

Combined Resettlement and Ethnic Minority Development Framework

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Draft

Republic of the Philippines: Emergency Assistance
for the Reconstruction and Recovery of Marawi

Output 3: Restoring Water Utilities and Health
Infrastructure

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CURRENCY EQUIVALENTS

(as of 1 October 2018)

Currency unit	–	peso/s (₱)
₱1.00	=	\$0.0185
\$1.00	=	₱54.035

ABBREVIATIONS

ADB	–	Asian Development Bank
AHs	–	Affected Households
APs	–	Affected Persons
ARRM	–	Autonomous Region in Muslim Mindanao
BIR	–	Bureau of Internal Revenue
BMCRRP	–	Bangon Marawi Comprehensive Rehabilitation and Recovery Program
BOL	–	Bangsamoro Organic Law
CAP	–	Corrective Action Plan
CLOA	–	Certificate of Land Ownership Award
CHO	–	City Health Office
DDR	–	Due Diligence Report
DENR	–	Department of Environment and Natural Resources
DPWH	–	Department of Public Works and Highways
DP	–	Displaced Person
EA	–	Executing Agency
EM	–	Ethnic Minority
EO	–	Executive Order
ESSD	–	Environment and Social Safeguards Division
GOP	–	Government of the Philippines
GRM	–	Grievance Redress Mechanism
HH	–	Household
IA	–	Implementing Agency
IDPs	–	Internally Displaced Persons
IOL	–	Inventory of Loss
IP	–	Indigenous Peoples
IPHO	–	Integrated Provincial Office
IPRA	–	Indigenous Peoples Rights Act
LGU	–	Local Government Unit
LWUA	–	Local Water Utilities Administration
MOA	–	Memorandum of Agreement
MCWD	–	Marawi City Water District
NCIP	–	National Commission on Indigenous Peoples
NCMF	–	National Commission on Muslim Filipinos
NEDA	–	National Economic and Development Authority
NGO	–	Non-Government Organizations
NTH	–	Non-Title Holder

PAP	– Project Affected Person
PIB	– Public Information Booklet
PCNA	– Post Conflict Needs Assessment
RA	– Republic Act
RCS	– Replacement Cost Study
REMDF	– Resettlement and Ethnic Minority Development Framework
REMDP	– Resettlement and Ethnic Minority Development Plan
RHU	– Rural Health Unit
RIC	– Resettlement Implementation Committee
SES	– Socio-economic Survey
SPS	– Safeguards Policy Statement
TFBM	– Task Force Bangon Marawi
UCCRTF	– Urban Climate Change Resilience Trust Fund
UDHA	– Urban Development Housing Act
UHU	– Urban Health Unit

DEFINITION OF TERMS

Bangsamoro people	Those who, at the advent of the Spanish colonization, were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands, whether of mixed or full blood, shall have the right to identify themselves, their spouses and descendants, as Bangsamoro (RA 11054, Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao)
Compensation	Payment in cash or in kind for land, housing, income, and other assets <i>acquired or adversely affected</i> by the project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
Customary law	Customary law remained a primary means of maintaining traditional social order, as a thread running through kinship relations, social hierarchy, and dispute settlement. Customary law was and is in no way immutable: it exists side by side with, or is sometimes fused with, modern state practices. ¹
Cut-off date of eligibility	Date of commencement of the census of affected persons within the project boundaries. Persons not covered at the time of census taking will not be eligible for claims of compensation entitlements.
Entitlement	Range of measures comprising compensation, income restoration support, transfer assistance, income substitution and relocation support which are due to affected people, depending on the nature and severity of their losses, to restore their economic and social base.
Income restoration	Re-establishing income sources and livelihoods of PAPs to approximate or exceed the level it was before the development project.
Internally displaced persons	An internally displaced person (IDP) is someone who is forced to flee his or her home due to armed conflicts, natural calamities, etc., but who remains within his or her country's borders. In the Philippines, they are often referred to as evacuees. Internally displaced persons (IDPs) have fled their homes but have not crossed an international frontier.
Justice system in the Bangsamoro	The Bangsamoro justice system shall be administered in accordance with the unique cultural and historical heritage of the Bangsamoro. The dispensation of justice in the Bangsamoro Autonomous Region shall be in consonance with the Constitution, Shariah traditional or tribal laws, and other relevant laws. Shariah or Islamic Law forms part of the Islamic tradition derived from religious precepts of Islam, particularly the Qur'an and Sunnah. Shariah shall apply exclusively to cases involving Muslims. Where a case involves a non-Muslim, Shariah law may apply only if the non-Muslim voluntarily submits to the jurisdiction of the Shariah court (RA

¹ Deinla, Imelda and Veronica L. Taylor. "Towards Peace: Rethinking justice and legal pluralism in the Bangsamoro". Australian National University (2015, p.17).

11054, Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao).

Land acquisition	The process whereby a person is compelled to relinquish ownership, possession, control or use of all or part of their land, structures or other assets to the project in exchange for cash or in-kind compensation. This includes land or assets for which the possessor or user enjoys customary or uncontested access but lacks legal title. For this project, compensation is based on replacement cost.
Non-title holder (NTH)	NTH are occupiers of land assets who have no legal title for the ownership of such assets. Typically, such persons are encroachers for the encroached portions, and others such as tenants.
Project affected person	Any person or persons, household, firm, private or public institution that, on account of changes resulting from the project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (including residential, commercial, agricultural, forest, salt mining and/or grazing land), water resources or any other moveable or fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without displacement. In the case of a household, the term PAP includes all members residing under one roof and operating as a single economic unit, who are adversely affected by the project or any of its components. This definition of a PAP is at variance with the definition of 'affected person' (AP) in ADB's SPS, which uses the term to refer to an individual person in a broader project area, and specifically uses it in the context of disclosure, consultations, and the grievance redress mechanism. Otherwise, the SPS uses the term "displaced person" (DP). However, PAP, as defined here, is how the EA understands it, and used so in this document.
Relocation	Physical displacement of a PAP from his/her pre-project place of residence and his/her transfer to another place.
Replacement cost	Amount of cash or kind needed to replace an asset (i.e., land, private structure, crops and trees, public structure and common resource) after an acceptable value is methodologically arrived at.
Resettlement	All measures taken to mitigate any and all adverse impacts of a project on a PAP property and/or livelihoods, including compensation, relocation (where relevant), and rehabilitation as needed.
Vulnerable groups	Distinct groups of people who might suffer disproportionately or face the risk of being marginalized by the effects of resettlement and specifically include: (i) households headed by women, elderly, or disabled, (ii) households falling under the generally accepted indicator for poverty, (iii) landless households, and (iv) ethnic minorities.

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I. INTRODUCTION

A. Project Description

1. The Government of the Philippines has requested ADB to provide emergency assistance combining a \$400 million Emergency Assistance Loan (EAL) and \$10 million in grants to support the reconstruction of Marawi. The emergency assistance (ERRM) is structured to provide the Government of the Philippines (government) with immediate and flexible financing to implement programs, projects and activities (PPAs) included in the *Bangon Marawi Comprehensive Rehabilitation and Recovery Program* (BMCRPP).² The ERRM comprises of four outputs: (i) fiscal support to meet new public spending needs arising from the government's recovery program; (ii) reestablishing connectivity in Marawi by building back better public infrastructure; (iii) restoring water utilities and health infrastructure; and (iv) improving social services and livelihoods to affected persons.

2. Output 3 for the ERRM will comprise a \$5 million grant from the Urban Climate Change Resilience Trust Fund (UCCRTF). It will comprise a water supply component and a health component.

3. Output 3 was developed a per the following general criteria:

- (i) Support the recovery of Marawi and surrounding municipalities hosting internally displaced persons (IDPs) and are included in the BMCRPP;
- (ii) Can commence in 2018 and be completed by end 2020;
- (iii) Are high impact, with a focus on social infrastructure and basic services;
- (iv) Are not affected by land ownership or other contentious issues; and
- (v) Are Category B under the Involuntary Resettlement and Indigenous Peoples safeguard category as defined in the ADB Safeguard Policy Statement (2009).

4. There are only limited expected additional land requirements for small parcels of land for the water supply source development, transmission and storage, and social infrastructure in the form of mobile health stations. Land needed for the water supply system is expected to be minimal. Therefore, the impacts are considered minor. This combined Resettlement and Ethnic Minority Development Framework (REMDF)³ has been prepared instead of stand-alone frameworks because the resettlement related impacts will be minor.

5. The project is located in a city that is populated by the Maranao (92%), who comprise the majority of the project beneficiaries along with the non-IPs. Specifically, the REMDF considers: (i) the impacts are expected to be positive as indigenous peoples' concerns (in this case only Maranaos) and priorities have been incorporated in the overall project design and negative impacts will be mitigated accordingly; and (ii) the vulnerability of affected people directly impacted by land acquisition or civil works from projects will be assessed and additional support provided for more vulnerable APs. Additional details will be provided during project implementation.

² Government of the Philippines, National Economic and Development Authority-Regional Development Office. 2018. *Bangon Marawi Comprehensive Rehabilitation and Recovery Program*. Manila.

³ In this document, the terms ethnic minorities and indigenous peoples as referred to in the ADB Safeguard Policy Statement (2009) are used interchangeably.

6. A combined Resettlement and Ethnic Minority Development Plan (REMDP)—collectively known as social safeguards documents/plans—shall be prepared whenever applicable for each project in accordance with this REMDF. This REMDF provides the policy guidelines for involuntary resettlement and ethnic minority development planning and prescribes screening guidance as well as defines the type of social safeguards planning document to be prepared for projects. In summary, this policy framework covers both involuntary resettlement and indigenous peoples under the ADB Safeguards Policy Statement (SPS) of 2009. The project resettlement and indigenous people policies are anchored upon relevant Philippine laws and procedures and those of the ADB SPS 2009.

B. Scope of the Project

7. The ADB assistance comprises a \$5 million grant to support projects that will restore access of the affected communities and IDPs to critical services in water supply provision and health. The grant will have a water supply component and a health component.

8. The water supply component will finance reconstruction and rehabilitation of water supply infrastructure in area of the existing water supply system, comprising 19 barangays currently served by Marawi City Water District (MCWD) and develop a comprehensive water supply, septage/sewerage and drainage master plan for the city. The master plan shall be informed by consultations held with the local communities, ensuring participation of women and marginalized groups. The new infrastructure will improve 24-hour supply of water with a minimum pressure of 10 psi. The grant will build on the study conducted by Maynilad with support from the International Committee of the Red Cross (ICRC) which was completed in August 2018. The water supply component supports items 118, 119 and 120 in the physical infrastructure PPAs under the BMCRRP.

