

**Ministry of Home Affairs  
Directorate General of Regional Development Guidance**

**South Java Flood Control Sector Project  
Component F  
ADB LOAN 1479-INO**

**COMPENSATION POLICY FRAMEWORK  
AND  
PROCEDURAL GUIDELINES  
(CPFPG)**

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## LIST OF ACRONYMS

ADB	Asian Development Bank
AF	Affected Family
AP	Affected Person
Asekda	Asisten Sekretaris Daerah (Assistant District Secretary)
BAPPEDA	Provincial / District Development Planning Agency
BAPPENAS	National Development Planning Agency
BPD	Village Council
BPJN	National Land Agency
CPFPG	Compensation Policy Framework and Procedural Guidelines
DPS	river basin ( <i>Daerah Pengaliran Sungai</i> )
EA	Executing Agency
GOI	Government of Indonesia
ha	hectare; 1 ha = 10,000 square meters
ISA	Initial Social Assessment
km	kilometre
LAA	Land Acquisition Act (draft)
LAC	Land Acquisition Committee
LAR	Land Acquisition and Resettlement
LARP	Land Acquisition and Resettlement Plan
LARU	Land Acquisition and Resettlement Unit
M&E	Monitoring and Evaluation
m <sup>2</sup>	square meter
NGO	Non-Government Organization
NJOP	Tax Object Selling Price
NPV	Net Present Value
PBPP	Flood Control and Beach Protection Project
PI-PWS	River Basin Development Project
PMU	Project Management Unit
PSDA	Provincial Water Resources Management
RAP or RP	Resettlement (Action) Plan
ROW	Right of Way
Rp.	Indonesian Rupiah
RRP	Report and Recommendation of the President
SJFCSP	South Java Flood Control Sector Project
SK	Decree

## GLOSSARY

Adat land	Land held by customary community.
Affected Persons, or (households)	People (households) who, on account of the project, stand to lose all or part of their physical and non-physical assets, including homes, communities, productive lands, resources such as forests, range lands, fishing areas, or important cultural sites, commercial properties, tenancy, income-earning opportunities, social and cultural networks and activities.
Bupati/Regent	Head of Kabupaten / District / Regency.
Camat	Head of Kecamatan / Sub-district
Compensation	Payment in cash or kind for lost assets, resources or income. Compensation should be at market prices or replacement rates.
Consultation	A process of mutually listening, giving and accepting opinions and aspirations, based on equality between the land right holder and the party requesting the land in order to reach agreement on the form and amount of compensation.
Cut-off-date	Is the date of commencement of the census of Affected Persons within the project area boundaries.
Eminent domain	A right of a government to take private property for public use by virtue of the superior dominion of the sovereign power over all lands within its jurisdiction.
Entitlement	Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to APs, depending on the nature of their losses, to restore their economic and social base.
Expropriation	Government's action in taking or modifying property rights in the exercise of sovereignty (eminent domain).
Governor	Head of a Province.
Host population	Community residing in or near the area to which affected persons are to be relocated.
Income restoration	Action programmes designed to re-establish income sources and livelihoods of people affected.
Kabupaten	Regency / District
Kecamatan	Sub-district
Land Acquisition Committee	<i>Panitia Sembilan</i> , or Committee of Nine, given the tasks to make an inventory of land and other assets on land to be acquired, to investigate the legal status of the land, to inform and negotiate with the people affected and with the agency acquiring the land, to estimate compensation, and to document and witness the compensation payments.
Land Acquisition and Resettlement Unit	Committee, established by decree from the Regent, to coordinate the preparation of a comprehensive plan on land acquisition, resettlement and income restoration of people affected by development activities.
Regent/Bupati	Head of a Regency / District / Kabupaten.
Relocation	The physical shifting of an AP from his/her present place of residence to another location.
Replacement cost	Cost of replacing lost assets and incomes, including cost of transaction.
Resettlement (involuntary)	Relocation of people who have no option but to give up their assets and rebuild their lives, incomes and asset bases elsewhere.
Resettlement effect	Loss of all or part of physical and non-physical assets, including homes, communities, productive lands, income-earning assets and sources, subsistence resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms.
Resettlement Plan	A time-bound action plan with budget setting out resettlement strategy, objectives, entitlement, actions, responsibilities, monitoring and evaluation.
Resettlers (involuntary)	
Social assessment	Framework for incorporating social analysis and participatory processes in project design and implementation.
Social preparation	Process of consultation with affected persons undertaken before key resettlement decisions are made, to build their capacity to deal with resettlement.
Usufruct	The right to use and profit from land belonging to others or to a larger entity, eg, to a tribe, community or collective.
Vulnerable groups	Distinct groups of people who might suffer disproportionately from resettlement effects.

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## 1 INTRODUCTION

### 1.1 Background

The South Java Flood Control Sector Project (SJFCSP) is supported by the Asian Development Bank under Loan No. 1479-INO. The objective of the project is to improve the quality of life of rural and urban populations in the project area: by reducing flood-induced disruption of human activities and disease; by preventing regular flooding of houses and crops; by minimising disruption of services and commercial activities and thereby enhancing the income earning capacity of the generally poor populations in flood affected areas.

The project area contains twelve sub-projects / river basins where flood control works, comprising (a) the strengthening and heightening of embankments and other structures to prevent overtopping of the rivers, and (b) widening and deepening of drains, will be carried out.

This report describes the policy framework and procedural guidelines applicable to land acquisition, compensation and resettlement within SJFCSP.

### 1.2 Objectives of Land Acquisition and Resettlement and Conditionalities

#### 1.2.1 Objectives

Implementation of the flood control works will have some adverse consequences for a number of households in the project area as the construction of these structures requires land. Embankments will typically require some 6 meters at the base, plus a right of way (ROW) of 2-5 meters, while the widening of drains will generally require from 2 to 6 meters, often on both sides of the drain.

This land, which is held in private or public ownership, is needed to enable the construction of the flood control works. And in certain cases the alignment of the embankment, or the widening of a drain will affect a house or other structure. Acquisition of these affected house, just as in the case of land, is a necessity for implementing the Project's civil works component, ie, the flood control structures.

In spite of the burden that the acquisition of land and other assets will put on the affected people, and even the community, the Project's Executing Agencies are fully committed to follow this approach through. For the purpose of minimising the loss, ensuring fair and full compensation and ensuring the successful implementation of the South Java Flood Control Sector Project, the EAs express their complete endorsement to the approach delineated in this document.

The total impact in term of hectares and number of houses to be acquired can be seen from the table below. For each sub-projects the type of flood control intervention planned is shown and the acquisition needed. For a map showing the location of the river basins, see Annex 1.

**Table 1: River Basins, Type of Intervention, Location and Resettlement Plan Required**

River Basin	Type of Intervention	Acquisition		Kabupaten	Type of Resettlement Plan
		Ha	Houses		
Opak	river works	9.39	28	Bantul	Full
	drainage	15.44	0	Gunung Kidul	Full
Progo	river works	0	0	Bantul	Full
	drainage	14.44	0	Kulon Progo	Full
Serang	river works	0	0	Kulon Progo	<b>core project</b>
	drainage	10.39	0		Full

River Basin	Type of Intervention	Acquisition		Kabupaten	Type of Resettlement Plan
		Ha	Houses		
Bogowonto	river works	6.55	0	Kulon Progo Purworejo	Full
	drainage	3.62	0		Full
Cokroyasan	river works	23.11	20	Purworejo	Full
	drainage	21.57	0		Full
Wawar	river works	22.36	0	Purworejo Kebumen	<b>core project</b>
	drainage	3.20	0		Full
Lukulo	river works	33.10	116	Kebumen	Full
	drainage	8.64			Full
Telomoyo	river works	7.46	97	Kebumen	Full
	drainage	9.09	0		Full
Ijo	river works	12.37	10	Kebumen Cilacap Banyumas	Full
	drainage	40.27	0		Full
Tipar	river works	24.01	23	Cilacap Banyumas	Full
	drainage	69.47	0		Full
Serayu	river works	0	0	Cilacap Banyumas	Full
	drainage	21.42	0		Full
Citanduy / Cikawung	river works	0	0	Cilacap Ciamis	Short

### 1.2.2 Conditionalities

Resettlement, land acquisition and income rehabilitation for the project will be handled in accordance to Indonesian law, relevant regulation, and the ADB policy on Involuntary Resettlement Policy (ADB's Policy) as detailed in the "ADB Handbook on Resettlement: A Guide to Good Practice."

In the case of sector loans ADB's Policy requires the preparation of a Land Acquisition and Resettlement Plan (LARP) including: (i) a general Resettlement Policy and Program Framework valid for the whole project and applicable to all sub-projects; and (ii) specific Land Acquisition and Resettlement Plans for each of the sub-projects selected for implementation.

For each subproject the preparation of a LARP approved by ADB will be a condition for contract awards while the implementation of each LARP will be a condition for civil works mobilization.

### 1.3 Objectives of the Guidelines

The general objectives of this report are therefore:

- to confirm the policies and entitlements to be applied to land acquisition, compensation and resettlement in the context of SJFCSP ,
- and to confirm the procedure for preparing the Resettlement Plans for the subprojects of the South Java Flood Control Sector Project.

And in more specific terms, to specify:

- the policy framework for land acquisition, compensation and resettlement,
- principles and procedures to be applied for land acquisition compensation and resettlement,
- procedures for information of, and consultation with, the affected people,
- procedures for redress of grievance and,
- the institutional framework for land acquisition, compensation and resettlement,
- procedures for implementation, monitoring and evaluation of the resettlement plans.

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While the Government of the Republic of Indonesia fully subscribes to the Bank's Policy on Involuntary Resettlement<sup>1</sup>, the central principal of which is that people should not be disadvantaged in the process of development, the Government has to acknowledge that its current legislation on the issue insufficiently supports this policy.

Sponsored by the ADB, a *Land Acquisition Act (LAA)* has been drafted, which states that *land acquisition shall be carried out based on the principles of free and informed consent, benefit, certainty, justice, transparency, participation, equality, minimising involuntary resettlement and maintaining socio-economic wellbeing.*<sup>2</sup>

As the draft LAA has not been voted into law yet, a interim solution is needed to acquire land and relocate people when necessary, along the lines laid out in the draft LAA and the Handbook.

To this end the regents (Bupati) have agreed to issue a decree establishing a Land Acquisition and Resettlement Unit (LARU), with the tasks to (a) coordinate the preparation of comprehensive plans for land acquisition, resettlement and income restoration of people affected by development activities, and (b) monitor progress and performance.

The Resettlement Plans for the individual river basins (sub-project areas) will be based on the policy described in this report.

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<sup>1</sup> *Handbook on Resettlement, A Guide to Good Practice*, ADB 1998

<sup>2</sup> Article 2, DRAFT Land Acquisition Act, prepared for National Land Agency, February 2002, Asian Development Bank, Regional Technical Assistance 5935.



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## 2 POLICY FRAMEWORK

### 2.1 Indonesian Laws and Regulations

The key legal document for land acquisition and resettlement in Indonesia is the Presidential Decree No. 55/1993, on Land Acquisition for Development Purposes in the Public Interest. The decree draws upon earlier laws, including Law Number 5 of 1960, ie, the Basic Agrarian Law that delineates the categories of land ownership and usage. These are very complex due to the overlapping of traditional *adat* land rights, western land use rights and recent developments in tenure.

The Decree of 1993 specifies grievance procedures for landowners; defines "public interest" for development purposes; separates private projects, which should use regular land purchase arrangements; places more emphasis on community consultation and reaching agreement with people affected on the form and the amount of compensation; and presents expanded options for compensation including cash, substitute land, and resettlement.

The Regulation of the State Minister of Agrarian Affairs and National Land Agency No. 1 of 1994 on Operational Directives of the Decree 55/93 is the enabling regulation for implementing the Decree. This specifies that each Provincial Governor establish a Land Acquisition Committee (*Panitia Sembilan*) in each *kabupaten* (regency/district) and *kotamadya* (municipality) to be chaired by the *Bupati* or *Walikota*. The Committee also includes representatives of the Level II Land Office, Tax Office, Public Works Agency, Agriculture Agency, the heads of the sub-district and villages where land acquisition will take place, and two other non-members.

The Governor will establish a Provincial Land Acquisition Committee in case the development covers more than one Level II territory. When necessary Governors will issue project-specific decrees with guidelines on specific procedures and entitlements for compensation and rehabilitation for people affected, as a basis for planning, implementing and monitoring resettlement according to Presidential Decree No. 55/93.

