

# Resettlement and Ethnic Minorities Planning Document

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Resettlement and Ethnic Minorities Planning Framework  
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## Viet Nam: Sustainable Rural Infrastructure Development Project in Northern Mountain Province

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The resettlement and ethnic minorities planning framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

## **CURRENCY EQUIVALENTS**

(Currency unit: Vietnam Dong (VND) and US dollar (\$)  
Exchange rate on 1<sup>th</sup> July 2014: \$1 = 21,030 VND

## **ABBREVIATIONS**

ADB	-	Asian Development Bank
AH	-	Affected households
AP	-	Affected persons
CARB	-	Compensation, Assistance and Resettlement Board
CPC	-	Commune Peoples, Committee
CPMU	-	Central Project Management Unit
DARD	-	Department of Agriculture and Rural Development
DCARB	-	District Compensation, Assistance, Resettlement Board
DMS	-	Detailed Measurement Survey
DONRE	-	Department of Natural Resources and Environment
DPC	-	District Peoples, Committee
EA	-	Executing Agency
EM	-	Ethnic Minority
EMP	-	Environmental Management Plan
FS	-	Feasibility Study
GOV	-	Government of Vietnam
IEE	-	Initial Environmental Examination
IMO	-	Independent Monitoring Organization
IOL	-	Inventory of Losses
LURC	-	Land-use Rights Certificate
MOF	-	Ministry of Finance
MOLISA	-	Ministry of Labor, Invalids and Social Assistance
MONRE	-	Ministry of Natural Resources and Environment

MARD	-	Ministry of Agriculture and Rural Development
NTP	-	Notice to Proceed
PCARB	-	Provincial Compensation, Assistance and Resettlement Board
PIB	-	Project Information Booklet
PPC	-	Provincial People Committee
PPMU	-	Provincial Project Management Unit
RCS	-	Replacement Cost Study
REMDP	-	Resettlement and Ethnic Minorities Development Plan
RF	-	Resettlement Framework
RP	-	Resettlement Plan
USD	-	US Dollars
VND	-	Vietnamese dong
VWU	-	Viet Nam Women's Union

## Glossary

Affected person (AP)	-	Means any person, household, firm or private institution who, on account of changes resulting from the Project, or any of its phases or subprojects, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, salt mining and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement. In the case of affected household, it 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.
Detailed Measurement Survey (DMS)	-	With the aid of the approved detailed engineering design, this activity involves the finalization and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of APs earlier done during RP preparation. The final cost of resettlement can be determined following completion of the DMS.
Compensation	-	Means payment in cash or in kind to replace losses of land, 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 land acquisition announcement informed by local authorities. The APs will be informed of the cut-off date for each subproject component, and any people or assets that settle in the subproject area after the cut-off date will not be entitled to compensation and assistance under the subproject.
Eligibility	-	Means any person that has settled in the subproject area before the cut-off date, that (i) loss of shelter, (ii) loss of assets or ability to access such assets, permanently or temporarily, or (iii) loss of income source or mean of livelihood, regardless of relocation, will be entitled to compensation and/or assistance.
Entitlement	-	Refers to a range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the APs, depending on the type and severity of their losses, to restore their economic and social base.
Ethnic minority	-	People with a group status having a social or cultural identity distinct from that of the dominant or mainstream society.
Host community	-	Means the community already in residence at a proposed resettlement or relocation site.
Income restoration	-	This is the re-establishment of sources of income and livelihood of the affected households.
Income restoration program	-	A program designed with various activities that aim to support affected persons to recover their income / livelihood to pre-project levels. The program is designed to address the specific needs of the affected persons based on the socioeconomic survey and

consultations

Inventory of Losses (IOL)	-	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 APs will be determined.
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 APs 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 an AP from her/his pre-project place of residence and/or business.
Replacement cost	-	The amount needed to replace an affected asset net of 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 AP 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.
Resettlement and Ethnic Minorities Development Plan (REMDP)	-	A plan for resettlement of an ethnic minority population, combining the resettlement plan with specific ethnic minority concerns and cultural sensitivity for the specific needs of the ethnic minority groups.
Severely affected households	-	This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets, and/or (ii) have to relocate; and/or (iii) lose 10% or more of their total income sources due to the subproject.
Stakeholders	-	Individuals, groups, or institutions that have an interest or stake in the outcome of a project. The term also applies to those potentially affected by a project. Stakeholders include land users, country, regional and local governments, implementing agencies, project executing agencies, groups contracted to conduct project activities at various stages of the project, and other groups in the civil society which may have an interest in the project.

## Vulnerable groups

- These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalized by the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) children and the elderly households who are landless and with no other means of support, (v) landless households, and (v) indigenous people or ethnic minorities.

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## **I. INTRODUCTION**

### **A. Background to the Project**

1. The Project will be implemented in the 15 Northern Mountain provinces of Bac Giang, Bac Kan, Cao Bang, Dien Bien, Ha Giang, Hoa Binh, Lai Chau, Lang Son, Lao Cai, Phu Tho, Son La, Thai Nguyen, Tuyen Quang, Vinh Phuc, Yen Bai with a combined population of about 12.2 million people of which 28.6% are considered poor. A total of 55 subprojects have been identified, screened and are in conformity with agreed selection criteria.

2. The three expected project outputs will be: (i) rehabilitated and upgraded rural infrastructure; (ii) improved institutional and local capacities to develop, manage and benefit from rural infrastructure; and (iii) efficient project implementation management.

3. Small and medium scale rural infrastructure subprojects such as roads, irrigation, water supply and sanitation, and markets will be improved by this Project. The EA for the Project is MARD, with responsibility delegated to a CPMU. The Implementing Agencies will be the PPMUs to be established in each of the 15 participating provinces within the respective DARD. The Project started in 2011 and will be completed by 2016.

### **B. Resettlement Impacts and Measures to Minimize the Resettlement Impacts**

4. The Project will rehabilitate and upgrade the existing small and medium rural infrastructure schemes, so the main impacts of the proposed Project will be the 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 plant and materials to and from sites. The impacts on business of households along the ROW and the subprojects during rehabilitation time are anticipated. Few households will be severely affected by land acquisition.

5. A pre-screening of candidate subprojects was carried out during the project preparation. Subprojects with potentially significant resettlement or other safeguard problems were deleted leaving subprojects that prima facie have relatively minor safeguard issues.

6. In some circumstances where the road basements are widened to meet the technical requirements, houses that are located in the high ground of the hills may not be safe, and either erosion protection measures must be carried-out or relocations for the households are required. In cases of relocation, people living and doing business in areas will require support for relocation, compensation for land and building structures, as well income restoration.

7. To avoid or minimize the potential resettlement impacts from the project activities, the PPMUs and relevant agencies are requested to do the following:

- Consider the design alternatives and select the design alternative which meets the technical and final requirements as well as other criteria and with less resettlement impacts.
- If resettlement impacts are unavoidable, resettlement shall be carried out following the resettlement policy and principles as well as other provisions set out in this updated Resettlement Policy Framework.
- Construction activities shall be closely monitored to ensure that the construction activities are implemented within the approved design.



- Erosion protection measures shall be carried out to ensure that the households that are located in high ground in the hills are not affected.

### C. Objectives and Scope of the Resettlement Policy Framework

8. A Resettlement Policy Framework (RF) was prepared as part of the PPTA documents that sets out the objectives, principles, eligibility criteria for affected persons (APs), entitlements, legal and institutional framework, entitlements and modes of compensation, participation and consultation procedures and grievance redress mechanisms that will be employed to compensate, resettle and rehabilitate living standards of APs. It also sets out the steps for preparation of RPs for any component or subproject that entails involuntary resettlement.

9. The RF was prepared to address some significant gaps between the Involuntary Resettlement Policy with the Government Policies on Compensation, Assurances and Resettlement. The RF identified the key issues to address in reconciling the requirements of ADB's Involuntary Resettlement Policy (The SPS 2009) with the national and provincial government policies relative to compensation for recovered assets and adversely affected incomes, including measures for ensuring that affected persons or households are able to restore their standards of living to at least their pre-project levels.

10. Midway in the Project implementation, a new Land Law (45/2013/QH13) took effect (1 July 2014) along with three related Decrees. In view of this latest national ruling, there is a need to update the Project Resettlement Policy Framework (RF) for application to the new Water Supply Subprojects that are in the Basic Engineering Design and Feasibility Study preparation phase; as well as the uncompleted resettlement work for 15 remaining core Rural Infrastructure subprojects.

11. For the not-yet been reconciled issues, the ADB's Safeguards Policy Statement (The SPS 2009) on Involuntary Resettlement shall prevail (Clause 2, Article 87 of the 2013 Land Law).

## II. LEGAL AND POLICY FRAMEWORK

12. The legal and policy framework for addressing the resettlement impacts of the Sustainable Rural Infrastructure Development Project in the North Mountain Provinces is provided by relevant policies and laws of Viet Nam and the ADB's Involuntary Resettlement Policy in The SPS 2009. The following section outlines the relevant policies and laws, and highlights where differences exist, and the policies and principles that applied under the Project.

