

# Resettlement Framework

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IND: SASEC Road Connectivity Investment Program

Prepared by the Ministry of Road Transport and Highways and the Manipur Public Works Department for the Asian Development Bank.

## CURRENCY EQUIVALENTS

(as of 31 July 2013)

Currency unit	–	Indian rupee (Rs)
INR1.00	=	\$ 0.0239017161
\$1.00	=	INR 55.425000

## ABBREVIATIONS

ADB	–	Asian Development Bank
BSR	–	Basic Schedule of Rates
DC	–	District Collector
DH	–	Displaced household
DP	–	Displaced person
EA	–	Executing Agency
GOI	–	Government of India
GRC	–	Grievance Redressal Committee
IA	–	Implementing Agency
IAY	–	Indira Awaas Yojana
IPP	–	Indigenous Peoples Plan
LA	–	Land acquisition
LAA	–	Land Acquisition Act, 1894
L&LRO	–	Land and Land Revenue Office
LARR	–	The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
LVC	–	Land Valuation Committee
MORTH	–	Ministry of Road Transport and Highways
NGO	–	Nongovernment organization
NHA	–	National Highways Act, 1956
NRRP	–	National Rehabilitation and Resettlement Policy, 2007
PD	–	Project Director
PIU	–	Project implementation unit
PWD	–	Public Works Department
MPWD	–	Manipur Public Works Department
WBPWD	–	West Bengal Public Works (Roads) Department
R&R	–	Resettlement and rehabilitation
RF	–	Resettlement framework
RO	–	Resettlement Officer
ROW	–	Right-of-way
RP	–	Resettlement plan
SC	–	Scheduled caste
SH	–	State highway
SPS	–	Safeguard Policy Statement
ST	–	Scheduled tribe

## NOTE

In this report, "\$" refers to US dollars.

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## CONTENTS

	Page
<b>I. INTRODUCTION</b>	<b>1</b>
A. Overview of the Project	1
B. Purpose of the Resettlement Framework	1
<b>II. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS</b>	<b>2</b>
A. Policy and Legal Framework	2
B. Comparison of Government And Adb Policies	6
C. Involuntary Resettlement Safeguard Principles For The Project	7
D. Entitlement Matrix	9
E. Screening Criteria of Subprojects	20
F. Negotiated Settlement	20
<b>III. SOCIOECONOMIC INFORMATION</b>	<b>21</b>
A. Surveys	21
B. Resettlement Plan	22
C. Gender Impacts and Mitigation Measures	22
<b>IV. COMPENSATION, INCOME RESTORATION, AND RELOCATION</b>	<b>22</b>
A. Valuation of Lost and Affected Assets	22
B. Income Restoration	24
<b>V. CONSULTATION, PARTICIPATION AND DISCLOSURE</b>	<b>25</b>
A. Meaningful Consultation and Participation of Key Stakeholders	25
B. Information Disclosure and Resettlement Plan Disclosure	26
<b>VI. GRIEVANCE REDRESS MECHANISM</b>	<b>26</b>
<b>VII. INSTITUTIONAL ARRANGEMENT AND IMPLEMENTATION</b>	<b>27</b>
<b>VIII. BUDGET AND FINANCING</b>	<b>29</b>
<b>IX. MONITORING AND REPORTING</b>	<b>29</b>
 <b>APPENDIXES</b>	
1. Comparison between Government and ADB Policy	31
2. Involuntary Resettlement Impact Categorization Checklist	42
3. Outline of a Resettlement Plan	43
4. Indicative Implementation Schedule	47

## I. INTRODUCTION

### A. Overview of the Project

1. The SASEC Road Connectivity Investment Program (“SRCIP”) will improve road connectivity and efficiency of the international trade corridor, by expanding about 500km of roads in the North Bengal and Northeastern Region (NB-NER) of India. The project area under SRCIP is a key strategic thoroughfare integrating South and South East Asia, bordering Bangladesh, Bhutan, Myanmar and Nepal. It will enable efficient and safe transport within India and regionally with other South Asia Subregional Economic Cooperation (SASEC) member countries.<sup>1</sup> Ultimately, SRCIP will pave the way from India and other South Asian countries to Myanmar, and further afield to other member countries of the Association of South East Asian Nations (ASEAN).

2. The proposed investment program will upgrade national highways (NH), and state highways (SH) connecting five countries: Bangladesh, Bhutan, India, Myanmar and Nepal in the northeastern part of India including North Bengal. A Multitranche Financing Facility modality is proposed to finance the program given the large scale of the program and the need to carefully study priority corridors particularly in the India-Bangladesh-Myanmar region.

3. For the NH sections, MORTH will be the EA and the IA for Manipur and West Bengal will be the Manipur Public Works Department and Public Works (Roads) Department respectively. For the SH sections in Manipur, the EA and IA will be the Manipur PWD. MPWD and WBPWD will establish Project Implementation Units (PIU) and they will be responsible for conducting the social assessment and formulating RPs for the subprojects, as outlined in this RF.

4. Under Tranche 1 of the investment program, two subprojects totalling about 175km in West Bengal will be improved due to their significant regional cooperation and integration impacts, economic viability, and social, resettlement and environmental soundness. They include (i) 49km of AH-2: Panitanki (Nepal border) – Naxalbari – Shivmandir – Fulbari (Bangladesh border) and (ii) 126km of AH-48: Jaigaon (Bhutan border) – Hasimara – Mainaguri – Changrabandha (Bangladesh border). For these two subprojects, detailed design has been completed. The list of potential subprojects under preparation for subsequent tranches are provided below in Table 1.

**Table 1: List of Potential Subprojects**

Name of Road	Area
Mechi River Bridge	West Bengal
Imphal-Moreh Road (NH)	Manipur
Imphal-Wangjing-Heirok-Machi-Khudengthabi Road	Manipur
Greater Imphal Ring Road	Manipur
Impahi-Kanchup-Tamenglong-Tousem-Haflong	Manipur

### B. Purpose of the Resettlement Framework

5. This Resettlement Framework (RF) has been formulated based on (i) ADB’s Safeguard Policy Statement (SPS 2009), and government laws and policies as outlined in Section II. Any component included in the Project shall comply with the requirements of the Government of

<sup>1</sup> Comprising Bangladesh, Bhutan, India and Nepal.

India, the state governments and ADB. The sample subprojects will consist of NH and SH. The draft RPs will be endorsed by the EA/IA and submitted to ADB for review and approval prior to civil works contract award. Compensation at replacement cost and other assistances will be paid to all the displaced persons (DPs) prior to commencement of construction activities and prior to displacement or dispossession of assets.

6. This RF has been prepared to guide the preparation of RPs for subprojects financed under the MFF. The RF will be reviewed and updated from time to time to ensure relevance and consistency with applicable country legal frameworks and ADB's Safeguard Policy Statement, 2009 (SPS).

7. The purpose of this RF is to do the following: (i) specify the requirements that will be followed in relation to subproject screening and categorization, assessment, and planning, including arrangements for meaningful consultation with displaced people and other stakeholders, information disclosure requirements and, where applicable, safeguard criteria that are to be used in selecting subprojects and/or components; (ii) assess the adequacy of the client's capacity to implement national laws and ADB's requirements and identify needs for capacity building; (iii) specify implementation procedures, including the budget, institutional arrangements, and capacity development requirements; (iv) specify monitoring and reporting requirements; (v) describe the responsibilities of the client and of ADB in relation to the preparation, implementation, and progress review of social safeguard documents of subprojects; (vi) lays out the principles and objectives governing the preparation and implementation of RPs and ensures consistency with ADB policy requirements; and (vii) compares applicable national laws and regulations and the ADB SPS and outlines measures to fill identified gaps.

## **II. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS**

8. The RF has been prepared for the investment program. Two RPs for the two sample subprojects, were prepared in accordance with this RF and the same will apply for subsequent subprojects identified for funding under the investment program.

9. The RF outlines the objectives, policy principles and procedures for land acquisition, compensation and other assistance measures for displaced persons. It includes guidance on screening and categorization, assessment, planning, institutional arrangements and processes to be followed for all subprojects.

10. The IA will be responsible for conducting the social assessment and formulating RPs for non-sample subprojects, as per the procedures outlined in this RF. The draft RPs will be disclosed to the displaced persons and submitted to ADB for review and approval prior to commencement of any civil works. Compensation and other assistances will have to be paid to DPs prior to any physical or economic displacement of displaced households.

### **A. Policy and Legal Framework**

11. The policy framework and entitlements for the Program are based on national laws: The Land Acquisition Act, 1894 (LAA, amended in 1984), the National Highways Act, 1956, the National Rehabilitation and Resettlement Policy, 2007 (NRRP); State laws and regulations and ADB's SPS, 2009. Provisions for land acquisition in the tribal areas are included below in case land will be required for the project in tribal areas. Further, a brief note on the new act, 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013' has also been provided as the act may become effective prior to the implementation of the investment program. An overview of relevant laws and policies are outlined below and detailed explanation can be found in Appendix 1.

#### **1. Land Acquisition Act (LAA), 1894 (Central Act I of 1894)**

12. The Land Acquisition Act, 1894 (LAA) generally governed land acquisition and compensation, for State Highways in both West Bengal and Manipur States till December 31, 2013. This LAA has been repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR), and the States are yet to frame the rules and constitute the various committees envisaged under LARR in line with the Draft Rules framed by the ministry of Rural Development, Gol.

#### **2. National Highways Act, 1956 (Act 48 of 1956)**

13. The act provides for declaration of certain highways as national highways, development and maintenance of national highways by central government with its own funds and also governs land acquisition and compensation for development of national highways in all States. Within a year from January 01, 2014, the NH Act will have to adopt the (i) compensation for land owners (First Schedule); (ii) rehabilitation and resettlement entitlements (Second Schedule); and (iii)

14. The National Highways Act, does not have provision for payment of 30% solatium and additional 12 percent. However, there is no bar in the competent authority including solatium and 12 percent additional payment as part of the compensation determined. The act provides for expeditious acquisition of land for forming, strengthening and widening of national highways.

#### **3. National Rehabilitation and Resettlement Policy (Ministry of Rural Development), 2007**

15. The National Rehabilitation and Resettlement Policy, 2007 (NRRP) provided broad guidelines and executive instructions and was applicable to projects involving displacement. The provisions of the NRRP-2007 provided for the basic minimum requirements, and projects leading to involuntary displacement of people were expected to address the rehabilitation and resettlement issues comprehensively. The State Governments, Public Sector Undertakings or agencies, and other requiring bodies were at liberty to put in place greater benefit levels than those prescribed in the NRRP-2007. The principles of this policy also applied to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any other reason. This policy has become infructuous with the notification of LARR.