The Committees have the authority to make an inventory of land and other assets on land to be acquired, to investigate the legal status of the land; to inform and negotiate with the people affected and with the agency acquiring the land; to estimate compensation; and to document and witness the compensation payments.

A related Government Regulation, No. 51 of 1993 on Environmental Impact Assessment, requires a management and monitoring plan for environmental impacts, including land acquisition and resettlement. It also requires mitigation of social impacts, public disclosure and community consultation.

### 2.2 ADB's Involuntary Resettlement Policy

#### 2.2.1 Principles

The policy of the Asian Development Bank on Involuntary Resettlement is set out in the Involuntary Resettlement Policy (November 1995), and in the Handbook on Resettlement (1998). This resettlement policy has the following objectives and principles:<sup>3</sup>

- Involuntary resettlement should be avoided where feasible.
- Where population displacement is unavoidable, it should be minimized by exploring all viable options.

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<sup>3</sup> ADB Handbook on Resettlement, 1998, p. 2

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- People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favourable as it would have been in the absence of the project.
  - People affected should be informed fully and consulted on resettlement and compensation options.
  - Existing social and cultural institutions of resettlers and their hosts should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities.
  - The absence of a 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 indigenous peoples and ethnic minorities, and appropriate assistance provided to help them improve their status.
  - As far as possible, involuntary resettlement should be conceived and executed as a part of the project.
  - Land and houses acquired for the Project shall not be occupied or demolished prior to the full delivery of compensation to the affected persons and prior to completing their resettlement in new houses.
  - The full costs of resettlement and compensation should be included in the presentation of project costs and benefits.

### **2.2.2 Land Acquisition and Resettlement Plans**

A recent requirement of the Bank is that after sub-project identification and completion of preliminary designs an Initial Social Assessment (ISA) is carried out to determine preliminary impact data and the socio-economic features of the APs. Subsequently a resettlement plan with time-bound actions and budgets is to be prepared for every sub-project in which there are resettlement effects, ie, *loss of all or part of physical and non-physical assets, including homes, communities, productive lands, income-earning assets and sources, subsistence resources, cultural sites, social structures, networks and ties, cultural identity, and mutual help mechanisms.*

The time and effort required to prepare a resettlement plan should be commensurate with the scale and magnitude of the resettlement problem. Therefore:

- *full resettlement plans* are required when resettlement effects are significant, ie, when:
  1. the number of affected people is 200 or more
  2. the affected people include 100 or more indigenous people or other vulnerable people
- in all other cases a *short resettlement plan* is sufficient.

A FULL RESETTLEMENT PLAN would include: (i) scope of land acquisition and resettlement, (ii) socioeconomic information, (iii) objectives, policy framework, and entitlements, (iv) consultation, and grievance redress participation, (v) relocation of housing and settlements, (vi) income restoration strategy, (vii) institutional framework, (viii) resettlement budget and financing, (ix) implementation schedule, (x) monitoring and evaluation.

A SHORT RESETTLEMENT PLAN would summarize (i) the number of affected people and losses, (ii) policy framework and entitlements, (iii) procedures for consultation and grievance redress participation, (iv) arrangements for compensation, relocation, and income restoration, (v) institutional framework, (vi) resettlement budget and financing, (vii) implementation schedule, and (viii) procedures for monitoring and evaluation.

Outlines for both types of plan, as applicable for the South Java Flood Control Sector Project, are attached in Appendix 1 & 2.

As there are no indigenous people in the South Java Flood Control Sector Project area, the preparation of a separate Indigenous Peoples Development Plan (IPDP) is not required.

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### 2.3 SJFCSP Resettlement Policy

While the Government of the Republic of Indonesia fully subscribes to the Bank's Policy on Involuntary Resettlement, the central principal of which is that people should not be disadvantaged in the process of development, the Government has to acknowledge that its current legislation on the issue insufficiently supports this policy.

In order to bridge the gap between the GOI and ADB policies an interim solution is needed to acquire land and relocate people, when necessary, along the lines laid out in the Bank's Handbook on Resettlement.

This requires that at district level complementary regulations be formulated to fill the gap between GOI and ADB policies. For this purpose the regents (Bupati) will issue a decree establishing a Land Acquisition and Resettlement Unit (LARU), which will be given the tasks to (a) coordinate the preparation of comprehensive plans for the acquisition of land and other assets, (b) manage the resettlement of APs, and (c) coordinate the implementation of the income restoration programme for those affected by the Project, and (d) monitor progress and performance.

The Resettlement Plans for the individual river basins (sub-project areas) will be based on the combination of GOI policy complemented by special Project-related regulations drawn up at district level to suit the specific regional conditions, and the relevant ADB policy.

This paper describes the guiding principles and planning policies, land acquisition procedures, public information and consultation procedures, compensation entitlements, responsibilities and grievance procedures, and reporting and documentation requirements of the adjusted policies.

The key principles of this policy are:

- consultation and information campaigns will be conducted to inform the people of the project and to absorb their views,
- all families affected by the SJFCSP project, who are present at the time of the BPN inventory of land and assets on the land to be acquired, are eligible for compensation,
- families losing all of their productive assets (farmland, house or business) or in cases where the remaining assets are not economically viable, will be entitled for full compensation for the remainder of their land or property at replacement cost and to rehabilitation assistance that allows them to enhance or at least maintain their standard of living,
- compensation rates for all land and fixed assets will be at their replacement costs,
- compensation payments to affected families and preparation and occupation of new houses will be completed for each project before the start-up of physical works on the land.

**Table 2: Land Acquisition and Resettlement Principles and Approaches**

	<b>Principle</b>	<b>Approach</b>
1	Involuntary resettlement should be avoided where feasible. Where population displacement is unavoidable, it should be minimized by exploring all viable options.	All steps to minimize or eliminate involuntary resettlement are taken where feasible by exploring viable alternative design options.
2	As far as possible, involuntary resettlement should be conceived and executed as a part of the project.	A resettlement plan with time-bound actions and budgets is prepared for each sub-project.
3	People unavoidably displaced should be compensated.	Any assets lost due to the project will be compensated in cash or in kind. Where relocation of housing is required, relocation options are developed in consultation with affected persons, in order to restore living standards.
4	Assistance should be given to affected people, so that their economic and social future would be generally as favourable as it would have been in the absence of the project.	Where people will lose income and livelihoods, appropriate income restoration programs are established with objectives to improve, or at least restore, their productive base.
5	Particular attention should be paid to households headed by women and other vulnerable groups and appropriate assistance provided to help them improve their status.	Particular attention is given to women and other vulnerable group within the Resettlement Plan.
6	The absence of a formal legal title to land by some affected groups should not be a bar to compensation.	All affected persons, including those without title to land, are compensated for all their losses.
7	People affected should be informed fully and consulted on resettlement and compensation options.	All stakeholders are involved in a consultative process. The resettlement plan is implemented in co-ordination with the Land Acquisition Committee in each of the project regions. Detailed grievance redress and appeal procedures are established and publicized among the affected persons.
8	People affected should be informed fully about eligibility for compensation.	Socioeconomic surveys and census of affected people are carried out early in the project preparation to identify all losses from land acquisition and all affected persons.
9	Influx of outsiders or speculators should be avoided.	A cut-off date for compensation eligibility is defined soon after the surveys and census.
10	Land occupation and construction will begin only after full compensation.	An implementation schedule with dates for commencing and completing land acquisition and resettlement activities is prepared for each sub-project. No person will be asked to vacate the land or relocate before full compensation has been paid and new housing has been provided.
11	The adherence to the resettlement principles should be monitored.	The resettlement plan specifies the procedures for monitoring and evaluation.

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### 3 COMPENSATION POLICY AND ENTITLEMENTS

#### 3.1 Principles of Compensation and Rehabilitation

Whereas the traditional policy on mitigation of loss of land and other assets in use in Indonesia concentrates on *compensating the loss of assets*, the requirements as formulated by the ADB stress the need for *rehabilitation of the affected persons*. The Bank policy therefore includes not only the payment of cash for the lost land, houses and the like, but also for the loss of income from the affected land where this loss can be classified as severe (loss of more than 20% of the land owned), loss of business, and loss of access to previously held employment necessitating a change of occupation.

In accordance with the legal and policy requirements of the Indonesian government and the Asian Development Bank, the principles of the compensation and rehabilitation established for the project are as follows:

- All affected persons losing land, buildings, plants and other objects related to the land will be compensated and rehabilitated in accordance to the type and amount of their losses (Presidential Decree No. 55/1993, Art. 12). Compensation is also given to persons using land without any titles (Regulation No. 1/1994, Art 20). Compensation will be provided at the same replacement rates to all affected persons including holders of *hak milik* (ownership rights); *hak guna usaha* (exploitation rights); *hak guna bangun* (building rights); *hak pakai* (use rights); *adat* or *ulayat* (customary rights). This provision applies also to long-term squatters on government land.
- Compensation and rehabilitation provided to affected people will be adequate to at least maintain their pre-project standard of living, with the prospect of improvement.
- A rehabilitation cash allowance will be given to affected persons losing more than 20% of their land holdings, losing their businesses, or access to employment.
- The per capita land holding after land acquisition will be sufficient to maintain livelihood standards;
- Where land allocation per capita is not sufficient to maintain livelihood, other income generating activities will be provided for.
- All affected people will be adequately informed on eligibility, compensation rates and standards, livelihood and income restoration plans, and project timing.
- No land acquisition will take place prior to satisfactory compensation and resettlement of the affected people.
- The area of temporary land occupation and the period of disruption will be kept to a minimum.

#### 3.2 Compensation Eligibility

All affected persons losing land, buildings, plants and other objects related to the land will be compensated in accordance to the type and amount of their losses (Presidential Decree No. 55/1993, Art. 12). Compensation is also given to persons using land without any titles (Regulation No. 1/1994, Art 20).

The Land Acquisition Committee makes an inventory [of land and assets on the land to be acquired] and identifies all persons affected by permanent impacts, or temporary impacts, during construction. This survey, or any other forms of inventory of loss of assets in accordance with Art. 12 of Regulation No. 1/1994, is used to minimize fraudulent claims made by people who move into the area affected by the project, or plant or construct assets on the land to be acquired, in the hope of being compensated.

The cut-off date for compensation eligibility will be set following this inventory. Persons constructing buildings or settling in project affected areas after the cut-off-date will not be eligible to compensation or subsidies.

### 3.3 Entitlements

As stipulated in Art. 12 of the Presidential Decree No. 55/1993, compensation will be given for land, buildings, plants and other objects related to the land, while Art. 13 specifies the form of compensation:

- cash,
- land for land,
- resettlement,
- any combination of these compensation forms, or
- other form of compensation agreed by parties concerned.

Compensation policy specifies that cash compensation should be at replacement costs, ie, sufficient to find a better or equivalent replacement.

The Entitlement Matrix in Table 3 summarizes the entitlement of the affected persons to the various types of compensation for different types of losses; and Table 4 presents the same principles by type of affected person.

**Table 3: Entitlement Matrix by Type of Loss**

Type of Losses	Entitlement	Compensation Policy	Other Measures
Permanent land loss	legal owners of land, ie, hak milik, hak guna usaha, hak guna bangun, hak pakai, adat and ulayat, and owners without title	<ul style="list-style-type: none"><li>• cash compensation at replacement cost, or</li><li>• substitute land (land for land)</li><li>• for communal land: compensation in the form of provision of infrastructure and facilities</li></ul>	<ul style="list-style-type: none"><li>• access to training for alternative employment</li><li>• training for project-related construction and operational jobs</li><li>• access to project related jobs</li></ul>
Permanent land loss	severely affected legal owners who lose more than 20% of their total land holdings	<ul style="list-style-type: none"><li>• special allowance of an amount equal to one year production of the land lost</li></ul>	<ul style="list-style-type: none"><li>• rehabilitation allowance</li></ul>
Temporary land loss	legal owners of land, ie, hak milik, hak guna usaha, hak guna bangun, hak pakai, adat and ulayat, and owners without title	<ul style="list-style-type: none"><li>• cash compensation at market rates</li></ul>	<ul style="list-style-type: none"><li>• contractor has to restore the land to its original condition</li></ul>
Houses, attachments and other structures	owner of the structure	<ul style="list-style-type: none"><li>• cash compensation at replacement rates for entire house irrespective of degree of damage</li><li>• resettlement (house for house)</li><li>• relocation allowance Rp 500,000</li></ul>	
Trees and Crops	persons who utilize the land where trees and crops are located	<ul style="list-style-type: none"><li>• trees: cash compensation at market rates / replacement cost</li><li>• crops: cash compensation at market rates</li></ul>	<ul style="list-style-type: none"><li>• replanting or production loss considered</li></ul>
Business losses	owners of the affected business	<ul style="list-style-type: none"><li>• cash compensation consisting of two (2) months of lost income (to be proven by tax returns) or two (2) months of minimum daily wage</li></ul>	
Communal resources	community	<ul style="list-style-type: none"><li>• assessed case by case</li></ul>	<ul style="list-style-type: none"><li>• restoration of losses combined with rural development programmes</li></ul>

**Table 4: Entitlement Matrix by Category of Affected Person**

Category of Affected Persons	Cash compensation	Replacement cost		Damage to crops/trees	Displacement compensation	Financial assistance
		House	Structure			
1. Landowner Actual farmer Absentee farmer	✓ ✓			✓ ✓		✓
2. Land tenant		✓		✓	✓	✓
3. House owner Actually residing Not residing		✓ ✓			✓	✓
4. House occupant					✓	✓
5. Room tenant					✓	
6. Structure owner			✓			

### 3.4 Compensation Rates and Procedures

According to the Presidential Decree No. 55/1993, Art. 15, the compensation value for assets to be released for public interest is:

- the Tax Object Selling Price (NJOP) for the land concerned;
- the market value of a building assessed by the district agency in charge of public works;
- the market value of plants assessed by the district agency in charge of agriculture.