9. The health component will finance the construction of two local health units, procurement of mobile health facilities, and institutional and operational support. The grant will finance the construction of 2 local health units (an Urban Health Unit in Marawi; and a Rural Health Unit in Piagapo) as model health units that meet or exceed national standards. The health units will incorporate climate resilient features (solar powered refrigeration), be well equipped, have birthing facilities, and have provisions for water supply and sanitation.⁴ The output will also provide mobile health facilities (3 mobile health clinics, 2 ambulances, 2 patient transport vehicles and 1 monitoring vehicle) to restore essential health services, including sexual and reproductive health services and psychological first aid, to Marawi City and surrounding areas hosting IDPs. The provision of mobile health facilities will enable the restoration of essential health services to Marawi City (through the City Health Office) and surrounding areas hosting IDPs (through the Integrated Provincial Health Office). The health component support related to items 163 and 168 in the physical infrastructure PPAs and items 37, 39, 41 and 51 in the social services PPAs under the BMCRRP. The procurement of mobile health facilities is required to deliver items 35 to 37 in the social services PPAs.

10. The grant will also provide institutional and operational support related to the above activities.

⁴ The two health units will be equipped to meet the 4:1 service delivery requirement, comprising (i) *Tamang Serbisyo sa Kalusugan ng Pamilya* (TSeKaP, a primary health care package under the Philippine Health Insurance Corporation); (ii) Maternal Care Package; (iii) Directly observed treatment, short-course for tuberculosis (TB DOTS) and (iv) Animal Bite Services.

C. Project Location

11. According to the Philippine Statistics Authority, Marawi City is a highly urbanized city. In broad terms, the project will cover Marawi City (excluding the most affected area) and the surrounding areas where IDPs from Marawi City have settled. The infrastructure investments are located in Marawi City (water supply and urban health unit) and Piagapo (rural health unit), while the mobile health facilities will cover Marawi city as well as the first and second congressional district areas of Lanao Del Sur province.

D. Ethnic Composition of the Affected Population

12. There are 13 Islamized ethno-linguistic groups in Mindanao: Maranao, Maguindanaon, Tausug, Yakan, Sama / Samal, Sangil, Molbog, Kolibugan, Kalagan, Palawani, Iranun, Jama Mapun, and Badjao. The Kolibugan (*libugan* means mixture) are the offspring resulting from marriages between Moros and non-Moros. The majority of the population of Lanao del Sur belong to the Maranao ethnic group; 88% speak Maranao as their mother tongue and the rest of the speak Cebuano, Tagalog, or Iranun. The Maranao identify themselves as one of the 13 Moro/Muslim groups, who prefer to be known as ethnic minorities. Based on the Philippine Statistics Authority 2015 census, the area has a total population of 284,818. Apart from the majority Muslims, there is a small Christian minority population (less than 8%) in the project area.

13. The Maranao are found in the provinces of Lanao del Norte and Lanao del. The name Maranao means “People of the Lake,” after their traditional territory in the area surrounding Lake Lanao on the Bukidnon-Lanao Plateau. They are one of the largest Islamic groups in the Philippines, with the core areas being Marawi City, Lumba-a-bayabao, and Bayang. The Maranao are a splinter group of the Maguindanao. Communities are clustered around a mosque and a *torogan*, a royal house belonging to the preeminent economic household in the area. The Maranao are widely distributed and contribute significantly to the market and trade industry. The *awang* (dug out boat), used principally on Lake Lanao, is both unique and extremely ornate. Textiles symbolize the socio-economic rank of the wearer through the intricacies of the design motifs woven into the fabric as well as the richness of the colors used. Aside from textiles, metalwork, and woodcraft, the *torogan* structure is the most significant and spectacular example of Filipino secular architecture. Primary subsistence consists of dry rice cultivation in hilly areas, intensive wet rice farming in flood plains, and corn, sweet potato, coffee, cassava and peanuts.

14. Marawi City is currently governed by RA 6734 – An Act for Providing for an Organic Act for the Autonomous Region in Muslim Mindanao (1989), and its amended law, RA 9054 – An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao (2001). The ARMM is governed by a Regional Governor, who is chief executive of the regional government and is assisted by a cabinet not exceeding 10 members. The Regional Governor is advised by an Executive Council on matters of governance of the autonomous region. Apart from the Regional Governor, the Executive Council comprises one regional vice governor and three deputy regional governors, each representing the Christians, the Muslims, and the indigenous cultural communities. The ARMM has a Regional Legislative Assembly, which is composed of three members per district and sectoral representatives. It has a three-year term.

15. Republic Act 9997, the National Commission on Muslim Filipinos Act of 2009, created the National Commission on Muslim Filipinos (NCMF) and covers all Muslim Filipinos. The Maranao identify themselves as Muslim Filipinos. The provisions of the Indigenous Peoples Rights Act of 1997 (IPRA, Republic Act No. 8371) that promotes indigenous peoples rights have not been

implemented in Marawi City since the Maranao identify themselves as Bangsamoro, distinct from the indigenous peoples as defined in the IPRA law. The current law that recognizes their identity is RA 11054, the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao.

E. Anticipated Social Safeguards Impacts

16. For the water supply system, resettlement impacts are expected to be limited, as the focus will largely be on rehabilitation and reconstruction of existing water supply facilities, including reservoirs, pumps and pipes. Given the nature of the planned activities, resettlement issues are not anticipated to be significant. Provisions for assessment and mitigation of involuntary resettlement impacts, in terms of both physical and economic displacement, must be incorporated in the project planning and implementation arrangements. One of the potential impacts during the construction of the water supply system in the Bangon area will be restricted access, especially for those who operate businesses, both permanent establishments and vendors with temporary or mobile stalls.

17. For the health component, limited resettlement impacts are anticipated related to the works components, namely a new urban health unit to be constructed in Marawi City, for which the city will allocate an unused plot of land, and a rural health unit that will be built in the municipality of Piagapo. No significant resettlement impacts are anticipated for the mobile health facilities. For the health units, a critical factor that must be considered when selecting a site for construction is the status of land ownership, as only projects where land is not subject to conflict of ownership will be funded. The project is expected to have positive impacts for the ethnic minorities in the area since it will provide health services to the IDPs and improve the water supply system in Marawi City.

18. The Department of Public Works and Highways (DPWH) as the executing agency (EA) will prepare and guided by this combined Resettlement and Ethnic Minority Planning Framework. The Local Water Utilities Administration (LWUA) will be the implementing agency (IA) for the water supply component and the Department of Health (DOH) will be the IA for the health component. A Resettlement and Ethnic Minority Development Plan (REMDP) for each project that will require land acquisition and/or have temporary impacts will be prepared to ensure that any negative impacts are properly minimized or mitigated through compensation and assistance measures. The REMDP will be endorsed by the DPWH and cleared by ADB and posted on the ADB website.

II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Objectives of the Resettlement and Ethnic Minority Development Framework (REMDF)

19. According to the ADB SPS and Operations Manual Section F1 (2013), a safeguard framework is required for the financial modalities of (i) sector lending, (ii) multi-tranche financing facility, (iii) emergency assistance and projects in fragile and conflict-affected situations, and (iv) project loans with projects or components prepared after ADB Board approval. This project is being prepared under the provisions of emergency assistance, and the objectives of the policy framework are (i) if possible, to avoid, and if not, minimize resettlement impacts; (ii) if impacts are unavoidable, a resettlement plan will be prepared to ensure that the affected persons are not worse off; rather, they should be able to at least maintain or otherwise improve their pre-project living standards and income-earning capacity. The safeguards policy framework will facilitate the design and implementation of the project in a way that fosters full respect for the indigenous

peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by the indigenous peoples themselves. It also ensures that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

20. A policy framework for involuntary resettlement and indigenous peoples/ethnic minorities should be in place from the outset of the planning process because it specifies the policy principles, parameters, and procedures that will govern involuntary resettlement and indigenous peoples/ethnic minority development in the project. Most importantly, entitlements for losses due to a development investment project are provided for. The purpose of the policy framework is to provide guidance for screening and selecting projects or project components. The framework includes measures to avoid or minimize involuntary resettlement and provides direction for preparing resettlement and ethnic minority development plans if land acquisition is required.

21. The principal objective of this document is to ensure that during the project components development, all project affected persons (PAP), if any, are consulted, informed of the decisions regarding the proposed project components and their entitlements, compensated for their losses, and provided with assistance to improve, or at least maintain, their pre-project living standards and income earning capacity.

22. The document lays out the principles and objectives, eligibility criteria for entitlements, legal and institutional framework, modes of compensation and community participation, and grievance redress procedures that will guide the compensation of the PAPs.

23. The specific objectives of this document are to ensure that:

- (i) All PAPs are informed and consulted on the proposed project components that will be implemented in their area;
- (ii) Compensation and assistance are provided and supporting legal documents are executed prior to identified project components implementation; and
- (iii) Specific arrangements between the PAP and the barangay/municipality and/or the community have been documented and complied with.

24. Physical relocation of ethnic minorities that will result in adverse impacts on their identity, culture, and customary livelihoods should be avoided to the extent possible. If avoidance is impossible, in consultation with ADB, a combined Ethnic Minority Development Plan and Resettlement Plan will be formulated. This REMDF provides the policy guidelines for involuntary resettlement and ethnic minority development planning and prescribes screening guidance as well as the type of social safeguards planning document to be prepared for project components.

B. Policy Framework

25. This framework encompasses both national laws and regulations and the ADB SPS 2009. It combines involuntary resettlement and indigenous peoples safeguards with due consideration to national government policies and the ADB SPS. Future social safeguards planning documents will be prepared and implemented following the principles established by this framework.

1. National Laws of the Government of the Philippines (GOP)

26. The Philippine Constitution states that the protection of property is state policy and is essential for Filipinos to enjoy the benefits of democracy. Private property is the right of every

citizen. The Constitution also prohibits depriving any person of property without due process and no taking of property is allowed by law without just compensation. Article III, Section 9 states: "Private property shall not be taken for public use without just compensation."

27. **Republic Act (RA) 10752 - An Act to Facilitate the Acquisition of Right-Of-Way (ROW), Site or Location for National Government Infrastructure Projects.** The law, which took effect in April 2016, aims to expedite the implementation of infrastructure projects. It is expected to reverse the pattern of expropriation as a preferred mode of acquisition, most often a long, drawn out process. The new law provides clear and simple ROW acquisition guidelines for a process that benefits both the property owners/project-affected persons and implementing agencies. Section 4 of the Act states that the modes of acquiring real property are: (i) donation, (ii) negotiated sale, and (iii) expropriation. Property valuation is market-based and undertaken using government financial institutions or independent property appraisers, a process that promotes objective property valuation. The assumption by the implementing agency of the capital gains tax also provides an additional incentive to the lot owners to negotiate with the government.

28. **Negotiated Land Acquisition.** Negotiated sale is the preferred mode of ROW acquisition (after voluntary land donation) and should be explored before resorting to expropriation. RA 10752 aims to make negotiated sale more attractive than expropriation, since the process reduces negotiation time and provides realistic compensation. It replaces the previous lengthy and cumbersome two-step procedure under RA 8974, where the implementing agency – in this case LWUA and DOH - makes the first offer to the property owner based on BIR Zonal Value, considered unattractive because the value is often low and second, the offer is made based on the fair market value, but most IAs lack the necessary competence to determine.