#### **4. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)**

16. The act provides for transparent process and fair compensation to land owners and those affected by land acquisition, for land acquired for public purpose. In determining market price, (Sec 26 read with 1st Schedule) the land owner in urban area will get twice, due to the 100% solatium and in rural area, the multiplying factor is 1 to 2 depending on distance from nearest urban centre, to be notified by appropriate government, and then 100% solatium. Sec 40 (2) restricting use of emergency clause to defense, national security and natural calamities. For other requirement, parliamentary approval is required for invoking emergency clause. Addition 75% compensation to be provided if emergency clause is invoked.

17. The Central Government has notified January 01,2014 as the effective date of the act, in accordance with Sec 1(3) of LARR. The existing National Highways Act (NH Act) and other Acts specified in the Fourth Schedule of LARR will have 1 year to adopt the; (i) compensation for land owners (First Schedule); (ii) rehabilitation and resettlement entitlements (Second Schedule); and (iii) provision of infrastructure amenities (Third Schedule). If the changes in the NH Act are notified prior to the RP implementation, the MoRTH and WBPWD will have the RF and RP revised in accordance with the provisions of modified NH Act.

18. The Draft Rules framed by Ministry of Rural Development, GoI is under review and is expected to be notified by mid-February 2014 and the respective State Governments will have to enact and adopt the LARR, frame rules and constitute the the various committees envisaged under LARR. If the enactment and adoption of the LARR and the rules for the same are notified by state government, prior to RP implementation, the RF and RP will revised by MoRTH and MPWD in accordance with the new act.

## **5. Legal and Policy Framework of West Bengal State**

### **a. West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 (WB Act XIII of 1962)**

19. Eviction of encroachers from the government lands is governed by the provisions of this act and the rules framed there under. The Act provides for speedier and less cumbersome procedure for removing the encroachment / illegal construction by encroachers.

### **b. West Bengal Land and Land Reforms Manual, 1991**

20. The manual lays down the principles and procedures to be followed by the officials and functionaries in matters relating to land and land reforms in accordance with the provisions of the relevant act and rules; and it also lays down government policy in matters relating to management, use and settlement of government lands.

### **c. New Approach in Land Acquisition - GO No. 1701 to 1707-LA-3M-07/06, 2006**

21. Revised Procedure and administrative arrangements for effective and efficient disposal of land acquisition cases under the provisions of Land Acquisition Act, 1894 was issued by Land & Land Reforms Department, Government of West Bengal on June 06, 2006.

## **6. Legal and Policy Framework of Manipur State**

### **a. The Manipur Municipalities Act, 1994**

22. Acquisition of land: The act provides that, when any land, whether within or outside the limits of a municipality is required for the purposes of this Act, the State Government may at the request of the Nagar Panchayat or the Council, proceed to acquire it under the provisions of the land acquisition act, 1894, and on payment by the Nagar Panchayat or the Council, as the case may be, of the compensation awarded under that act and of any other charges incurred in acquiring the land, the land shall vest in the Nagar Panchayat or the council, as the case may be.



23. Encroachments on public lands belonging to the Municipality: The act provides penalty for encroachment on public lands, including upon any public road, public drain, sewer, aqueduct, water course and other public lands. The act provides power to the Municipality for issue of notice to the encroacher to remove obstructions, encroachments on public lands. In the event of non-removal within 48 hours of the notice, the municipality is empowered to remove such obstruction or encroachment.

**b. The Manipur Land Revenue & Land Reform Act, 1960 (MLR & LR Act, 1960)**

24. The Manipur Land Revenue & Land Reform Act, 1960 (MLR & LR Act, 1960) was enacted by the Parliament to consolidate and amend the law relating to land revenue in the State of Manipur and to provide certain measures of land reform. Prior to the enactment of this act, the Assam Land & Revenue Regulation Act, 1886 was applied to Manipur by a State Durbar Resolution.

25. Section 2 of the Act defines applicability of the act and states that it extends to the whole of the State of Manipur except the hill areas thereof. Hill areas is defined vide Sec 2(j) as such areas in the hill tracts of the State of Manipur as the State Government may, by notification in the official Gazette, declare to be hill areas.

**c. The Manipur Public Premises (Eviction of Unauthorised Occupants) Act, 1978**

26. The Act provides for the prevention of slums and for the speedy eviction of unauthorised occupants from public premises in the State of Manipur.

**d. The Manipur (Hill Areas) District Councils Act, 1971 (Act 76 of 1971)**

27. This Act provides for the establishment of District Councils in Hill Areas in the Union territory (State) of Manipur. Further, vide Section 44 of the said act, all public roads which have been constructed or are maintained out of the Council Fund and the stones and other materials thereof and also all trees, erections, materials, implements and things provided for such roads, will be under its direction, management and control.

**7. Provisions of the Panchayat (Extension to Scheduled Areas) Act (PESA), 1996**

28. The Panchayat (Extension to Scheduled Areas) Act, 1996 is meant to enable tribal society to assume control and to preserve and conserve their traditional rights over natural resources.

**8. The Constitution (Twenty-seventh Amendment) Act, 1971**

29. The amendment act, inserted a new article, Article 371C. The hill areas in the state of Manipur largely inhabited by tribal communities are not covered by the 6<sup>th</sup> Schedule. The special provision envisages the constitution of Hill Areas Committee of State legislature. The Governor is mandated to report to the President regarding the administration of 'hill areas'

## **9. The Constitution (Eighty-Ninth Amendment) Act, 2003**

30. Article 338A was inserted through this amendment to the constitution, which provides for a separate Commission for the Scheduled Tribes known as the National Commission for the Scheduled Tribe. The commission would address all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution of India, other laws in force, Government orders, and to evaluate the working of such safeguards. One of the duties envisaged is 'to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State'.

## **10. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

31. This law provides for recognition of forest rights to Scheduled Tribes in occupation of the forest land prior to 13 December 2005 and to other traditional forest dwellers who are in occupation of the forest land for at least 3 generations i.e. 75 years, up to maximum of 4 hectares. These rights are heritable but not alienable or transferable.

## **11. ADB's Safeguard Policy Statement (SPS), 2009**

32. The objectives of ADB's SPS (2009) with regard to involuntary resettlement are: (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iv) to improve the standards of living of the displaced poor and other vulnerable groups.

33. ADB's SPS (2009) covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of; (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers displaced persons whether such losses and involuntary restrictions are full or partial, permanent or temporary.

34. The three important elements of ADB's SPS (2009) are: (i) compensation at replacement cost for lost assets, livelihood, and income prior to displacement; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to enhance, or at least restore, the livelihoods of all displaced persons relative to pre-project levels and to improve the standard of living of displaced poor and other vulnerable groups.

## **B. Comparison of Government and ADB Policies**

35. **Appendix 1** compares government and ADB policies and provides gap-filling measures reflected in the entitlement matrix. The National Rehabilitation and Resettlement Policy (NRRP) 2007, represents a significant milestone in the development of a systematic approach to address resettlement issues in India and closes significantly the gap between Indian national policies and those of ADB. The Land Acquisition Act (LAA) of 1894 (as amended in 1984) and the National Highways Act (NHA), 1956, gives directives for the acquisition of land in the public interest and provides benefits only to titleholders. Neither LAA nor NHA does guarantee compensation at replacement cost for the loss of land and assets. By contrast, the NRRP

recognizes non-titleholders, although the basic requirement is for the non-titleholder to have been in the project-affected area at least 3 years prior to the declaration of the area as an affected area. However, the new act 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013', which has integrated provisions of NRRP with that of LA Act 1894, recognises titleholders and non-titleholders affected by land acquisition. Whereby, squatters and encroachers are excluded from the purview of the act.

36. One outstanding difference between the government and ADB policies is with regard to the cut-off date for access to compensation and entitlements. According to the NRRP (2007), the cut-off-date for non-titleholders' to be eligible for compensation/assistance is three years preceding the date of declaration of the affected area and for the titleholders it is the date of notification under LAA. To bring this RF in accord with ADB requirements, this RF mandates that in the case of land acquisition, the date of publication of preliminary notification for acquisition under Section 4(1) of the LAA or 3A(1) of the NHA, as the case may be, will be treated as the cut-off date for title holders, and for non-titleholders such as squatters the cut-off date will be the start date of the project census survey.

37. A significant development in government policy is the notification of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013', which has repealed the Land Acquisition Act of 1894 (as amended in 1984). This Act would both complement the revision of the NRRP (2007) and decrease significantly the gaps between the LAA and ADB's SPS, 2009. In particular, the Act would require social impact assessments for projects involving land acquisition, although it would set minimum threshold of people affected for this provision to apply, while the ADB does not so require. The Act also expands compensation coverage of the principal act by requiring that the value of trees, plants, or standing crops damaged must also be included and solatium being 100 percent of the all amounts inclusive. The Act furthermore would match ADB requirements for all compensation to be paid prior to project taking possession of any land.

38. Therefore, the LARR Act, 2013 has established near equivalence of the government's policies with those of ADB's SPS, 2009. Adoption of the below principles for the project would ensure that both are covered in their application to this project, however LARR will be applicable only to Manipur State. For West Bengal State, where land would be acquired invoking the NH Act, one year period is available after which certain provisions of LARR will apply.

### **C. Involuntary Resettlement Safeguard Principles for the Project**

39. Based on the above analysis of government provisions and ADB policy, the following resettlement principles are adopted for this Project:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks. Measures to avoid and minimize involuntary resettlement impacts include the following: (i) explore alternative alignments or locations which are less impacting, (ii) ensure the appropriate technology is used to reduce land requirements, (iii) modify the designs, cross sections, and geometrics of components to maximize the ROW and ensure involuntary resettlement is avoided or minimized.
- (ii) Carry out meaningful consultations with displaced persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their

entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the concerns of displaced persons. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.