In practice, the compensation value is determined by negotiation and agreement (*musyawarah*) on the basis of replacement values, in particular when the NJOP is below the market price. The process of negotiation and agreement is, under current democratic conditions, a sufficient safeguard that fair, market price-based compensation will be achieved. The amount of compensation to be paid will reflect the type of housing structure and/or crops/trees that are part of the value of the land. Since compensation rates are negotiated locally, they differ from sub-project to sub-project.

The following compensation policy is applied:

- **Permanent agricultural/residential land** will be compensated in cash at replacement rates (market prices of land of productive potential in the vicinity at the time of acquisition), unless the owner opts for land in substitution.
- **Temporary loss of land** will be compensated in cash at market rental rates.
- **Houses / buildings** will be compensated in cash at replacement rates, free of demolition expenses and salvaged materials, unless the owner opts for a house in substitution. Replacement costs will be assessed with reference to local market construction costs of houses and other structures of similar size at the time of acquisition. Full compensation will also be paid in case the main house, attachments to the house and other structures are only partially affected.
- **Relocation / moving allowance** will be given to the households who have to relocate. The allowance should cover transfer/transportation expenses and has been set at Rp. 500,000 per affected family.
- **Trees** will be compensated in cash at replacement rates, in an amount sufficient to cover the costs associated with replanting the trees.
- **Crops** will be compensated in cash at the market value of one year production.
- **Sharecroppers** will be compensated for the loss of access to the land they cultivated before the start of the project. Compensation will typically the value of the loss of one-year income from the piece of land acquired by the project.

- 
- **The temporary loss of businesses** will be compensated for each month of interruption of business activities based on tax declarations, or on the equivalent value of the daily minimum wage for the duration of the loss.
  - **Permanent loss of business** will be compensated at the rate of two (2) months of income previously derived from the business activities based on tax declarations, or on the equivalent value of two (2) months of minimum wage applicable to the area at the time the loss occurs.
  - **Community properties** affected by the project will be compensated at replacement value.
  - **Communal land** will be compensated in the form of infrastructure and facilities which may be utilised by the local community.
  - **A rehabilitation allowance** will be paid to severely affected households, ie, those who will lose more than 20% of their land or other source of income. The special allowance will consist of a cash compensation equal to twelve (12) months of income previously derived from the affected land.

Compensation rates and any kind of allowances, if applicable, are negotiated between the affected people and SJFCSP, with assistance from the Land Acquisition Committee, which in the South Java Flood Control Sector Project operates under the guidance of the Bupati assisted by the Land Acquisition and Resettlement Unit (LARU) of the respective district.

The agreements reached during the negotiations are signed in a comprehensive meeting by the affected people and their representatives, the Land Acquisition Committee and the Executive Secretary of the LARU. Failure to reach an agreement, or failure to implement the agreement fully, could have dire consequences as experienced in the case of the Kotopanjang dam in Sumatra, see Appendix 8.



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## **4 INCOME RESTORATION STRATEGY**

### **4.1 Policy**

The key objective of the land acquisition and resettlement plan is to ensure that the economic and social future of the affected households is at least as favourable as it would have been in the absence of the project. Therefore the affected people shall receive assistance in rehabilitation.

It should, however, be emphasised that the current socio-economic conditions of rural Java are hard to say the least. Population pressure on the land has reduced the size of the individual holding to less than one-third of a hectare. This, in combination with the generally depressed prices of agricultural commodities and the reduced employment opportunities due to economic crisis that started in 1997, has suppressed the general level of welfare.

In this context the pre-project levels of welfare are hardly a yardstick, as they would constitute a return to poverty. Every effort should instead be made to ensure that the post-project welfare levels were to increase, not only of the directly affected families, but of the whole population. The SJFCSP income restoration efforts will therefore be directed, not at individual families, but at the whole of the affected area.<sup>5</sup>

### **4.2 Rehabilitation Measures**

Potential rehabilitation measures include:

- assistance in starting a new business and/or strengthening a new one, in the form of management and marketing assistance, product design and prototype development,
- assistance in finding new employment opportunities, including skill development through training for the new employment,
- providing training for agricultural methods and technology to increase production on the non-affected land,
- providing skill training to prepare participants for off-farm work within or outside of the affected area,
- providing access to, and giving preference to affected people in, employment opportunities created by the project.

The income restoration action programme will be described in greater detail in the respective Resettlement Plans. Its further detailing and the implementation of the programme will thereafter become the responsibility of the Land Acquisition and Resettlement Units. The Units will, however, be assisted by professional and sub-professional consulting staff. A participatory approach will be utilized in the development of the income generation programme in order to ensure that the ideas, wishes and needs of the stakeholders are included.

The programme will support income generating activities with [adequate] commercial potential in the agricultural and non-farm sectors. The income restoration budget includes a limited amount of funds to finance actual implementation. That is, small amounts of funds will be available for production and marketing trials, design and testing of prototypes, and the like, while revolving credit schemes will be recommended for implementation by local village banks and other credit agencies to assist in the provision of start-up and working capital.

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<sup>5</sup> The affected areas include all villages where flood control works are to be carried out, irrespective of the strength of the adverse impact.

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### **4.3 Income from Flood Control Construction Activities**

The remunerative involvement of stakeholders, and in particular of the affected persons, in the flood control construction programme has three main objectives. Firstly, the income thus generated would produce a direct positive impact by injecting a financial stimulant into the local economy. Secondly, the direct involvement of the population will develop a sense of belonging and strengthen their appreciation of the project, and thirdly, it should prove that small to medium sized channels and drains can effectively be cleaned, deepened and widened with simple labour intensive methods.

In the case of SJFCSP the flood control construction contracts will include a clause instructing the contractor to utilise (sub-contract) the villagers of the area where the work is to take place for the cleaning, deepening and widening of those drains and other channels where heavy equipment is not needed. The specific drains, or sections of the contract where this procedure applies, will be specified in the contract in order to avoid misunderstandings and misinterpretations. Compliance with this rule must be strictly enforced and will be closely monitored by the Land Acquisition and Resettlement Unit, who in case of contravention will take the necessary steps to correct the situation.

### **4.4 Income from O&M of Flood Control Structures**

The same method should be used for the annual maintenance of these drains, too. Rather than wait for the next [loan] project to renovate the drains, an annual maintenance programme should be designed along the lines of the participatory approach outlined above.

The district administrations should thus prepare a yearly budget to pay the population of the area for maintenance and cleaning of the drains (secondary and the tertiary). The budget would be disbursed through the village administration. The maintenance contracts for the drains would be let to a suitable community group or village association. The timing of these activities should be before the onset of the rainy season, and preferably at a time when labour is not needed for other major agricultural activities such as sawah preparation.

Owners of land along the drains will be able to earn some additional income by allowing the spoil taken from the drains to be spread [thinly] on their land, in case, of course, the spoil would not contain solid or toxic waste or other pollutants. This method would avoid the need to acquire additional land alongside the drains to deposit the spoil, or the costly trucking of the spoil to a distant dump site.

### **4.5 Special Assistance**

Families severely affected by the Project, that is, losing more than 20% of their land, will be entitled to receive special assistance.

Depending on the preference of the owner this special assistance may be given in the form of a land for land swap, or a cash compensation for the lost land.

It should be clearly understood that special assistance is applicable where the 20% loss of land also constitutes a 20% in income.

Secondly, in case of land owners losing more than 20% of a plot of less than 3,000 m<sup>2</sup> which constitutes his major source of income, the restoration to the level before the acquisition would reinstate the owner to the same level of poverty, as the typical cropping pattern practiced on small farms—that is rice with some off-season crops—limits the income potential of these farmers.

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A more realistic and practical solution would be to assist and train the owner [and family] for a new profession and identify a new, preferably income earning, use for the approximately 2,000 m<sup>2</sup> remaining.

For those losing 20% or more from plots larger than 3,000 m<sup>2</sup> the land swap would be the action of choice, unless the owner would express a desire to leave the farming profession in favour of something else. Full assistance would then be given in the pursuit of this target.

#### **4.6 Gender Issues in Resettlement Plans**

In the affected areas, women play a very active role in on-farm and off-farm income generating and other economic development orientated activities, in addition to performing household duties. Women in the rural areas are moreover left behind for long periods when their husbands, brothers and adult sons move to urban areas for permanent or temporary jobs.

Affected households headed by women shall therefore receive special attention and support to maintain their sources of livelihood and [traditional] production patterns.

The height of the compensation paid for acquired land will therefore not depend on the gender of the household-head, and women will not be excluded from the compensation provisions as listed above under Sections 4.1-4.5.

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## 5 CONSULTATION, DISCLOSURE AND GRIEVANCE REDRESS PROCEDURE

### 5.1 The Public Consultation Process

The South Java Flood Control Sector Project utilises a participatory approach for the planning and implementation of its many activities. That is, designing the flood control works, determining the height of compensation payments for to be acquired land, and identifying the relocation sites for those that need to be resettled, are being and will be carried out with the participation of, and in consultation with, the affected persons.

The most important and complex of participatory processes is the one linked to the design of the flood control works. Throughout the design process, the flood control design engineers will have to maintain close contact with the stakeholders in the project area. From the first transect walks in the company of a number of knowledgeable local residents, to the discussion of subsequent, increasingly detailed, designs, communities are being consulted and asked for their opinions and comments.

In order to have the designs approved by the stakeholders, in particular by the affected persons, a series of meetings are held towards the end of the design process. During these meetings, usually called *socialisation*, the impact of the intended flood control works on the socio-economic and physical conditions of stakeholders are presented and discussed in detail.

Socialisation of the proposals for both river works and drainage improvement will to be carried out at three levels: *kabupaten*, *kecamatan* and *desa*. Activities to be carried out at each level are detailed in the next paragraphs. Each Resettlement Plan will indicate the consultation meetings carried out at each level, relative date and number of participants. Each Resettlement Plan will also summarise the issues discussed in each meeting and will indicate eventual elements in project design that have been modified following public consultation.

The flow chart of Appendix 4 shows the public consultation flow which progresses from district to sub-district and village level and finally to community and affected persons level. In the case of SJFCSP the public consultation deals with two aspects: one, the technical aspects of the flood control works, their lay-out and designs, and two, the aspects that most directly affect [part of] the community, ie, land acquisition and resettlement. The discussion of the technical aspects is conducted in order to have the designs approved by the stakeholders. That is, alignment, planned width of drain, location of retaining or parapet walls, and the like. The discussions on land acquisition and resettlement are directly linked to the technical discussions as the design specifications affect the amount of land required, and/or the number of families that have to be resettled.

#### 5.1.1 Kabupaten-Level Consultation

At kabupaten level the project will be discussed in all of its aspects with the district Bappeda, and drainage and irrigation agency, the provincial water resources management agency, BPN and the environmental unit at kabupaten level. The meetings provide the kabupaten administration with a chance to get up-to-date information on the project, translate the engineering designs into financial requirements (for land acquisition) and manpower needs for the staffing of the Land Acquisition and Resettlement Units

In the course of the project a number of briefing sessions will be held, dealing with the relevant aspects of the project at the then specific stage in the project's development. If well prepared and presented each session will not take longer than 3-4 hours. The briefs will be presented by PI-PWS, PPBPP, the engineering design consultant and/or other authorities and consulting groups, and will be held at the premises of the kabupaten administration, eg, Bupati's offices, or Bappeda.