29. DPWH shall pay the property owner (i) Fifty percent (50%) of the negotiated price of the affected land, exclusive of the payment of unpaid taxes remitted to the LGU concerned and (ii) Seventy percent (70%) of the negotiated price of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned. DPWH shall pay the property owner the remaining fifty percent (50%) of the negotiated price of the affected land after the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected and at the time of the annotation of a deed of in cases where the land is partially affected. DPWH shall pay the remaining thirty percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned after the land is already completely cleared of structures, improvements, crops and trees.

30. **DPWH Right-of-Way Acquisition Manual (DRAM), December 2017.** This RoW Manual based on the RA 10752 and other legal references, replaces the earlier one of 2003. For the procedures for RoW acquisition, it lists acquisition through donation and acquisition through negotiated sale, among others. The DRAM covers the entire ROW acquisition process – including (a) Project Feasibility Study with Environmental Impact Assessment and preparation of Preliminary ROW Action Plan (RAP) with property appraisal, (b) inclusion of the Project in the Medium-Term Infrastructure Program, (d) provision of appropriations in the General Appropriations Act (GAA), (e) Fund Release, (g) Detailed Engineering Design (DED) including Parcellary Surveys and preparation of Final RAP, (h) RAP Validation, (i) Actual ROW Acquisition through Donation, Negotiation, Expropriation, and Other Modes, (j) Payments, (k) Transfer of Title to the Republic, (l) Clearance of ROW, and (m) Management of ROW. The DRAM serves as a guide for the Government Financial Institutions (GFIs) and Independent Property Appraisers (IPAs) in determining the appropriate price offers to property owners affected by ROW acquisition.

31. **Republic Act No. 6734, also known as the Organic Act for the Autonomous Region in Muslim Mindanao (ARMM).** The bill was signed into law on August 1, 1989 and ratified in a plebiscite in November 1989. ARMM is composed of the four provinces of Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi. RA 6734 does not differentiate between Moros and other indigenous peoples in the Autonomous Region, except that the Moros are governed by Sharia'ah laws and other indigenous peoples are governed by their own customary laws. Otherwise, both groups are referred to as "indigenous cultural communities." The law defines ancestral lands as "Lands in the actual, open, notorious, and uninterrupted possession and occupation by an indigenous cultural community for at least 30 years." Ancestral domain is defined to include pasture lands, worship areas, burial grounds, forests and fields, mineral resources, except strategic minerals such as uranium, coal, petroleum, and other fossil fuels, mineral oils, and all sources of potential energy; lakes, rivers and lagoons; and national reserves and marine parks, as well as forest and watershed reservations. This project, located in a highly urbanized area, will not affect such lands.

32. **Republic Act 9054, or the Organic Act for the Autonomous Region in Muslim Mindanao, amended RA 6734 in 2001.** The amended law expanded ARMM's area of autonomy. In a plebiscite, Basilan and Marawi City opted to join ARMM. The Regional Government as devolved to local government units adopts measures to ensure mutual respect for and protection of the distinct beliefs, customs, and traditions among its inhabitants in the spirit of unity in diversity and peaceful co-existence. It undertakes measures to protect the ancestral domain and the ancestral lands of indigenous cultural communities. The phrase "indigenous cultural community" refers to Filipino citizens residing in the Autonomous Region who are Tribal peoples as well as Bangsa Moro people regarded as indigenous on account of their descent from the populations that inhabited the country or a distinct geographical area at the time of conquest or colonization and who, irrespective of their legal status, retain some or all of their own socioeconomic, cultural and political institutions.

33. However, the Indigenous Peoples Rights Act (IPRA) is not implemented in Marawi City, which is governed by the Autonomous Region in Muslim Mindanao (ARMM) and where the applicable law is RA 6734 – An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao (1 August 1989). This law was amended, strengthened and expanded in 2001 by RA 9054 – An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao.

2. Other National Laws

34. Other laws, policies, and executive orders that ensure social safeguards are considered and rights of the project affected persons are protected:

- (i) **DPWH Land Acquisition, Resettlement, Rehabilitation and Indigenous Peoples Policy (LARRIPP) (March 2007).** The LARRIP spells out the legal framework and donors' policies governing instances when infrastructure projects implemented by the DPWH cause the involuntary taking of land, structures, crops, and other assets resulting in some cases in the displacement and resettlement of affected persons. The LARRIP enumerates the entitlements and benefits that Affected Families (AFs) or Project Affected Persons (PAPs) should rightfully receive under the law based on the Project's adverse impacts on their assets, livelihood, and lives. It expounds on safeguards to be followed based on Philippine law when these affected persons are Indigenous Peoples, living inside and outside an officially declared ancestral domain.

Finally, the LARRIP delineates the institutional framework for the implementation of the policy and provides mechanisms, both internal and external to the DPWH, for monitoring and evaluating the impact of safeguard measures, e.g. resettlement plan, indigenous peoples' action plan.

- (ii) **DPWH Department Order 65 s. 2016** as part of the continuing effort of DPWH to streamline its operations, decentralize and rationalize the ROW operations, Department Order no. 19, s. 2017, was reissued essentially delegating to regional directors the approval/signing of documents pertaining to infrastructure right-of-way (row) for national projects including the approval for payments of claims and signing of checks. The DO also reiterates that the ROW functions are delegated, and a system of deploying ROW task forces UPMO-ROW activities and their approving authorities shall continue to be governed by Department Order (DO) No. 203, s. 2016, and Special Order (SO) No.1, s. 2017.
- (iii) **DPWH Department Order No. 130 Series of 2016** provides the guidelines for the Implementation of the Provisions of Republic Act No. 6685 and Republic Act 9710 or the Magna Carta of Women. The Implementing Rules and Regulations mandates that contractors to hire a minimum percentage of 50% of unskilled and 30% skilled manpower requirement from the unemployed bona fide residents of the locality and shall be equally accessible to both women and men.
- (iv) **Republic Act 7279 or the Urban Development Housing Act (UDHA)** is an act to provide for a comprehensive and continuing urban development and housing program, establish the mechanism for its implementation, and for other purposes. The law also provides that local government units in coordination with the National Housing Authority implement the relocation and resettlement of persons living in danger areas such as *esteros*, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and in other public places as sidewalks, roads, parks, and playgrounds. The local government unit, in coordination with the National Housing Authority will provide relocation or resettlement sites with basic services and facilities and access to employment and livelihood opportunities sufficient to meet the basic needs of the affected families.
 - a) **Consultation.** In Article I, Sec. 2; Article V, Sec. 23; Article VII, Sec. 28 (2) and IRR of UDHA, Sec. 3 (e.1) also require consultations with affected persons and communities.
 - b) **Land acquisition.** There is a provision in the UDHA for the development, award and disposal of land under usufruct arrangement for purpose and use of socialized housing and urban services.
 - c) **Poor and informal settlers.** Article V, Sections 21 and 22 and the Implementing Rules and Regulations, Section 3, III (b.3.0) mandate the provision of basic services and livelihood under socialized housing and urban services for the urban poor. They are not to be evicted nor their dwellings demolished except in accordance with the law in a just and humane manner (Constitution). Assistance is limited to payment at replacement cost for structures and improvements. Additional assistance may be provided on a case by case basis
 - d) **Disclosure.** UDHA requires that all households affected are informed of any proposed development plan

- (v) **R.A. No. 7160 (Local Government Code), Section 19.** Provides for LGUs or sub-national administrative entities in the exercise of the power of eminent domain, which can only be applied for "public use or purpose or for the benefit of the poor and the landless" and property owners will be paid just compensation.
- (vi) **Republic Act 8972, or the Solo Parent's Welfare Act** provides for benefits and privileges to solo parents and their children. It aims to develop a comprehensive package of social development and welfare services for solo parents and their children to be carried out by the Department of Social Welfare and Development (DSWD), as the lead agency, various government agencies including NSO and other related NGOs.
- (vii) **Republic Act No. 7277** is an act providing for the rehabilitation, self-development and self-reliance of disabled persons and their integration into the mainstream of society and for other purposes.
- (viii) **Republic Act No. 9442** is an act amending Republic Act No. 7277, otherwise known as the Magna Carta for disabled persons, and for other purposes.
- (ix) **Batas Pambansa Blg. 344** is an act requiring certain buildings, institutions, establishment and public utilities to install facilities and other devices to enhance the mobility of disabled persons.
- (x) **Republic Act No. 9710 with Implementing Rules and Regulations** is an act providing for the Magna Carta of Women.
- (xi) **Republic Act 6685 (1988)** Requires private contractors who are awarded national or local projects to hire at least fifty percent (50%) of the unskilled and at least thirty percent (30%) of the skilled labor requirements from the available bona fide residents of the province, city or municipality where the projects are to be undertaken.
- (xii) **EO 1035 Sec.17 and 18.** Relocation/resettlement of tenants/occupants affected by Property/ROW Acquisitions. Financial assistance is to be given to tenants/farmers equivalent to the value of the gross harvest for one year on the principal and secondary crops of the area acquired, based on the average annual gross harvest of the last three preceding crop years and in no case is financial assistance to be less than Php15,000 per hectare.
- (xiii) **Executive Order 132.** Procedures to be followed in the Acquisition of Private Property for Public Use and Creating Appraisal Committee.

3. ADB Safeguards Policy Statement of 2009 (IR and IP/EM)

35. ADB's policy on involuntary resettlement covers physical displacement (relocation, loss of residential land, or loss of shelter) as well as economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas regardless of whether such losses and involuntary restrictions are full or partial, permanent or temporary. The following ADB-SPS principles on **involuntary resettlement** are stipulated and will apply to the project:

- (i) Involuntary resettlement should be avoided where feasible;
- (ii) Where population displacement is unavoidable, it should be minimized by exploring all viable project options as agreed upon during community assemblies or other fora;
- (iii) People unavoidably displaced should be compensated and assisted so that their economic and social future would be as favorable as it would have been in the absence of the project;
- (iv) People affected by involuntary resettlement due to development initiatives should be fully informed and consulted and have agreed on resettlement and compensation options;
- (v) Existing social and cultural institutions of PAPs and their hosts should be supported and used to the greatest extent possible, and PAPs should be integrated economically and socially into host communities;
- (vi) Lack of legal rights to the assets lost will not hinder PAPs from entitlement to such compensation or rehabilitation measures; particular attention should be paid to households headed by women and other vulnerable groups, such as indigenous peoples and appropriate assistance should be provided to help them get the rehabilitation or compensation package as agreed upon by the majority during barangay assembly;
- (vii) As far as possible, involuntary resettlement should be conceived and executed as a development activity as part of the project;
- (viii) The full cost of resettlement and compensation should be included in the presentation of project costs and benefits.
- (ix) Prepare an RP (an REMDP, in this case) elaborating on displaced persons' entitlements, a consultation and disclosure plan, a grievance redress mechanism, an income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and a time-bound implementation schedule.
- (x) Disclose a draft resettlement plan/REMDP, 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 affected persons and other stakeholders. Disclose the final resettlement plan/REMDP and its updates to affected persons and other stakeholders.
- (xi) 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.