- (iii) Improve, or at least restore, the livelihoods of all displaced persons through; (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement cost for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- (v) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement<sup>2</sup> to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on the entitlements of displaced persons, the

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<sup>2</sup> ADB SPS 2009 (Safeguards Requirements 2) does not apply to negotiated settlements. The policy encourages acquisition of land and other assets through a negotiated settlement wherever possible, based on meaningful consultation with affected persons, including those without title to assets. A negotiated settlement will offer adequate and fair price for land and/or other assets. Also, an independent external party will be engaged to document the negotiation and settlement processes. In cases where the failure of negotiations would result in expropriation through eminent domain or the buyer could acquire the property regardless of its owner's decision to sell it or not, will trigger ADB's involuntary resettlement policy. The Safeguard Requirements 2 will apply in such cases, including preparing a resettlement plan.

income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule. This resettlement plan will be approved by ADB prior to contract award.

- (ix) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to displaced persons and other stakeholders. Disclose the final resettlement plan and its updates to displaced persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xii) Monitor and assess resettlement outcomes, their impacts on the standard of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

#### **D. Entitlement Matrix**

40. In accordance with the R&R measures suggested for the project, all displaced households and persons will be entitled to a combination of compensation packages and resettlement assistance depending on the nature of ownership rights on lost assets and scope of the impacts including socio-economic vulnerability of the displaced persons and measures to support livelihood restoration if livelihood impacts are envisaged. The displaced persons will be entitled to the following five types of compensation and assistance packages:

1. Compensation for the loss of land, crops/ trees at their replacement cost;
2. Compensation for structures (residential/ commercial) and other immovable assets at their replacement cost;
3. Assistance in lieu of the loss of business/ wage income and income restoration assistance;
4. Assistance for shifting, and
5. Rebuilding and/ or restoration of community resources/facilities.

41. Displaced persons meeting the cut-off date requirements (for title holders, the date of Section 4(1) of the LAA or Section 3A(1) of NHA will be treated as the cut-off date, and for non-titleholders the start date of project census survey will be the cut-off date), will be entitled to a combination of compensation measures and resettlement assistance, depending on the nature of ownership rights of lost assets and scope of the impact, including social and economic vulnerability of the displaced persons. Unforeseen impacts will be mitigated in accordance with the principles of this RF.

42. An Entitlement Matrix has been developed, that summarizes the types of losses and the corresponding nature and scope of entitlements; and is in compliance with National Laws and ADB SPS (refer to Table 2).

Table 2: Entitlement Matrix

	Impact Category / Entitlement	Remarks	Implementation Issues
<b>I. Loss of Private Property</b>			
<b>a</b>	<b>Loss of Land (agricultural, homestead, commercial or otherwise)</b>		
1	Land will be acquired on payment of replacement cost.	Negotiated settlement is encouraged wherever possible. Nevertheless	Land will be acquired by the competent authority in accordance with the provisions of LA Act / NH Act.
2	Rehabilitation grant based on minimum wage for 750 days <sup>3</sup> for agricultural land where livelihood is affected by the project and the landowner becomes landless or small farmer or marginal farmer	Safeguard Requirement 2 applies to the project even if negotiated settlement occurs. Therefore the EA must ensure negotiations with DPs openly address the risks of asymmetry of information and bargaining power of the parties involved. The EA will therefore engage an independent external party to document the negotiation and settlement processes;	Compensation will be determined based on past sale statistics (circle rates / guideline value). However, if Land Valuation Committee of the PIU, finds the compensation so determined is lower than the replacement value of the land, the EA will provide the difference as assistance.
3	An ex-gratia payment of Rs.20,000/- <sup>4</sup> to land owners losing up to 250 sq.m of land and for those losing more than 250 sq.m. of land, ex-gratia at Rs.80/- per sq.m of land lost.	The EA will agree with ADB on consultation processes, policies, and laws that are applicable to such transactions; third-party validation; mechanisms for calculating the replacement costs of land and other assets affected; and record-keeping requirements	The IA will determine the replacement cost of land to be acquired, on the market rate through an independent valuer preferably hired from land and land revenue department. The valuer will carry out an appraisal of recent sales and transfer of title deeds, informal sale and purchase of land among people in the project area, registration certificates for land in urban and rural areas of the district
4	Shifting assistance <sup>5</sup> of Rs.10,000/- for households who require to relocate due to the project		
5	Additional assistance for vulnerable households <sup>6</sup> whose livelihood is impacted by the project.		
		Land for land, where feasible, for	

<sup>3</sup> NRRP 2007 provides for 750 days minimum agricultural wages (para 7.19 read with 7.14)

<sup>4</sup> NRRP 2007 provides ex-gratia payment for linear acquisition (para 7.19) and qualified based on RPF of NHIP, MORTH

<sup>5</sup> NRRP 2007 provides for a lump sum of INR 10,000 per DH (para 7.11) shifting assistance will be payable to DH requiring to relocate and one displaced household will be entitled for only one shifting allowance amounting to Rs.10,000/-

<sup>6</sup> Vulnerable household comprise female-headed household, disabled-headed household, indigenous person-headed households and Below Poverty Line households.

	Impact Category / Entitlement	Remarks	Implementation Issues
		<p>vulnerable households. In lieu of land acquired, if waste/degraded land is allotted, a onetime assistance of Rs.15,000/-<sup>7</sup> will be given for land development; and if agricultural land is allotted, a onetime assistance of Rs.10,000/-<sup>8</sup> will be given for agricultural production.</p> <p>Additional assistance for vulnerable is detailed in Sec IV of this table</p>	<p>and consultation with local panchayats, district council, village council and DPs to determine if the rates established for the project are sufficient or not to purchase the same quality and quantity of land based on compilation of appraised rates. The replacement cost so determined will be reviewed and approved by LVC.</p> <p>The DM/SDM will identify suitable land for giving to vulnerable household, in lieu of land lost, only if government land free from encumbrance is available</p>

<sup>7</sup> NRRP 2007 provides land development assistance to land owners (para 7.9.1)

<sup>8</sup> NRRP 2007 provides agricultural production assistance to land owners (para 7.9.2)



	Impact Category / Entitlement	Remarks	Implementation Issues
<b>b</b>	<b>Loss of residential structure</b>		
1	Cash compensation at scheduled rates <sup>9</sup> without depreciation	For partly affected structures, the DP will have the option of claiming compensation for the entire structure if the remaining portion is unviable or if the existing floor space cannot be restored.  If the remaining portion is viable <sup>11</sup> , additional 25% of the compensation for affected portion will be paid as restoration grant <sup>12</sup> .	The value of houses, buildings and other immovable properties will be determined by PWD, buildings wing, on the basis of relevant Basic Schedule of Rates (BSR) as on date without depreciation. If the BSR is not updated in the financial year of RP implementation, the same will be updated using approved tender rate escalations.
2	Right to salvage affected materials		
3	Shifting assistance of Rs.10,000/- for all those who lose complete house and require to relocate		
4	Subsistence allowance <sup>10</sup> based on 25 days minimum agricultural wages per month for a period of 3 months to the residential owner, who loses complete house and require to relocate		

<sup>9</sup> Schedule rates of Public Works Department (PWD), West Bengal for Building Works, or Manipur Schedule of Rates for the financial year, as the case may be. If latest schedule rates are not available at the time of implementation, the Valuation Committee, PIU will update the same.

<sup>10</sup> NRRP 2007 provides for monthly subsistence allowance for 12 months for involuntary displacement (para 7.16)

<sup>11</sup> For determining the viability of the dwelling unit, the norms of affordable houses under Jawaharlal Nehru National Urban Renewal Mission JnNURM in line with National Urban Housing and Habitat Policy 2007, for EWS/LIG/MIG will be adopted.

<sup>12</sup> In accordance with provisions in RPF of NHIP, MORTH

	<b>Impact Category / Entitlement</b>	<b>Remarks</b>	<b>Implementation Issues</b>
<b>c</b>	<b>Loss of Commercial structure</b>		
1	Cash Compensation at scheduled rates without depreciation	If more than one third of structure is affected, DP has option to offer for acquisition of entire structure	The value of commercial structures and other immovable properties will be determined by PWD, buildings wing, on the basis of relevant Basic Schedule of Rates (BSR) as on date without depreciation. If the BSR is not updated in the financial year of RP implementation, the same will be updated using approved tender rate escalations.
2	Right to salvage affected materials	If after acquisition, the remaining portion is viable, additional 25% of the compensation for affected portion will be paid as restoration grant <sup>14</sup> .	
3	Shifting assistance of Rs.10,000/- to the business owner, who loses the complete structure and require to relocate		
4	Subsistence allowance <sup>13</sup> based on 25 days minimum agricultural wages per month for a period of 12 months to the business owner, if he/she has to relocate.		
<b>d</b>	<b>Impacts to tenants (residential / commercial)</b>		
1	3-month notice to vacate or Rental allowance at Rs.3,000/- per month for three months to facilitate taking another place for rental in lieu of 3-month notice		
2	Shifting assistance of Rs.10,000/-		
3	In case of agricultural tenants advance notice to harvest crops or compensation for lost crop at market value of the yield determined by agricultural department		
4	Rental reimbursement to owners/landlords, for loss of rental income will be paid at Rs.3,000/- per month for three months.		

<sup>13</sup> NRRP 2007 and RPF of NHIP, MORTH provides for monthly subsistence allowance for 12 months for involuntary displacement (para 7.16)

<sup>14</sup> In accordance with provisions in RPF of NHIP, MORTH

	Impact Category / Entitlement	Remarks	Implementation Issues
<b>e</b>	<b>Impacts to trees, standing crops, other properties, perennial and Non-perennial crops:</b>		
1	Three months (90 days) advance notification for the harvesting of standing crops (or) lump sum equal to the replacement value of the yield of the standing crop lost determined by agricultural department		Compensation for trees will be based on their replacement cost. Loss of timber bearing trees will be compensated at their replacement cost and compensation for the loss of crops fruit bearing trees will be decided by the IA in consultation with the Departments of Forest, Agriculture and Horticulture taking into account its age, yield and life.
2	Compensation for trees based on timber value at replacement cost to be determined by the Forest Department for timber trees and for other trees (perennial trees) by the Horticultural Department.		A survey of replacement value in the district and adjacent districts for different types of crops will be collected to establish an average market price and an assessment to know whether the compensation determined is less or greater than that price; all compensation should be equivalent or higher than the prevalent market prices and the income loss will be calculated as annual produce value for one season to 3 seasons depending on the nature of crops/trees.
3	Loss of other properties such as irrigation wells will be compensated at scheduled rates of Public Works Department (PWD).		