### A. National Laws on Involuntary Resettlement, Ethnic Minorities and Gender

13. **Compensation, Assistance and Resettlement.** The Constitution of the Socialist Republic of Viet Nam (2013) 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, assurances and resettlement. The principal documents include:

- (i) The Land Law (2013) No. 45/2013/QH13, providing Viet Nam with a comprehensive land administration law. The 2013 Land Law superseded the earlier versions of 2003, 1993 and 1987.
- (ii) Decree 43/2014/ ND-CP, providing detailed regulations on the implementation of several Articles of the 2013 Land Law. This superseded Decree No. 181/2004/ND-CP (29 October

- 2004); Decree No. 17/2006/ND-CP (27 January 2006); Decree No. 84/2007/ND-CP (25 May 2007); Decree 69/2009/ND-CP (13 August 2009); Decree No. 88/2009/ND-CP (19 October 2009).
- (iii) Decree 44/2014/ND-CP, providing the land price evaluation methods, developing and adjusting land price frameworks and land price lists; determining specific land prices and consultancy activities in land price evaluation. This superseded Decree No. 188/2004/ND-CP and Decree No. 123/2007/ND-CP on the land price evaluation methods;
  - (iv) Decree 47/2014/ND-CP, providing regulations on compensation, rehabilitation and resettlement when the State recovers land. This superseded Decree No. 197/2004/ND-CP (3 December 2004) .
  - (v) Ordinance number 34/2007/PL-UBTVQH11 dated April 20th, 2007 by the Standing Committee of the National Assembly on promulgating the regulation on the exercise of democracy in communes, including requirements for consultation with and participation of people in communes.
  - (vi) Decree 38/2013/ND-CP, dated on 23 April 2013 on the management and use of Official Development Assistance (ODA). This superseded Decree No.131/2006/ND-CP.
  - (vii) Decree 11/2010/ND-CP, dated on 24 Feb 2010 on management and protection of road; and Decree 100/2013/ND-CP amending Decree 11/2010/ND-CP.
  - (viii) Decree 42/2012/ND-CP, dated on 11 May 2012, on management and use of paddy land.
  - (ix) Complaint Law No.02/2011/QH11
  - (x) Decree No.75/2012/ND-CP dated on 3 October 2012 guiding on implementation of Complaint law

14. The main principles of the Government policies on Land Acquisition, Compensation, Assistances and Resettlement are (i) to help restore the living standards of the affected people to at least their pre-Project levels or higher; and (ii) ensure the affected people get benefits from the compensation, assistances and resettlement policies equally.

15. Ethnic Minorities (EM). The definition of EM status in Vietnam is based on the following criteria:

- (i) A language different from the national language.
- (ii) Long traditional residence on, or relationship with land, and long traditional social institutional system;
- (iii) A self-provided production system; and
- (iv) A distinct cultural identify and self-identification as a distinct cultural group that is accepted by neighboring ethnic groups.

16. Article 5 of the Constitution of Viet Nam (2013) acknowledges equality and equal rights among ethnic groups, upon which also the Government policy and programs on EM development are based upon. Articles 58 and 61 of the Constitution appoint that EMs and people living in the mountainous regions are given priority in education and health care services.

17. The main vehicle for implementing government policies concerning EMs in the central level is through the Committee for EMs (CEMA), which is a cabinet-level committee established in 1993 (with the name Committee for EMs and Mountainous Areas or CEMMA and changed to the current name of Committee for Ethnic Minorities Affairs (CEMA) in 2003). The task of CEMA is to identify, coordinate, implement, and monitor projects targeted to EM development and has its own budget to be spent on the main programs and projects. At the provincial level, the Department of EMs is the implementing agency for developing policies concerning EMs, at district level this office has been established under

management of district PC to develop provincial policies concerning EMs and implement programs/projects for EMs.

18. The state-owned Social Policy Bank (SPB) is providing micro loans targeted for poverty and EM households and households in communities that are classified by the GOV as extremely difficult areas. To be qualified for a loan from SPB, the borrower has to be a member of one village-level micro-credit group. Mass organizations (Women's Union, Farmers Association, Fatherland Front, Youth Union) support these groups and further cooperate with SPB in disseminating information on loan availability, procedures and management. Mass organizations also give recommendations for priority listing of households for loan attainment. Added to facilitating the SPB loan procedures, provincial Women's Union also has a credit fund with funds from the national WU (i.e. government funding) to provide loans to poor WU members for income generation improvement.

19. **Gender.** Constitution of the Socialist Republic of Vietnam recognizes the equal rights of men and women. The Vietnam Women's Union was established in 1930. This is a political-society organization in the political system, which represents the legitimate rights and interest of the elite women of Vietnam, strives for the empowerment of women and gender equality. To date, members of this Women Association were present in almost all sectors and levels.

20. The Gender Equality Law was legalized on November 29, 2006 by the National Assembly of the Socialist Republic of Vietnam. This is an important legal legislation for the formulation of policies and practical actions on gender equality in Vietnam. Specifically, 5 years after the Law on Gender Equality was passed, National Programme on Gender Equality period 2011-2015 has been approved by the Prime Minister's Decision No. 1241/QĐ-TTg on 22<sup>nd</sup> July 2011 with implementation fund of VND 955 billion.

21. The above policies highly affirmed the role of women in the socioeconomic development of the country and the Government of Vietnam's determination to bring equality to the gender relationship.

## B. ADB Policies

22. **Involuntary Resettlement.** The main objectives of ADB Policy on Involuntary Resettlement is to avoid or minimize the impacts on people, households, businesses and others affected by the acquisition of land and other assets, including livelihood and income, in the implementation of development project, such as the Sustainable Rural Infrastructure Development Project in the Northern Mountain Provinces. Where resettlement is not avoidable, the involuntary resettlement must be minimized by exploring project and design alternatives, and enhance or at least restore the living standards of the affected people to at least their pre-Project levels. The SPS (2009) also stresses on a new objective of improving the standards of living of the displaced poor and other vulnerable groups. The policy applies to full or partial, permanent or temporary physical and economic displacement resulting from (i) involuntary acquisition of land, or (ii) involuntary restrictions on land-use or on access to legally designated parks and protected areas. Resettlement is considered involuntary when displaced individuals or communities do not have the right to refuse land acquisition that result in displacement.

23. **Indigenous Peoples<sup>1</sup> (IP)/ Ethnic Minorities (EM).** The main objectives of ADB's safeguards requirements on IP under the SPS 2009 are to: (i) avoid adverse impacts of projects on the environment and APs, where possible; (ii) minimize, mitigate, and/or compensate for adverse project impacts on the environment and APs when avoidance is not possible; and (iii) assist in strengthening country safeguard systems and develop the capacity to manage environmental and social risks. The policy is triggered if a subproject directly or indirectly affects the dignity, human rights, livelihood systems, or culture of EMs or affects the territories or natural or cultural resources that EMs own, use, occupy, or claim as their ancestral domain. Should ADB projects affect EMs, a set of general policy requirements are observed to maintain, sustain, and preserve their cultural identities, practices, and habitats (SR-3 of SPS 2009). A set

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<sup>1</sup> The term of Indigenous Peoples is equivalent "Ethnic Minorities Peoples" in Viet Nam.

of special requirements are in place should projects be (i) within ancestral domains and lands and related natural resources, (ii) commercial development of cultural resources and knowledge of EMs; (iii) physical displacement from traditional or customary lands; and (iv) commercial development of natural resources within customary lands under use that would impact on livelihoods or cultural, ceremonial, or spiritual uses that define the identity and community of EMs.

24. **Gender.** The ADB Policy on Gender and Development (1998) and the Gender Mainstreaming Criteria Guidelines (2010) adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring participation of women 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. The findings of a culturally gender sensitive analysis is to be included in the REMDP, and at all stages ensuring that gender concerns are incorporated, including gender-specific consultation and information disclosure.

25. Other policies of the ADB that have a bearing on resettlement planning and implementation are the (i) Public Communications Policy (March 2005) and the OM Section L3/BP (September 2005) and (ii) Accountability Mechanism (OM Section L1/BP), dated 29 October 2003. Following the policies, it is requested that CPMU and PPMUs to pro-actively share and disclose the project information with stakeholders and the public at large. Affected people should have easy access to the project information. The CPMU and PPMUs are also requested to provide access for people adversely affected by the project to voice and seek solutions to their problems during and after resettlement. The grievance redress mechanism, therefore, must be included in the resettlement plans and disclosed to the affected people.

### C. Reconciliation of Government and ADB Policies on Resettlement

26. With the promulgation of the 2013 Land Law, including Decrees No. 43/2013/QH13; Decree No 44/2014/ND-CP and Decree No. 47/2014/ND-CP; the policies and practices of the national Government have become more consistent with ADB's safeguards requirements on Involuntary Resettlement in the SPS (2009). However, there are still some gaps between the Government policies and the ADB's safeguards requirements on Involuntary Resettlement.

27. The following table provides a comparison of ADB's safeguards requirements (in SPS 2009) and those of the Government on key areas of involuntary resettlement and measures applied for the project.

Table 1. Comparison of 2013 Land Law and ADB SPS (2009)

Issue	ADB SPS 2009	Government of Viet Nam (Land Law 2013)	Project Policy
Criteria of severe AHs	Severely affected households are those losing 10% or more of their productive assets and source of livelihood	Severely affected households are those losing 30% or more of their productive land (Decree 47/2014/ND-CP, Article 19)	Severely affected households are those losing 10% or more of their productive assets and source of livelihood.
Compensation price for non-land assets on illegal land	All affected non-land assets established before the cut-off date, irrespective of land tenure status, need to be compensated at the full replacement cost.	<ul style="list-style-type: none"> <li>- Non-legitimate land-attached assets or assets established after the cut-off date are not compensated and assisted (Articles 88 and 92)</li> <li>- Certain structures are not compensated as per Article 92: <ul style="list-style-type: none"> <li>• land-attached assets which are illegally established</li> <li>• land-attached assets on land which is not used in</li> </ul> </li> </ul>	All affected non-land assets established before the cut-off date, irrespective of land tenure status, need to be compensated at the full replacement cost through cash or replacement assets.