36. An important aspect of ADB's IR safeguard requirement is compensation at replacement cost comprising the following elements: (i) fair current market value at the time of compensation; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any. In the calculation, structures will be compensated at replacement cost without depreciation of structures. Qualified and experienced experts shall undertake the valuation of acquired assets.

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

38. **ADB indigenous peoples safeguards** are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of indigenous peoples or affects

the territories or natural or cultural resources that indigenous peoples own, use, occupy, or claim as their ancestral domain. A project must include respect for indigenous peoples' identity, dignity, human rights, livelihood systems, and cultural uniqueness. The following ADB-SPS principles on indigenous peoples safeguards are stipulated and will apply to the project:

- (i) Screen potential impacts of project activities on the ethnic minorities;
- (ii) Conduct field-based social impact assessment (SIA) following guidelines for EMDP outline [See annex to Appendix 3, ADB's SPS, Safeguard Requirement 3 (2009)];
- (iii) Undertake meaningful consultation with the affected ethnic minorities and provide the opportunity to the ethnic minorities to participate fully during project meetings. This will be an important venue to express their voice and perspectives about the project and its impacts on their economic, social, cultural lives.
- (iv) Prepare beneficial, mitigation, and capacity development measures based on the SIA results, particularly targeting vulnerable ethnic minorities;
- (v) Establish grievance and redress mechanism incorporating conflict resolution and customary practices of the ethnic minorities;
- (vi) Prepare appropriate budget and mechanism for implementing, monitoring, reporting, and evaluation of the EMDP; and
- (vii) Prepare and disclose an EMDP, including documentation of the consultation process in accordance with the EMPF and ADB's SPS, Safeguard Requirement 3 (2009).

39. Other ADB policies relevant to resettlement planning and implementation include the **Policy on Gender and Development** that adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring participation of women and that their needs are explicitly addressed in the decision-making process for development activities. For projects that have the potential for substantial gender impacts, a gender plan is prepared to identify strategies to address gender concerns and the involvement of women in the design, implementation and monitoring of the project.

40. The ADB **Public Communications Policy** seeks to encourage the participation and understanding of people and other stakeholders affected by ADB-assisted activities. In order to facilitate dialogue with affected persons and other stakeholders, information on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development.

C. Gap Assessment of Government Policies and ADB Policies on Involuntary Resettlement and Indigenous Peoples/Ethnic Minorities

41. The legal and policy framework for compensation, site clearance, resettlement and rehabilitation, and indigenous people under the Project is defined by the relevant laws and regulations of the Government of the Philippines and the ADB Safeguard Policy Statement (2009). In case of discrepancies between the Borrower's laws, regulations, and procedures and ADB's policies and requirements, ADB's policies and requirements will prevail.

42. ADB SPS requirements mandate a gap analysis be undertaken of the Philippine Government's policy on involuntary resettlement and indigenous peoples/ethnic minorities' vis-à-vis the SPS. The difference between the government's laws and ADB's policy with regard to resettlement, compensation, and the scope of application of the term indigenous peoples, and how to address these gaps are shown in the table below.

Table 1. Gaps Between National Laws and ADB IR and IP/EM Policy

Key Issues	National Law	ADB Policy	Project Policy
Severely impacted PAPs losing productive land and/or assets	<p>Classification of PAPs:</p> <p>A. Severely-affected: A1. The portion of the property to be affected is 20% and above of the total area, for example, farmland and income from other sources (business/shop) if the remaining portion is no longer economically viable or it will no longer function as intended. A2. The portion of the residential structure to be affected is 20% and above of the total area, and the remaining portion is no longer economically viable or it will no longer function as intended.</p> <p>B. Marginally-affected: The portion of the property to be affected is only partial or less than 20% of the total area and the remaining portion of the property or asset is still viable for continued use. However, if the property to be affected is less than 20% but the remaining portion is no longer viable for continued use it will be reclassified as severely-affected.</p>	PAPs who are (i) physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating) are considered severely impacted.	PAPs losing 10% or more of their productive assets shall be considered as severely affected.
Mode of payment/ compensation for affected assets/ properties	Under RA 10752, PAPs will be paid in two instalments for their affected properties. Initially, they will be paid 50% of compensation due for their affected lands and 70% of compensation due for structures and crops found on their affected lands. The balance in compensation for the land and improvements will be paid to the APs only after the acquired lands have been cleared of all improvements (i.e., structures, trees, and crops).	Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	The PAPs will be paid 100% compensation prior to removal of assets and properties. This is a special mitigation measure for projects financed by ADB. The PAPs will not be displaced until after they have received in full the compensation and applicable allowances due to them.
Voluntary land donation	Philippine laws recognize land donation as a modality for land acquisition.	Land donation is not within the scope of the ADB SPS.	Due diligence will be conducted by an independent 3rd party

Key Issues	National Law	ADB Policy	Project Policy
			to document the voluntary nature of land donation.
Unanticipated impacts	Philippine laws have no explicit provisions for unanticipated impacts.	A social impact assessment will be carried out to determine unanticipated impacts of IR and on IPs during project implementation and updated or reformulated if a RP and or IPP is required.	ADB SPS requirements will prevail.
Scope of application of the term Indigenous Peoples (IP)	<p>RA 9997, which created the National Commission on Muslim Filipinos, covers all Muslim Filipinos outside of ARMM.</p> <p>RA 6734 created a system of “tribal courts” for the Indigenous Cultural Communities in the Autonomous Region in accordance with the tribal codes of these communities.</p> <p>RA 11054, known as the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao. The law recognizes the Bangsamoro identity, those who, at the advent of the Spanish colonization, were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands, whether of mixed or full blood, shall have the right to identify themselves, their spouses and descendants, as Bangsamoro</p>	The term IP is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.	ADB’s requirements will prevail.

D. Project Component Screening and Efforts to Minimize Adverse Impacts

43. As the executing agency, DPWH will screen project components for their potential land acquisition and resettlement impacts as well as the presence of indigenous peoples/ethnic minorities in the project area. For involuntary resettlement, a screening checklist (see proposed form in Appendix 1) will be accomplished using the project description as reference. The screening will identify the potential for loss of land, assets/structures, livelihoods, willingness of the community to collaborate in the implementation of the sub-projects, and their impacts through

primary and secondary data information collection. If any resettlement impacts are identified, DPWH will undertake an assessment of social impacts (census of PAPs, inventory of losses, and socioeconomic survey) and prepare the social safeguards planning documents. Involuntary resettlement should be avoided where feasible and if it is not avoidable, it should be minimized by exploring all viable options as agreed during community assemblies. It is important to screen the project early on to identify past, present, and future IR and IP/EM impacts and risks.

44. To determine whether project-affected people are IP/EM under the SPS, an assessment is performed using the four defining characteristics of indigenous people listed in the last section of the gap analysis (above), along with their relative vulnerability. Given the cultural and historical context, the Maranaos do not identify themselves as indigenous people, but rather as one of the 13 ethno-linguistic Muslim groupings in the Philippines. ADB's policy on indigenous peoples safeguards mandates that safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems or culture of indigenous peoples, or affects the territories or natural or cultural resources that indigenous peoples own, use, occupy, or claim as an ancestral domain or asset. The Maranao, as the majority population in the project area have a distinct cultural identity, their own language, a clear attachment to their Bangsamoro homeland, and distinct customary practices for decision making both at the clan and community level. These are the parameters that trigger indigenous peoples safeguards. Therefore, the project should be designed and implement in a way that fosters full respect for their identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by project affected people so that they (i) receive culturally appropriate social and economic benefits, (ii) do not suffer adverse impacts as a result of projects, and (iii) can participate actively in projects that affect them.

45. The REMDF shall ensure that project components are designed to avoid or minimize negative social impacts and enhance benefits for the indigenous people/ethnic minorities. If any negative impacts are identified, appropriate mitigation measures will be developed and implemented as part of the project components' design and implementation for both IR and IP/EM. The outline for an REMDP is attached as Appendix 2.

46. The guiding principles contained in this document will be adopted for developing the REMDP. The REMDP should reflect the inventory of affected persons and properties, number of persons eligible for each entitlement or form of assistance as stated in this REMDF, cost estimates, and arrangements for consultation and participation and grievance redress.

47. Payment of compensation at replacement cost and provision of other entitlements (in cash or in-kind) will be satisfactorily completed for each project prior to the commencement of civil works. Construction will not be allowed to commence until compensation has been paid and resettlement, when necessary, is completed in accordance with the REMDP approved by ADB. The formulation of the compensation package and subsequent payments made will be properly documented.

E. Project Affected Persons, Cut-Off Date, and Eligibility

48. Types of project affected persons within project area are as follows:

- (i) Landowners: Persons with formal legal rights to land they may lose in its entirety or in part, (e.g., agricultural, residential, commercial and institutional) who have full title, tax declaration, or who are covered by customary law (e.g. possessory rights, usufruct, etc.) or other acceptable proof of ownership over the affected land. It is noted that the issue of land ownership is very sensitive and has the potential to

trigger violence or conflict in the area. Apparently, there are competing claims for land in the project area (especially the legal or formal versus the traditional, historical, or customary, which are not necessarily supported by written documents typically required in other project contexts).

- (ii) Persons who may lose the land they occupy or utilize in its entirety or in part who have no formal legal rights to such land, but who have claims to it, such as customary claims, that are recognized or recognizable under national laws; and
- (iii) Persons who may lose the land they occupy or utilize in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land. Squatters, encroachers, tenants, etc., constitute this type.

49. Persons covered under items (i) and (ii) above are provided compensation at full replacement cost for the land they lose, payment for non-land assets they own, and necessary assistance in cash or in-kind. Persons covered under item (iii) are provided compensation at full replacement cost for non-land assets they own, and resettlement assistance in lieu of compensation for the land they occupy. They may receive other assistance, as necessary, to achieve the objectives set out in this policy provided that they occupy the project area prior to the established cut-off date.

50. The REMDF recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels and therefore are at greater risk of impoverishment when their land or other assets are affected. The extent of impact on IPs and other disadvantaged groups such as the landless, poor, households headed by women, elderly, and disabled, who will receive special rehabilitation assistance, will be determined during the project feasibility study and REMDP preparation. Following are safeguard mechanisms intended to protect vulnerable groups:

- (i) A surveys of socioeconomic conditions of PAPs will identify the conditions, needs and preferences of poor households, women who head households (and other female PAPs) and ethnic minority PAPs. Monitoring of resettlement activities will include a separate assessment of the impacts on vulnerable PAPs.
- (ii) Care will be taken to ensure the process of land acquisition and resettlement does not disadvantage poor households, IPs, women, households headed by women, the elderly or disabled, particularly the landless.
- (iii) Preparation of informational materials will take into consideration the language and literacy skills of participants as well as other gender and cultural sensitivities that would affect their participation.
- (iv) The project will give priority to vulnerable PAPs for employment during construction, operation and maintenance of physical infrastructure, reforestation and protection, and other project activities, where appropriate.