	Impact Category / Entitlement	Remarks	Implementation Issues
<b>II. Impacts to squatters / Encroachers (non-title holders)</b>			
<b>a</b>	<b>Impacts to squatters</b>		
1(a)	<b>Loss of House:</b> Compensation at scheduled rates without depreciation for structure with 2-month notice to demolish the affected structure		
1(b)	Right to salvage the affected materials;		
1(c)	Shifting assistance of Rs.10,000/-		
2(a)	<b>Loss of shop:</b> Subsistence allowance <sup>15</sup> based on 25 days minimum agricultural wages per month for a period of 6 months to the business owner-squatter, and compensation at scheduled rates without depreciation for structure with 2-month notice to demolish affected structure		Only business-owner squatter will be eligible for assistance and not those who build shops on RoW/Govt land and rent it for commercial/residential purpose.
2(b)	Right to salvage the affected materials;		
2(c)	Shifting assistance of Rs.10,000/-		
3	<b>Cultivation:</b> 2-month notice to harvest standing crops or market value of compensation for standing crops		
<b>b</b>	<b>Impacts to encroachers</b>		
1	<b>Cultivation:</b> 2-month notice to harvest standing crops or market value of compensation for standing crops, if notice is not given.		Market value for the loss of standing crops will be decided by the IA in consultation with the Agriculture and Horticulture.
2(a)	<b>Structure:</b> 2-month notice to demolish the		

<sup>15</sup> NRRP 2007 and RPF for NHIP, MORTH, provide for monthly subsistence allowance for 12 months for involuntary displacement (para 7.16) an

	<b>Impact Category / Entitlement</b>	<b>Remarks</b>	<b>Implementation Issues</b>
2(b)	encroached structure; Compensation at scheduled rates without depreciation for the affected portion of the structure to vulnerable households		The value of commercial structures and other immovable properties will be determined by PWD, buildings wing, on the basis of relevant Basic Schedule of Rates (BSR) as on date without depreciation. If the BSR is not updated in the financial year of RP implementation, the same will be updated using approved tender rate escalations.
<b>III. Loss of employment to agricultural and non-agricultural workers/employees</b>			
	Subsistence allowance based on monthly minimum wages for 1 month;	Preference in employment in the project	Only agricultural labourers who are in fulltime / permanent employment of the land owner, will be eligible for this assistance. Seasonal agricultural labourers will not be entitled for this assistance.

	Impact Category / Entitlement	Remarks	Implementation Issues
<b>IV. Impact to Vulnerable<sup>16</sup> DPs</b>			
	Training for skill development and assistance <sup>17</sup> based on 25 days minimum agricultural wages per month for a period of 6 months per Displaced Household. This assistance includes cost of training and financial assistance for income generation.	Vulnerable Households whose livelihood is affected, will be entitled for skill development and assistance for income generating asset.	<p>The PIU with support from the DSC and NGO<sup>18</sup> will identify the number of eligible vulnerable displaced persons based on the 100% census of the displaced persons and will conduct a training need assessment in consultations with the displaced persons so as to develop appropriate income restoration schemes.</p> <p>Suitable trainers or local resources will be identified by PIU and NGO in consultation with local training institutes.</p> <p>The financial amount provided for training and income generating asset together will be equivalent to 300 days minimum wages.</p>
<b>V. Temporary Impacts</b>			
<b>a</b>	<b>Temporary disruption to livelihood</b>		
1	All temporarily disrupted/displaced commercial activities will be provided with alternative temporary space to enable continuity in economic activities	PW(R)D will provide alternate space, for those DPs not involving permanent displacement, in consultation with local civic body .	
2	Assistance at minimum wages for the duration of disruption/displacement.		

<sup>16</sup> Vulnerable Groups include (i) those below poverty line, (ii) the landless, (iii) the elderly, (iv) female headed households, (v) women and children, (vi) Indigenous Peoples, and (vii) those without legal title to land

<sup>17</sup> RPF for NHIP, MORTH, provide for 300 days of minimum wages

<sup>18</sup> When suitable NGO is not available, the PIU will be staffed with qualified and experienced social workers to assist the IA in RP implementation

	Impact Category / Entitlement	Remarks	Implementation Issues
<b>VI. Loss of Community assets</b>			
Relocation of community / cultural properties impacted or cash compensation in consultation with the community prior to demolition of impacted asset. Realignment of utilities and such will follow the ADB SPS in terms of notice and compensation.			
<b>VII. Unidentified Impacts</b>			
Unforeseen impacts will be documented and mitigated based on the principles of NRRP, 2007 and provisions of this Resettlement Framework			

## E. Screening Criteria of Subprojects

43. The PIU will be responsible for involuntary resettlement planning and implementation. The following checklist will be used to screen subprojects to identify the resettlement impacts of the subprojects:

- (i) Will the subproject require land? What is the quantity of land required?
- (ii) What will be the estimated total number of persons economically and physically displaced?
- (iii) Will the impact be permanent or temporary (during construction)?
- (iv) Who owns the land? How is land currently used?
- (v) If private land, how many landowners/tenants/sharecroppers will be displaced?
- (vi) If state land, is it subject to traditional claim?
- (vii) If state land, are there any squatters or informal settlers?
- (viii) What will be the estimated number of squatters?
- (ix) Are there any houses, structures, trees and crops that will be affected (whether state or private land)?
- (x) How many households will be physically displaced?
- (xi) Is there any public or community infrastructure?
- (xii) Will tribal communities be displaced?
- (xiii) What percent of product assets (income generating) will people lose?

44. The PIU will be responsible for clearly documenting the answers to these questions in a table format. In addition, the PIU will submit to ADB the Involuntary Resettlement Impact Categorization Checklist in **Appendix 2** for each subproject. Based on the screening, the Project will be categorized depending on the significance of probable involuntary resettlement impacts. Each subsequent tranche will be categorized based on the impact of its most significant component. The following are the categories:

- (i) **Category A** – A proposed project is classified as Category A if it is likely to have significant involuntary resettlement impacts. A resettlement plan, including an assessment of social impacts, is required.
- (ii) **Category B** – A proposed project is classified as category B if it includes involuntary resettlement impacts that are not deemed significant. A resettlement plan, including assessment of social impacts, is required.
- (iii) **Category C** – A proposed project is classified as Category C if it has no involuntary resettlement impacts. No further action is required.

45. The involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as; (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). The level of detail and comprehensiveness of the resettlement plan will be commensurate with the significance of the potential impacts and risks.

## F. Negotiated Settlement

46. In line with ADB SPS 2009 (Safeguards Requirements 2), this Framework does not apply to negotiated settlements. The policy encourages acquisition of land and other assets



through a negotiated settlement wherever possible, based on meaningful consultation<sup>19</sup> with displaced persons, including those without title to assets. A negotiated settlement will offer adequate and fair price for land and/or other assets. Also, in case of negotiated settlement, an independent external party<sup>20</sup> will be engaged by the IA to document the negotiation and settlement processes. The principles of this RF with regard to meaningful consultation processes, mechanisms for calculating the replacement costs of land and other assets affected and record-keeping requirements, will be followed while handling Negotiated Settlement. In cases where the failure of negotiations would result in expropriation through eminent domain or the buyer could acquire the property regardless of its owner's decision to sell it or not, will trigger ADB's involuntary resettlement policy. The Safeguard Requirements 2 will apply in such cases, including preparing a resettlement plan.

### III. SOCIOECONOMIC INFORMATION

#### A. Surveys

47. On completion of the detailed engineering designs, an updated resettlement plan shall be prepared based on a census of the displaced persons after a detailed measurement survey (DMS) of the affected properties has been completed. A DMS involves staking out of the affected land on the ground based on the engineering design of a project and forms the basis for carrying out the census and assets inventory of losses of the displaced persons.

48. Social impact assessment (SIA) surveys of the displaced persons will be undertaken in each subproject so as to determine the magnitude of displacement and prospective losses, identify vulnerable groups for targeting, ascertain costs of resettlement, and prepare a rehabilitation program for implementation. The SIA surveys will comprise of:

(i) **Baseline Socio-economic Sample Survey.** The purpose of the baseline socioeconomic sample survey of displaced persons is to establish monitoring and evaluation parameters. It will be used as a benchmark for monitoring the socio-economic status of displaced persons. The survey will cover 10% of displaced persons and 20% of significantly displaced persons. The survey will also collect gender-disaggregated data to address gender issues in resettlement. The survey will carry out the following: (i) preparation of accurate maps of the subproject area; and (ii) analysis of social structures and income resources of the population.

(ii) **Census Survey.** The purpose of the census is to: (i) register who the potentially displaced persons are; (ii) assess their income and livelihoods; and (iii) inventory of their assets affected due to the project; (iv) gender-disaggregated information pertaining to the economic and socio-cultural conditions of displaced persons. The census will cover 100% of displaced persons.

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<sup>19</sup> A process that (i) begins early in the Project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

<sup>20</sup> An independent external party is a person not involved in the day-to-day implementation of the project and can include, for example, a local university professor, local NGO representative, etc.

## **B. Resettlement Plan**

49. The resettlement plan will be prepared based on the results of the census and from information drawn from the baseline socio-economic sample survey the database on displaced persons should be completed before resettlement plan preparation. It will include the results and findings of the census of displaced persons, and their entitlements to restore losses, institutional mechanisms and schedules, budgets, assessment of feasible income restoration mechanisms, grievance redress mechanisms, and results monitoring mechanisms. The resettlement plan should be structured as per the outline in **Appendix 3**.

50. Resettlement Plans will comply with the principles outlined in this agreed RF. These will be approved by ADB prior to contract award. Disbursement of compensation payments and entitlements will be made prior to displacement.

51. The specific resettlement-related activities to be performed such as social impact assessment, census and socio-economic survey, resettlement planning, public consultation, grievance redress, development of mitigation measures and income restoration measures, preparation of a detailed budget and financing plan, implementation of resettlement plan, monitoring and evaluation, and their subproject implementation schedule will all be detailed in the resettlement planning document.