Issue	ADB SPS 2009	Government of Viet Nam (Land Law 2013)	Project Policy
		<p>accordance with the allocated, leased land purpose</p> <ul style="list-style-type: none"> <li>land-attached assets on land which is not subject to be transferred, donated as stipulated by law but is transferred and donated; and</li> <li>land-attached assets on land which is not subject to be transferred the land use right as stipulated by the law is encroached, occupied due to the irresponsibility of the land users.</li> </ul>	
Compensation for non-land assets on legal land	All affected non-land assets established before the cut-off date, irrespective of land tenure status, need to be compensated at the full replacement cost.	<ul style="list-style-type: none"> <li>- Certain structures are not compensated as per Article 92: <ul style="list-style-type: none"> <li>Land owner die without any heir</li> <li>Land is allocated or leased by the State for definite periods and such periods expired without extension allowed</li> <li>Land-attached assets which are no longer in use</li> </ul> </li> <li>- Certain structures which are wholly or partially dismantled upon land recovery by the State while the remaining part does not meet technical standards as prescribed by law are compensated based on the value of a new structure (Article 89)</li> </ul>	All affected non-land assets established before the cut-off date, irrespective of land tenure status, need to be compensated at the full replacement cost.
Monitoring	<p>Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved. Disclose monitoring reports.</p> <p>For projects with significant impacts (category A), there is requirement for engaging an external expert to monitor.</p>	<ul style="list-style-type: none"> <li>- For specific projects, there is no specific requirement to monitor and evaluate the resettlement outcomes and their impacts on the standards of living of displaced persons.</li> <li>- For projects with significant impacts, there is also no requirement for engaging an external expert to monitor.</li> </ul>	Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved. Disclose monitoring reports.
Third-party validation of consultation related	The borrower is required to engage an independent third-party to document the	<ul style="list-style-type: none"> <li>- There is no requirement for third party validation of consultation related to land</li> </ul>	In case of land donations involving marginal portions of land, A third-party will be engaged to verify and

Issue	ADB SPS 2009	Government of Viet Nam (Land Law 2013)	Project Policy
to land donations	negotiation and settlement processes to openly address the risks of asymmetry of information and bargaining power of the parties involved in such transactions.	donation	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.

### III. PROJET RESETTLEMENT POLICY

28. This section lays out the resettlement principles, eligibilities and entitlements to be applied in the planning, updating and implementation of the RPs for the subprojects under the Sustainable Rural Infrastructure Development Project in the Northern Mountain Provinces.

#### A. Project Resettlement Principles

29. The following principles are adopted under the Sustainable Rural Infrastructure Development Project in the Northern Mountain Provinces:

- (i) Involuntary resettlement should be avoided where feasible.
- (ii) Where population displacement is unavoidable, it should be minimized by exploring all viable project options.
- (iii) People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable as it would have been in the absence of the project.
- (iv) Compensation for lands and assets upon lands shall be based on the principle of replacement cost.
- (v) People affected should be informed fully and consulted on resettlement and compensation options. There shall be effective mechanisms for hearing and resolving grievances during the planning, updating and implementation of the RP.
- (vi) Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest possible, and resettlers should be integrated economically and socially into host communities.
- (vii) The absence of formal legal title to land by some affected groups should not be a bar to compensation; particular attention should be paid to households headed by women and other vulnerable groups, such as ethnic minorities, and appropriate assistance provided to help them improve their status.
- (viii) As far as possible, involuntary resettlement should be conceived and executed as a part of the project.
- (ix) The full cost of resettlement and compensation should be included in the presentation of project costs and benefits.
- (x) Adequate resources will be identified and committed during the preparation of the RP. This includes adequate budgetary support fully committed and made available to cover the costs of land acquisition, compensation, resettlement and rehabilitation within the agreed implementation period for the Project; and adequate human resources for supervision, liaison and monitoring of land acquisition, resettlement and rehabilitation activities;

- (xi) Appropriate reporting, monitoring and evaluation mechanisms will be identified and set in place as part of the resettlement management system. Monitoring and evaluation of the land acquisition, resettlement and rehabilitation processes and the final outcomes will be conducted by an independent monitoring agency.
  - (xii) Civil works contractors will not be issued a notice to proceed (NTP) for any subproject or subproject component that entails involuntary resettlement in accordance with the approved RP for that subproject or subproject component until (i) compensation payment and relocation to new sites have been satisfactorily completed for that area; (ii) agreed rehabilitation program is in place; and (iii) the area is free from all encumbrances.
  - (xiii) Cash compensation or replacement land for affected households losing entire residential land will be made available well ahead of civil works to allow the affected households sufficient lead time to reconstruct their houses.
30. Further in pursuit of the above resettlement objectives, the following additional specific principles are adopted:
- (i) Poor and vulnerable non-titled users will be provided appropriate assistance to help them improve their socio-economic status. The type of assistance will be identified during RP/REMDP preparation as per consultation with APs.
  - (ii) Temporary affected land and commercial infrastructure will be restored to pre-Project conditions before returning to the affected owners.
  - (iii) During finalization of RP/REMDPs, an experienced appraiser will conduct a RCS to identify the market rates and replacement costs for the affected lands and assets upon lands.
  - (iv) All AHs will be compensated for income loss as a result of disruption or cessation of business due to the subproject, in addition to other forms of assistance, as needed and in a manner consistent with their requirements, to help restore living standards to pre-Project levels.
  - (v) Assistance in life and production stabilization will be provided to those who lose 10% or more of their productive income generating assets and/or being physically displaced. The project will focus on strategies to avoid further impoverishment and create new opportunities to improve status of the poor and vulnerable people and will be entitled to participate in an income restoration program, which will be mainstreamed in the District Extension Program.
  - (vi) Assistance shall be provided in accordance with the current Provincial regulations for those below the official poverty line, and for vulnerable groups (e.g. EMs or female-headed households, etc. as per consultation results).
  - (vii) Social impact assessment will be conducted and updated to use similar methods to assess potential subproject impacts, both positive and adverse, on EMs.
  - (viii) Capacity-building programs for EMs in the subproject area will be provided. Meaningful consultations with local EMs will be carried in all stages of the Subproject. The grievance redress mechanism has been developed and will be discussed and disclosed publicly in the communities.
  - (ix) The Subproject will ensure the rights of local EMs to benefit from the use of their cultural resource and knowledge.
  - (x) The issues of access restriction and physical displacement from protected areas and natural resources will be avoided as much as possible.
  - (xi) The RP/REMDP shall be prepared and consultants will be recruited to assist the RP/REMDP preparation, implementation and monitoring.
  - (xii) Key information in the RP/REMDP, including measurement of losses data, detailed asset valuation, compensation and resettlement options, detailed entitlements and special provisions, grievance procedures, timing of payments and displacement schedule will be

disclosed to the APs in an understandable format and in the local language, such as the posting of the full RP/REMDP in commune offices and the distribution of project information booklets (PIBs) to the APs.

- (xiii) Meaningful consultation with local EMs will be made to define areas with customary rights and to reflect the issues in a REMDP with particular actions to protect or compensate the areas.
- (xiv) Internal monitors of RP/REMDP implementation will be carried out. Consultants shall be recruited for independent monitoring of RP/REMDP implementation.
- (xv) Cash compensation or replacement land for AHs losing entire residential land will be made available at least 01 months ahead of civil works to allow the AHs sufficient lead time to reconstruct their houses.

## **B. Project Eligibilities**

31. Legal rights to the land concerned determine eligibility for compensation with regard to land. There are three types of APs: i) persons with Land use Rights Certificates (LURCs) to land lost in entirety or partially; ii) persons who lose land they occupy who do not possess a LURC but have a claim that is recognizable under national laws, or iii) persons who lose land they occupy in its entirety or partially who do not have any recognizable claim to that land. APs 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.

32. All APs who satisfy the cut-off date for eligibility are entitled to compensation for their affected assets (land, structures, trees and crops), and rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income-earning capacity and production levels.

33. Non-eligible APs include those making claims based on subsequent occupation after the cut-off date. The cut-off-date for eligibility will coincide with the day of land acquisition announcement of local authorities.

## **C. Project Entitlements**

34. Consistent with the Project Principles, APs are entitled to compensation and assistance, depending on the type and severity of their losses, including their socioeconomic situation. These entitlements are summarized in the matrix below (Table 2). The entitlements shall be applied to affected lands and assets upon lands by all subprojects under the Sustainable Rural Infrastructure Development Project in the Northern Mountain Provinces.



Table 2. Entitlement Matrix

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
<b>I. LANDS</b>					
1.	Residential land	Partially permanent (losing a part of the total residential land of the HH and the remaining portion is viable for continued use).	a. All AHs with LURC, or legalizable according to the IOL.	<ul style="list-style-type: none"> <li>• Cash compensation for acquired land at replacement cost.</li> <li>• Compensation for non-land affected assets at replacement cost if they have been created before the cut-off date. See item II and III below.</li> </ul>	<ul style="list-style-type: none"> <li>• AHs will fully receive the compensation at replacement cost and allowances before site clearance. They will keep using the remaining part for their residential purposes.</li> <li>• Determination of whether remaining land is sufficient to rebuild a house will be according to provincial regulations on minimum land for building residential structures.</li> </ul>
			b. Non-titled user not eligible to become legalized.	<ul style="list-style-type: none"> <li>• No compensation for land</li> <li>• They are entitled to compensation for non-land assets (crops, trees, structures) if they have been created before the cut-off date. See item II below.</li> </ul>	
		Residential land with structures where remaining land is insufficient to rebuild a house (severe loss)	a. All AHs with LURC, or legalizable according to the IOL.	<ul style="list-style-type: none"> <li>• (i)The provision of replacement residential land of equivalent size at a Resettlement Site with full infrastructure or; (ii) cash compensation for acquired land at replacement cost.</li> <li>• For allowances due to relocation of house, see item 8 below.</li> <li>• Assistance for Income restoration program.</li> <li>• Compensation for house/structures on the affected land at replacement costs</li> </ul>	<ul style="list-style-type: none"> <li>• Determination of whether remaining land is sufficient to rebuild a house will be according to provincial regulations on minimum land for building residential structures. If all residential land is required but the remaining land is agricultural land, AH will be allowed to convert the agricultural land to residential land with an area equal to the quota of residential land in the locality.</li> <li>• For households, individuals that have no residences when their residential land is recovered, resettlement residential land or house will be assigned.</li> <li>• If value of supports or compensation is smaller than minimum value of a resettlement house or land plot, the difference will be supported for households, individuals who wish to receive resettlement residential house or land;</li> <li>• In cases that households, individuals don't</li> </ul>