III. SOCIAL ASSESSMENT, RESETTLEMENT AND INDIGENOUS PEOPLES/ETHNIC MINORITY PLANNING

A. Dominant Ethnic Minority Group in the Project Area

51. The word Moro, which is Spanish for Moor, a generic term for Muslims common in Europe during the early period of Spanish colonization, was used to refer to the Muslim people of the southern Philippines. In recent times the term has gained political significance as an expression of a distinct identity of a people with special emphasis on the primacy of Islam. With the enactment in July 2018 of the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao, the term Moro has become more inclusive as it states that “natives or original inhabitants of

Mindanao and the Sulu archipelago and its adjacent islands, whether of mixed or of full blood, shall have the right to identify themselves, their spouses and descendants, as Bangsamoro.”

52. The historical struggle of the Bangsamoro for self-determination has not been purely political but has also been a fight for recognition of the Moros’ own clan-based systems, informal and formal rules of power relations, and freedom to practice their own religion. These are important factors to consider when implementing projects in an area where extreme poverty is combined with land dispossession, social exclusion, and constrained access to basic services. These forms of marginalization have exacerbated the long-standing conflicts in the region, including the Bangsamoro struggle for self-determination, led by the Moro Islamic Liberation Front and the Moro National Liberation Front. Marawi was the epicenter for the recent ISIS-inspired siege led by the Maute brothers, but the province of Lanao del Sur has long been host to conflicts between multiple groups and clans, often resulting from competition over access to and control of land and resources.

53. An understanding of historical context, cultural dynamics, and internal decision-making structures of the Maranao will allow the project implementers, especially the members of the Project Management Unit who are outsiders to the culture, to develop effective strategies for engaging the project partners.

54. The Maranao population was traditionally divided into four major districts: Bayabao, Masiu, Unayan and Baloi. These were subdivided into townships called *inged*, and villages or communities called *agama*. The following narrative shows how Maranao traditional institutions and decision-making structures operate at the clan and community levels:

“Customary law in Maguindanao society includes the ‘adat betad’, which refers to procedures by which customs and usages maybe applied to whom and when. The clan or family system in Muslim societies is the fundamental repository of custom or adat law through which status and roles are claimed, maintained and advanced. The family or clan is the source of belonging and identification for the individual. Maranao society is described having a ‘trichotomous’ authority structure, where the mbatabata or thothonganaya (or group of individuals united by blood relations) exists together alongside institutions such as the barangay (village) and the agama (religious affairs). The adat also constitutes the taritib (agreement) and prescribes the relationship among the datus (leaders) and between them and the sultan (between the ruler and the ruled). The Sultan is considered to be the highest authority selected by a council of elders. The villages or townships (inged) are autonomous units, with the datu being the embodiment of law, the protector, religious leader and invested with power to settle disputes. Although the authority of the sultan has diminished considerably over the years, most of the datus still exert strong influence and authority, including their role in settling community disputes. In recent years there has been a separation of political and religious authority as the ranks of ulamas (learned Islamic scholars) and imams (priests) have increased and independent sources of funds are obtained from Muslim countries in the Middle East. Although in Muslim groups traditional authority is claimed as hereditary right, the position of datu can be earned through wealth, power and number of followers.

In recent years, the council of elders (known as mangalokes or ‘walai na kukuman’, literally house of decisions, in Maguindanao) in the community or clans has been made up of an assortment of nobility, political leaders, religious leaders, school teachers, and public servants who could also be sought out individually to give advice or provide assistance. The ‘elders’ are

also regarded as the ‘gatekeepers’ of traditional knowledge who are invested with the task of protecting traditional knowledge from ‘outsiders’. The *taritib*, or ‘order’ or ‘sequence’ of *adat* is the correct method of doing things so that conflict is avoided or when conflict is already present, the proper steps to observe to settle conflicts. ‘Hence, *taritib* requires the seeking of advice from elders who will explain to the people what steps to take and in what order the steps need to be taken’. These procedural norms are as important as the substantive norms in maintaining order and harmony among individuals and groups (Deinla and Taylor, pp. 20-21)”.

55. Local non-state authorities such as the elders, *datus*, religious leaders (ulamas and imams) are interlinked, since they are most often related and usually belong to influential clans. It is critical to understand who the holders of power are, both formal—local executives—and non-formal—imams, *datus*, and elders. These are all respected leaders in their communities and hold great sway over decision making process.

56. Figure 1 shows the different centers of authority, both formal and informal, in terms of their level of trust or legitimacy as perceived by the communities. It illustrates how the central state authority system is detached from the social, political, and economic systems of the Maranao. But it clearly shows that the regional and local state authorities interact with local state authorities and the non-state authorities. Project team members who are unfamiliar with the local power dynamics should not assume that government policies and structures will operate as they do in most other places in the country.

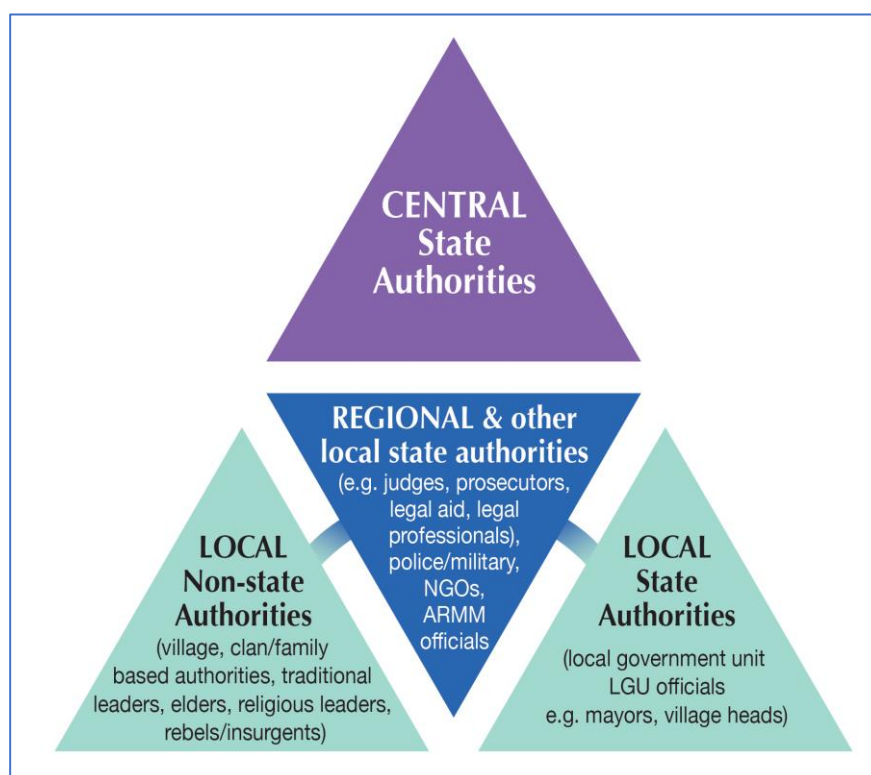


Figure 1: Key Actors in the Current Justice System

57. Project implementation arrangements and structures must be suited to the existing social, cultural, and political realities of the Maranao. It is crucial for the success of the project to have

an adequate understanding of the the different levels of authority and decision making, which include: (i) LGUs; (ii) Shariah law; (iii) *taritib ago ijma* (agreeing upon or consensus), which refers to agreements among clan members; and (iv) *kokoman a kambhatabata'a* (kinship justice), or settlement among relatives. These traditional decision-making processes are still practiced when conflicts arise.⁵

B. Identification of Potential Impacts

58. The following are key considerations in the identification of project potential impacts:^{6 7}

- (i) All potential impacts have to be identified. Past impacts refer to involuntary resettlement activities that may have been undertaken in the proposed project area in anticipation of a project hence may not have been in conformity with the ADB's involuntary resettlement safeguard requirements under the SPS. Present and future potential impacts refer to the likely impacts due to the project under consideration.
- (ii) Identify and assess potential impacts on vulnerable groups and women. The social assessment identifies any individuals and groups who are likely to be differentially or disproportionately affected by a proposed project due to their vulnerable status. This requires disaggregated information to assess potential impacts and propose targeted measures to ensure that potential impacts to these individuals or groups are appropriately avoided, mitigated, and compensated.
- (iii) Consider indigenous peoples/ethnic minorities in the assessment of social impacts. Should indigenous peoples/ethnic minorities be affected by a project, it is imperative to assess likely impacts to their identity, culture, and customary livelihoods, detailed information on their land-use, economic activities, and social organizations with emphasis on the leadership patterns, decision making process and representation.
- (iv) Include impacts on public resources. The social assessment also considers project impacts on public resources, including losses of community-owned facilities or cultural property, and loss of access to direct use of natural resources. None common property is expected to be impacted and the project that will affect to common property will be avoided.
- (v) Include impacts on livelihoods caused by activities other than land acquisition. Project-related impacts on livelihoods may not be related to involuntary land acquisition but still have to be determined. As such, it is necessary to link with the environmental assessment process to ensure that social impacts related to the environmental media are addressed appropriately and for the social assessment to recommend measures to avoid, minimize and mitigate such impacts across project stages.

C. Prescribed Tools and Scope of Social Assessment

59. This section provides guidance for the conduct of the social assessment according to the ADB SPS (2009) and as elaborated in the ADB IR Sourcebook.

a. Socioeconomic Survey (SES)

60. A SES will be conducted to establish a profile of the demographic and socioeconomic conditions of people affected by the project. The SES will be conducted in detail after the selection

⁵ Key informant interview, Dr. Hamid Barra, Shariah Center, Marawi, State University. August 29, 2018.

⁶ ADB, 2012, Indigenous Peoples Safeguards: A Planning and Implementation Good Practice Sourcebook.

⁷ ADB, 2012. Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook – Draft Working Document.

of project sites, of which the project put forward a basic requirement that there shall be no other given right in the area to prevent contesting claims which might happen and impede the project progress.

61. The SES obtains data on the likely impact of land acquisition on the local economy, economic institutions, land-use patterns, tenancy and sharecropping, occupation and employment patterns, income and economic interdependence between households, poverty levels, local social organization and authority structure, and women's economic activities and income. While the census covers 100% of the PAPs, a socioeconomic survey may be carried out on a sample basis, i.e., 20%-30% of all PAPs statistically acceptable in the project area to be selected randomly. Apart from these quantitative tools, relevant qualitative tools include focus group discussions, interviews with key informants, and participatory assessment, carried out through the consultation process. Data will be disaggregated and analyzed by gender and ethnicity. Results of the SES will be entered into the project database and project management will ensure that aggregate information is accessible for monitoring.

b. Inventory of Affected Persons and Assets

62. **Census.** The census is a count of all affected persons irrespective of their titled or non-titled land ownership status. The project shall carry out a field survey to collect data and information of socio economic figures of direct impact areas. A follow-up census is required to update the list of PAPs if project implementation is delayed by two or more years by which time the impacts may have changed compared to the initial census or if the project design changes significantly.