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### **5.1.2 Kecamatan-Level Consultation**

At kecamatan level the Camat and the representatives of the villages affected by the construction works will be informed about the project, the flood control designs, the effects in respect of land and other assets to be acquired for the project, estimates of the average prices to be paid in compensation, benefits to the community, and other relevant issues. The villages will be represented by the Village Head and two members of the BPD (village council).

The relevant information will be presented by PI-PWS, PPBPP, engineering design consultant and BPN (in consultation with the Land Acquisition and Resettlement Unit). Although largely meant to disseminate information, the briefings are not purely one-directional as the sub-district and village representatives are given a chance to comment. The latter will moreover be asked to provide a preliminary reading of the people's expected reaction to the proposed works.

To be effective, the number of participants should not exceed 50. This means that up to 15 villages (45 participants) and 5 kecamatan (Camat) can participate in one briefing session. If more villages and sub-districts are involved in a single sub-project, more than one session will need to be organised. The meetings will be held at the premises of the kabupaten administration and their duration should not exceed 3-4 hours.

### **5.1.3 Desa-Level Consultation**

At desa level the project and its implications will be discussed regularly with the village community, and more specifically the potential APs. This is the most important part of the participatory approach, as the people's full consent is needed before land can be acquired, Resettlement Plans can be finalised, and construction of the flood control works can start. The village level meetings will also be the most time consuming, as, to be effective, they need to be conducted on location [in the respective villages], and with the impact on the loss of land made visual. The loss of land and other assets should, for example, be clarified and made visual by staking the boundaries of the land to be acquired.

## **5.2 Disclosure**

Each Land Acquisition and Resettlement Plan will be translated into Bahasa Indonesia and handed over to the village head who will make it available to anyone wishing to consult the document. Copies in Bahasa Indonesia will also be available at the offices of the to be created Land Acquisition and Resettlement Units.

In addition, for each sub-project a booklet in Bahasa Indonesia summarising the CPFPG and the details of each LARP will be distributed to all affected families.

Copies of the Resettlement Plans and the Summary, in English, will be available at the ADB Headquarters in Manila and the ADB Resident Mission in Jakarta, as well as on the ADB website.

## **5.3 Grievance Procedure**

The need for grievance redress procedures will most likely be minimal as the engineering design and land acquisition programmes will be participatory in nature and carried out in consultation with the affected persons. However, experience shows that complaints and grievances cases can still emerge in the course of project implementation. In the eventuality that this may happen the project has established a framework to address these cases.

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The current Indonesian grievance procedure is to be found in Presidential Decree No. 55/1993 and Regulation of the State Minister of Agrarian Affairs and National Land Agency No. 1 of 1994. The procedure is, however, solely designed to solve conflicts regarding the price offered for the to be acquired land only. Grievance in respect of the size of the land requested, or to the compliance with the procedures established by this CPFPG or a Resettlement Plan, are not covered.

In order to ensure that the affected people have avenues to redress grievances, whether related to the price of the land to be acquired, its size, or [implementation agency / contractor] compliance with the procedures established in this Policy Framework, or a Resettlement Plan, two parallel procedures will be available:

- (a) to seek redress regarding the price of the land, the procedures as defined in Presidential Decree No. 55/1993 and Regulation No. 1/1994 will need to be followed;
- (b) grievances regarding the size of the requisitioned land, or the established procedures, will need to follow a new procedure, especially established for the South Java Flood Control Sector Project. This newly established procedure follows the establishment of the Land Acquisition and Resettlement Unit by Regental Decree. See Chapter 6 Institutional Framework.

The current Indonesian jurisdiction on grievance redress states that title holders, who do not agree with the amount of compensation offered, can lodge a complaint. The grievance is submitted in writing to the Governor, explaining the reason for the writer's dissatisfaction. The Governor will issue his decision after having heard all concerned parties. If disagreement persists a final decision will be taken by the President upon the request of the Minister of Home Affairs, the Chairman of the National Land Agency, the Minister of Justice and the Minister in charge of the authority that needs the land.

If the grievance concerns the size of the land to be acquired, the solution will, in first instance, involve the design engineers, who, if possible, will come up with an alternative technical solution. This might consist of a change in the alignment of the drain, a reduction in the size of the ROW, or even a lowering of the design specifications, ie, reducing the system's capacity to handle floods of a specified intensity. The alternative technical solutions would, however, need to be financially feasible, and not shift the burden of flooding to other [downstream] areas.

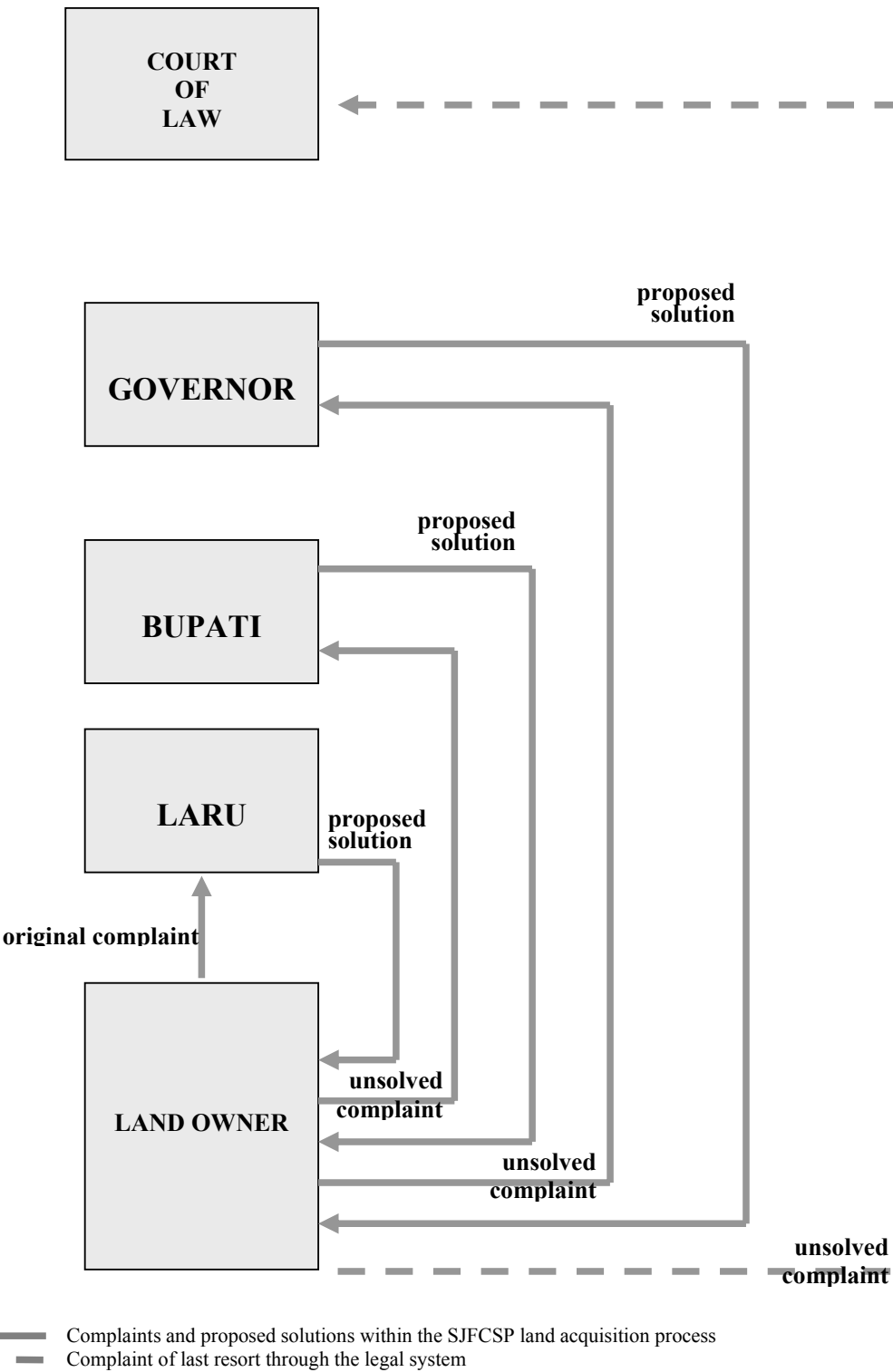
In case alternative engineering design remain unacceptable to the community, or where established procedures are not followed to the detriment of the APs—such as providing APs with sufficient time to rebuild their house, or part thereof—the second redress procedure can be used. The relevant complaint needs to be submitted in writing to the Land Acquisition and Resettlement Unit, copied to the Bupati not later than 30 days after the final design-discussions at village level. The Unit, acting as mediator, shall determine the time and venue for a last attempt at reaching agreement as to the design alternatives. Cases that cannot be solved at these levels shall be referred to the Governor of the relevant province.

An ultimate recourse remains open to unsolved disputes, that is, through the relevant court of law.

However, in the context of the recently introduced regional autonomy the Bupati will, in the majority of cases, come to a decision and initiate the appropriate course of action upon the advice of the Land Acquisition and Resettlement Unit.

The detailed procedures for redress of grievances and the appeals process will be widely publicised among the affected people. This will be done through direct dissemination to all stakeholders and by publishing the relevant information in the *Resettlement Information Bulletin*, which is published from time to time by the Land Acquisition and Resettlement Unit. Figure 1 below summarises the grievance procedure.

Figure 1: Grievance Procedure



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## 6 INSTITUTIONAL FRAMEWORK

### 6.1 Main Functions and Activities

For the purpose of coordinating the **two fundamental functions related to land acquisition and resettlement**, that is,

- (a) the payment of cash compensation and rehabilitation allowances for the loss of land, houses, businesses and access to the existent income generating opportunities, and
  - (b) the long term rehabilitation through the provision of skill training and income restoration programmes,
- a strong and effective organisational framework is required.

The above two functions can be subdivided into the following **activities**:

- **acquisition of land, houses and other assets, and payment of compensation and rehabilitation allowances**
  - survey and inventory the land, its structures and crops to be acquired
  - assess the legal status of the affected land
  - value the land, structures, standing crops and trees
  - disseminate information about the objectives of the project and the reason the land is needed
  - negotiate the compensation with the title holders
  - witness the actual purchase and exchange of money
  - make minutes of the proceedings
- **income restoration programme**
  - coordinate the design of an outline income restoration programme to be included in the Resettlement Plan
  - organise and coordinate the formulation of the detailed income restoration programme
  - supervise and coordinate the implementation of the programme
- **consultation and disclosure**
  - manage and coordinate the dissemination of the relevant information to the stakeholders
  - organise the consultations with the communities
  - publish the necessary information in written format for distribution to the stakeholders
- **relocation and site preparation** (*if and when needed*)
  - identification of resettlement sites in the vicinity of the land to be acquired
  - preparation of the host community
  - identification and design of improvements to the infrastructure of the host community
  - assist in the construction of houses in the new location
  - assist the affected persons / families in the physical move to the new location
- **monitoring and evaluation**
  - coordinate the design of the M&E system
  - manage and coordinate the data collection for the M&E system
  - evaluate the data and report the findings
  - prepare proposals for corrective action when and where needed

### 6.2 Land Acquisition and Resettlement Unit

In order to manage and coordinate these activities efficiently and effectively and to ensure that the ADB resettlement policy will be applied to each and every sub-project, a Land Acquisition and Resettlement Unit (LARU) will be established in each kabupaten by Regental Decree.<sup>7</sup>



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The LARU will report directly to the Bupati who, as District Head, is responsible for the distribution and control of the resettlement funds made available from central, provincial and district sources in the region under his administrative control.

The LARU will be managed by an Executive Secretary who should be contracted from a public or private sector agency, provided he/she is an experienced operator at district level, and has the necessary knowledge and contacts to organise and manage action programmes involving the district government and project stakeholders.

The Land Acquisition and Resettlement Units will have two distinct divisions. The first division will be responsible for the *cash compensation and restoration for the acquisition of land and other assets*, while the second one will handle the *long term restoration services and facilities* (income restoration, and relocation and site preparation) and *resettlement management* (consultation and dissemination, and monitoring and evaluation).

### **6.3 Organisational Structure of LARU**

#### **6.3.1 Acquisition of Land and Other Assets**

The division in charge acquisition of land and other assets is to be chaired by the Head of the District Land Office, and comprise some 10-15 staff members, mostly drawn from the BPN office.