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
					wish to live in resettlement area, amount of money equivalent to land at replacement cost will be paid. • The DPC will determine availability of replacement land.
			b. Non-titled user not eligible to become legalized.	<ul style="list-style-type: none"> <li>No compensation for land</li> <li>For non-land affected assets see items II below.</li> <li>For allowances due to relocation of house, see item 8 below</li> <li>Assistance for Income restoration programs</li> </ul>	If relocated household has not any residential land/house within the project commune, the local authorities will allocate residential land/house for the HH to construct their house
		Residential land with no assets	All AHs with LURC, or legalizable according to the IOL.	Cash compensation for the portion to be acquired permanently at replacement cost.	
2.	Productive Land (Agricultural, Aquaculture, Forest, Garden)	Partial loss (loss less than 10% of the total productive land of the HH and the remaining unaffected portion is viable for continued use)	a. All AHs with LURC or legalizable according to the IOL.	<ul style="list-style-type: none"> <li>Cash compensation for acquired land at replacement cost.</li> <li>Compensation for non-land assets at replacement cost. See Item II and III below.</li> <li>Cash assistance per m<sup>2</sup> as set out in provincial policies.</li> <li>If owners of agriculture land hand over the site as per the regulated schedule of the District-level CARB, they shall be awarded a bonus as per provincial regulations.</li> </ul>	AHs will fully receive the compensation at replacement cost before site clearing at least 01 (one) month. They will keep using the remaining part for their production purposes.
			b. Non-titled user not eligible to become legalized	<ul style="list-style-type: none"> <li>No compensation for land</li> <li>They are entitled to compensation for non-land assets (crops, trees, structures) if they have been created before the cut-off date. See item II below.</li> </ul>	Compensation for non-land assets, and assistances shall be provided for poor and vulnerable non-title users.
		Entire land affected or the remaining unaffected portion is no longer viable for continued use.	a. All AHs with LURC or legalizable according to the IOL.	<ul style="list-style-type: none"> <li>As priority, compensation "land for land" with equivalent productive capacity at a location acceptable to the APs, or if no replacement land is available, cash compensation for</li> </ul>	<ul style="list-style-type: none"> <li>Priority will be given to land-for-land compensation equal in area and value to the affected land up to the maximum of land quota in the province. To the extent feasible, land will be allocated within the</li> </ul>

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				the lost land at full replacement cost. <ul style="list-style-type: none"><li>• For non-land affected assets, see item II below.</li><li>• For allowances due to severe loss, see item 7 and 9 below.</li><li>• If loss is equivalent to 10% or more of total agricultural land; assistance for Income restoration programs.</li><li>• If owners of agricultural land hand over the site as per the regulated schedule of the DCARB, they shall be awarded a bonus as per provincial regulations.</li></ul>	same or neighboring commune. <ul style="list-style-type: none"><li>• If the household head is married, title will be issued in the names of both the husband and the wife.</li><li>• The DPC will determine availability of replacement land.</li><li>• If the viability of the remaining land is less than the minimum viable unit size as per provincial norms, then the entire piece of land would be acquired.</li><li>• Income restoration assistance will be applied in case the “land for land” option is not feasible.</li><li>• The type of training assistance will depend upon the need and priority of the APs and will be designed in consultation with the APs.</li></ul>
3.	Public land	Loss of public land	All users of public land	<ul style="list-style-type: none"><li>• Cash assistance for affected person and/or communities for the portion to be acquired permanently, equal to compensation amount.</li><li>• Compensation for APs for non-land affected assets, see items II and III below.</li></ul>	The affected land will not be compensated.
4.	For portion of land to be used temporarily on agriculture land: Cash compensation on average productivity of three years multiplied with duration of use. The land must be restored at pre-project conditions before returning the affected owners. For portion of land to be used temporarily on residential land with no house thereon: cash compensation for land lease at the market cost. The land must be restored at pre-project conditions before returning the affected owners.				
II. STRUCTURES, CROPS AND TREES					
5.	House and other Structures	Houses and other structures are partially affected and the remaining part is viable for use	Owner of structures regardless of tenure status	<ul style="list-style-type: none"><li>• Cash compensation at replacement cost (i.e. no depreciation and no deduction for salvage materials) for the affected portion.</li><li>• Repair compensation equivalent to the actual cost of repair.</li><li>• If affected persons hand over the site as per the regulated schedule of the DCARB, they shall be awarded a bonus as per provincial regulations.</li></ul>	APs will receive cash compensation at replacement cost before site clearance at least 01 (one) month.

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
		Houses and other structures are totally affected (severe loss) or partially affected but the remaining part is unviable for use	Owner of structures regardless of tenure status	<ul style="list-style-type: none"> <li>• Cash compensation at replacement cost (i.e. no depreciation and no deduction for salvage materials)</li> <li>• For allowances, see item 8 below.</li> <li>• For vulnerable households, additional assistance in cash or in kind (construction materials) to improve new house to meet the minimum standard house in the area.</li> <li>• If affected persons hand over the site as per the regulated schedule of the DCARB, they shall be awarded a bonus as per provincial regulations.</li> </ul>	APs will receive cash compensation at replacement cost before site clearance.
	Public structure	Loss of or damage to structures	Power lines, Telecom, CPC, etc.	Cash compensation at replacement cost.	
6.	Crops and Trees, aquaculture products	Loss of or damage to assets created before the cut-off date	Owners regardless of tenure status	For the annual crops, aquaculture products, trees: cash compensation at the market cost at the time of land acquisition.	<ul style="list-style-type: none"> <li>• APs have the right to use salvageable trees.</li> <li>• APs will be informed 90 days before land recovered so that they could harvest their crops on time or stop cultivation on the affected land.</li> <li>• APs will receive cash compensation at current market cost for any unharvested crops</li> </ul>
III. TRANSITION ASSISTANCE					
7.	Loss of Income/ Livelihood due to loss of productive land.	Entire land affected or the remaining unaffected portion is no longer viable for continued use	All AHs, regardless of tenure status	<p><b>a. AHs that lose 10% or more agriculture land</b>, will be entitled to participate in an income restoration package:</p> <p><b>b. 10-less than 30% of agriculture land lost:</b></p> <ul style="list-style-type: none"> <li>• Life stabilization assistance of 30 kg of rice per person for 3 months if no relocation; and 6 months in the case of relocation;</li> <li>• Job retraining: All affected households are entitled to</li> </ul>	<ul style="list-style-type: none"> <li>• Income Restoration Programs will be designed during project implementation with the assistance of an agency specialized in livelihoods or vocational assistance and put in place at time of compensation payment.</li> <li>• The programs will target the needs of both men and women.</li> </ul>

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				<p>monetary support for job retraining not exceed to 5 times the value of recovered agriculture land.</p> <ul style="list-style-type: none"> <li>• One member of the family of labor age will be entitled to a vocational training card.</li> <li>• Agriculture Extension: Affected persons losing agriculture land to continue to farm will receive free extension training in intensified rice cultivation techniques by the District Agriculture Extension Center or equivalent agency in order to better use their remaining.</li> </ul> <p><b>c. 30-70% of agriculture land lost:</b></p> <ul style="list-style-type: none"> <li>• Life stabilization assistance of 30 kg of rice per person per month for 6 months at the time of compensation if no relocation; and 12 months in the case of relocation. The assistance will be paid in 24 months in the case people relocate to areas with difficult socioeconomic conditions.</li> <li>• Job retraining: All affected households are entitled to support for job retraining not exceed to 5 times the value of agriculture land</li> <li>• One member of the family of labor age will be entitled to a vocational training card.</li> <li>• Affected persons losing agriculture land but having sufficient land to continue to farm will receive free extension training in intensified rice</li> </ul>	

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				<p>cultivation or other techniques by the District Agriculture Extension Center or equivalent agency in order to better use their remaining land.</p> <p><b>d. More than 70%</b></p> <ul style="list-style-type: none"> <li>Life stabilization support of 30 kg of rice per person per month for 12 months at the time of compensation if no relocation; and 24 months assistance in the case of relocation. The assistance will be paid in 36 months in the case people relocate to areas with difficult socioeconomic conditions.</li> <li>Job retraining: All AHs are entitled to support for job retraining not exceed to 5 times the value of agriculture land.</li> <li>All labor age members of the family will be entitled to a vocational training card.</li> <li>Agriculture Extension: Affected persons losing agriculture land but having sufficient land to continue to farm will receive free extension training in intensified rice cultivation or other techniques by the District Agriculture Extension Center or equivalent agency in order to better use their remaining land.</li> </ul>	
8.	Impacts on Houses and will Require Relocation	Severe Impacts on house	Relocating households regardless of tenure status	<ul style="list-style-type: none"> <li>Affected persons that must relocate will be entitled to participate in an income restoration package.</li> <li>Assistance for moving: Owners who have a house on land that is recovered and have to be</li> </ul>	<ul style="list-style-type: none"> <li>Income Restoration Programs will be designed during project implementation with the assistance of an agency specialized in livelihood or vocational assistance and put in place at time of compensation payment.</li> <li>These programs will target the needs of</li> </ul>

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				<p>resettled, will receive compensation based on actual expenses in moving.</p> <ul style="list-style-type: none"> <li>Assistance for life stabilization: Residential land owners who have land recovered that requires their house to be dismantled will receive life stabilization support. Assistance level per household member per month shall be equivalent to 30kg of rice at average price at compensation time notified by Financial Department.</li> </ul> <p><b>Assistance period is as follows;</b></p> <ul style="list-style-type: none"> <li>Assistance for a period of 6 months shall be made for land, house owners who have their dwelling house entirely dismantled.</li> <li>Assistance for a period of 3 months shall be made for land, house owners who have their dwelling house partially dismantled.</li> <li>Temporary Relocation Assistance for renting temporary resettlement house. The period of assistance and administration of this provision will be as per the Provincial People's Committee regulations but enough for rent.</li> </ul>	both men and women.
9	Loss of Income. Livelihood due to relocation of business	Severe impact on shops	Affected persons losing business income	<ul style="list-style-type: none"> <li>Compensation for moving/relocation: Shop owners will receive compensation for moving expenses.</li> <li>Life stabilization - Business disruption allowance: For registered businesses, business disruption allowances will be cash</li> </ul>	

No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				<p>assistance of 30% of 1 year after tax income, calculated according to the average level of the last three years which is certified by the tax office.</p> <ul style="list-style-type: none"> <li>• Non-registered business will receive cash assistance that is the equivalent of the minimum wage of one laborer for a period of 3 months.</li> <li>• Job retraining: Households operating a registered or non-registered business from their house that will no longer be viable following relocation are entitled to a vocational training card for labor age members of the family.</li> <li>• Households operating a registered or non-registered business from their house that will no longer be viable following relocation, are entitled to participate in the income restoration program.</li> </ul>	
			Employees losing their job in affected business	<ul style="list-style-type: none"> <li>• Life stabilization – job stoppage allowance: The employees working on site at the business shall receive allowance for job stoppage. Allowance for job stoppage shall be calculated by the basic salary rate multiplied by the rank of work of comparative career position in accordance with prevailing regulations of the State. This allowance will be provided until the business resumes or for 6 months in the case where the business cannot resume following relocation.</li> <li>• Assistance for job retraining: Employees permanently losing their job due to relocation of a</li> </ul>	These programs will target the needs of both men and women.



