses or enterprises?				
12. Will there be loss of incomes and livelihoods?				
13. Will there be people who will experience major resettlement impacts. i.e. be physically displaced from housing or lose 10% or more of productive land? (If yes, indicate number of DPs in the remarks column)				
14. Are there displaced persons that can be considered as vulnerable as defined under the project? (If yes, indicate number of DPs in the remarks column)				
15. Will people lose access to facilities, services, or natural resources?				
<b>B. Ethnic Minorities</b>				
1. Are there communes within the subproject area that are inhabited by households considered as ethnic minorities in Vietnam?				

Screening Questions	Yes	No	Not Known	Remarks
2. Do the ethnic minority households in the subproject area possess the following characteristics: (i) identify themselves and by others as an ethnic minority group; (ii) attached collectively to a geographically distinct habitat or ancestral territory; (iii) have customary cultural, economic, social, or political institutions that are separate from the dominant Kinh/Viet society and culture; and (iv) have a distinct language, often different from the official language of the country or region?				
3. (If 'yes' in items 1 and 2) Will any of these EM households be adversely affected by the subproject?				
4. (If 'yes' in items 1 and 2) Will any of these EM households benefit from the proposed subproject?				

#### **D. Involuntary Resettlement/Ethnic Minority Category**

3. After reviewing the answers above, the CPMU Safeguards Officer and LIC Social Safeguard Specialist, agree on the following categorization and action for this subproject:

##### **3.1. Project Categorization and Social Safeguards Planning Requirements**

- ☐ Category A for IR and ethnic minorities, to be excluded from the project
- ☐ Category B for IR and ethnic minorities, an REMDP is required
- ☐ Category B for IR and Category C for IP, an RP is required
- ☐ Category C for IR and Category B for IP, specific action needed in subproject preparation to ensure participation, and maximum benefit for EMs

##### **3.2. Need for Income Restoration Program (for subprojects categorized as B for IR)**

- ☐ No AH can be considered severely affected or vulnerable, income restoration program not required.
- ☐ Some AHs can be considered either as severely affected or vulnerable, income restoration program is required

Prepared by: \_\_\_\_\_  
LIC Safeguard Specialist  
Date: \_\_\_\_\_

Endorsed by: \_\_\_\_\_  
CPMU Safeguard Specialist  
Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
CPMU Director

## Appendix 2

### Sample voluntary contribution consent form

(This form will be translated in Vietnamese Language for implementation purpose)

Government of Vietnam,  
Land Revenue Office,  
[INSERT NAME] District  
[INSERT NAME] Commune , Village

#### **CERTIFICATE OF LAND TRANSFER**

I, [INSERT NAME, AGE, OCCUPATION], with residence located in [INSERT NAME] village, Commune [INSERT NAME] district, province

Certify that I have been previously informed by local authority of my right to entitle compensation for any loss of property (house, land and trees) that might be caused by the construction of ([INSERT NAME]) financed under the productive rural infrastructure development project (PRIDP) in five central highland provinces (CHP) (hereafter called “the Project”) in [INSERT NAME] district. I confirm that I voluntarily donate the land of [INSERT AMOUNT LOSS] square meters located in [INSERT NAME] village ([INSERT NAME] district) to the Project construction. I also confirm that I do not request any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES] and would request the local authority to consider this as my contribution to the project.

Type of Loss	Area (sqm)	Number of Trees	Unit Rates	Total	Comment
Land					
Total					

Therefore, I prepare and sign this certificate for the proof of my decision. Further, I certify that I have given my consent without any force/coercion from anybody, including project authorities.

[INSERT NAME] district      [INSERT DATE]

The owner of the land      [INSERT NAME AND SIGN]

#### **Witnesses:**

1. [INSERT NAME] and sign
2. [INSERT NAME] and sign
3. [INSERT NAME] and sign

Certified by the [INSERT NAME OF INDEPENDENT THIRD PARTY], [NAME AND SIGN]

## **Outline of Resettlement Plan/Resettlement and Ethnic Minority Development Plan**

### **A. Executive Summary**

This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

### **B. Project Description**

This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

### **C. Scope of Land Acquisition and Resettlement**

This section:

- (i) Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities;
- (ii) Describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project;
- (iii) Summarises the key effects in terms of assets acquired and displaced persons; and
- (iv) Provides details of any common property resources that will be acquired.

### **D. Socioeconomic Information and Profile**

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

- (i) Define, identify, and enumerate the people and communities to be affected;
- (ii) Describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) Discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) Identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.
- (v) Provide information and profile of EM groups (for REMDP))

### **E. Potential positive and negative impacts on EMPs and mitigative measures and beneficial measures (for REMDP)**

If project causes impacts on EM groups, this section should be added in the REMDP to identify:

- (i) potential negative impacts on EMPs and measures to mitigate
- (ii) potential positive impacts on EMPs and measures to enhance benefits of the project for EMPs.