This division will in fact constitute the existent Land Acquisition Committee (LAC)<sup>7</sup>. Acquisition of assets would normally be handled by a Land Acquisition Committee (LAC, or *Panitia Sembilan*), which is established by Gubernatorial Decree for a specific kabupaten. In the case of the South Java Flood Control Sector Project the establishment of the LARU with a separate asset acquisition sub-unit would duplicate the *Panitia Sembilan*.

Therefore, rather than creating a second body, with virtually the same tasks as the existent one, a more efficient approach has been chosen, that is, the continuation of the LAC, but with some additional tasks, responsibilities and reporting channels specified in a Memorandum of Understanding.

A direct merger is in this case not possible as the LAC is established by a higher level authority (Governor) than the LARU, which is created through a Regental Decree (Bupati). In order to ensure compliance with the ADB Policy requirements, the MOU will specify the tasks to be added to the ones typically conducted by the Land Acquisition Committee.

#### **6.3.2 Long Term Restoration Services and Facilities**

As stated above, this division will consist of four sub-units: (i) income restoration sub-unit, (ii) relocation and site preparation sub-unit, (iii) consultation and dissemination sub-unit, and (iv) monitoring and evaluation sub-unit.

The **Income Restoration Sub-unit** will be headed by the Assistant District Secretary (ASEKDA-I) for Development Issues and will be staffed from the relevant district agencies and bureaus, such as Bappeda, the environmental agency, and the like. This section will manage one of the most important parts of the

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<sup>7</sup> Authority for the establishment of such a Land Acquisition and Resettlement Unit is provided in Government legislation: *Peraturan Pemerintah R.I., No 84/2000 Tentang Pedoman Organisasi Perangkat Daerah*.

<sup>8</sup> Under current Indonesian legislation, land acquisition is the responsibility of a Land Acquisition Committee (*Panitia Sembilan*) which is established under Presidential Decree No. 55/1993 and chaired by the Bupati

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resettlement plans and sound knowledge of development programmes within the context of regional autonomy is therefore essential.

Assisted by the Consultant and the NGO-implementation staff the sub-unit will add the necessary details to the income restoration programme outlined in the Resettlement Plan.

The sub-unit will comprise some 4-5 persons representing the main economic activities (sectors) of the affected area. Participation in implementing this programme will constitute a very valuable learning experience for the staff and improve performance in the post-SJFCSP period.

The **Relocation and Site Preparation Sub-unit** will be chaired by the Head of the District Public Works Agency. Except in a few isolated cases, the need for relocation is not foreseen in SJFCSP.

If and when established, the sub-unit will need some engineering staff for infrastructural works in the host community and construction of houses. Some inputs will be required from the District Land Agency for the identification and acquisition of sites for relocating the affected persons.

The **Consultation and Dissemination Sub-unit** will be chaired by ASEKDA-II, the Assistant District Secretary for Governance. The sub-unit will be staffed by some 10-12 persons, drawn from the governance section of the district administration, and from the kecamatan staff of the project area.

Maintaining and strengthening good contacts with the sub-districts and village authorities is of the utmost importance as their participation in, and understanding of, the project and its implications in terms of resettlement effects and compensation is essential.

The sub-unit will be instrumental in ensuring that all information about the project is relayed to and discussed with the communities, and that especially the affected persons are fully informed about their rights. The sub-unit will publish the necessary information—such as the Pamphlet summarising the compensation and restoration entitlements of APs (see Appendix 7)—in written format in a clear and concise way, adapted to the language and level of understanding of the affected communities.

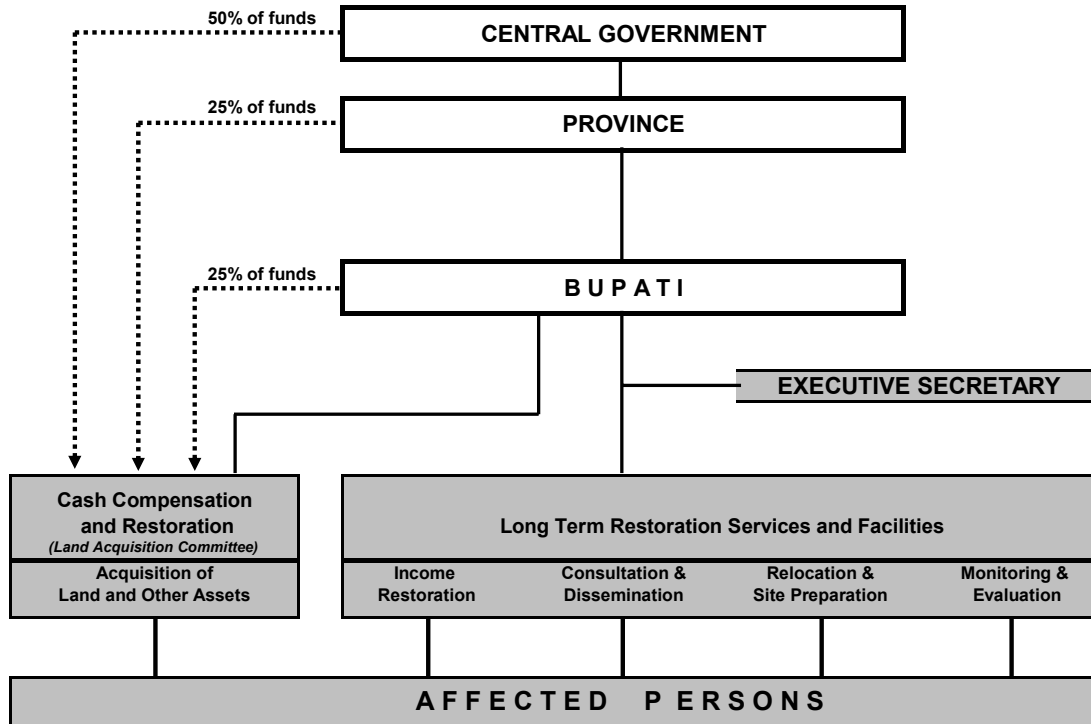
The **Monitoring and Evaluation Sub-unit** will be headed by the Chairman of the District Bappeda. The staff will largely be drawn from Bappeda's Infrastructure and Physical Affairs Division, as this division has been provided, through SJFCSP, with the equipment, software and training to operate a geographic information system to monitor and evaluate project progress and performance. The capacity to conduct M&E should thus not be a problem.

The sub-unit will design the M&E system. As a perceived lack of manpower will likely reduce the sub-unit's capacity to collect the required monitoring data, the system's design specifications will identify the agencies and administrative levels responsible for data collection.

For the purpose of conducting an annual audit of the accounts of the LARU, the Bupati will commission the services of an independent financial agency authorised to carry out such examination. Copies of the auditor's report will be sent to the Executing Agencies, other relevant authorities at provincial and central level, and the donor.

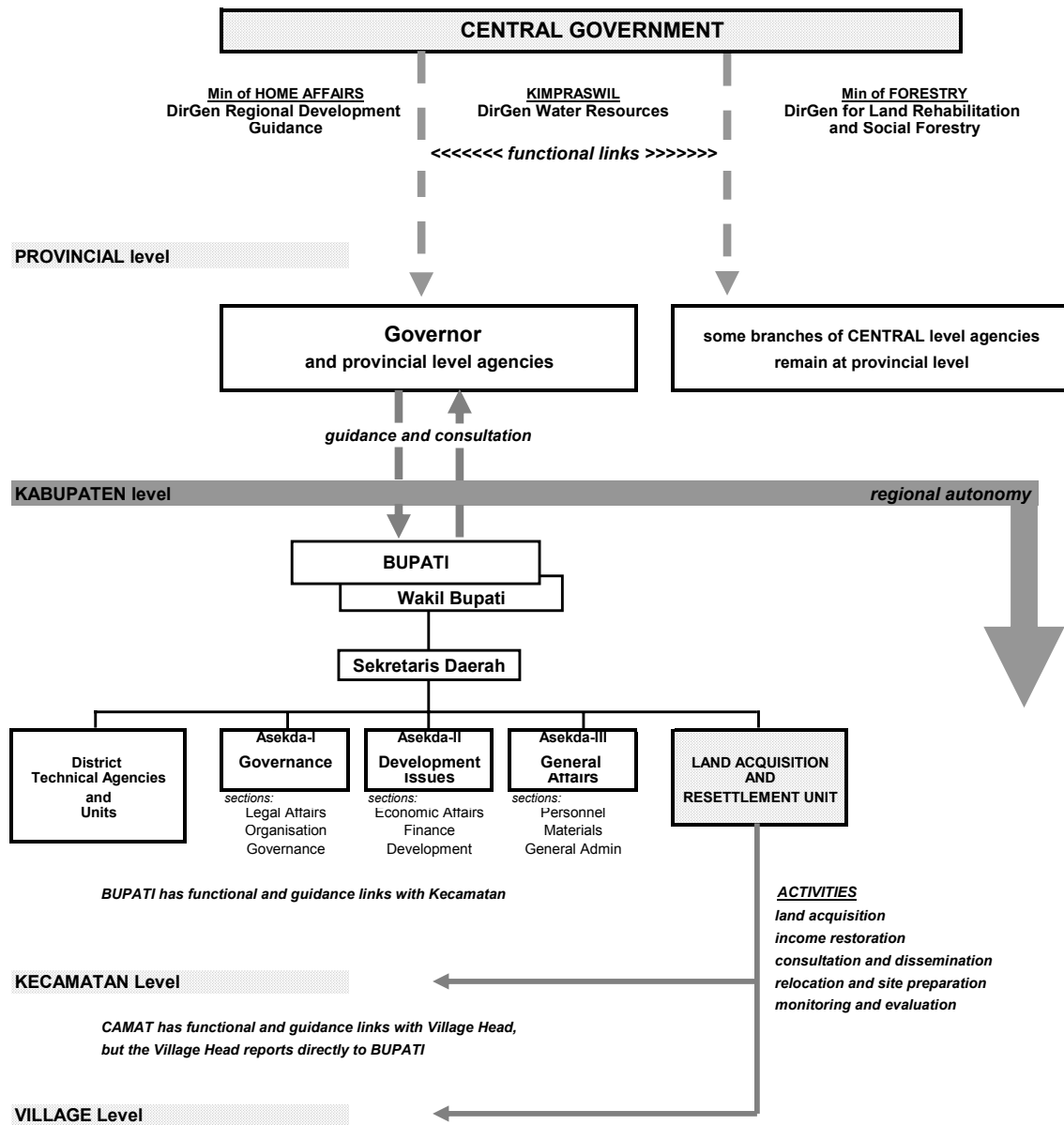
The figure below shows the operational structure of the Land Acquisition and Resettlement Unit, together with the source of funding for the acquisition of assets.

**Figure 2: Operational Structure of the Land Acquisition and Resettlement Unit**



The place of land acquisition and resettlement in the Government hierarchy is shown in the figure on the next page. The heavy line which reads 'KABUPATEN level' on the left side, and 'regional autonomy' on the right, is meant to emphasise the fact that land acquisition and resettlement implementation are the responsibilities of the authorities at district level.

**Figure 3: The Place of the Land Acquisition and Resettlement Unit in the Government Hierarchy**



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## 7 RESETTLEMENT BUDGET AND FINANCING

The South Java Flood Control Sector Project is financed by ADB Loan Nr. 1479-INO, while the local contribution is funded by the Government of Indonesia. Funds are disbursed through three Executing Agencies, ie, the Ministry for Settlement and Regional Infrastructure, the Ministry of Forestry, and the Ministry of Home Affairs.

Resettlement costs can be divided into five main groups:

1. compensation of assets,
2. income restoration,
3. LARU operational and administrative expenditure,
4. monitoring and evaluation,
5. AP participation in construction.

The last item is in fact not a resettlement cost, as it is part of the civil works construction budget. Participation of the affected population in the construction process, and the financial benefits thereof, are expected to create a strong sense of belonging and positive identification with the project. Its *pro forma* inclusion in the resettlement budget is meant to remind the LARU to monitor contractors' compliance with the clause in their construction contracts on participation of the population.

### 7.1 Land Acquisition and Compensation of Assets

Land acquisition and compensation of assets is, in accordance with the ADB philosophy on land acquisition and resettlement, paid, in cash or kind at replacement cost, from the GOI contribution. All other costs related to the resettlement programmes will, at least partly, be covered by the loan.

Compensation of assets includes the compensation for land, structures, trees and other crops at replacement cost. Compensation can be in cash, in kind (land for land), or by any other method agreed between parties. The cost of providing substitute land to families that need to be relocated, the cost of moving and any additional allowances deemed necessary, are all covered by this category.

Improving the infrastructure of the host community will be paid from the civil works category as well.