## **C. Gender Impacts and Mitigation Measures**

52. Female-headed households are considered a vulnerable group as per this RF. Any negative impacts of a subproject on female-headed households will be treated on a priority basis. The resettlement plan will formulate measures to ensure that socio-economic conditions, needs and priorities of women are identified and the process of land acquisition and resettlement does not disadvantage women. It will ensure that gender impacts are adequately addressed and mitigated. Women's focus groups discussions will be conducted to address specific women's issues. During disbursement of compensation and provision of assistance, priority will be given to female-headed households. Compensation for land and structure will be paid to the women of the female-headed households

# **IV. COMPENSATION, INCOME RESTORATION AND RELOCATION**

## **A. Valuation of Lost and Affected Assets**

53. The valuation of affected land and structures will be governed by the following process:

54. Land surveys for determining the payment of compensation would be conducted on the basis of updated official records and ground facts. The land records containing information like legal title, and classification of land will be updated expeditiously for ensuring adequate cost compensation and allotment of land to the entitled displaced persons. In cases of areas under the District council/village council in tribal areas, where official land records don't exist, formal land/property boundaries of private property owned by the tribal households can be determined through the process of community consultation and discussion with village elders and village council members. Based on such information, land can be classified and land record can be updated and compensation assessment can be made. In the states where the district council is under operation, although the land is notified from the district collector's/ deputy commissioner's office, the verification of ownership is done by the district/village council in consultation with the village people and assessment of compensation also done by the revenue officials based in the

district council. After determination of ownership and compensation amount the same is sent to the district collector. Records as they are on the cut-off date will be taken into consideration while determining the current use of land. The uneconomic residual land remaining after land acquisition will be acquired as per the provisions of Land Acquisition Act or National Highway Act, as the case may be. The owner of such land/property will have the right to seek acquisition of his entire contiguous holding/ property provided the residual land is less than the minimal land holding of the district.

55. The rate of compensation for acquired land, structures, and other assets will be calculated at full replacement cost. That is, based on (i) fair market rate, (ii) transaction costs, (iii) interest accrued, (iv) transitional and reiteration costs, and (v) other payments, if any. For land acquisition the District Collector/Deputy Commissioner will decide the compensation for acquired land as per the legal provisions. If the compensation amount is less than the market/replacement cost of the land, the competent authority will award the compensation and the difference between the award rate and market / replacement rate will be paid by the EA as 'assistance'. The project authority will determine the replacement cost of land and assets to be acquired, on the market rate through an independent valuer preferably hired from land and revenue department. The PIU will send all land acquisition proceedings/awards to the LVC for review. The LVC will refer the same to the independent valuer and get an opinion before determining the replacement cost. For this purpose, the LVC will be constituted, comprising of the DM, RO and a retired District Land Revenue Officer who is familiar with land matters. In case of insignificant resettlement impacts with no land acquisition, the cost of structures can be determined by the PWD itself with the help of their Building Wing and there will be no need to constitute a LVC.

56. The value of houses, buildings and other immovable properties will be determined on the basis of relevant Basic Schedule of Rates (BSR) as on date without depreciation. While considering the BSR rate, the IA will ensure that it uses the latest BSR for the residential and commercial structures in the urban and rural areas of the region. Wherever the BSR for current financial year is not available, the IA will update the BSR to current prices based on approved tender escalation cost. Compensation for properties belonging to the community or common places of worship will be provided to enable construction of the same at new places through the local self-governing bodies like Village Panchayat/Village council in accordance with the modalities determined by such bodies to ensure correct use of the amount of compensation.

57. Compensation for trees will be based on their replacement cost. Loss of timber bearing trees will be compensated at their replacement cost and compensation for the loss of crops fruit bearing trees will be decided by the IA in consultation with the Departments of Forest, Agriculture and Horticulture. Prior to taking possession of the land or properties, the compensation will be fully paid and DPs will have the opportunity to harvest trees.

58. The independent valuer will assess the compensation rates for various types of losses during the preparation of detailed designs and implementation of RP. Also, to ensure that the rates reflect current replacement costs, the LVC will verify and approve the estimates wherever felt necessary. The methodology for verifying the replacement cost for each type of loss will include, but not be limited to, the following:

- a) For valuation of land: Appraisal of recent sales and transfer of title deeds, informal sale and purchase of land among people in the project area, registration certificates for land in urban and rural areas of the district and consultation with local panchayats, district council, village council and DPs; Determination of

whether the rates established for the project are sufficient or not to purchase the same quality and quantity of land based on compilation of appraised rates;

- b) For valuation of crops and trees: Survey of market prices in the district and adjacent districts for different types of crops to establish an average market price and an assessment to know whether the compensation is less or greater than that price; All compensation should be equivalent or higher than the prevalent market prices and the income loss will be calculated as annual produce value for one season to 3 seasons depending on the nature of crops/trees.
- c) For valuation of structures: To evaluate the compensation for structures to find out whether the amount will enable DPs to rebuild or replace their affected structures. This is to be done by consulting land owners on the following:
  - From where they use to buy materials
  - Type of shops (private or state-owned)
  - Distance to be traveled
  - Sources (local or foreign) and the cost of various materials
  - Who will built the structures (owner or contractor) and whether they will use the hired labor or their own labor;
  - Obtaining cost estimates by meeting at least three contractors/suppliers in order to identify cost of materials and labor
  - Identifying the cost of different types of houses of different categories and compare the same with district level prices.

59. Even after payment of compensation, DPs would be allowed to take away the materials salvaged from their dismantled houses and shops and no charges will be levied upon them for the same. A notice to that effect will be issued intimating that DPs can take away the materials so salvaged within 5 days of their demolition; otherwise, the same will be disposed by the project authority without giving any further notice.

60. Trees standing on the land owned by the government will be disposed off through open auction by the concerned Revenue Department/ Forest Department. DPs will be provided with an advance notice of three months prior to relocation.

61. Further, all compensation and assistance will be paid to DPs at least 3 months prior to displacement or dispossession of assets.

## **B. Income Restoration**

62. Each DP belonging to the vulnerable category, whose income or livelihood is affected by a subproject will be assisted to improve or at least restore it to pre-project level. Income restoration schemes will be designed in consultation with DPs and considering their resource base and existing skills. The PIU with support from the DSC and NGO<sup>21</sup> will identify the number of eligible displaced vulnerable persons based on the 100% census of the DPs and will conduct a training need assessment in consultations with the DPs so as to develop appropriate income restoration schemes. The PIU with support of the DSC and NGO, will examine local employment opportunities and produce a list of possible income restoration options. Suitable trainers or local resources will be identified by PIU and NGO in consultation with local training

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<sup>21</sup> When suitable NGO is not available, the PIU will be staffed with qualified and experienced social workers to assist the IA in RP implementation

institutes. The PIU and NGO will also facilitate DP access to Government schemes that could help them to restore income and livelihood.

63. In addition, the entitlement matrix provides for short-term income restoration activities intended to restore the income of the displaced person in the period immediately before and after relocation focusing on relocation, and providing short-term allowances such as: (i) subsistence allowances; and (ii) shifting assistance. The vulnerable get additional assistance for training and income restoration.

## **V. CONSULTATION, PARTICIPATION AND DISCLOSURE**

64. In order to engage with the community and enhance public understanding on the Project and address the issues pertaining to resettlement, various sections of DPs and other stakeholders were consulted through focus group discussions (FGD), meetings and individual interviews during the DPR and RP preparation of sample sub-projects. The opinions of the stakeholders and their perceptions were obtained during these consultations. This approach adopted towards the formulation of the framework would be continued during the program implementation.

### **A. Meaningful Consultation and Participation of key stakeholders**

65. Meaningful consultations will be undertaken with the DPs, their host communities and civil society for every subproject identified as having involuntary resettlement impacts. Meaningful consultation will be carried out throughout the resettlement plan implementation. The consultation process established for the program will employ a range of formal and informal consultative methods. Different techniques of consultation with stakeholders are proposed during project preparation, such as in-depth interviews, public meetings, and group discussions.

66. Particular attention will be paid to the need of the disadvantaged or vulnerable groups, especially those below poverty line, the landless, the elderly, female headed households, women and children, Indigenous People/ Scheduled Tribes, and those without legal title to land. The key informants to be consulted, during the project preparation phase and during the RP implementation, shall include the following stakeholders:

- Heads and members of households likely to be displaced
- Displaced households belonging to the vulnerable groups
- Host communities
- Women in the displaced as well as host communities
- Local voluntary organizations and NGOs,
- Government agencies and departments, and,

67. Each subproject resettlement plan will be prepared and implemented in close consultation with the key stakeholders. Women's participation will be ensured by involving them in public consultation at various level and stages of project preparation and by arrangements, which would enhance their ability to attend such meetings.

68. The EA and IA will ensure that views of the DPs, particularly those vulnerable, related to the resettlement process are looked into and addressed. The PIU will ensure that groups and individuals consulted are informed about the outcome of the decision-making process, and confirm how their views were incorporated.

## **B. Information Disclosure and Resettlement Plan Disclosure**

69. Information will be disseminated to DPs at various stages. In the subproject initiation phase, the PIU will be responsible for issue of public notice to acquire particular land/property for subproject component along with program information/details. The notice will be published in local newspapers, twice with a week's interval. The PIU along with local revenue officials/officials from DC's office will also conduct meetings with DPs in addition to the public notification to ensure that the information is given to all of them.

70. For the benefit of the community in general and DPs in particular, a summary of this RF and each resettlement plan will be made available in local language during public meetings at the community level, and be disclosed in public places prior to project appraisal. This will enable stakeholders to provide inputs on the resettlement process, prior to award of civil work contract.

71. Each subproject resettlement plan will be disclosed to the displaced community detailing information including measurement of losses, detailed asset valuations, entitlements and special provisions, grievance procedures, timing of payments and displacement schedule by the PIU with assistance from the RP implementing unit. This will be done through public consultation and made available as brochures, leaflets, or booklets, using local languages.

72. Summaries of each RP will be translated and made available to the DPs. Hard copies of the resettlement plan will also be made available at: (i) Offices of the PIU; (ii) District Magistrate Office; (iii) Office of the Block Development Officer; (iv) Office of the Block level L&LRO; (v) District Council Offices; and (iv) any other local level public offices, as soon as the plans are available and certainly before land is acquired for the project. For non-literate people, other communication methods will be used. A report of disclosure, giving detail of date and location, will be shared with ADB.

73. The basic information in the resettlement plan including subproject locations, magnitude of impact, entitlements, implementation schedule etc. will be presented in the form of a brochure that will be circulated among the DPs. Posters designed to disseminate basic tenets of the plan will be distributed in different localities to generate mass awareness.

74. Electronic version of the framework as well as the RPs will be placed on the official website of the respective State Governments and the official website of ADB after approval and endorsement by EA/IA and ADB. All RPs will be approved by ADB prior to contract award and then disclosed on ADB's website. Furthermore, a notification on the start date of subproject implementation will be issued by the PIU in local newspapers one month ahead of the implementation works.