63. **Inventory of loss (IOL) and detailed measurement survey (DMS).** An inventory (100% of PAPs) of all affected assets at the project feasibility stage is determined specifically for those located within the designated alignment or boundaries of the project facilities. A DMS is conducted following the detailed design of the project; it thus updates or finalizes the IOL. The DMS activity shall be focused on direct impact areas brought about by civil works for the project.

64. The PAPs are notified before the conduct of the IOL/DMS and requested to participate in the survey. The IOL/DMS will be carried out in the presence of heads/guardians or members of households, who will duly endorse the completed IOL/DMS forms. Endorsement of survey forms at the time of survey will preclude any complaints by the PAPs on the inaccuracy of inventory details at a later stage. The survey method will be updated and fine-tuned at implementation.

65. The inventory for the project will be prepared and the initial output will be reviewed and discussed during the community assembly prior to the preparation of the social safeguard planning document.

66. **Replacement cost study.** This is the valuation of assets at replacement cost according to local market prices and standards of valuation, without deductions for age-related depreciation, recovery of salvageable materials, or registration fees and other transaction costs. By law, DPWH will engage the services of a government financial institution with adequate experience in property appraisal or an independent property appraiser accredited by: (i) the Bangko Sentral ng Pilipinas (BSP) or (ii) a professional association of appraisers recognized by BSP.

67. **Social Safeguards Planning.** The appropriate social safeguards planning document should consider quantitative and demographic information, particularly with regard to level of poverty and educational attainment, and gender disaggregated data and Indigenous Peoples/ethnic affiliation as generated from the social assessment. It should consider cultural aspects that support the project, which would possibly impede in the project implementation. In terms of environmental sustainability, IR-IP/EM planning shall set out the measures to mitigate potential risks through informed and meaningful consultations.

68. When an infrastructure project has been found through the social assessment to have potentially adverse effects on IP/EM, there is a need to formulate an IP plan, either as part of the combined social safeguard document or as a separate IPP. In this specific case, the project is located in a majority Maranao area with Maranao as the direct project beneficiaries. Hence, instead of a separate IPP, a combined IR and IP planning document (Resettlement and Ethnic Minorities Planning = REMP) has been planned. The plan sets out measures through which the DPWH and other government agencies will ensure that IP/EM affected by the project receive culturally appropriate social and economic benefits. It also specifies ways that the identified adverse effects are avoided, minimized, mitigated, or compensated.

69. **Land Acquisition affecting Muslims in the Bangsamoro homeland** shall observe the tenets and principles of laid out in RA 11054, the Bangsamoro Organic Law, that recognizes the people's right to identify themselves, their spouses and descendants, as Bangsamoro. Muslims believe in the concept of *hakkula*, that land is owned by the highest Supreme Being, Allah. The clans serve as the steward of land, thus, there was no concept of absolute ownership in the past. The Maranao believe in the concept of *ka wali*, that land is acquired and controlled by clans, but not divided or substantiated by paper titles or other legal documents that to attest to legal ownership. Clan elders have long established clear boundary markers such as trees, boulders and creeks that separate clan-controlled land. These customary laws and practices on land claims, housing, and property retain legitimacy in the context of Maranao culture. In the rural areas of Lanao del Sur, these practices still prevail, as does the concept of *maratabat*, (affronts to family dignity or sense of honor) where mutual agreement between land owners is recognized. Many of the residents in the municipalities surrounding Marawi City do not have official titles for the land they occupy.

70. In Marawi City many families have titles to their property, but there are cases of overlapping claims. The government has also declared part of the city as a military reservation and portions are under the jurisdiction of the Department of Environment and Natural Resources. Marawi State University also has land in the city, as does the LGU. Several of these jurisdictions overlap, leading to a complicated mosaic of overlapping claims. Given this challenging situation, the project must ensure that any for land acquired for the project, ownership is free of conflicting claims; construction of the project will only commence if the land is uncontested and with proper supporting documentation.

71. The following guidance concerning documentary requirements for land acquisition can serve as a starting point for the safeguards team, in collaboration with the TFBM subcommittee on land resource management, to define the project's land acquisition requirements.

1. For privately owned land

- (i) For lots located within titled residential/agricultural/industrial lands including lands covered by Certificate of Land Ownership Award (CLOA), applicable land instrument shall be:
 - Notarized Deed of Donation or Notarized Usufruct Agreement that clearly stipulates; (i) the use intended for the sub-project, and (ii) appropriate applicable duration, in the terms and conditions of the agreement, among others (iii) specific delineation of the lot subject of the usufruct agreement; and/or
 - Right-of-Way Agreement and/or Permit to Enter/Construct
- (ii) For lots located within Non-Titled Residential/Agricultural Lands, applicable land instrument shall be:
 - Quit Claim issued by the actual occupant/s and holder of a Tax Declaration of the land

2. Public lands

- (iii) For lots owned by the Local Government Units, applicable land instrument shall be:
 - Sangguniang Panlalawigan or Bayan or Barangay Resolution
- (iv) For lots owned by the Department of Education, applicable land instrument shall be:
 - Certification from the school superintendent allowing the use of land.
- (v) For lots within Forest Lands, Timberlands, Legal Easements, applicable land instrument shall be:
 - Certification/Resolution from the relevant government agency (i.e. DENR, DAR, DA) having jurisdiction over the area in which the lot is located, and
 - Permit/Clearance allowing the use of lot for the project
- (vi) For lots under concession agreements, applicable land instrument shall be:
 - Permit/Clearance from the concessionaire allowing the use of lot for the project
- (vii) For proposed sub-projects that are to be located within the existing local infrastructure or facilities (e.g. repair of public goods using KC funding), an MLGU or BLGU Certification confirming that the site has been in actual use for such purpose for a period of time, in lieu of a right-of-way (ROW) agreement or deed of donation.

D. Unanticipated Impacts

72. Should unanticipated involuntary resettlement and indigenous people's impacts emerge during project implementation, DPWH shall ensure the conduct of a social assessment and update or formulate a new social safeguard planning document depending on the extent of the impact changes. Unanticipated impacts will be documented and mitigated based on the principles provided in this REMDF. DPWH shall submit these documents to ADB for disclosure on ADB's website as well as their project website and convey relevant information to the affected persons/community.

IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE

A. Consultation and Participation

73. The stakeholder communication strategy for the project aims to increase public awareness of project benefits and improve the sustainability of the water supply and sewerage system improvements. It is also designed to promote public feedback during the detailed project design, construction, and operation phases. Project information will be disseminated by means of appropriate media and regular public consultations throughout the project cycle. To ensure that PAPs are informed and aware of the project, meaningful consultations will be conducted upholding the following principles:

- (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) Undertaken in an atmosphere free of intimidation or coercion;
- (iv) Gender inclusive and responsive, 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.

74. The PAPs will participate throughout various stages of REMDP preparation, documentation, implementation, and monitoring. The where the projects are to be built should be identified in consultation with the traditional and religious leaders in addition to the barangay and town or city officials. Prior to any resettlement activity, PAPs will be fully informed about the proposed project and the provisions of this REMDF during barangay assemblies. Several consultations will be conducted in the early stages of project preparation.

75. After the census of households or during the social investigation stage, a public assembly at the barangay level will be called to orient PAPs on the project. These consultation meetings will include:

- (i) An orientation on the project;
- (ii) Project designs;
- (iii) Schedules of implementation;
- (iv) Probable benefits and adverse impacts; and mitigating measures to be taken;
- (v) Compensation packages and the schedule of disclosure meetings on valuation;
- (vi) Compensation payment; and
- (vii) Grievance redress process.

76. Copies of the project background, RIFP and entitlements will be distributed and explained to the PAPs using the local language. For project components requiring land acquisition meaningful consultations with the project affected persons will be held throughout the project cycle. All land acquisition and resettlement activities will be carried out with the cooperation and assistance of PAPs and the local administrative agencies. More specifically:

- (i) The relevant officials will be informed about the project and their assistance will be solicited in the supervision of the PAP census and the inventory of affected assets.

- (ii) The project implementing consultants will carry out a detailed measurement survey (DMS) with the cooperation of PAPs and will inform them of the results of the survey and the inventory prior to the finalization of the REMDP.
- (iii) The preference of PAPs related to compensation and other resettlement assistances will be given due consideration during the planning process.

Specific mechanisms for ensuring the active involvement of PAPs and other stakeholders will be detailed in the project REMP, which also will include an appendix with date, list of participants, and minutes of the consultation meetings.

77. The local partners, especially the Marawi City LGU, the field office of the TFBM, and the existing clusters will be consulted to strengthen coordination throughout the life of the project. Taking into consideration the role of local non-states authorities—elders, imams, ulamas, and clan leaders, the project will ensure that these players are properly consulted.

78. All consultation meetings and other activities will be properly documented. In the event that a project component involves the acquisition of land or other assets that results in adverse impacts, the DPWH as the EA will not proceed with the implementation of the project unless a compensation package is agreed upon by DPWH and the owners of the land or asset affected, as well as those who stand to lose their crops, jobs, or sources of income.

79. **Women and vulnerable sectors.** The project will ensure the engagement of local women's groups and civil society groups in key project activities and will develop mechanisms for consultation with women and other vulnerable sectors in the project area. In case of under-representation or where needed, separate meetings with marginalized households, including women, shall be organized to discuss the proposed project.

B. Disclosure

80. This safeguard framework will be disclosed on the ADB website. The project will produce a pamphlet in the local language to be disseminated to the affected persons summarizing compensation eligibility and entitlement provisions. Disclosure of the following documents is required:

- (i) Draft REMDF and REMDPs endorsed by DPWH and concurred by ADB;
- (ii) Updated REMDF and REMDPs endorsed by DPWH and concurred by ADB;
- (iii) Corrective action plans prepared during project implementation, if any; and due diligence report for projects considered Cat B for the IR safeguard;
- (iv) The resettlement and indigenous peoples/ethnic minority monitoring reports.

81. The following documents shall be disclosed: (i) draft social safeguards planning documents, as endorsed by DPWH; (ii) final social safeguards planning documents; (iii) new or updated social safeguards planning documents, if any, in case of any corrective action; and (iv) monitoring reports. These documents will be produced in a timely manner and posted on both ADB and project websites and at any locally accessible place in a form and language understood by the affected communities and other stakeholders. The project information will be made available to affected indigenous peoples/ethnic minorities in the form of leaflets or brochures in the local language. An outline for a project information brochure is included as Appendix 4. Materials will be produced in popularized form for all PAPs throughout the project's duration. The

ADB Public Communication Policy will serve as guide and all relevant documents will be uploaded to the ADB website.