Funds are channelled in three ways: 50% of the land acquisition costs are borne by the Ministry for Settlement and Regional Infrastructure and are disbursed through PI-PWS. The remaining half is shared equally (25/25) between province and district. This, however, does not mean that the individual AP will have to deal with three different paymasters. Whether land acquisition is paid from an aggregated fund (50+25+25), or from individual portions (50, 25, 25), one land owner will deal with, and be paid in full by, the [land acquisition] sub-unit / committee, responsible for land acquisition in his area.

### 7.2 Income Restoration

The funds needed to conduct advisory services for the income restoration programme are included in Category 3, Consulting Services Component F (Ministry of Home Affairs).<sup>10</sup> The operating funds

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<sup>10</sup> As this task is not included in the current job description of the existent consultant, an LCB procedure will be carried out to contract the additional professional and especially sub-professional staff to implement the programme.

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included in the consulting budget will be available to finance practical field trials, the development of prototypes, and similar activities designed to lift the income restoration programme beyond the training and lecturing approach of typical extension services. Additional funding will be made available from the district development budget.

### **7.3 Administrative Costs**

The operational and administrative costs of the Land Acquisition and Resettlement Unit have partly been included in Category 5, Training Component F (Ministry of Home Affairs). Funds under this category have been allocated to (a) an intensive training programme designed to strengthen and improve the performance of the agencies and staff involved in all aspects related to resettlement planning and implementation, and (b) providing the LARUs with some 30-40% of their operational costs. This amounts to some USD 2,000 per month per kabupaten, or a total of USD 240,000.

An outline of the training activities planned for the staff of the LARU is as follows:

- Resettlement Planning I — concepts, participatory approaches, goals and activity schedules, requirements for data, information and financial resources
- Resettlement Planning II — operational methods and techniques, i.e., formal and informal on-the-job training in AP-identification, surveying and data processing
- Resettlement Planning III — participatory rapid rural surveys to identify income restoration needs and potential
- Socialization — dissemination of information and consultation with stakeholders, two-way communication, consensus building
- Grievance Procedures — to handle grievances as and when these occur, bring grievances to a mutually acceptable conclusion
- Monitoring and Evaluation I — concepts and techniques
- Monitoring and Evaluation II — operational M&E
- Monitoring and Evaluation III — presentation of results using geo-referenced data systems.

The relevant training modules are to be designed and developed by a Training Specialist whose input is scheduled to commence as soon as the loan reallocation is approved.

### **7.4 Monitoring and Evaluation**

Monitoring and evaluation of project progress will be done by the LARU. Expenditure is therefore covered by the operational and administrative budget of the Unit. The monitoring of the LARU's own performance and the auditing of its financial operations will, however, be done by an independent outside agency, or NGO. The funds for this latter M&E have been included in Category 6, Planning, Monitoring and Evaluation, Component F (DirGen Bina Bangsa, Ministry of Home Affairs).

A first approximation of the resettlement budget is shown in the table on the next page.

**Table 5: Resettlement Budget**

DESCRIPTION	RECIPIENTS	UNIT	UNIT COST (Rp)	Nr. of UNITS	AMOUNT	
					GOI (Rp)	ADB (USD)
Land (residential & arable)	APs	m <sup>2</sup>	determined for each sub-project	variable		-
Structures – permanent	APs	m <sup>2</sup>		variable		-
Structures – semi-permanent	APs	m <sup>2</sup>		variable		-
Structures – non-permanent	APs	m <sup>2</sup>	actual cost	variable		-
Trees/perennial crops	APs	tree	calculated in	variable		-
Crops	APs	ton	ResPlan	variable		-
<b>Sub-total Compensation</b>						-
Income earning activities in primary, secondary, and tertiary sectors	Area population	NGO contract	5,000,000/p-m 30,000,000/mth (USD 525) (USD 3,150)	120 m	-	63,000
				120 m	-	378,000
					-	
					-	
Training of LARU staff 30-40% of Operating Costs	District administration and LARU	month	13,500,000/mth (USD 1,500)	90 m	-	135,000
					-	
					-	
<b>Sub-total Institutional Dev.</b>						
Monitoring and evaluation		NGO contract	5,000,000/p-m (USD 525)	150 p-m	-	78,750
					-	
<b>Sub-total M&amp;E</b>						
Participation in construction	APs affected community	m <sup>3</sup>	actual cost calculated in ResPlan	variable	-	
					-	
<b>Sub-total Construction</b>						
<b>TOTAL</b>					<b>xxx</b>	<b>yyy</b>
<b>Contingencies 5%</b>						
<b>Inflation 8% per annum</b>						
<b>GRAND TOTAL</b>					<b>XXX</b>	<b>YYY</b>

Notes: p-m = person-month  
USD 1 = IDR 9,500

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## 8 IMPLEMENTATION SCHEDULE

The land acquisition and resettlement procedure comprises the following activities:

### Land Acquisition & Resettlement Planning:

- conduct inventory and census survey: identify people affected by land acquisition, their key characteristics and types of losses
- identify rehabilitation requirements, in particular with regard to vulnerable groups, and set up rehabilitation plan
- prepare resettlement plan based on the principles and procedures set out in this CPFPG
- conduct public information/consultations with affected people
- negotiate compensation rates
- sign agreements on compensation
- conduct final inventory and census survey
- define cut-off date for compensation eligibility

### Land Acquisition and Resettlement:

- inform people of date of start of construction
- pay compensation and other allowances
- allocate replacement land
- construct new houses, enterprises & other facilities
- APs to evacuate the land
- assist vulnerable groups with relocation
- demolish structures and clear vegetation, start construction
- Income Restoration/Poverty Alleviation Program, if any
- create employment opportunities

### Monitoring:

- monitor compensation and resettlement
- monitor income rehabilitation

### The guiding principles for the implementation schedule are:

- Land acquisition, land evacuation and demolition of houses must be completed within the preparatory stage of the engineering construction and before the beginning of relevant civil engineering works.
- It must be ensured that all APs, prior to their physical relocation will have: i) been adequately consulted about the Project, its impacts and compensation entitlements; ii) received compensation payments in a timely manner; and iii) provided with means to establishing livelihood.
- No person or family will be asked to relocate unless the above steps have been completed. Therefore one month buffer time should be considered in the implementation plan.

Although implementation of the flood control works may be speeded up by dividing construction into a number of packages, the Resettlement Plans will need to be completed for the whole sub-project before land acquisition can start in any of the packages. Once the required land, in a certain package, has been acquired, paid for and administratively processed, while giving enough time to those APs that have to rebuild their house in an adjacent plot, or move to a new location, the contractor is allowed to mobilise.

A typical implementation schedule for the land acquisition and resettlement is provided in Appendix 5. The implementation schedules for the individual projects shall be prepared under consideration of their respective construction schedules.



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## **9 MONITORING AND EVALUATION**

### **9.1 Objectives**

The objectives of monitoring and evaluation are to assess if the resettlement plan is implemented on schedule and within budget and according to the objectives and principles of the plan.

As a policy requirement of the ADB, both internal and external monitoring of the Resettlement Plan are carried out. Monitoring takes place against the activities, entitlements, time frame and budget set out in the individual resettlement plans of the sub-project. The time and effort spent on monitoring should be commensurate with the scale and magnitude of the resettlement problem. The total monitoring budget is estimated at Rp 975 million, as outlined in Chapter 7.

The Ministry of Home Affairs will be responsible for any remedial action needed to address unresolved resettlement issues and concerns.

### **9.2 Internal Monitoring**

The respective LARUs in co-operation with the project management unit and the Project Manager at the Ministry of Home Affairs will be responsible for conducting regular internal monitoring of the land acquisition and resettlement programme.

During implementation of the resettlement plan, internal monitoring will be undertaken every six weeks. Post land acquisition and resettlement monitoring will be undertaken internally every three months.

The main monitoring indicators will include:

- payment of compensation on a timely basis and to the agreed amount;
- payment of compensation to all eligible affected people, and only to eligible persons;
- allotment of housing in accordance with the options expressed by the APs. The number of people who have been allocated housing on a given date will be recorded. Distance of new houses from the original locations will be documented. In order to compare the standards of new housing with that of the old, photographs of all affected houses and structures will be taken and kept in the project files of each affected household;
- planning and implementation of income and livelihood restoration measures;
- assessment of progress on income restoration and maintaining / improving on pre-project standards of living.
- restoration of temporarily used land to pre-existing condition;
- construction/establishment of infrastructure facilities as compensation for community land;
- inspection of the complaints registered and actions taken for resolution of conflicts.

### **9.3 External Monitoring**

External monitoring will be assigned to an independent monitoring agency, such as a qualified NGO or a university. The selected NGO/university should have extensive experience in socio-economic survey, land acquisition and resettlement planning, and monitoring and evaluation.

External monitoring of a sub-project will typically comprise three field visits: one during compensation and resettlement, one six months after resettlement, and one at the end of the project. Further monitoring

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activities will be scheduled as required. External monitoring reports for the sector project based on the individual monitoring reports per sub-project will be prepared every six months.

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

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

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

External monitoring also serves to verify results of the internal monitoring.

#### **9.4 Post-project Evaluation**

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

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

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

- change in women's status, function and situations
- living conditions of vulnerable groups after land acquisition and resettlement.

The Ministry of Home Affairs will be responsible for any remedial action needed to address unresolved resettlement issues and concerns.

#### **9.5 Reporting**

Reporting periods are as follows:

1. Internal monitoring reports will be prepared every 6 weeks during the resettlement phase, and every 3 months thereafter.
2. The Ministry of Home Affairs will report to ADB in the form of quarterly progress reports.
3. External monitoring reports will be submitted to ADB twice a year and will detail the progress obtained in the implementation of each Land Acquisition and Resettlement Plan until its conclusion.

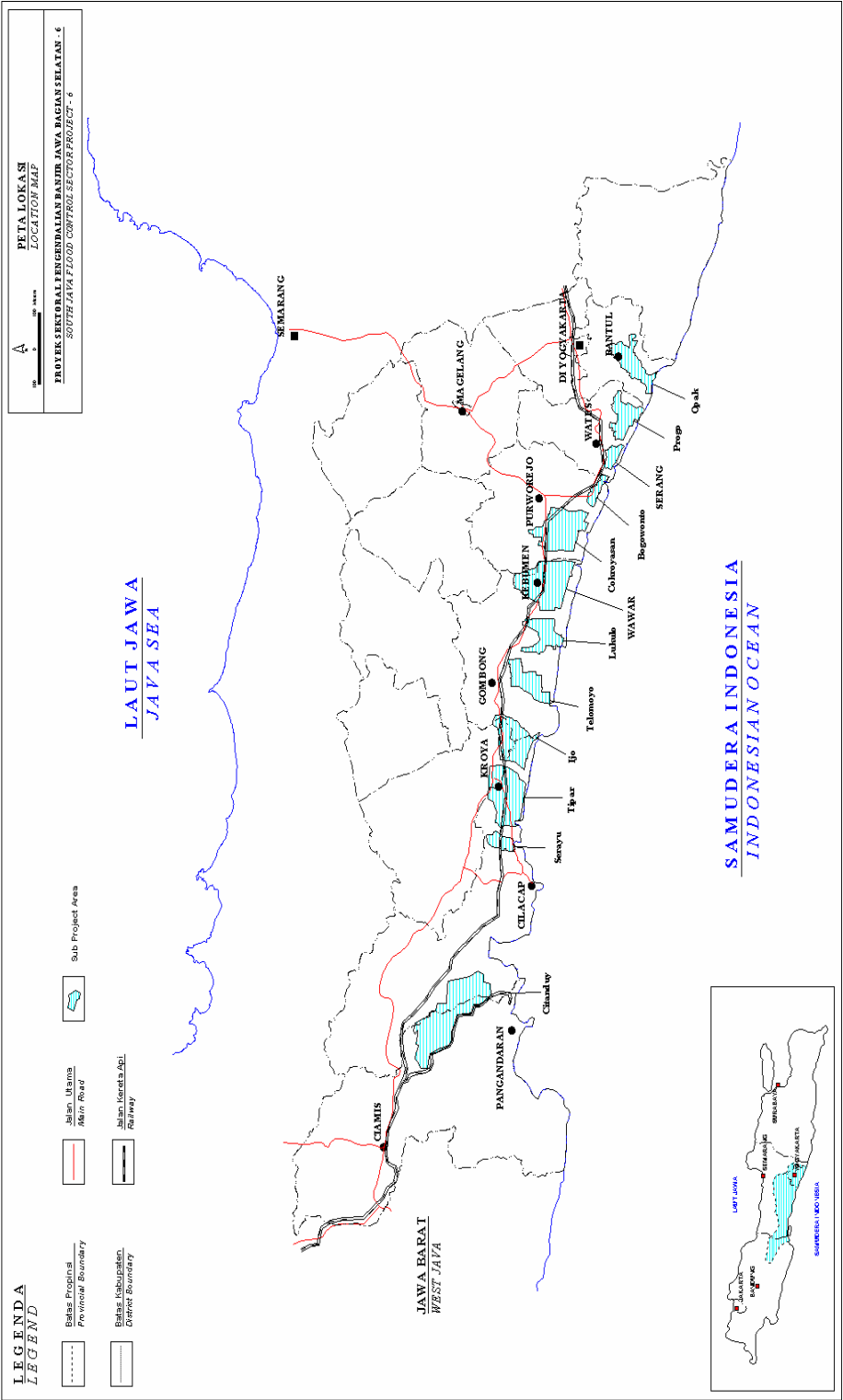
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**COMPENSATION POLICY FRAMEWORK  
AND  
PROCEDURAL GUIDELINES  
(CPFPG)**