## **VI. GRIEVANCE REDRESS MECHANISM**

75. A project-specific grievance redress mechanism (GRM) will be established to receive, evaluate and facilitate the resolution of displaced people's concerns, complaints and grievances about the social and environmental performance at the level of the Project. The GRM will aim to provide a time-bound and transparent mechanism to voice and resolve social and environmental concerns linked to the project. The project-specific GRM is not intended to bypass the government's own redress process, rather it is intended to address displaced people's concerns and complaints promptly, making it readily accessible to all segments of the displaced people and is scaled to the risks and impacts of the project.

76. The RP will have a mechanism to ensure that the benefits are effectively transferred to the beneficiaries and will ensure proper disclosure and public consultation with the displaced population. The GRCs are expected to resolve the grievances of the eligible persons within a stipulated time. The decision of the GRCs is binding, unless vacated by the court of law. The GRC will be constituted at PWD level headed/chaired by Chief Engineer. At the PIU level comprising of the Project Director, Resettlement Officer, a representative from local NGOs or a local person of repute and standing in the society, elected representative from Zilla Parisad/District Council, two representatives of displaced persons including vulnerable groups and women in the committee. The GRC will continue to function, for the benefit of the DPs, during the entire life of the project including the defects liability periods.

77. The response time prescribed for the GRCs would be three weeks. Since the entire resettlement component of the project has to be completed before the construction starts for the whole project, the GRC will meet at least once in three weeks to resolve the pending grievances. Other than disputes relating to ownership rights under the court of law, GRC will review grievances involving all resettlement benefits, relocation, payment of compensation and other assistance. The complaint / grievance will be redressed in 3 weeks time and written communication will be sent to the complainant. A complaint register will be maintained at PIU with details of complaint lodged, date of personal hearing, action taken and date of communication sent to complainant. If the complainant is still not satisfied s/he can approach the GRC at PWD level and still not satisfied can approach the court of law. The complainant can access the appropriate court of law or any alternative redress at any time and not necessarily go through the GRC. The subproject specific Resettlement Plans will detail out the step-by-step mechanism for grievance redress.

## **VII. INSTITUTIONAL ARRANGEMENT AND IMPLEMENTATION**

78. For the NH sections, MORTH will be the EA and the IA for Manipur and West Bengal will be the Manipur Public Works Department and West Bengal Public Works (Roads) Department respectively. For the SH sections in Manipur, the EA and IA will be Manipur PWD. MPWD and WBPWD will establish Project Implementation Units (PIU) and they will be responsible for conducting the social assessment and formulating RPs for the subprojects, as outlined in this RF.

79. For resettlement planning and successful implementation of the RPs, there will be a set of institutions involved at various levels and stages of the project. For resettlement activities, the EAs will do the overall coordination, planning, implementation, and ensure that IAs allocate adequate finances for costs related to land acquisition and resettlement for the project. EAs will be supported by the Project Management Consultant (PMC) to ensure timely and effective implementation of RPs. EAs will coordinate with IAs/PIUs for project level RP related activities. The institutional framework and the roles and responsibilities of various institutions to be involved in the R&R activities of the project and implementation of RP are described below.

80. PIUs will be established at state level headed by a Project Director (PD) responsible for the overall execution of the projects in the state. The PD will be responsible for (i) overall implementation of R&R activities according to the Plan including responsible for land acquisition and R&R activities in the field; (ii) ensure availability of budget for R&R activities; (iii) liaison with district administration for support for land acquisition and implementation of R&R; (iv) and selection and appointment of the RP implementing unit.

81. Each PIU will depute one full-time official as the Resettlement Officer (RO) for the duration of resettlement activities, with relevant experience in land acquisition and resettlement issues. The PIU will maintain all databases and work closely with DPs and other stakeholders. Based on regularly updated data, a central database will also be maintained by PIU.

82. The PIU officials and RO will already be familiar with land acquisition policies and procedure. Manipur PWD is currently implementing an ADB funded project improving Northeastern state roads. WBPWD and staff in the PIU will be experienced in land acquisition. To improve and renew the PIU and RO's capacity, they will undergo an orientation and training in resettlement management at the beginning of the project. The capacity development training inputs would include ADB resettlement policy and principles. The training activities will focus on issues concerning (i) principles and procedures of land acquisition, (ii) public consultation and participation, (iii) entitlements and compensation disbursement mechanisms, (iv) Grievance redressal, and (v) monitoring of resettlement operation. The training would specifically focus on the differences between provisions of ADB policy and the relevant country laws. The awareness of these differences and the need to follow the provisions of the ADB policy are critical for successful implementation of the RP.

83. The RO will work closely with the District Collector to expedite the payments of compensation for land acquisition and assistance to DPs.

84. A qualified and experienced firm, NGO, or designated in-house personnel (referred to onward as RP implementing unit) will be engaged by the PIU to assist in the implementation of the RP. The RP implementing unit would play the role of a facilitator and will work as a link between the PIU and the displaced community. Key activities of the RP implementing unit in relation to resettlement planning and implementation include: (i) verify and update, if required, the detailed survey of physically and economically displaced persons carried out during DPR preparation based on detailed design, and verify the identity of poor, female-headed, and vulnerable households displaced by land acquisition and resettlement; (ii) prepare the list of the potential DPs and issue ID cards; (iii) facilitate the process of disbursement of compensation to the DPs – coordinating with the revenue department, informing the displaced persons of the compensation disbursement process and timeline; (iv) assist DPs in opening bank accounts explaining the implications, the rules and the obligations of a joint account and how s/he can access the resources s/he is entitled to; (v) assist the IA in ensuring a smooth transition (during the part or full relocation of the displaced persons), helping them to take salvaged materials and shift. In close consultation with the displaced persons, the RP implementing unit shall inform the PIU about the shifting dates agreed with them in writing and the arrangements they desire with respect to their entitlements; (vi) organize training programs for income restoration; (vii) conduct meaningful, ongoing consultation and ensure disclosure of resettlement plans in an accessible manner to the displaced persons; (viii) assist DPs in having their grievances resolved; (ix) assist PIUs in keeping detailed records of progress and establish monitoring and reporting system of resettlement; (x) act as the information resource center for community interaction with the project and maintain liaison between community, contractors and project management and implementing units during the execution of the works; and (xi) provide advice, capacity building, and other supports to PIUs as required.

85. **Implementation Schedule.** The Program will be implemented for a 6-year period from 2014 to 2020. The RP implementation schedule will vary from subproject to subproject. In general, the project implementation will consist of the three major phases, namely project preparation, land acquisition and rehabilitation of DPs. In line with the principles laid down in this RF, the EA and IA will ensure that project activities are synchronized between the resettlement



plan implementation activities as well as the subproject implementation. The EAs and IAs will ensure that no physical or economic displacement of displaced households will occur until: (i) compensation at full replacement cost has been paid to each displaced person for project components or sections that are ready to be constructed; (ii) other entitlements listed in the resettlement plan are provided to the displaced persons; and (iii) a comprehensive income and livelihood rehabilitation program, supported by adequate budget, is in place to help displaced persons, improve, or at least restore, their incomes and livelihoods. Furthermore, all RPs will be revised during detailed design, and the updated RPs will be approved by government and ADB and disclosed prior to implementation. An indicative implementation schedule with key tasks is provided in Appendix 4.

## VIII. BUDGET AND FINANCING

86. Detailed budget estimates for each RP will be prepared by the IA and PIU, which will be included in the overall project estimate. The budget shall include:

- a) detailed costs of land acquisition, relocation, livelihood and income restoration and improvement, administration and management and a contingency source of funding;
- b) arrangements for approval, and the flow of funds and contingency arrangements.

87. All land acquisition funds will be provided by the government. All land acquisition, compensation, relocation and rehabilitation of income and livelihood, consultations and grievance redress will be considered as an integral component of project costs.

88. The disbursement of money to the displaced persons for land acquisition will be carried out by the District Magistrate / Commissioner's office. The IA will deposit the approved amount at respective district jurisdictions and the district administration will disburse the money to displaced persons.

89. However, in the case of assistance and other rehabilitation measures, the PIU will directly pay the money or any other assistance as stated in the resettlement plan to displaced persons by means of a cheque payment into their individual accounts. The DSC Resettlement Specialist and RP implementing unit will be involved in facilitating the disbursement process and rehabilitation program and will facilitate opening of bank accounts for the displaced persons who do not have bank accounts

## IX. MONITORING AND REPORTING

### A. Internal Monitoring

90. Internal monitoring will be the responsibility of the PIUs and agencies(s), which will include:

- a) **Administrative monitoring:** daily planning, implementation, feedback and trouble shooting, individual DP database maintenance, and progress reports
- b) **Socio-economic monitoring:** case studies, using baseline information for comparing DP socio-economic conditions, evacuation, demolition, salvaging materials, morbidity and mortality, community relationships, dates for consultations, and number of appeals placed; and

- c) **Impact evaluation monitoring:** Income standards restored/improved, and socioeconomic conditions of the displaced persons. Monitoring and evaluation reports documenting progress on resettlement implementation and RP completion reports will be provided by the IA to EA for review and approval from ADB.

91. The internal monitor will be responsible for overall internal monitoring and evaluation of the project progress for resettlement implementation. The internal monitor will monitor and verify RP implementation to determine whether resettlement goals have been achieved, livelihood and living standards have been restored, and provide recommendations for improvement. The internal monitor will undertake biannual monitoring during the R&R implementation period. Monitoring will also ensure recording of DP's views on resettlement issues such as; DP's understanding of entitlement policies, options, and alternatives; site conditions; compensation valuation and disbursement; grievance redress procedures; and staff competencies. The internal monitor will also evaluate the performance of the NGOs. The will report its findings simultaneously to the EA and the reporting responsibility of monitoring to ADB lies with the EA. The monitoring reports will be sent to ADB twice a year.

## **B. External Monitoring**

For subprojects will have significant adverse safeguard impacts, the EA will retain qualified and experienced external experts/agency to verify its monitoring information.<sup>22</sup> An important function of the external monitoring expert is to advise the EA on safeguard compliance issues. If significant non-compliance issues are identified, the EA is required to prepare a corrective action plan to address such issues. The EA will document monitoring results, identify the necessary corrective actions, and reflect them in a corrective action plan. The EA, in each quarter, will study the compliance with the action plan developed in the previous quarter. Compliance with loan covenants will be screened by the EA.