No.	Type of Loss/ Impact	Level of Impact	Eligible Persons	Entitlements	Implementation Arrangements
				business are entitled to a vocational training and to participate in the income restoration program.	
10	Higher risk of impoverishment/ hardship due to loss of resource base	Loss of land and non-land assets	Affected vulnerable groups regardless of severity of impacts	<ul style="list-style-type: none"> <li>• Vulnerable households, if they have to relocate, they will receive life stabilization support of 30 kg of rice/ person/month for 24 months at a time of compensation.</li> <li>• Vulnerable households, if they do not have to relocate, and if they have lands and/or assets affected by the subproject, disregarding the legal status or the scale of impacts, the households will be given 6 months of 30 kg of rice/person/month.</li> </ul>	<ul style="list-style-type: none"> <li>•Using the information from the resettlement surveys, the DCARB will prepare the list of vulnerable persons.</li> <li>•Income Restoration Programs will be designed during project implementation with the assistance of an agency specialized in livelihoods or vocational assistance.</li> <li>•These programs will target the needs of both men and women from vulnerable groups.</li> </ul>

## **IV. PREPARATION AND IMPLEMENTATION OF THE RESETTLEMENT PLANS**

### **A. Screening**

35. The safeguard consultants, based on the preliminary design of the subproject, shall carry out a social impact survey to identify the involuntary resettlement impacts and risks. If there are resettlement impacts, the RP/REMDP for the subproject shall be prepared and submitted to PPC and ADB for review and approval. The level of detail and comprehensiveness will be commensurate with the significance of the impacts. The RP/REMDP will be updated following the DMS, and submitted to ADB for review and approval. For resettlement planning, significant impacts are those with 200 persons or more physically displaced, and/or 10% or more of productive assets are lost. The significant impact is categorized as Involuntary Resettlement Category A. Resettlement impact having less than the above is categorized as category B.

36. If there is no resettlement impact identified, a confirmation of the PPMU should be submitted to the CPMU, confirming that there is no expected resettlement impact by the subproject. The Loan Implementation Consultant (LIC) shall certify the scope of resettlement planning. No RP/REMDP is required to be prepared for no resettlement impact subproject. A due diligence report may be required for the no resettlement subprojects.

### **B. Resettlement Plan Preparation**

37. If resettlement impacts are unavoidable and preparation of a RP/REMDP is therefore required, it will be prepared using the following procedures:

- (i) Undertake a census of all APs.
- (ii) Undertake the Inventory of Losses (IOL) or detailed measurement survey (DMS) of all losses of all APs. At the same time, inform potential APs (without discrimination) of the subproject, its likely impacts, and principles and entitlements as per this updated Resettlement Policy Framework.
- (iii) Undertake a socioeconomic survey (SES) of at least 20% of all affected households, 30% of severely affected households.
- (iv) Undertake a replacement cost survey (RCS) for various types of affected assets as basis for determining compensation rates at replacement cost. Determine the losses in accordance with the entitlement matrix.
- (v) Provide project and resettlement information to all persons affected in a form and language that are understandable to them, and closely consult them on compensation and resettlement options, including relocation sites and economic rehabilitation.
- (vi) Prepare the draft RP/REMDP – each report will include, among others: description of the subproject; census and baseline socio-economic characteristics of the APs; details of impacts on assets, livelihood and incomes; eligibility; valuation and compensation for losses; suggest mitigation measures; site selection, site preparation and relocation, where necessary; income rehabilitation measures; Grievance Redress mechanism; implementation schedule; and estimated resettlement cost. An outline of a Resettlement Plan is provided in Annex 1, that is based on Annex to Appendix 2 in the SPS, June 2009 (page from 51 to 54). The RP/REMDP shall be prepared by the safeguard consultants who will be recruited by CPMU.
- (vii) Finalize the subproject RP/REMDP and translate in local language.
- (viii) Disclose the draft and final RP/REMDP in accordance with ADB's policy on public communications to the affected communities and on ADB's website. The draft RP/REMDP, endorsed by the PPC, will be disclosed to the affected households prior to submission to ADB for approval.

## **C. Resettlement Plan Implementation**

### **1. Compensation**

38. In the updated RP/REMDP following the DMS, the DMS result and the Compensation Plan are included and disclosed to the APs. After the updated RP/REMDP is approved by the PPC and ADB, compensation is paid to affected persons.

39. One-time compensation and assistances shall be made for the affected persons in the village house or the preferred places of affected persons.

40. If land for land compensation is offered, displaced persons are provided with land for which a combination of productive potential location advantages, and other factors is at least equivalent to the advantages of the land taken.

41. For productive land replacement, the land shall be the same area and productive capacity to the land taken.

#### **a. Census of APs and Inventory of Affected Assets**

42. A census of APs and their households and the inventory of assets to be acquired serve two vital functions. The primary function is to identify APs eligible for resettlement entitlements, which is especially important if disclosure of project plans is likely to encourage land invasion and fraudulent claims for compensation. The census and inventory also supply an important part of the resettlement database to be used for project monitoring and supervision. The census and the inventory of assets can be done separately. As each requires visits to all affected households, however, doing them together is generally more efficient. Where establishing ownership or length of residency is difficult, the census should be conducted as soon as possible, to determine a cut-off date for eligibility for entitlements. In such situations an immediate partial inventory, sufficient to establish the number and general size of structures and other assets to be taken, may be advisable to supplement the census. The precise attributes of structures and an inventory of remaining fixed assets (such as borehole wells) acquired or affected can be determined later. The census needs to be undertaken as soon as possible to ensure accurate determination of eligibility for entitlement. The formats for the census and the assets inventory must be adapted to the specific context and informational requirements of the subproject. In any case, the format needs to be field-tested, to ensure that the questions and the phrasing of them elicit the required information. The usual practice is for enumerators to code information while the teams are in the field. This way, incomplete or obviously incorrect information can be corrected on repeat visits. The information is then sent to the project office for data entry and filing.

43. Once the final technical design of the subproject is available, the : Detailed Measurement Survey (DMS) needs to be carried-out, and the DMS results are used for the RP/REMDP updating.

#### **b. Socioeconomic Survey (SES)**

44. The census and inventory are supplemented with data from socioeconomic surveys. The SES data and information are used to establish baseline information on household income, livelihood patterns, standards of living, and productive capacity. This baseline information constitutes a reference point against which income restoration and the results of other rehabilitation efforts can be measured and lists other areas of socioeconomic analysis: land tenure and transfer systems; the patterns of social interaction in the affected communities; public infrastructure and social services that will be affected; and social and cultural characteristics of displaced communities. Interviews are conducted with systematic sample and using uniform questionnaires. For some subproject under the Sustainable Rural Infrastructure Development Project in the Northern Mountain Provinces that affect a limited number of people, everyone affected may be interviewed. For the significant involuntary resettlement impacted subprojects, AP

population can be sampled for the socioeconomic surveys. The sample should provide a sufficient number of cases for statistical analysis.

### **c. Replacement Costs Survey (RCS)**

45. Compensation is based on the principle of replacement cost. Replacement cost is the amount calculated before displacement which is needed to replace an affected asset without deduction for taxes and/or cost of transaction as follows:

- Productive Land (agriculture, aquaculture, garden and forest) based on market prices that reflect recent land sales, and in the absence of such recent sales, based on productive value;
- Residential land based on market prices that reflect land sales, and in the absence of such recent land sales, based on similar location attributes;
- Houses and other related structures based on current market prices of materials and labor without depreciation nor deductions for salvaged building materials;
- Annual crops equivalent to current market value of crops at the time of compensation;
- For perennial crops and trees, cash compensation at replacement cost is equivalent to current market value given the type, age, and productive value (future production) at the time of compensation. Timber trees based on diameter at breast height at current market value.

46. The evaluation of replacement cost will be carried out based on information collected from both research and field work including surveys and data collection from people in the affected and adjacent areas, both those affected and those not affected.

47. Desk research will focus on relevant publications, decisions of Government authorities at national, provincial, city and district levels. However, these materials will play the supporting role only. As the work is aimed at obtaining reasonable replacement costs for different types of affected assets, market evidences are the factors which most strongly base the formulation of these costs. Surveys with people in the affected area, both those, whose assets are affected by the project, and those whose assets are not, will produce reliable data for evaluation.

48. For land, the objective of evaluation is to determine the price or rates that will enable APs to purchase the same type and quantity of land. The evaluation of compensation for the loss of land is based on its market value. Direct interviews with land-owners in the subproject area, including those whose land is affected and those whose land is not; and consultation with the land and real-estate agency service staff, the District Site Clearance and Resettlement Committee Officer, etc. are required. The information to collect include the recent land use rights transfers (buying/selling transactions) in the area; the price, at which owners are willing to sell their land; or/and price of the recent transaction; type of land (Non-Agriculture land, Agriculture land with different categories); and the government established rates for land.

49. For annual crops, the survey team needs to calculate the value of crops that are lost, the market price of the crops during the last 3 years. For the data and information, focus group discussions with farmers to discuss the investment cost, production, yield and benefit for each crop type, interviews with people (affected and not affected) who owned the same crops in the locality, and interviews with agricultural experts, etc. are advisable.

50. For perennial trees, the information about production and benefit of their fruit tree during the last 3 years and the market price of the trees are needed.

51. For structures, the survey is to determine whether the government regulated prices enable APs to newly rebuild their affected structures. The evaluation of compensation for affected structures is based on the principle of replacement cost. The information to base the evaluation will mainly be collected from direct interviews with parties involved, including owners of structures in the subproject site and the owner of similar structures in the region whose are not affected, local construction contractors specialized in residential building; owner of newly built houses.