**APPENDICES**

- Appendix 1: Map of Project Area**
- Appendix 2: Outline of Short Resettlement Plan**
- Appendix 3: Outline of Full Resettlement Plan and Table of Contents**
- Appendix 4: Database for Resettlement Plans**
- Appendix 5: Project Activities Flow Chart**
- Appendix 6: Generic Implementation Schedule for LAR Activities**
- Appendix 7: Information Pamphlet for Disclosure at Village Level**
- Appendix 8: Kotopanjang Dam – Lessons to Learn**

Map of the Project Area



## **SHORT**

### **LAND ACQUISITION AND RESETTLEMENT PLAN**

**SUB-PROJECT:** \_\_\_\_\_

#### **1. Scope of land acquisition and resettlement**

- Describe alternative options, if any, considered to minimize land acquisition and its effects, and why remaining effects are unavoidable.
- Summarize key effects in terms of land acquired, assets lost, and people displaced from homes or livelihoods.

#### **2. Objectives, policy framework, and entitlements**

- Summarise key national and local land, compensation and resettlement policies, laws, and guidelines that apply to project. (Link to CPFPGP)
- Explain how Bank Policy on Involuntary Resettlement will be achieved. (Link to CPFPGP)

#### **3. Consultation, and grievance redress participation**

- Summarise procedures for consultation and dissemination of information on the Project.
- Summarise procedures for redress of grievances by people affected described in CPFPGP.
- Describe consultation and grievance redress that occurred in sub-project at hand.

#### **4. Compensation, relocation, and income restoration**

- Summarise arrangements for valuing and disbursing compensation.
- Summarise arrangements for housing relocation, including transfer and establishment.
- Summarise income restoration measures to be implemented.
- Summarise any environmental risks, describe environmental management and monitoring steps from relevant environmental impact analysis report.
- Describe actual compensation, relocation and income restoration carried out for sub-project.

#### **5. Institutional framework**

- Summarise institutional arrangements as presented in CPFPGP, eg, main tasks and responsibilities in planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring and evaluating land acquisition and resettlement.

#### **6. Resettlement budget and financing**

- Report land acquisition and resettlement costs.

#### **7. Implementation schedule**

- Provide a time schedule showing how people affected will be provided for before demolition begins.

#### **8. Monitoring and evaluation**

- Specify arrangements for M&E.

**FULL**  
**LAND ACQUISITION AND RESETTLEMENT PLAN**  
**SUB-PROJECT:** \_\_\_\_\_

**1. Scope of land acquisition and resettlement**

- Describe, with the aid of maps, scope of land acquisition and why it is necessary for main investment project.
- Describe alternative options, if any, considered to minimize land acquisition and its effects, and why remaining effects are unavoidable.
- Summarize key effects in terms of land acquired, assets lost, and people displaced from homes or livelihoods.
- Specify primary responsibilities for land acquisition and resettlement.

**2. Socio-economic information**

- Define, identify and enumerate people to be affected.
- Describe likely impact of land acquisition on people affected, taking into account social, cultural, and economic parameters.
- Identify all losses for people affected by land acquisition.
- Provide details of any common property resources.
- Specify how project will impact on the poor, indigenous people, ethnic minorities, and other vulnerable groups, including women, and any special measures needed to restore fully, or enhance, their economic and social base.

**3. Objectives, policy framework, and entitlements**

- Describe purpose and objectives of land acquisition and resettlement.
- Summarise key national and local land, compensation and resettlement policies, laws, and guidelines that apply to project. (Link to CPFPGP)
- Explain how Bank Policy on Involuntary Resettlement will be achieved. (Refer to CPFPGP)
- Summarise principles, legal and policy commitments from borrower executing agency for different categories of project impacts.
- Prepare an eligibility policy and entitlement matrix for all categories of loss, including compensation rates.

**4. Consultation, and grievance redress participation**

- Identify project stakeholders.
- Describe mechanisms for stakeholder participation in planning, management, monitoring, and evaluation.
- Identify local institutions or organisations to support people affected.
- Review potential role of non-government organisations (NGOs) and community-based organisations (CBOs).
- Describe consultation and grievance redress that occurred in sub-project at hand.

**5. Relocation of housing and settlements**

- Identify options for relocation of housing and other structures, including replacement housing, replacement cash compensation, and self selection.
- Specify measures to assist with transfer and establishment at new sites.
- Review options for developing relocation sites, if required, in terms of location, quality of site, and development needs.

- Provide a plan for layout, design, and social infrastructure for each site.
- Specify means for safeguarding income and livelihoods.
- Specify measures for planned integration with host communities.
- Identify special measures for addressing gender issues and those related to vulnerable groups.
- Identify any environmental risks and show how these will be managed and monitored.

#### **6. Income restoration strategy**

- Identify livelihoods at risk.
- Develop an income restoration strategy with options to restore all types of livelihoods.
- Specify job opportunities in a job creation plan, including provisions for income substitution, retraining, self-employment
- Prepare a plan to relocate and restore businesses, including income substitution, where required.
- Identify any environmental risks and show how these will be managed and monitored.

#### **7. Institutional framework**

- Summarise institutional arrangements as presented in CPFPGP, eg, main tasks and responsibilities in planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring and evaluating land acquisition and resettlement.
- Provide for capacity building, including technical assistance, if required.
- Specify role of NGOs, if involved, and organizations of APs in resettlement planning and management.

#### **8. Resettlement budget and financing**

- Report land acquisition and resettlement costs.
- Prepare an annual budget and specify timing for release of funds.
- Specify sources of funding for all land acquisition and resettlement activities.

#### **9. Implementation schedule**

- Provide a time schedule showing start and finish dates for major resettlement tasks.
- Show how people affected will be provided for before demolition begins.

#### **10. Monitoring and evaluation**

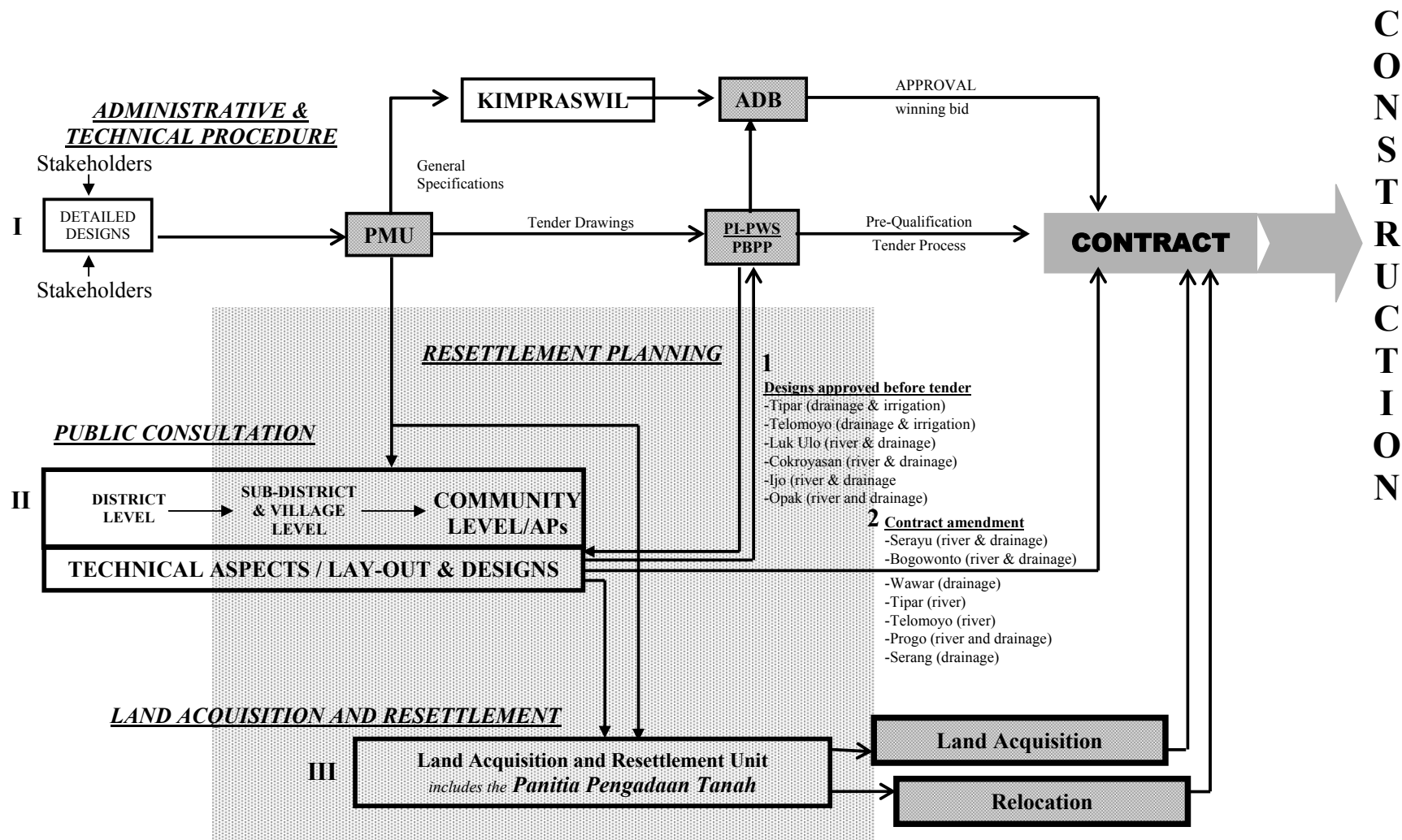
- Prepare a plan for internal monitoring of resettlement targets, specifying key indicators of progress, mechanisms for reporting, and resource requirements.
- Prepare an evaluation plan, with provision for external, independent evaluation of extent to which policy objectives have been achieved.
- Specify participation for people affected in M&E.