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<sup>22</sup> Experts not involved in day-to-day project implementation or supervision.

## **Appendix 1: COMPARISON BETWEEN LA ACT, NH ACT, NRRP AND ADB INVOLUNTARY RESETTLEMENT SAFEGUARDS**

### **I. Policy and Legal Framework**

1. The policy framework and entitlements for the Program are based on national laws: The Land Acquisition Act, 1894 (LAA, amended in 1984), the National Highways Act, 1956, the National Rehabilitation and Resettlement Policy, 2007 (NRRP); State laws and regulations and ADB's SPS, 2009. Provisions for land acquisition in the tribal areas are included below in case land will be required for the project in tribal areas. Further, a brief note on the new act, 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' has also been provided as the act may become effective prior to the implementation of the investment program..

#### **A. Land Acquisition Act (LAA), 1894 (Central Act I of 1894)**

2. The Land Acquisition Act, 1894 (LAA) generally governed land acquisition and compensation, for State Highways in both West Bengal and Manipur States till December 31, 2013. This LAA has been repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR), and the States are yet to frame the rules and constitute the various committees envisaged under LARR in line with the Draft Rules framed by the ministry of Rural Development, Gol.

#### **B. National Highways Act, 1956 (Act 48 of 1956)**

3. The act provides for declaration of certain highways as national highways, development and maintenance of national highways by central government with its own funds and also governs land acquisition and compensation for development of national highways in all States. Within a year from January 01, 2014, the NH Act will have to adopt the (i) compensation for land owners (First Schedule); (ii) rehabilitation and resettlement entitlements (Second Schedule); and (iii) provision of infrastructure amenities (Third Schedule) as outlined in LARR.

- i) Notification under Section 3A(1): Whenever the Central Government is satisfied that for a public purpose, land is requires for the building, maintenance, management or operation of national highway, it causes a notification under Section 3A(1) in the official Gazette; and in two daily newspapers circulated in that locality of which at least one shall be in the vernacular language.
- ii) Power to enter for survey, etc under Section 3B: Upon issuing notification under Section 3A(1), the Central government can authorize any person to make inspection, carryout survey, etc.
- iii) Hearing of objections under Section 3C: Within 21 days from the date of 3A(1) notification, any interested person can object to the acquisition in writing to the competent authority with reasons thereof and will be heard by the competent authority. The competent authority after hearing the objection and making such further enquiry, will either allow or disallow the objections.
- iv) Declaration of acquisition under Section 3D: Where there is no objection or the objections have been disallowed, the competent authority as soon as may be, submit a report to the Central government, and on receipt of such report, the Central government will declare, by notification in the official Gazette, that the land be acquired for the purpose mentioned in the 3A(1) notification. On publication of declaration under Section 3D(1), the land shall vest absolutely with

Central government, free from all encumbrances. Further, if declaration under 3D(1) is not made within 1-year from the date of 3A(1) notification, the notification will lapse.

- v) Power to take possession under Section 3E: Upon the land vesting with Central government vide declaration 3D, and the amount determined by competent authority in accordance with Section 3G is deposited in accordance with Section 3H with the competent authority by Central government, the competent authority will in writing direct the owner or any person in possession the land, to deliver possession within 60 days from service of the notice. If any persons fails to deliver the possession, the act empowers the Commissioner of Police or the District Collector, as the case may be, to take possession and deliver the said land to the competent authority.
- vi) Right to enter into land under Section 3F: The Sec 3F gives right to Central government to enter into the land and carry out building, maintenance, management or operation of a national highway or part thereof, or any other work connected therewith upon declaration under Sec 3D. However, the Central government should deposit to the competent authority, the amount determined by him, before taking possession of the land.
- vii) Determination of compensation under Section 3G: The competent authority will determine the compensation to be paid. If the compensation determined is not acceptable, an application can be made for arbitration, to an arbitrator appointed by Central government.

4. The National Highways Act, does not have provision for payment of 30% solatium and additional 12 percent. However, there is no bar in the competent authority including solatium and 12 percent additional payment as part of the compensation determined. The act provides for expeditious acquisition of land for forming, strengthening and widening of national highways.

#### **C. National Rehabilitation and Resettlement Policy (Ministry of Rural Development), 2007**

5. The National Rehabilitation and Resettlement Policy, 2007 (NRRP) provided broad guidelines and executive instructions and was applicable to projects involving displacement. The provisions of the NRRP-2007 provided for the basic minimum requirements, and projects leading to involuntary displacement of people were expected to address the rehabilitation and resettlement issues comprehensively. The State Governments, Public Sector Undertakings or agencies, and other requiring bodies were at liberty to put in place greater benefit levels than those prescribed in the NRRP-2007. The principles of this policy also applied to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any other reason. This policy has become infructuous with the notification of LARR.

#### **D. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013)**

6. The act provides for transparent process and fair compensation to land owners and those affected by land acquisition, for land acquired for public purpose. In determining market price, (Sec 26 read with 1st Schedule) the land owner in urban area will get twice, due to the 100% solatium and in rural area, the multiplying factor is 1 to 2 depending on distance from nearest urban centre, to be notified by appropriate government, and then 100% solatium. Sec 40 (2) restricting use of emergency clause to defense, national security and natural calamities.

For other requirement, parliamentary approval is required for invoking emergency clause. Addition 75% compensation to be provided if emergency clause is invoked.

7. The Central Government has notified January 01,2014 as the effective date of the act, in accordance with Sec 1(3) of LARR. The existing National Highways Act (NH Act) and other Acts specified in the Fourth Schedule of LARR will have 1 year to adopt the; (i) compensation for land owners (First Schedule); (ii) rehabilitation and resettlement entitlements (Second Schedule); and (iii) provision of infrastructure amenities (Third Schedule). If the changes in the NH Act are notified prior to the RP implementation, the MoRTH and WBPWD will have the RF and RP revised in accordance with the provisions of modified NH Act.

8. The Draft Rules framed by Ministry of Rural Development, GoI is under review and is expected to be notified by mid-February 2014 and the respective State Governments will have to enact and adopt the LARR, frame rules and constitute the the various committees envisaged under LARR. If the enactment and adoption of the LARR and the rules for the same are notified by state government, prior to RP implementation, the RF and RP will revised by MoRTH and MPWD in accordance with the new act.

## **E. Legal and Policy Framework of West Bengal State**

### **1. West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 (WB Act XIII of 1962)**

9. Eviction of encroachers from the government lands is governed by the provisions of this act and the rules framed there under. The Act provides for speedier and less cumbersome procedure for removing the encroachment / illegal construction by encroachers. Under this act, the District Collector can order eviction and even execute such eviction. BL&LROs should identify the encroached lands and send proposals to SDEMs who function as Collector, through SDL&LROs. After serving notice U/s 3 of the Act and giving not less 15 days' time to show cause, action for demolition of structures / removal of encroachment can be initiated after providing reasonable time for hearing.

### **2. West Bengal Land and Land Reforms Manual, 1991**

10. The manual lays down the principles and procedures to be followed by the officials and functionaries in matters relating to land and land reforms in accordance with the provisions of the relevant act and rules; and it also lays down government policy in matters relating to management, use and settlement of government lands.

### **3. New Approach in Land Acquisition - GO No. 1701 to 1707-LA-3M-07/06, 2006**

11. Revised Procedure and administrative arrangements for effective and efficient disposal of land acquisition cases under the provisions of Land Acquisition Act, 1894 was issued by Land & Land Reforms Department, Government of West Bengal on June 06, 2006.

12. In case of compulsory acquisition of land resulting in eviction of a family from homestead, Para 11 of GO No. 1701 outlines the need for basic minimum resettlement and rehabilitation package in accordance with provisions of GO No. 1706.

13. Consent award has been introduced vide Para 12 of GO No. 1701, by giving right to land owner to submit compensation claim to the land acquisition collector as outlined in Go No. 1703.

## **F. Legal and Policy Framework of Manipur State**

### **1. The Manipur Municipalities Act, 1994**

14. Acquisition of land: The act provides that, when any land, whether within or outside the limits of a municipality is required for the purposes of this Act, the State Government may at the request of the Nagar Panchayat or the Council, proceed to acquire it under the provisions of the land acquisition act, 1894, and on payment by the Nagar Panchayat or the Council, as the case may be, of the compensation awarded under that act and of any other charges incurred in acquiring the land, the land shall vest in the Nagar Panchayat or the council, as the case may be.

15. Encroachments on public lands belonging to the Municipality: The act provides penalty for encroachment on public lands, including upon any public road, public drain, sewer, aqueduct, water course and other public lands. The act provides power to the Municipality for issue of notice to the encroacher to remove obstructions, encroachments on public lands. In the event of non-removal within 48 hours of the notice, the municipality is empowered to remove such obstruction or encroachment.

### **2. The Manipur Land Revenue & Land Reform Act, 1960 (MLR & LR Act, 1960)**

16. The Manipur Land Revenue & Land Reform Act, 1960 (MLR & LR Act, 1960) was enacted by the Parliament to consolidate and amend the law relating to land revenue in the State of Manipur and to provide certain measures of land reform. Prior to the enactment of this act, the Assam Land & Revenue Regulation Act, 1886 was applied to Manipur by a State Durbar Resolution.

17. Section 2 of the Act defines applicability of the act and states that it extends to the whole of the State of Manipur except the hill areas thereof. Hill areas is defined vide Sec 2(j) as such areas in the hill tracts of the State of Manipur as the State Government may, by notification in the official Gazette, declare to be hill areas.

### **3. The Manipur Public Premises (Eviction of Unauthorised Occupants) Act, 1978**

18. The Act provides for the prevention of slums and for the speedy eviction of unauthorised occupants from public premises in the State of Manipur. Section 3 of the act empowers the competent authority, after making such inquiry as he deems fit, and after satisfying that any public premises is in unauthorized occupation, the competent authority may, after recording the reasons thereof, make an order of eviction directing that the public premises shall be vacated by all persons who may be in occupation thereof or any part thereof within ten days from the date of the proclamation referred to in clause (b) of sub-section (2), in the case of buildings, and within three days from the date of such proclamation, in other cases.