## 2. Relocation

52. The District People's Committee in the affected area will be responsible to propose a relocation site for affected households having to move. Households will be consulted on the relocation option. The relocation strategy will:

- (i) Identify land in a setting similar to the land that is recovered (e.g. Near highway, near secondary road in cases where APs are moving from a highway or secondary road.
- (ii) The relocation strategy will ensure that APs are provided with sites that have access to infrastructure and basic services at a level similar to their previous location and with land title without any fee.
- (iii) If necessary to relocate a number of households, the District will designate a new settlement area. The new settlement area will be provided with infrastructure and basic services. The District will design the site and the cost will be covered by the investor.
- (iv) The District will confirm the relocation strategy in writing and it will be described in the RP/REMDP.

53. Affected households will not be displaced until these households are compensated in full and provide the necessary assistance as per the project entitlements and benefited from the income restoration program implementation.

## 3. Income Restoration

54. If there are severely affected households and/or relocation households by the subproject, income restoration program shall be prepared and implemented. In order to assist APs to restore livelihoods and income levels, the subproject will provide an income restoration package adapted to the needs and situation of APs as identified in the socio-economic surveys. The APs to be covered are identified in the entitlement matrix.

55. The scope of the entitlements includes an allowance to cover living costs during a period of reduced income while APs restore current livelihood and income-generating activities or make a transition to new income-generating activities, in-kind assistance to strengthen or initiate income-generating activities will also be provided.

56. In-kind assistance to strengthen or initiate income-generating activities will be decided in consultation with local authorities and APs eligible for the income restoration, and will be fully developed in the resettlement plans for each subproject. Forms of assistance may include, but are not limited to:

- (i) **Agricultural extension assistance**, to improve the productivity of remaining or newly allocated agricultural land and fishponds.
- (ii) **Assistance to restore or replace affected tree plantations**, provision of seedlings and technical assistance to help severely affected APs to restore income from tree crops plantations.
- (iii) **Support for income-generating activities** including appropriate technical support, assistance in vocational training, small business and financial planning, and to access and utilize credit, and other measures to promote existing or new income-generating activities.

- (iv) **Project-related employment** whereby priority will be given to severely affected and vulnerable APs for work on construction.

## V. ETHNIC MINORITY SAFEGUARDS

4. Because of being affected by the Sustainable Rural Infrastructure Development Project in Northern Mountain Provinces, some ethnic minority groups may be less able to restore their living conditions, livelihoods and income levels; and therefore, at a greater risk of impoverishment when their land and other assets are affected. In view of this, subprojects 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 Ethnic Minorities are present in, or have collective attachment to, the subproject area; and (ii) whether subproject impacts on Indigenous Peoples are likely.
- (ii) Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential subproject impacts, both positive and adverse, on Indigenous Peoples. Give full consideration to options the affected Ethnic Minorities prefer in relation to the provision of subproject benefits and the design of mitigation measures. Identify social and economic benefits for affected Ethnic Minorities that are culturally appropriate and gender and inter-generationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Ethnic Minorities.
- (iii) Undertake meaningful consultations with affected Ethnic Minority communities and concerned Ethnic Minority 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 subproject benefits for affected Ethnic Minority communities in a culturally appropriate manner. To enhance Ethnic Minorities' active participation, subprojects 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 Ethnic Minorities' concerns.
- (iv) Ascertain the consent of affected Ethnic Minority communities to the following project activities: (i) commercial development of the cultural resources and knowledge of Ethnic Minorities; (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 Ethnic Minorities.
- (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 Ethnic Minority 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 a Resettlement and Ethnic Minority Development Plan (REMDP) 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 Ethnic Minority communities. The REMDP includes a framework for continued consultation with the affected Ethnic Minority communities during subproject implementation; specifies measures to ensure that Ethnic Minorities receive culturally appropriate benefits; identifies measures to avoid, minimize, mitigate, or compensate for any adverse subproject 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 REMDP, including documentation of the consultation process and the results of the social impact assessment in a timely manner, before subproject appraisal, in an accessible place and in a form and language(s) understandable to affected Ethnic Minority communities and other stakeholders. The final REMDP and its updates will also be disclosed to the affected Ethnic Minority communities and other stakeholders.
- (viii) Prepare an action plan for legal recognition of customary rights to lands and territories or ancestral domains when the subproject involves (i) activities that are contingent on establishing legally recognized rights to lands and territories that Ethnic Minorities have traditionally owned or customarily used or occupied, or (ii) involuntary acquisition of such lands.
- (ix) Monitor implementation of the REMDP using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether the REMDP's objective and desired outcome have been achieved, taking into account the baseline conditions and the results of REMDP monitoring. Disclose monitoring reports.

## **VI. GENDER STRATEGIES**

57. The subproject RP/REMDP shall address the following issues of gender:

- (i) Prior to the RP/REMDP updating, an orientation shall be held to enable the DMS teams to do their respective task in relation to gender issues and concerns.
- (ii) During the DMS, both male and female APs shall participate in discussions related to land acquisition and other resettlement issues.
- (iii) Livelihood activities are planned with the active involvement of female APs. Needs assessments for livelihood activities and skills development will be conducted separately for the female-headed households, elderly women and poor women. In designing livelihood activities, appropriate economic activities for women are included in the program in order to avoid any marginalization of women's contribution to the household economy.
- (iv) For those who have to shift elsewhere, separate discussion with women from affected households, female-headed AHs are held to discuss and agree on the relocation site, housing structure, and other social infrastructure.
- (v) Compensation will be given to both men and women from the AHs.
- (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.

## **VII. INSTITUTIONAL ARRANGEMENTS**

58. Implementation of the resettlement plan requires the participation of relevant agencies from the Central to local province, district, and communal level. MARD has the overall responsibility for implementation of the RP/REMDPs. A CARB will be established at the District level or the existing LDFC will be designated to implement the resettlement work. Items and policies in this Updated Resettlement Policy Framework are the legal basis for conducting the compensation and assistance for the project.



#### **A. National Level**

59. The Ministry of Agriculture and Rural Development (MARD) is the Executing Agency for the Sustainable Rural Infrastructure Development Project in Northern Mountainous Provinces, and assures overall coordination, planning, implementation, and reporting for the Project.

60. During the implementation of the RP/REMDP, CPMU under MARD has the responsibilities as follows:

- (i) Provide overall planning, coordination, and supervision of resettlement implementation;
- (ii) Guide implementing agencies (DCARB/DLFDC) and PPMUs to implement resettlement activities in accordance with policy of the approved RP/REMDP; and advise local authorities to resolve timely and successfully any mistakes or shortcomings identified through internal and/or external monitoring of RP/REMDP implementation to ensure that the objectives of the RP/REMDP are met;
- (iii) Finalize RP/REMDP and obtain PPCs and ADB's approval before implementing approved RP/REMDP;
- (iv) Provide resettlement training to implementing agencies, all PPMU staff and CARBs staff;
- (v) Coordinate with other implementation agencies and relevant institutions during periods of preparation, planning and implementation of RPs/REMDPs;
- (vi) Establish a database of APs for each Subproject, as well as for the Project as a whole;
- (vii) Establish procedures for ongoing internal monitoring and review of project level progress reports and for tracking compliance to project policies;
- (viii) Establish procedures for monitoring coordination between contractors and local communities and for ensuring prompt identification and compensation for impacts occurring during construction;
- (ix) Recruit, supervise, and act upon the recommendations of the external monitoring organization;
- (x) Establish procedures for the prompt implementation of corrective actions and the resolution of grievances;
- (xi) Report periodically on resettlement implementation progress to the ADB.

#### **B. Province Level**

61. Provincial People's Committees (PPC) are responsible for resettlement activities within its administrative jurisdiction. The main responsibilities of PPC include:

- (i) Approve final RP/REMDPs;
- (ii) Issue decisions approving land valuations applied for compensation rates, allowances and other supports to APs, especially vulnerable groups, based on principles of RP/REMDP;
- (iii) Approve and allocate sufficiently and timely budget for compensation, support and resettlement;
- (iv) Direct and supervise provincial relevant departments to implement effectively the RP/REMDPs.
- (v) Authorize the district-level People's Committees to approve compensation, assistance and resettlement plans;



- (vi) Direct the relevant agencies to settle APs' complaints, grievances related to compensation, assistance and resettlement according to their law-prescribed competence;
- (vii) Direct the relevant agencies to examine and handle the violations in the compensation, assistance and resettlement domain.

62. Provincial Project Management Unit (PPMU) is responsible for comprehensive RP/REMDP implementation and internal monitoring. The main tasks of PPMU include.

- (i) Prepare, update, and supervise RP/REMDP implementation of Subproject components;
- (ii) Guide CARB to implement all resettlement activities in compliance with the approved RP/REMDP; and resolve any mistakes or shortcomings identified by internal monitoring to ensure that the objectives of the RP/REMDPs are met; and otherwise, to provide appropriate technical, financial and equipment supports to CARB and Commune-level Inventory Working Groups.
- (iii) Conduct, in coordination with CARB and CPCs, information campaigns and stakeholder consultation in accordance with established project guidelines;
- (iv) Coordinate with other line agencies to ensure delivery of restoration and rehabilitation measures to APs;
- (v) Implement internal resettlement monitoring, establish and maintain AP databases for each subproject in accordance with established project procedures and providing regular reports to CPMU; and
- (vi) Implement prompt corrective actions in response to issues/problems raised in internal monitoring reports.