## MAPS and DATA NEEDED

- SUB-PROJECT AREA  
*scale to fit A3 size*  
 line map with boundaries, rivers, drains and roads  
*(make sure that the lines can also be understood in black&white)*
  - Boundary of sub-project area
  - Kecamatan names and boundaries
  - Desa names and boundaries
  - River and location & type of river works
  - Drains to be included in control works
  - Main roads and railway (for reference & navigation)
- PARTITIONED sub-project area (divide in a limited number of SUB-sub-areas)  
*scale to fit A3 size*
  - Land to be acquired as ribbon alongside rivers and/or drains—NOT TO SCALE, only to visualise, but not too much exaggeration. If possible add m2 or ha of land to be acquired per section of drain and/or river.
- DESA maps -- each desa on separate sheet  
*scale to fit A3 size*
  - Updated desa map, showing land use and other features
  - River and drainage works of the respective desa – BEFORE SOCIALISATION
  - River and drainage works of the respective desa – AFTER SOCIALISATION
  - Illustrate where possible with satellite image or aerial photography as background layer
- RIVERS and DRAINS – on merged desa maps, as we show civil works and effect on AP/OTD per drain, irrespective of administrative boundary  
*scale to fit A3 size*
  - Flood control works (not necessarily to scale; in light colours as the main theme is AP/OTD)
  - HOUSES and other structures to be moved
  - AP/OTD -- to be resettled
  - AP/OTD – land owners
  - AP/OTD – tenure farmers & sharecroppers
- SUB-PROJECT AREA (3 maps)  
*scale to fit A4 size*
  - Flood prone area before SJFCSP
  - Flood prone area after construction river works
  - Flood prone area after construction drainage works
- DATA ON AP/OTD
  - Number of AP/OTD
  - Tables showing total land holding and land lost per AP/OTD
  - Tables showing total assets and income generating activities lost per AP/OTD
  - Tables showing socio-economic condition of AP/OTD and other communities
  - Identification of number of AP/OTD losing more than 20% of their land
  - Identification of number of AP/OTD to be resettled
  - Identification of common property affected and details
  - Formulate measures to compensate loss of common property
  - Identification of vulnerable groups, including households headed by women
  - Formulate special measures needed to restore/improve their socio-economic basis

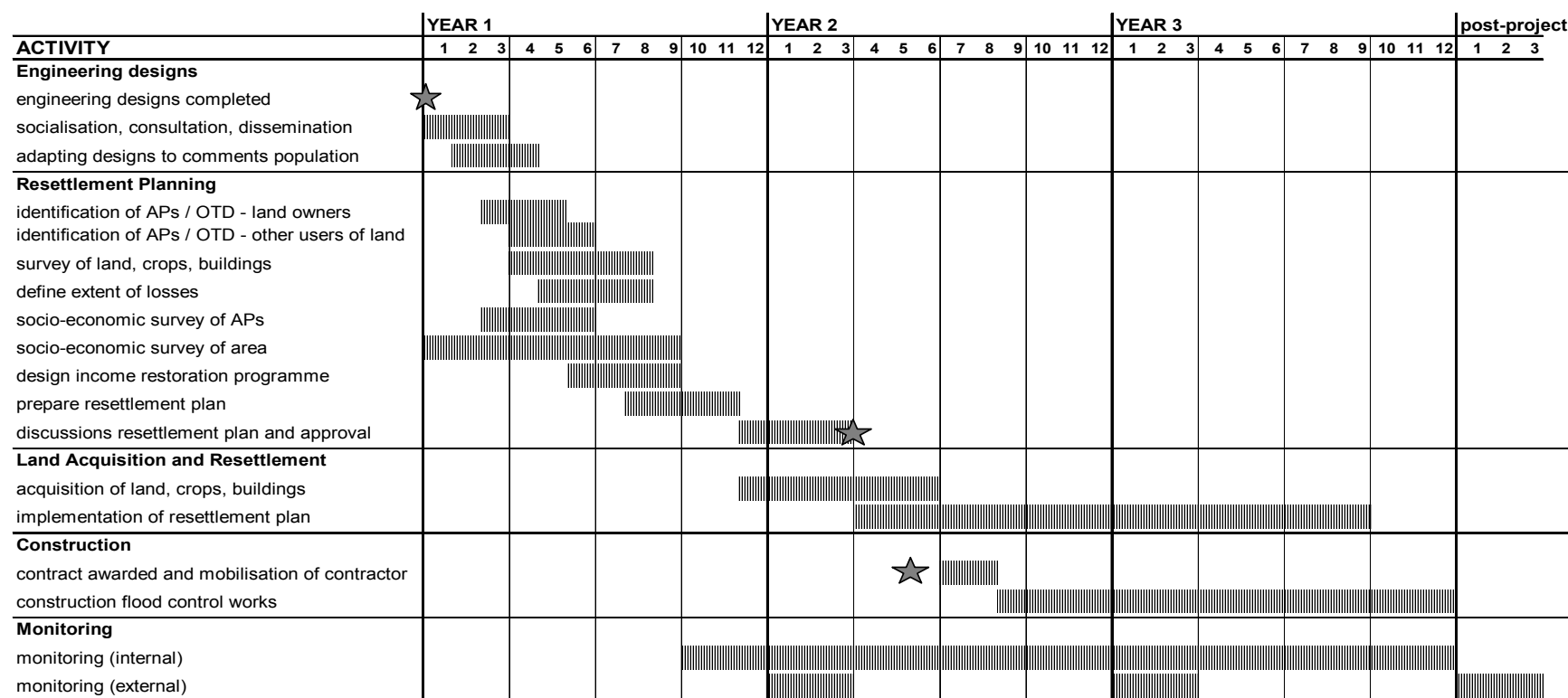


## PROJECT PREPARATION and IMPLEMENTATION FLOW



## GENERIC IMPLEMENTATION TIMELINE

### South Java Flood Control Sector Project



**Notes:**

Some activities are implemented in parallel to speed up the process. Land acquisition is, however, not to start before the Resettlement Plan for a sub-project / river basin has been completed.

Division of the sub-project into construction packages does then allow that construction starts in one package before the land for the whole sub-project has been acquired.

Contractor mobilisation is assumed to take about one month.

**Ministry of Home Affairs  
Directorate General of Regional Development Guidance**

**South Java Flood Control Sector Project  
ADB LOAN 1479-INO**

**COMPENSATION POLICY FRAMEWORK  
AND PROCEDURAL GUIDELINES**

**Information Pamphlet  
on  
Compensation Policy  
and Entitlements**

*(name of sub-project)*

*(place and date)*

## 1. Introduction

1. This information leaflet summarized the general Compensation Policy Framework and Procedural Guidelines (CPFPG) for the South Java Flood Control Sector Project (SJFCSP) and the basic provisions set off in the Land Acquisition and Resettlement Plan (LARP) for the construction of the **(name of sub-project)** which is a sub-project of SJFCSP. Readers who need more information can consult the full CPFPG and LARP at the office of all affected Desas or at the local Project implementation office. Copies of the CPFPG and the LARP have been deposited also at the central offices of Kimpraswil/DitJen SDA and Depdagri/DitJen Bina Bangda.

## 2. The (name of sub-project) sub-project

2. The (name of sub-project) will entail the construction of (describe) and will affect properties in the village(s) (.....) in (.....district;.....regency;.....province).

3. Based on LARP information the construction of the (name of sub-project) sub-project will require land acquisition for (describe components requiring land acquisition resettlement). The land to be acquired will be in all .....m<sup>2</sup>. The number of families affected by land acquisition is ..... (.....people) and the number affected by house loss/relocation ..... (persons). ***(if applicable: Severely affected families, that is, families losing more than 20% of their land, are entitled to receive a special rehabilitation assistance as specified in the entitlements matrix below)***. The compensation policy for the losses by the sub-project are detailed in the next sections of this document.

## 3. Compensation principles

4. The principles for the compensation and entitlements established for the projects are as follows:
- All affected people, both with legal land title or not, will be eligible to compensation for losses caused by the project.
  - Compensation and entitlements provided to affected people at replacement rates and will have to at least maintain their pre-project standard of living, with the prospect of improvement.
  - All affected people will be adequately informed on eligibility, compensation rated and standards, livelihood and income restoration plans, and project timing.
  - No land acquisition will take place prior to compensation delivery and satisfactory resettlement of the affected people.

## 4. Compensation Eligibility and entitlements

5. All affected persons losing land, building, plants, land improvements and business income will be compensated and rehabilitated at replacement rated in accordance to the type and amount of their losses. All affected persons will be fully compensated independently from land tenure status. To fit this principle all affected land under different tenure statuses such as: hak milik (ownership); hak guna usaha (exploitation rights); hak guna bangun (building rights); hak pakai (use rights); adat or ulayat (customary rights) will be compensated at the same replacement cost rate. This provision applies also long-term squatters on government land. Table 1 summarized loss categories and relative compensation entitlements.

6. Affected persons and impacts will be assessed through a special survey whose results are documented in the Land Acquisition/Resettlement Plan prepared for each sub-project. The date of the conclusion of the survey is considered as the cut-off date ***(indicate the date of the end of the survey for the sub-project)*** for compensation eligibility. Persons constructing building or settling in project affected areas the cut-off date will not be eligible to compensation or subsidies.

## 5. Grievance Procedures

7. In order to ensure that the affected people have avenues for addressing grievance related to any aspect of land acquisition and resettlement, the following complaints and grievance procedures will be followed for the project:

- a. Grievances should first be addressed to local Land Acquisition and Resettlement Unit (LARU)
- b. If the issue cannot be resolved satisfactorily in direct discussion between LARU and the AP, the AP can then appeal to the respective Bupati for assistance in the negotiation. The Bupati has the power to decide the matter.
- c. If the AP is still not satisfied with the response then he has the legal right to submit the appeal to the Governor of the Province.

8. In addition to the above process to address complaints and grievances issues, an AP will also have the option if s/he is unsatisfied with the solution offered at the Bupati office level to bring the case to the appropriate court of law.

Type of Losses	Entitlement	Compensation Policy	Other Measures
Permanent land loss	legal owners of land, ie, hak milik, hak guna usaha, hak guna bangun, hak pakai, adat and ulayat, and owners without title	<ul style="list-style-type: none"> <li>cash compensation at replacement cost, or</li> <li>substitute land (land for land) for communal land: compensation in form of provision of infrastructure facilities</li> </ul>	<ul style="list-style-type: none"> <li>access to training for alternative employment</li> <li>training for project-related construction and operational jobs</li> <li>access to project related jobs</li> </ul>
Permanent land loss	severely affected legal owners who lose more than 20% of their land (total land holdings)	<ul style="list-style-type: none"> <li>special allowance of an amount equal to one year production of the land lost</li> </ul>	<ul style="list-style-type: none"> <li>rehabilitation allowance</li> </ul>
Temporary land loss	legal owners of land, ie, hak milik, hak guna usaha, hak guna bangun, hak pakai, adat and ulayat, and owners without title	<ul style="list-style-type: none"> <li>cash compensation at market rates</li> </ul>	<ul style="list-style-type: none"> <li>contractor has to restore the land to its original condition</li> </ul>
Houses, attachments and other structures	owner of the structure	<ul style="list-style-type: none"> <li>cash compensation at replacement rates for entire house irrespective of degree of damage</li> <li>or resettlement (house for house)</li> <li>relocation allowance Rp 500,000</li> </ul>	
Trees and Crops	persons who utilize the land where trees and crops are located	<ul style="list-style-type: none"> <li>trees: cash compensation at market rates / replacement cost</li> <li>crops: cash compensation at market rates</li> </ul>	<ul style="list-style-type: none"> <li>replanting or production loss considered</li> </ul>
Business losses	owners of the affected business	<ul style="list-style-type: none"> <li>cash compensation consisting of two (2) months of lost income (to be proven by tax returns) or two (2) months of minimum daily wage</li> </ul>	
Communal resources	community	<ul style="list-style-type: none"> <li>assessed case by case</li> </ul>	<ul style="list-style-type: none"> <li>restoration of losses combined with rural development programmes</li> </ul>

## Indonesian to sue Japan govt over ODA dam project: Report

**Dow Jones**  
**Tokyo**

Citizens of Indonesia's Sumatra Island plan to sue the Japanese government and its affiliates in September for damage caused by a Tokyo-funded hydropower dam on the border of West Sumatra and Riau, *Kyodo News* reported Monday.

The case would mark the first legal challenge over a project paid for by Japan's official development assistance, *Kyodo* added.

- About 3,000 people from 13 villages on the island are planning to file a lawsuit with the Tokyo District Court to seek compensation from the Japanese government, the Japan Bank for International Cooperation and Tokyo Electric Power Service Co., the report said.

JICA and JBIC are affiliated with the Japanese government, while TEPCO belongs to a business headed by Tokyo Electric Power Co.

The four were involved in building Kotopanjang Dam, which caused the plaintiffs and 20,000 other villagers to be forcibly resettled, Japanese supporters of the plaintiffs said.

The dam was completed in 1997 at a cost of 31.18 billion yen paid for by a yen-denominated government loan, according to the supporters. It is located in the middle of the island on the border between Riau and West Sumatra provinces.

"The construction of Kotopanjang Dam was proposed by a Japanese consulting agency, the funds for it were extended by Japanese government-affiliated bodies, and a Japanese contractor, together with local contractor firms, received the order," one supporter said according to *Kyodo*.

According to the supporters, the local residents have been left without proper living facilities, such as clean well water on the resettled land, and haven't been guaranteed job opportunities there, becoming "developmental refugees."

"The plaintiffs and local residents are seeking restoration of their living conditions and natural environment, while a growing number among them are calling for the dam to be dismantled," said Akihiko Oguchi, who heads the Japanese lawyers representing the plaintiffs. "We may include its removal in our demands when we file the suit."

According to Oguchi, it will be impossible for the plaintiffs to seek Tokyo's decision to remove it because the dam is now owned by the Indonesian government, but "at least we will urge the Japanese government in court to recommend its Indonesian counterpart to do so."

The amount of compensation that the plaintiffs will demand hasn't yet been decided, the supporters said.

Oguchi also said the Japanese supporters will soon file a taxpayers' suit claiming that the government misused public funds to foot the bill for the controversial dam project.

Japan's Foreign Ministry and TEPCO said they can't comment on the planned lawsuit before it is filed, *Kyodo* reported.

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