82. DPWH shall also post summaries of approved documents on their project website. During project implementation DPWH will prepare monitoring reports on the implementation of the social safeguards planning document and submit the same to ADB for review and posting on the ADB website. The ADB SPS (2009), Public Communications Policy (2011) and Accountability Mechanism (2012) as well as government issuances included in this REMDF will be complied with. The documents above listed will be uploaded to the project management information system as well.

V. COMPENSATION AND OTHER ENTITLEMENTS

A. Compensation

83. Given the emergency context of the project and the extent of displacement already experienced as a result of the armed conflict, assistance and rehabilitation measures to be provided to persons either displaced by the project or who experience restricted access to land due to the project will be incorporated into the entitlement matrix as needed. This will ensure compliance with the requirements of the ADB SPS as well as country regulations. In addition, defining and categorizing vulnerability and associated assistance to be provided will be reviewed and incorporated in the entitlement matrix prior to project implementation.

84. The project entitlements in the entitlement matrix below correspond to the impacts identified in the preliminary report of the BMCRRP and follow ADB's SPS requirements as well as the country's laws and regulations. It should be noted that these entitlements may be enhanced or otherwise modified, as necessary, following the conduct of a DMS and consultation with PAPs.

Table 2: Entitlement Matrix

Asset	Impact Category	PAP/Eligibility	Compensation Entitlement
Arable land	Loss of land up to 10 % of land holding and the remaining land remains economically viable	Farmer/title holder ⁸	Cash compensation for affected land at full replacement cost.
		Tenant/lease holder	Cash compensation equivalent to market value of gross harvest of the affected land for one year or for the remaining period of tenancy/lease agreement, whichever is greater; Refund of advance rental amount, if any.

⁸ Title holders are those who have clear title or certificate of ownership issued by the local revenue authorities. In view of the armed conflict situation where most people had to flee, and their property was destroyed, and in the absence of property ownership documentation, mutual endorsement of ownership by neighbors should be acceptable for the purpose of appropriate compensation payment. In the case of multiple wives, the compensation amount will be equally divided among the husband and the wives regardless of whether they are residing in the same house or separate houses.

Asset	Impact Category	PAP/Eligibility	Compensation Entitlement
	Loss more than 10% of land holding and the remaining land becomes economically unviable	Farmer/title holder	Land for land replacement or compensation in cash at replacement cost according to the PAP's choice. Land for land replacement will be in terms of a new parcel of land of equivalent size and crop productivity with a secured tenure status at a location acceptable to the PAP. The replacement land will be free of taxes, registration & other costs. In addition, rehabilitation assistance and transfer/resettlement assistance be provided.
		Tenant/lease holder	Cash compensation equivalent to market value of gross harvest for one year or for the remaining period of tenancy/lease agreement, whichever is greater; Refund of rental advance amount, if any.
		Agricultural worker	Cash compensation equivalent to 6-month average salary. Assistance in getting alternative employment.
Commercial land	Land used for business partially affected, limited loss (remaining portion still viable for livelihood purposes)	Title holder/ business person	Cash compensation for affected land at full market value and replacement cost. Cash compensation for loss of income equivalent to 5% of gross annual income or 15,000 Php or whichever is higher.
		Rental/lease holder	Cash compensation for loss of income equivalent to 10% of gross annual income; Refund of rental advance amount, if any.
	Land used for business severely affected (loss of 10% or more area), remaining area insufficient for continued use	Title holder/ business person	Land for land replacement or compensation in cash at replacement cost according to the PAP's choice. Land for land replacement will be provided in terms of a new parcel of land of equivalent size and market potential with a secured tenure status at a location acceptable to the PAP. The land will be free of taxes & other transfer costs. In addition, rehabilitation assistance will be provided.
			Transfer/resettlement assistance; Opportunity cost compensation equivalent to 10% of gross annual income.
		Rental/lease holder	Opportunity cost compensation equivalent to 20% of gross annual income; Assistance in rental/lease of alternative land/property; Refund of rental advance amount, if any.
Residential and other noncommercial land	Less than 20% of land holding affected and the remaining land remains viable for present use	Title holder	Cash compensation for affected land at full replacement cost.

Asset	Impact Category	PAP/Eligibility	Compensation Entitlement
		Rental/lease holder	Minimum cash compensation equivalent to 10% of lease/rental fee for the remaining period of rental/lease agreement; Refund of rental advance amount, if any.
	Less than 20% of land holding affected but remaining land becomes smaller than minimally accepted under zoning law/s and/or not viable for continued use	Title holder	Land for land replacement or compensation in cash at replacement cost according to PAP/DP's choice. Land for land replacement will be of minimum plot of acceptable size under the zoning law/s or a plot of equivalent size, whichever is larger, in a nearby resettlement area with adequate physical and social infrastructure systems as well as secured tenure status. When the affected holding is larger than the relocation plot, cash compensation to cover the difference in area/size. Replacement land will be free of taxes, registration and transfer cost. Rehabilitation assistance. Transfer/resettlement assistance.
		Rental/lease holder	Cash compensation equivalent to 20% of lease/rental fee for the remaining period of rental/lease agreement; Assistance in rental/lease of alternative land/property; Refund of rental advance amount, if any.
Structures (includes public utilities/ structures)	Structure partially affected but the remaining structure remains viable for continued use	Owner	Cash compensation for affected structure and other fixed assets at replacement cost; Full (cash) assistance for restoration of the remaining structure.
		Rental/lease holder	Disturbance compensation equivalent to two months' salary or rental whichever is greater; Refund of rental advance amount, if any.
	Entire structure affected, or structure partially affected but the remaining structure is not viable for continued use	Owner	Cash compensation for entire structure and other fixed assets at replacement cost; Rehabilitation assistance; Transfer/resettlement assistance.
		Rental/lease holder	Disturbance compensation equivalent to six-month salary or rental whichever is greater; Assistance in alternative rental arrangements; Refund of rental advance amount, if any.
		Informal dwellers	Cash compensation for affected assets at replacement cost; Disturbance compensation equivalent to three-month salary or rental whichever is greater; Shifting assistance.
Standing crops	Crops affected by land acquisition or temporary acquisition or easement	PAP	Contractor mobilization should be coordinated such that standing crops are allowed to be harvested. If this is not possible, cash compensation at full market value.

Asset	Impact Category	PAP/Eligibility	Compensation Entitlement
Trees	Trees lost	Title holder	Cash compensation based on type, age and productive value of affected trees.
Easement	Temporary acquisition or easement	Title holder	Minimum cash compensation equivalent to 10% of the value of affected asset. ⁹

85. The **unit of entitlement** is the affected individual, household, or affected community, as the case may be, that is eligible to receive compensation and assistance. As a rule, the unit of loss determines the unit of entitlement. If an individual loses a small business, the individual is entitled to compensation. If more than one person owns or customarily uses expropriated resources, then they are entitled to share in compensation. For example, if a household of five loses a house and 2 hectares of land held in the name of one person, all the members of the household are collectively entitled to at least a house and 2 hectares of land of comparable value or to another form of compensation or rehabilitation acceptable to them. Once the project census and assets inventory is carried out, the entitlement matrix in the REMDP should indicate the number of displaced persons under each category of entitlement in the matrix, which will be used in preparing the costs and budget. The matrix includes (i) legally mandated compensation for land and other assets acquired; (ii) additional cash grants needed to meet replacement cost; (iii) cash assistance such as an allowance for relocation; (iv) resettlement assistance such as housing plots or houses or apartment units built for relocation; (v) income restoration assistance or grants for business; (vi) employment and training opportunities; and (vii) special assistance to vulnerable groups. The goal of these safeguard requirements is to ensure that development interventions do not disadvantage the project affected persons.

86. The project will provide shared compensation to households with multiple wives. The SES form shall be designed to capture information on households with multiple wives who may be living in the same house or in separate houses. The final compensation amount will be equally divided among the husband and the wives regardless of whether they are residing in the same house or in separate houses. This mechanism will be shared with the relevant households through consultations. The entitlement matrix takes the types of displaced persons and relevant gender concerns into consideration.

87. **Donation.** Voluntary donation of land by individual land owners can be effected only when there are clear land titles and the land is without encumbrances. Voluntary donations of land will be allowed only with the following safeguards in place: (i) full consultation with PAPs on project entitlements conducted in a free and transparent manner, (ii) voluntary contributions do not severely affect the living standards of households and are linked directly to benefits for the community, (iii) any voluntary contribution will be confirmed through verbal or written record and verified by an independent third party (such as representative of a people's organization, NGO or legal authority), (iv) adequate grievance redress mechanisms are in place, (v) land and non-land assets contributed do not belong to the poorest and most vulnerable households, (vi) the land is free from any legal disputes or controversies, and (vii) land transactions are supported by transfer of titles. The following criteria and guidance will be observed:

⁹ This entitlement will be included in the contractor's set of responsibilities.

Criteria	Guidance Notes
The impacts are marginal (based on percentage of loss and minimum size of remaining assets)	<ul style="list-style-type: none"> • The land donated does not exceed 5% of the total land owned by the affected household. • The land donated does not result in uncompensated permanent non-land assets • Land donation will only be accepted if the total land owned by the household is not less than 300 m²
Impacts do not result in displacement of households or cause loss of household's incomes and livelihood	<ul style="list-style-type: none"> • The land is not used for productive purposes • Only secondary structures are affected; there is no physical relocation of households due to land donation. • The affected household does not fall under the category of poor or vulnerable.
The households making voluntary donations are direct beneficiaries of the project	<ul style="list-style-type: none"> • Both positive and negative impacts of the project on the affected household are considered. • The affected household can identify the project's direct benefits.
Land donated is free from any dispute on ownership or any other encumbrances	<ul style="list-style-type: none"> • The affected household has recognized legal tenure. • The land is not being occupied or used by any other party and if it is, the occupants must be consulted and compensated in accordance with the principles set out in this RIPF. • Ownership of the land is not disputed
Consultations with the affected households is conducted in a free and transparent manner	<ul style="list-style-type: none"> • The affected household must be informed that they have the right to receive compensation for the land they wish to donate. • The affected household receives clear and adequate information on the project and participates in the project planning. • Provisions for voluntary donation are integrated into the decision-making process at community level.
Land transactions are supported by transfer of title	<ul style="list-style-type: none"> • Official land ownership document is updated.
Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained	<ul style="list-style-type: none"> • Agreement is properly documented with signatures of affected person and witnesses. • Consultation meetings, grievances and actions taken to address such grievances are properly recorded.

88. **Compensation for land.** The compensation offered will be at current market value at the time of acquisition. DPWH will pay the capital gains tax, documentary stamp tax, transfer tax, and registration fee for any land acquired. The owner will pay any unpaid real property tax. Other modes of compensation will be explored when feasible, such as (i) land swap for a new parcel of land of equivalent market value at a location acceptable to the PAP and compliant with zoning laws, or (ii) a plot of equivalent value, whichever is larger, in a nearby relocation site with adequate physical and social infrastructure. When the affected landholding has a higher value than the relocation plot, cash compensation will cover the difference in value.