### **E. Information Disclosure, Consultation, and Participation**

This section:

- (i) Identifies project stakeholders, especially primary stakeholders;



- (ii) Describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) Describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) Summarises the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) Confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

## **F. Grievance Redress Mechanisms**

This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

## **G. Legal Framework**

This section:

- (i) Describes national and local laws and regulations on land acquisition and ethnic minority that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
- (ii) Describes the legal and policy commitments from the executing agency for all types of displaced persons (DPs);
- (iii) Outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.
- (iv) Describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

## **H. Entitlements, Assistance and Benefits**

This section:

- (i) Defines DPs' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) Specifies all assistance to vulnerable groups, including women, and other special groups; and.
- (iii) Outlines opportunities for affected persons to derive appropriate development benefits from the project.

## **I. Relocation of Housing and Settlements**

This section:

- (i) Describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- (ii) Describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) Provides timetables for site preparation and transfer;

- (iv) Describes the legal arrangements to regularise tenure and transfer titles to resettled persons;
- (v) Outlines measures to assist DPs with their transfer and establishment at new sites;
- (vi) Describes plans to provide civic infrastructure; and
- (vii) Explains how integration with host populations will be carried out.

## **J. Income Restoration and Rehabilitation**

This section:

- (i) Identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) Describes income restoration programmes, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) Outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) Describes special measures to support vulnerable groups;
- (v) Explains gender considerations; and
- (vi) Describes training programmes.

## **K. Resettlement Budget and Financing Plan**

This section:

- (i) Provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) Describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) Includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.
- (iv) Includes information about the source of funding for the resettlement plan budget.

## **L. Institutional Arrangements**

This section:

- (i) Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) Includes institutional capacity building programme, including technical assistance, if required;
- (iii) Describes role of NGOs, if involved, and organisations of affected persons in resettlement planning and management; and
- (iv) Describes how women's groups will be involved in resettlement planning and management.

## **M. Implementation Schedule**

This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

## **N. Monitoring and Reporting**

This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

## Appendix 4

### Project Information Booklet

Question 1: how will the rehabilitation of the infrastructures affect the local population?

**Answer:** The population in the sub-project areas will benefit variously from more extensive access to irrigation system and water supply, reduced risk of crop failure due to lack of water and more active irrigation. Also improved road access will reduce costs of rural production and marketing, as well as reducing food wastage. The implementation of the subprojects may however necessitate the acquisition of some land for the construction of new infrastructure or extension and / or constriction of additional components. Every attempt will be made during the design process to minimise the negative impacts of such acquisition on households and communities.

Where land acquisition is necessary, those affected by acquisition will be properly compensated for their affected land, houses, structures, crops and/or trees. Relocation and income restoration assistance will also be provided to Affected Persons (APs) who will be severely affected by the Project (unlikely there will be HH severely affected by the Project). Details are included in a Resettlement Plan that is available at your commune office.

Question 2: What is the main objective of resettlement plan?

**Answer:** The main objective of the Resettlement Plan is to ensure that all APs will be at least as well-off, if not better-off, than they would have been in the absence of the Project.

Question 3: What if my land is affected by the project?

**Answer:** You will be offered a choice of replacement land of equal area and productive capacity at a location acceptable to you OR cash compensation at replacement value at current market prices.

Question 4: Do we need to have a land title in order to be compensated?

**Answer:** No, lack of formal legal rights to land does not prevent any APs from receiving compensation for non-land assets, allowances and rehabilitation assistance. Those APs who possess a land use rights certificate (LURC) or any other form of written agreement to utilise the land are entitled to compensation for the lost land as well as assets on the land. Those APs who do not have legal/legalisable or temporary/lease rights for affected land will not be compensated but supported and still be compensated for the assets on the land, such as any structures, crops and trees at replacement cost.

Question 5: Is the compensation applied for affected houses and structures?

**Answer:** Yes. Compensation will be applied for all affected assets including houses, shops and other structures as well as other fixed assets at replacement value at current market prices (including material and labour) without any deductions for building depreciation or salvageable building materials. This will ensure that the APs are able to reconstruct houses and other structures of better or at least the same quality as before.

Question 6: What about affected crops and trees?

**Answer:** Affected crops, fruit and timber trees and tree fences will be compensated in cash at current market prices, regardless of land use status. Compensation for un-harvested crops will be based on the average production in the past 3 years multiplied by the market prices (based on a

recent survey data) at the time that acquisition takes place. Compensation for trees will be based on the type, age and productivity of trees.

Question 7: How are compensation rates decided?

**Answer:** Compensation rates will be set by the PPC based on the advice from the Land Administration Bureau and an independent assessment of current market prices. You will have the right to appeal if you are not satisfied with the proposed compensation rates (see question 12 below).

Question 8: Besides the compensation, how can the project help?