#### **4. The Manipur (Hill Areas) District Councils Act, 1971 (Act 76 of 1971)**

19. This Act provides for the establishment of District Councils in Hill Areas in the Union territory (State) of Manipur. Further, vide Section 44 of the said act, all public roads which have been constructed or are maintained out of the Council Fund and the stones and other materials thereof and also all trees, erections, materials, implements and things provided for such roads, will be under its direction, management and control.

#### **G. Provisions of the Panchayat (Extension to Scheduled Areas) Act (PESA), 1996**

20. The Panchayat (Extension to Scheduled Areas) Act, 1996 is meant to enable tribal society to assume control and to preserve and conserve their traditional rights over natural resources. The provisions of the 73rd Amendment, with some modifications, were extended to the tribal areas under Schedule V States namely, Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan. One of the important provisions of this act states "the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas

#### **H. The Constitution (Twenty-seventh Amendment) Act, 1971**

21. The amendment act, inserted a new article, Article 371C. The hill areas in the state of Manipur largely inhabited by tribal communities are not covered by the 6<sup>th</sup> Schedule. The special provision envisages the constitution of Hill Areas Committee of State legislature. The Governor is mandated to report to the President regarding the administration of 'hill areas'

#### **I. The Constitution (Eighty-Ninth Amendment) Act, 2003**

22. Article 338A was inserted through this amendment to the constitution, which provides for a separate Commission for the Scheduled Tribes known as the National Commission for the Scheduled Tribe. The commission would address all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution of India, other laws in force, Government orders, and to evaluate the working of such safeguards. One of the duties envisaged is 'to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State'.

#### **J. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

23. This law provides for recognition of forest rights to Scheduled Tribes in occupation of the forest land prior to 13 December 2005 and to other traditional forest dwellers who are in occupation of the forest land for at least 3 generations i.e. 75 years, up to maximum of 4 hectares. These rights are heritable but not alienable or transferable.

#### **K. ADB's Safeguard Policy Statement (SPS), 2009**

24. The objectives of ADB's SPS (2009) with regard to involuntary resettlement are: (i) to avoid involuntary resettlement wherever possible; (ii) to minimize involuntary resettlement by exploring project and design alternatives; (iii) to enhance, or at least restore, the livelihoods of

all displaced persons in real terms relative to pre-project levels; and (iv) to improve the standards of living of the displaced poor and other vulnerable groups.

25. ADB's SPS (2009) covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of; (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers displaced persons whether such losses and involuntary restrictions are full or partial, permanent or temporary.

26. The three important elements of ADB's SPS (2009) are: (i) compensation at replacement cost for lost assets, livelihood, and income prior to displacement; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to enhance, or at least restore, the livelihoods of all displaced persons relative to pre-project levels and to improve the standard of living of displaced poor and other vulnerable groups.



### COMPARISON BETWEEN LA ACT, NH ACT, NRRP AND ADB INVOLUNTARY RESETTLEMENT SAFEGUARDS

SNo	ADB Safeguard Requirement	Land Acquisition Act 1894	National Highways Act 1956	NRRP, 2007	Remarks, and provisions in NRRP	Measures to bridge the Gap
	<b>Objectives</b>					
1	Avoid involuntary resettlement wherever feasible	X	X	✓		-
2	If unavoidable, minimize involuntary resettlement by exploring project and design alternatives	X	X	✓		-
3	To enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels	X	X	✓		-
4	To improve the standards of living of the displaced poor and other vulnerable groups.	X	X	✓		-
	<b>Policy Principles</b>					
5	Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks.	X	X	✓	While the policy does not specify any requirement for screening of the project at an early stage for resettlement impacts and risks, the process for resettlement planning is defined.	Screening of all sub-projects in line with the IR checklist of ADB, towards enabling identification of the potential resettlement impacts and associated risks.
6	Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks	x	x	✓	Clause 23. (1) After completion of baseline survey and census of the affected families under section 21, and assessment of the requirement of land for resettlement under section 22, the Administrator for Rehabilitation and Resettlement shall prepare a draft scheme or plan for the rehabilitation and resettlement of the affected families after consultation with the representatives of the affected families including women and the representative of the requiring body.	-
7	Carryout consultations with displaced persons, host communities and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options	X	X	✓	Clause 10 (ii) hold consultation with the affected persons while formulating a rehabilitation and resettlement scheme or plan;	In addition to the consultations with the displaced population, the framework includes provisions for information dissemination about the project including the entitlement and resettlement options to the displaced persons.

SNo	ADB Safeguard Requirement	Land Acquisition Act 1894	National Highways Act 1956	NRRP, 2007	Remarks, and provisions in NRRP	Measures to bridge the Gap
	<b>Objectives</b>					
8	Establish grievance redressal mechanism	X	X	✓	Clause 14.—provides for appointment by the appropriate Government of an ombudsman for time bound disposal of grievances, etc.	Given that the Resettlement Impacts are not envisaged to be significant, a project level GRM is included in the RP.
9	Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.	X	X	✓	Clause 4.—seeks to provide for social impact assessment study in certain cases in the proposed affected/displaced areas taking into consideration the impact that the project will have on public and community properties etc., and specify the ameliorative measures.	Social Impact Assessment, awareness campaigns, and social preparation phase will be done for any projects with significant impacts.
10	Improve or restore the livelihoods of all displaced persons through (i) land-based resettlement strategies (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.	X	X	✓	Clause 36 provides for the option of land based resettlement strategies	Structure to be compensated at replacement cost without depreciation
11	If there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; provide transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.	X	X	✓	Clause 30 – specifies that in case of involuntary displacement of less than four hundred families en masse in plain areas, or less than two hundred families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, all affected families shall be provided basic infrastructural facilities and amenities at the resettlement area as per the norms specified by the appropriate Government	Not envisaged under the proposed project. Therefore, the provision of alternative resettlement sites is not provided for in the framework.

SNo	ADB Safeguard Requirement	Land Acquisition Act 1894	National Highways Act 1956	NRRP, 2007	Remarks, and provisions in NRRP	Measures to bridge the Gap
	<b>Objectives</b>					
12	Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards	X	X	✓	Clause 46. The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons (such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age), of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month.	
13	If land acquisition is through negotiated settlement, ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status	X	X	✓		Not envisaged
14	Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.	X	X	✓	Clause 3 provides that non-titleholders who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than three years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;	RF mandates that in the case of land acquisition, the date of publication of preliminary notification for acquisition under Section 4.1 of the LAA will be treated as the cut-off date for title holders, and for non-titleholders such as squatters the start date of the project census survey.
15	Prepare a resettlement plan / indigenous peoples plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	X	X	✓	Clause 23 provides for the preparation and content of the Resettlement Plan to be prepared.	-
16	Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project	X	X	X	The approved scheme or plan for rehabilitation and resettlement shall be published in the Official Gazette by the	In addition to the publishing of the approved resettlement plan, the RF includes provision for disclosure of the

SNo	ADB Safeguard Requirement	Land Acquisition Act 1894	National Highways Act 1956	NRRP, 2007	Remarks, and provisions in NRRP	Measures to bridge the Gap
	<b>Objectives</b>					
	appraisal, in an accessible place and a form and language(s) understandable to displaced persons and other stakeholders. Disclose the final resettlement plan and its updates to displaced persons and other stakeholders				appropriate Government	various documents pertaining to RP implementation.
10	Include the full costs of measures proposed in the resettlement plan and indigenous peoples plan as part of project's costs and benefits. For a project with significant involuntary resettlement impacts and / or indigenous peoples plan, consider implementing the involuntary resettlement component of the project as a stand-alone operation.	X	X	✓	Clause 28—seeks to make it the responsibility of the requiring body to provide requisite funds to the Administrator for Rehabilitation and Resettlement for implementation of the scheme/plan for affected families; the requiring body to deposit 1/3rd cost of the scheme or plan with the Administrator for Rehabilitation and Resettlement on finalization of the scheme or plan.	-
17	Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	X	X	✓	Clause 29— seeks to provide that the compensation award, full payment of compensation etc. shall precede actual displacement of affected families where land acquisition is on behalf of a requiring body.	
18	Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.	X	X	✓	Clause 10 - The formulation, execution and monitoring of the rehabilitation and resettlement plan shall vest in the Administrator for Rehabilitation and Resettlement.	

### INVOLUNTARY RESETTLEMENT IMPACT CATEGORIZATION CHECKLIST

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

Note: The project team may attach additional information on the project, as necessary.

### **Appendix 3: Outline of a Resettlement Plan**

This outline is part of the ADB SPS Safeguard Requirements 2. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

#### **A. Executive Summary**

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

#### **B. Introduction and Project Description**

This section:

- a. provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area.
- b. describes the objectives of the RP; and
- c. describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

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

This section:

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

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

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

- (i) define, identify, and enumerate the people and communities to be displaced;
- (ii) describe the likely impacts of land and asset acquisition on the people and communities displaced taking social, cultural, and economic parameters into account;
- (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

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

This section:

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

## **F. Grievance Redress Mechanisms**

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

## **G. Legal Framework**

This section:

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

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

This section:

- (i) defines entitlements and eligibility of displaced persons, and describes all resettlement assistance measures (includes an entitlement matrix);
- (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and.
- (iii) outlines opportunities for displaced persons to derive appropriate development benefits from the project.

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

This section:

- (i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection

- (ii) (ensure that gender concerns and support to vulnerable groups are identified); describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

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

This section:

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

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

This section:

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

## **L. Institutional Arrangements**

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of displaced persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management,



**M. Implementation Schedule**

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

**N. Monitoring and Reporting**

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

### Appendix 4: Indicative Implementation Schedule

Activity	Progress (Year/Quarter)								
	Y1				Y2				Y3
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1
Screen sub-project impact	★								
Carry out Census		★							
Declaration of cut-off date		★							
Prepare Land Acquisition Plan	★								
Prepare Resettlement Plan (RP)		★	★						
Hiring of Non Governmental Organizations (NGOs)			★						
Public consultation	★	★	★	★	★	★	★	★	★
Disclosure of RP			★						
Co-ordination with district administration for LA			★						
Obtaining approval of RP from ADB			★						
Submission of LA proposals to DC				★					
Payment of compensation					★	★	★		
Taking possession of acquired land						★	★		
Handing over the acquired land to contractor						★	★		
Notice to Displaced Persons/ Non-titleholders						★			
Notify the date of start of construction to DPs						★			
Rehabilitation of DPs						★	★	★	★
Internal monitoring of overall RP Implementation					★	★	★	★	★
Grievance redress					★	★	★	★	★
External monitoring and reporting						★	★	★	★