### C. District Level

63. The DPC undertakes comprehensive management on compensation, assistance and resettlement. The DPC is responsible to the PPC to report on progress, and the result of land acquisition. The DPC's primary task includes:

- (i) Approve the schedule and monitor the progress of land acquisition and resettlement implementation in compliance with RP/REMDP;
- (ii) Establish the CARB and Resettlement team, or deputize the existing LFDC; and direct CARB/LFDC and relevant district departments to appraise, and implement the detailed compensation, assistance and resettlement;
- (iii) Approve and take responsibility before the law on the legal basis, and accuracy of the detailed compensation, assistance and resettlement plans in the local area; Approve cost estimates on implementation of compensation, assistance and resettlement work;
- (iv) Take responsibility for acquiring LURC, certificate on land owning right of the households and individuals who have land, house entirely recovered; adjust LURC for households and individuals who have land, house partially recovered, in accordance with authorization issued by the PPC;
- (v) Direct Commune People's Committees and relevant organizations on various resettlement activities;
- (vi) Review and endorse the RP/REMDP for approval of the PPC;
- (vii) Resolve complaints and grievances of APs

#### **D. District Compensation, Assistance and Resettlement Board (DCARB)/District Land Fund Development Center (DLFDC)**

64. The composition of the DCARB/LFDC includes DPC vice-chairman (playing role as the head of DCARB/LFDC), the representatives of Department of Natural Resources and Environment, Department of Finance, Department of Agriculture, CPC chairmen and AHs representative (including affected women HH head), members of District Farmers' Association and Women's Union. The main responsibilities of District Officials and/or the CARB/DLFDC are the following:

- (i) Organize, plan and carry out compensation, assistance and resettlement activities;
- (ii) Perform the DMS, consultation and disclosure activities, design and implementation of income restoration program, coordination with various stakeholders;
- (iii) Prepare compensation plan and submit to DPC for approval. Implement compensation, assistance and resettlement alternative; Take responsibility for legal basis applied in compensation, assistance and resettlement policy following approved RP/REMDP;
- (iv) Assist in the identification and allocation of land for relocated households;
- (v) Lead and coordinate with the CPC in the timely delivery of compensation payment and other entitlements to AHs; and
- (vi) Assist in the resolution of grievances.

#### **E. Commune Level**

65. The CPC will assist the DCARB/LFDC 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 deputized to implement the compensation, assistance and settlement policy according to approved RP/REMDP;
- (ii) To co-operate with CARB/LFDC and Working groups to communicate the reason for acquisition to the people whose land is to be acquired; To notify and publicize all resettlement options on compensation, assistance and resettlement which are approved by DPC;
- (iii) Assign Commune officials to assist the CARB/LFDC in the updating of the RP/REMDP and implementation of resettlement activities;
- (iv) Identify replacement land for AHs;
- (v) Sign the Agreement Compensation Forms along with the AHs;
- (vi) Assist in the resolution of grievances; and,
- (vii) Actively participate in all resettlement activities and concerns.

### **VIII. PUBLIC CONSULTATION, PARTICIPATION AND GRIEVANCE REDRESS**

#### **A. Information Disclosure**

66. In compliance with the ADB requirements, the PPMU will assist the CARB/LFDC to publicly disseminate the final RP/REMDP as approved by the PPC and ADB. The subproject information booklet shall be made available in the Vietnamese.

67. APs are notified in advance about resettlement activities, including: (i) community meetings about the scope of the subproject, road alignment plan, site clearance plan and construction plan, (ii) detailed

measurement and survey results, (iii) lists of eligible APs and their entitlements, (iv) compensation rates and amounts, (v) payment of compensation and other assistances and (vi) other contents such as the grievance mechanism. Notices are posted in the commune PC offices or other easily accessible locations; letters, notices or small brochures are delivered individually to APs; and radio announcements.

68. The RP/REMDP will be uploaded in ADB websites in both English and Vietnamese and disclosed to the EMs through commune and village meetings. The staff of CPC and mass organizations will translate into EM language and disseminate the information to the EM through loud speakers and other oral communication means during market days as well as in public meetings.

## **B. Public Consultation and Participation**

69. Public consultations and community participation is encouraged in all the subproject cycle, including planning, designing, implementing, and monitoring. The objective of the Public Consultation and Participation is to develop and maintain avenues of communication between the Subproject, stakeholders and APs in order to ensure that their views and concerns are incorporated into subproject preparation and implementation with the objectives of reducing or offsetting negative impacts and enhancing benefits from the Subproject. The feedback from consultations is an important component and crucial methodology of the planning process, leading to the formulation of mitigation measures and compensation plans for subproject-affected communities, and for environmental mitigation measures.

70. The aims of Public Consultation and Participation are to:

- (i) Provide full and impartial information to APs about the Subproject, its activities, and potential impacts that affect them, and to provide an opportunity for their feedback on the Subproject;
- (ii) Explore a range of options for minimizing subproject negative impacts, and for those impacts that cannot be avoided, explore the range of options for, and ensure APs participate in the design of mitigation measures;
- (iii) Gather information about the needs and priorities of APs as well as their feedback on proposed resettlement and compensation policies, options and activities;
- (iv) Obtain the co-operation, participation and feedback of APs on activities to be undertaken in resettlement planning and implementation, in particular on the location for resettlement, planning and design of housing (if necessary), land and community facilities, and the development and implementation of the livelihood program to affect livelihood restoration and development;
- (v) Provide a mechanism for continued dialogue, raising of concerns and monitoring of implementation;
- (vi) Exploring options for the co-management of natural resources through participatory approaches aimed at sustainable use and conservation.
- (vii) Method of consultation and participation has to ensure two-way exchange of information between the community, people and affected groups by a consultation method in accordance with the traditional cultural of the locality, taking into account gender issues social justice and the principle of equality.

### **1. Consultation and participation during the RP/REMDP preparation**

71. **Objectives.** The objective of the consultation meetings is to provide information, as much as possible, about the subproject to the APs, discuss and gather their comments on the subproject issues, specifically:

- (i) Subproject description: location, size and scope of impacts
- (ii) Presentation and discussion on the subproject's policies, those eligible for compensation and resettlement assistance.
- (iii) Presentation and discussion on the subproject implementation plan;

- (iv) Presentation and discussion on the grievance redress mechanism; and
- (v) Presentation and discussion on issues related to EMs, gender, income restoration, livelihood and other support policies.

## **2. Public consultation and Participation mechanisms during implementation of REMDP**

72. Public consultation and participation of community is encouraged throughout the subproject cycle.

73. In the implementation phase, PPMU in combination with district resettlement committee and CPCs is responsible for dissemination of subproject information translated into local languages (if necessary) using various media such as organizing seminars, presentations, and public meetings where subproject APs and beneficiaries are invited. PPMU will distribute the PIB and other documents of the subproject to APs. Participants are freely to give feedbacks after they knew about the subproject. They can comment about the technical parameters and subproject impacts of different alternatives, and about resettlement and compensation measure of the subproject.

74. Local people, especially APs have right to work for the subproject. All the community has rights to monitor not only the construction of the subproject but also the implementation of the RP/REMDP, and some of them may join the Community Monitoring Board of the commune to monitor the implementation process. They can make grievance if they find any illegal actions or things they disagree.

## **IX. GRIEVANCE REDRESS MECHANISM**

75. Grievances related to any aspect of the subprojects/components under the Sustainable Rural Infrastructure Development Project in the North Mountain Provinces Project will be handled through negotiation aimed at achieving consensus. Complaints will pass through 3 stages before they could be elevated to a court of law as a last resort. The complainants will be exempted from all administrative and legal fees that might be incurred in the resolution of their grievances and complaints.

76. Grievances redress mechanism of the project will follow Land Law 2013; Law on complaint No. 02/2011/QH13; and Decree and regulation on grievances.

- (i) Where complaints about administrative decisions or administrative acts on land management are handled for the first time by the Chairpersons of the People's Committees of rural districts, urban districts, provincial capitals or provincial towns, but the complainants disagree with the settlement decisions, they are entitled to initiate lawsuits at People's courts or continue to file the complaint with Chairpersons of the next higher level such as the provincial/municipal People's Committees. If the complaint is lodged at the next higher level, being provincial/municipal People's Committee, the decision shall be final;
- (ii) Where complaints on administrative decisions or administrative acts regarding land management are settled for the first time by provincial/municipal People's Committee Chairpersons, but the complainants disagree with the settlement decisions, they (complainants) are entitled to initiate lawsuits at People's courts;
- (iii) According to Article 9 of Grievance Law No. 02/2011/QH13, the time limit for filing of complaint/s on administrative decisions related to land management, shall be ninety days (90) from the date of receiving such administrative decisions. In case the complainant is not able to file a complaint within the time limit because of illness, natural disasters, sabotage, distance and difficulty of traveling, or other legally acceptable obstacles, the period taken for the obstacle/s to disappear, will not be included in the time taken for lodging the complaint.

77. In dealing with a complaint, the Law on Complaint, Article 14; provides: "The authority and obligations of Officials Responsible for the first settlement of complaints" as follows:

- (i) Authority:

- a. To ask the complainant, agencies, organizations and individuals concerned to provide information, documents and evidence within 07 days from the date of the request, as a basis for settlement of the complaint/s;
  - b. Decide on the application (complaint), and cancel the emergency measures as provided for in Article 35 of the Law on Complaint;
- (ii) Obligations:
- a. To receive complaints and notify in writing the complainant, concerned agencies, organizations, or individuals on the complaint lodged;
  - b. To resolve complaints against administrative decisions and/or administrative acts upon the request of a complainant;
  - c. To organize a dialogue on the complaint, with the complainant and the agencies, organizations and individuals concerned;
  - d. To make decision intended to resolve the complaint, and take responsibility before the law for the decision made. In cases of complaints by agencies, organizations and individuals, the authority to transfer the case must be noted, and results are settled by agencies, organizations and individuals in accordance with the law;
  - e. To provide information, documents and evidence related to the complaint upon the request of the complainant. In providing records, consideration is to be made on the requirements of the second complaint settlement or those of the court.
- (iii) Handle first-time complaint for settlement of compensation, and compensation for damages caused by administrative decisions and/or administrative acts, in accordance with the law on the State's liability.
- (iv) First complaint solver shall exercise authority and comply with obligations as prescribed by law.
78. Article 12 Decree No. 75/2012/ND-CP dated October 03, 2012 (of the Government detailing a number of articles of the Law on complaints) on Publication of Decision on complaint settlement
- (i) Within 15 days from the decision to settle the complaint, those who are competent to settle the second complaint are responsible for publication of the decision on complaint settlement in one of the forms prescribed in Clause 2 of Article 41 of the Law on Complaints.
  - (ii) In case of disclosure in a meeting, the attendees must include: the person responsible to resolve the complaint, the complainant or his/her representative/s, the respondent; concerned agencies, organizations and individuals. Before conducting the public meetings, the person responsible to settle the complaints must send a notice to the concerned agencies, organizations and individuals. The notice should be issued at least three days in advance of the scheduled meeting.
  - (iii) The notice of the settlement decision on complaints will be disseminated on mass media which may include: radio, television, print, and the internet. Persons who are designated to settle complaints are responsible for choosing one of the mass media to make the announcement. In case the agency of the person responsible to settle complaints has access to an official website, the disclosure can be posted in this website. The announcement of the decision is to be made at least 15 days from the date of notification, and at least posted twice on radio, television, print media, or the internet.
  - (iv) In case of posting the notice in government offices or places where the complainants and concerned agencies, organizations and groups are from, the time for posting is at least 15 days from receipt of the complaint settlement decision.
79. Grievance redress can be summarized in the stages provided below.