**Answer:** In addition to compensation for loss of land and other assets, the Project will provide rehabilitation assistance to eligible APs to ensure that their standard of living is maintained or improved after the Project. Eligible APs for rehabilitation assistance include:

- **Severely affected households:**

AHs directly cultivate on the affected land to be entitled:

(i) Losing from 10 to 30% and above of agricultural land holding: Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 3 months, if not relocating; for 6 months if relocating; and for 12 months if relocating in a harsh living condition area;

(ii) Losing more than 30% to 70% of total agriculture landholding. Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 6 months, if not relocating; for 12 months if relocating; and for 24 months if relocating in a harsh living condition area;

(iii) Losing more than 70% of total agriculture landholding. Cash assistance equal to 30 kg of rice (valued at market price at the time of compensation) per month per household member for 12 months, if not relocating; for 24 months if relocating; and for 36 months if relocating in a harsh living condition area; AND

(iv) In-kind assistance to be decided in consultation with eligible APs. Forms of assistance may include, but are not limited to, agricultural extension assistance, and training for non-agricultural occupations. And

(v) Participating in income restoration program (IRP).

Cash assistance equal to 1.5 to 5 times of compensation value for affected land area but not exceed 5 (five) times of land quota in locality.

If AP has demand for training, he/she will be entitled to a free training course

- **Households that relocate:** Households that must relocate to new residential land will receive a transition subsistence allowance equivalent to 30kg of rice per person per month for six months for during transition; a transportation allowance of not lower than VND 5,000,000 in cash per household; and, an incentive bonus of not lower than VND 5,000,000 if APs demolish their affected houses or structures in a timely manner.

- **Business owners that lose income while they relocate or rebuild their shops/businesses:** Households with small, unregistered businesses will receive cash compensation equal to the provincial minimum wage for six months. Owners of registered businesses will receive cash compensation equal to their monthly after-tax revenues for at least four months.

- **Employees and hired labourers who lose their jobs:** will receive cash compensation for lost salary/wages for each month they cannot work, if the loss is temporary; or, if the loss is permanent, cash compensation equivalent to the provincial minimum wage for six months or cash compensation for remaining contract period whichever is higher.

- **Poor households:** Households eligible under MOLISA definition will receive an allowance equivalent to 30kg of rice per person per month for at least thirty six months. Other vulnerable assistance of not lower than VND 2,000,000 per household.

Question 9: does that mean that anybody in our community can claim for compensation?

**Answer:** No. Entitled APs are those persons or households that will lose land or property based on the detailed measurement survey (DMS) that will be conducted following completion of the final designs for the subproject. Affected communes and local authorities will be informed of the cut-off date (the date of DMS) for the subproject. The DMS inventory the losses for compensation and rehabilitation of all APs who will be affected by the sub Project. The DMS will be conducted in the presence of APs, the design engineers, the Land Administration Department and officials from the District and Commune People's Committees.

Question 10: How will APs be consulted and informed?

**Answer:** A consultation and public information program will be organised in your commune to ensure that APs receive complete and timely information about the subproject. APs will be provided information on subproject components, impacts, their rights and entitlements, grievance mechanism, rights of participation and consultation, resettlement activities, responsibilities of institutions and implementation schedule. This program will enable the subproject to design the resettlement and rehabilitation program to meet the needs of APs, and help APs to make informed decisions about compensation and relocation. Consultations with APs and local authorities will reduce the potential for conflicts and minimise the risk of project delays, and maximise the economic and social benefits of the Project.

Question 11: If there are any disagreements or problems about land acquisition, compensation or other general disputes during project implementation, do APs have the right to voice their complaints?

**Answer:** Yes, APs can voice their complaints (in verbal or written form) to responsible local authorities and resettlement committees. Their complaints can be filed first at the ward or commune level, and can be elevated to the district and provincial level and taken to provincial court if the APs are not satisfied with the decision of lower levels. APs will be exempted from all taxes, administrative and legal fees. All complaints of APs on any aspect of land acquisition, compensation, resettlement and implementation will be addressed in a timely and satisfactory manner.

Question 12: as a resident in the project area, how can I help?

**Answer:** We would like you to participate in all consultation meetings and other subproject related activities in order to ensure that you are fully informed and consulted. Your active participation during the detailed measurement survey (DMS) and implementation will allow us to determine measures to mitigate impacts, to identify problems or potentials problems and to identify ways of responding immediately to solve these problems.

Question 13: How will you know if the objectives of this project are met?

**Answer:** The PPMU will ensure internal monitoring all subproject activities. In addition, PPMU will engage an independent monitoring agency to conduct external monitoring of resettlement activities during the subproject implementation. Every 3 months, PPMU will submit a internal report to CPMU and ADB on resettlement implementation progress. A post-resettlement impact evaluation will assess whether negative impacts have been mitigated adequately and pre-project standards of living of APs have been restored as a result of resettlement and the subproject.

FOR FURTHER INFORMATION AND SUGGESTIONS –

Please contact the PPC, PPMU, DRCs or CPCs where you live:

1. Provincial People's Committee of the province.....,  
Address:.....  
Person in charge:.....Tel.....
2. PPMU ; address:  
.....  
Person in charge:.....Tel.....
3. District Resettlement Committee of .....district;  
Address:.....  
Person in charge:.....Tel.....
4. Commune People's Committee;  
Address:.....  
Person in charge:.....Tel.....