- (i) **First Stage, Commune People's Committee:** For first complaint, an aggrieved AH may bring his/her complaint to any member of the Commune People's Committee, either through the Village Chief or directly to the CPC, in writing or verbally. It is incumbent upon said member of CPC or the village chief to notify the CPC of the complaint. The CPC will meet personally with the aggrieved AH and will have 10 days following the lodging of the complaint to register it. The CPC secretariat is responsible for documenting and keeping a file of all complaints that it handles. Time limit for handling complaints for the first time should not exceed 30 days from the date of registration; for complicated cases, the time limit may be extended but not more than 45 days from the date of registration. In the hinterlands and remote areas with difficult access and transportation, the time limit for appeal is 45 days from the date of acceptance; for complicated cases, the time limit may be extended but not more than 60 days from the date of acceptance (Article 28, Law No. 02/2011/QH13 dated on Nov. 11th 2011). During 30 days (or not more than 45 days for hinterlands and remote areas with difficult access and transportation) from the expiration day for settlement of complaint, if first complaint is not resolved, or from the day the complaint receives the decision of first complaint settlement if the complainant does not agree with it, they can complain to the District People's Committee, or can initiate a lawsuit at the people's court.
- (ii) **Second Stage, District People's Committee:** if persons with related interests and obligations disagree with the administrative decisions or administrative acts, they may file a complaint to the District People's Committees, and District People's Committee president shall handle the complaint within the time limit prescribed by the Law on Complaints. Settlement decisions of the District People's Committee president shall be made public and sent to the complainant and other persons with related interests and obligations, (iv) Within forty-five (45) days from the date of receipt of settlement decisions of the district People's Committee president that the complainant does not agree with the settlement decision, they may initiate a lawsuit at the people's court or complain to the Provincial People's Committees. The time limit for appeal maybe longer but not more than 60 days from the date of acceptance for complicated case. In remote areas with difficult access, the time limit for appeal should not exceed 60 days from the date of acceptance; for complicated cases, the time limit for appeal may be longer, but not over 70 days from the date of acceptance (Article 37, Grievance Law No. 02/2011/QH13 dated on Nov. 11th 2011) and the Agency receiving the complaint shall be responsible for recording the entire proceedings of the complaints resolution.
- (iii) **Third Stage, Provincial People's Committee:** if persons with related interests and obligations disagree with the administrative decisions or administrative acts, they may file a complaint to the Provincial People's Committees, and the President of the PPC shall resolve the complaint within the time limit prescribed by the Law on Complaints. The Complaint settlement decisions of the Provincial People's Committee president shall be made public and sent to the complainant and other persons with related interests and obligations.
- (iv) **Final Stage, the Court of Law Arbitrates:** Within forty-five (45) days from the date of receipt of settlement decisions of the Province People's Committee president that the complainants do not agree with the settlement decision, they may sue in the People's Court. The time limit for appeal maybe longer but not more than 60 days from the date of acceptance for complicated cases. In remote areas with difficult access, the time limit for appeal is not exceeding 60 days from the date of acceptance; for complicated cases, the time limit for appeal may be longer, but not exceeding 70 days from the date of acceptance. Agency receiving the complaint shall be responsible for recording the entire process of settling complaints.

80. The grievance redress mechanism will be disclosed to APs during RP/REMDP preparation and will be continuously disseminated to people during RP/REMDP implementation.

## **X. MONITORING AND EVALUATION**

81. The implementation of the RP/REMDP will be monitored regularly to help ensure that it is implemented as planned and that mitigating measures designed to address the Subproject's adverse social impacts are adequate and effective. Towards this end, resettlement monitoring will be done by an internal body and by an external organization.

### **A. Community Monitoring**

82. Community-based monitoring (CBM) is a form of public oversight, ideally driven by local information needs and community values, to increase the accountability and quality of social services or to contribute to the management of ecological resources. Within the CBM framework, members of a community affected by a social program or environmental change generate demands, suggestions, critiques and data that they then feed back to the organization implementing the program or managing the project.

83. People in the subproject area are encouraged to monitor the implementation of RP/REMDP, especially the APs by comparing what they received with what stated in the RP/REMDP.

### **B. Internal Monitoring**

84. The objectives of internal monitoring and evaluation is to assess:

- (i) Compliance with the agreed Resettlement and EM Development Plan;
- (ii) The availability of resources and the efficient, effective use of these resources to implement land acquisition and resettlement activities;
- (iii) That resettlement institutions are well-functioning during the course of subproject implementation;
- (iv) Resettlement activities are undertaken in accordance with the implementation schedule described in the RP/REMDP;
- (v) To identify problems, if any, and remedial actions.

85. Primary responsibility for internal monitoring lies with the CPMU as the representative of the Project Executing Agency. The CPMU will establish procedures for ongoing internal monitoring and review of project level progress reports and for tracking compliance to project policies; The DCARB/LFDC will submit monthly progress reports to the CPMU. The CPMU will consolidate all provincial reports into the project performance monitoring system, which will be used to prepare regular progress reports to submit to ADB. All data will be gender and ethnicity disaggregated.

86. The CPMU will develop an internal monitoring schedule, indicators, procedures and reporting requirements for all subprojects. Internal monitoring indicators will include but not limited to:

- (i) Payment compensation to APs in accordance with the agreed updated Resettlement Policy Framework and RP/REMDP;
- (ii) Coordination for the completion of land acquisition, compensation and, as required resettlement activities prior to the commencement of civil works;
- (iii) Adherence to public information dissemination and consultation procedures, and report on these activities; and,
- (iv) Adherences to grievance redress procedures, and report on activities.

### **C. External monitoring**

87. The CPMU will engage an independent resettlement monitoring organization (IMO) to conduct external monitoring of RP/REMDP implementation of subprojects. The purpose of the IMO is to assess whether the RP/REMDP has been implemented as planned, whether entitlements have been delivered

and met the intended objectives and APs are able to restore their living conditions, livelihoods and incomes to pre-subproject levels and, if not, to recommend remedial actions to assist APs.

88. The main objective of external monitoring is to provide an independent periodic review and assessment of (i) achievement of resettlement objectives; (ii) changes in living standards and livelihoods; (iii) restoration and/or improvement of the economic and social base of the APs; (iv) effectiveness and sustainability of entitlements; and (v) the need for further mitigation measures.

89. Strategic lessons for future policy formulation and planning will also be drawn from the monitoring and evaluation of resettlement work. This is possible through a Post-Resettlement Implementation Evaluation Study that will be carried out 6 months following completion of all resettlement activities.

90. The external monitoring will be mobilized prior to RP/REMDP updating activities.

91. Relative to compliance monitoring during resettlement implementation, the main activities of the IMO will revolve around the following:

- (i) Review existing baseline data and gather additional socioeconomic information as necessary, on sample AHs;
- (ii) Monitor updating and implementation of the RP/REMDP;
- (iii) Identify any discrepancy between policy requirements and actual implementation of resettlement;
- (iv) Monitor the resolution of complaints and grievances of AHs;
- (v) Provide recommendations for improving resettlement updating and implementation;
- (vi) Verify that each AP has received the full payment.

92. Specifically, the IMO will monitor and evaluate the following issues:

- (i) Public consultation and awareness of resettlement policy and entitlements;
- (ii) Coordination of resettlement activities with the construction schedule;
- (iii) Land acquisition and hand-over procedures;
- (iv) Level of satisfaction of APs with the provisions and implementation of the RP/REMDP;
- (v) Grievance redress mechanism (documentation, process, and resolution);
- (vi) Effectiveness, impact and sustainability of entitlements and income restoration programs and the need for further improvement and mitigation measures;
- (vii) Capacity of AHs to restore/re-establish livelihoods and living standards. Special attention will be given to severely AHs and vulnerable households focusing on achieving project objectives of improving socioeconomic status of vulnerable households;
- (viii) Resettlement impacts caused during construction activities;
- (ix) Targets proposed in the gender action plan;
- (x) Activities mainstreamed in subprojects for EM development; and
- (xi) Participation of APs in RP/REMDP updating and implementation.

93. The IMO will supervise and submit reports of their finding to the CPMU every six months. CPMU will submit external monitoring reports to ADB for review and posting on ADB's website. All outstanding problems of resettlement implementation determined by the IMO have to be resolved timely and satisfactorily by relevant agencies at all level to ensure entitlements of APs.



## **XI. IMPLEMENTATION SCHEDULE**

94. The RPs/REMDPs will include a detailed, time-bound schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with project schedule of civil works construction and provide land acquisition process and time-line.

## **XII. COST AND BUDGET**

95. The RPs/REMDPs will have a section on costs and budget of resettlement and this section should:

- (i) Provide 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) Describe the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) Include 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) Include information about the source of funding for the resettlement plan budget.

## **ANNEX 1: Outline of A Resettlement Plan<sup>2</sup>**

### **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) summarizes 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.

### **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) summarizes 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.

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<sup>2</sup> Annex 2 to Appendix 2 of ADB Social Policy Safeguard (June 2009)

## **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 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;
- (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 displaced persons' 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 regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons 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 programs, 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 programs.

## **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 program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations 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.