89. **Holders of Certificates of Land Award (CLOA)** granted under the Comprehensive Agrarian Reform Act will be compensated at current market value at the time of land acquisition. In case of lands granted through Commonwealth Act No 141, otherwise known as "The Public Land Act," the Project will:

- a. Follow modes of acquisition enumerated in RA 10752, if the landowner is not the original patent holder and any previous acquisition of said land is not through a gratuitous title; or

- b. Follow the provisions under CA No. 141, as amended, regarding the acquisition of ROW on patent lands if the original patent holder or the acquisition of the land from the original patent holder is through a gratuitous title.

90. **Compensation for structures and other improvements.** Compensation for structures will be at replacement cost, defined as the amount necessary to replace the affected structure or improvement with a similar asset based on current market value. The following applies to compensation for other improvements on the affected land: (i) cash compensation will be provided at replacement cost for affected structures belonging to the government or nongovernment agencies or the community; and (ii) cash compensation will likewise be provided to cover the cost of reconnecting damaged facilities, such as water, power and telephone lines.

91. **Compensation for crops, fruit trees, and perennials.** The following applies to compensation for affected crops, fruit trees, and perennials: (i) cash compensation will be provided for perennials at current market value; (ii) PAPs will be given sufficient time to harvest crops on the land subject to acquisition; (iii) compensation for damaged crops will be provided based on current market value (compensation will be based on the cost of production per hectare pro-rata for the affected area); and (iv) cash compensation for fruit trees will be based on current market value.

92. **Assistance to vulnerable sectors.** The entitlement matrix will include vulnerable sectors, which will be determined during preparation of the REMP(s) prior to project implementation.

B. Livelihood Restoration and Special Measures for Indigenous Peoples/Ethnic Minorities, the Severely Affected, Displaced Persons, and Vulnerable Sectors

1. Income and Livelihood Restoration

93. The objective of income and livelihood restoration is to ensure the improvement of the socioeconomic conditions of PAPs or at least to bring back the pre-violence level income and living standards of the affected households. For vulnerable households the goal is to bring income up to national minimum standards. This REMDF will enable the development of sustainable income restoration and rehabilitation strategies that are appropriate for the cultural background and practices of PAPs in the project sites. Strategies for income and livelihood restoration will be consistent with the overall BMCRRP framework and may include but are not limited to (i) livelihood trainings; (ii) prioritized hiring of PAPs to serve as contracted human resources for project activities; and (iii) financial and in-kind assistance, as well as capacity building initiatives, will be provided to the poor. PAPs who lose 10% or more of their total productive assets as a result of the projects will be entitled for income restoration assistance. Costs for livelihood restoration strategies for poor PAPs will be included in the total costs of the project.

94. DPWH will include special measures for income restoration and livelihood improvement of affected persons in the social safeguard plan. Income sources and livelihoods affected by project activities will be restored to pre-project levels or better and incomes of displaced persons will be improved. For vulnerable and severely affected persons, the social safeguard plans will include measures to provide extra assistance to improve incomes when compared to pre-project levels. The plans will specify the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and implementation schedule.

2. Vulnerability

95. DPWH will identify vulnerable individuals and groups who may be disproportionately affected by the project. Vulnerable groups include children under 5, undernourished children, pregnant women, the aged, disabled persons, landless and informal settlers whose combined household income falls below the poverty threshold, indigenous peoples, those with income below the poverty threshold, and households headed by women. Vulnerable PAPs of working age will be entitled to participate in income restoration measures such as training, access to credit assistance, and other support.

3. Severity

96. The ADB uses a threshold of 10% in defining severity when a PAP is affected by the loss of productive assets and sources of income. Similarly, the viability of an affected asset for continued use is the primary criterion used in determining if the project will acquire partially or totally an affected asset. DPWH therefore applies its current use of the term marginally affected person to the severity concept as defined by ADB in that when the loss of the PAP is equivalent to less than 10% of its total productive assets (e.g., farmland, aqua farm) and incomes from other sources (e.g. business/shops). As such, severely affected persons will be entitled to participate in income restoration measures such as training, access to credit assistance, and other support.

C. Gender Strategy

97. Men and women may experience benefits and risks associated with project-sponsored activities differently. Resettlement and livelihood changes have the potential to impact both men and women, though households led by single women may face additional challenges. Single mothers are often reliant on the availability of social networks and extended family for the care of their children. This REMDF follows both the ADB SPS and DPWH gender policies, which mandate the active participation of men and women during public consultations and project monitoring, and the representation of women in resettlement committees and capacity-building activities.

98. The project will promote gender equity and ensure women's perspectives that characterize their social and cultural contexts are respected. The strategy will ensure that women participate in all phases of project activities and that their needs are explicitly addressed in the decision making process. The project will recognize the unique status of women in ARMM and take into consideration the fact that displaced women carried the burden of sustaining their families and communities as the men either fought in the armed movement, hid from military persecution, or were conscripted into the rebel army.

“Women in ARMM are generally considered to have lower social and political standing than men. This has been attributed to cultural and religious constraints, particularly on Muslim women. However, this seems to apply only to rural women or socio-economically disadvantaged women in the cities; women who are members of influential or affluent clans enjoy disproportionate educational and employment opportunities. The employment profile in ARMM reflects more men than women who are employed, although women have a higher literacy rate than men. Women who are employed tend to occupy higher income jobs as executives or professionals. There are a few Muslim women politicians and those that do occupy higher public offices tend to belong to prominent families or clans. In the state justice sector, there has been an increasing number of women appointed or qualifying as legal professionals. The Supreme Court has appointed three women as judges in the state Shari'ah courts, representing 10% of

the 30 currently sitting judges. At the time, this was regarded as an unprecedented move because some conservative thinkers in Mindanao would view this as unacceptable as a matter of Islamic jurisprudence (Deinla and Taylor, pp. 11-12)."

99. Specific to this REMDF, the following shall be observed to ensure women's meaningful participation:

- (i) Both women and men will participate during consultations, conduct of DMS, and if necessary, discussions of relocation options.
- (ii) Gender issues, including HIV/AIDS and human trafficking prevention measures, will be included in the training to be provided during social safeguards planning document implementation.
- (iii) Both husband and wife will be eligible to receive compensation and other allowances due household for affected assets. In the case if multiple wives, the compensation amount will be equally divided among the husband and the wives regardless of whether they are residing in the same house or separate houses.
- (iv) Women will be given an equal chance of being hired for project-related jobs and receive equal remuneration for the same work as the men.
- (v) Special measures will be taken in helping elderly, disabled and women-headed households relocate or reconstruct their affected shops and houses.
- (vi) Women will be prioritized in livelihood restoration programs.
- (vii) Gender disaggregated monitoring indicators will be developed for monitoring social benefits, economic opportunities, livelihood, and resettlement activities.

D. Relocation Strategy

100. Should relocation for housing and/or livelihood activities become necessary, efforts will be made to identify vacant spots in consultation and agreement with the affected persons and the DPWH, as well as the local government units involved. The REMDP will outline such efforts. Generally, the PAPs will be provided with options suitable to their preference. Options are:

- (i) **Self-relocation.** Entitled parties may take the initiative to relocate to a place of their choice instead of resettlement sites provided by the project.
- (ii) **On-site relocation.** Displaced persons occupy the part of the land not required for the project.
- (iii) **Relocation to project-sponsored resettlement site.** This is the option to relocate to sites selected by the executing agency in consultation with the potential resettlers and their host population. Resettlement site with housing units and complete basic amenities will be provided by the concerned LGUs to accommodate PAPs who will opt to resettle in these sites.

101. Should preference be (i) and (ii) above, cash compensation will be paid for affected assets at replacement cost, and PAPs will not be displaced until after they have received in full the compensation and applicable allowances due them. If, on the other hand, (iii) is chosen, implementers must be ready to link with mandated agencies to fulfill requisites to site development. Site selection should also take into account the perceptions and potential impacts on host communities. Issues like land quality, carrying capacity of the site, common property resources, social infrastructure, and population composition should be carefully considered. In case the value of affected land and assets is greater than the value of the offered land and housing in the project sponsored resettlement, which is in all probability not the case given the all around

destruction, additional cash will be offered to the affected households to bring the value at par with replacement cost.

VI. GRIEVANCE REDRESS MECHANISM

102. A GRM is a systematic process to receive, evaluate, and address the project-related grievances of project affected persons (PAP) and/or groups. A project level grievance redress mechanism will be made available to allow appeals against any disagreeable decision, practice or activity arising from land or other assets compensation. PAPs will be fully informed during the consultations of their rights and of the procedure for addressing grievances, both verbal and written. Complaints and grievances relating to any aspect of the resettlement entitlements and/or activities, including the determined area and price of the lost assets, will be addressed.

103. However, care will be taken to prevent grievances rather than going through a redress process by ensuring active consultation with and participation of PAPs in the land acquisition and resettlement planning and implementation process. If grievances still arise, all attempts will be made to resolve informally at the local level. At any stage of the grievance redress process, PAPs will have the option of taking their complaint to the formal mechanism of addressing grievances, including accessing the country's legal system.

104. A Resettlement Implementation Committee (RIC) will be formed through a Memorandum of Understanding between DPWH and the concerned local government unit to attend to grievances as a Grievance Redress Committee (GRC). All complaints received in writing (or prepared in written form, when received verbally) from the PAPs shall be properly documented. All complaints shall be acted upon immediately and addressed through negotiation processes to arrive at a consensus, pursuant to the procedures detailed below.

105. There will be three levels of the grievance redress process open to PAPs and other stakeholders during the REMDP implementation, as described below.

106. **Level 1 - Municipal Level** – PAP representatives, representatives of affected Barangays and LGU Stakeholders shall comprise a Committee to be set up and shall meet in case a complaint is lodged. A decision should be made within 15 calendar days after receipt of the complaint. The aggrieved PAP or stakeholder will be informed in writing of the decision within two working days. The committee will be chaired by the Municipal Mayor. If the Municipal Mayor is a PAP, the chair of the committee may be represented by the deputy. The grievance shall be filed by the PAP (or the Punong Barangay) with the chairperson of the municipal grievance level committee. A record of the grievance will be provided to the MRIC within a working day of receipt by the municipal level Grievance Committee chairperson.

107. **Level 2** - If not satisfied by the municipal level committee decisions, an aggrieved PAP can appeal before the DPWH Project Management Unit (PMU). The DPWH PMU will have 10 calendar days within which to resolve the complaint. The resolution will be officially communicated in writing to the PAP within five working days from the date of the issuance of the decision.

108. If not satisfied with the decision of the Level 2 or the earlier level, an aggrieved PAP may approach a court of law at any stage, which is not a part of the project level GRM, and whose decision will be final.

109. **Modes of Filing Complaint with the GRC.** Although different modes of filing are acceptable to the project, the GRC at different levels will determine the validity of complaints filed

and will see to it that the purpose of creating the GRC will not be misused or abused. The complainant, should he/she decide to personally file his/her complaint(s), will be assured of confidentiality by the officers and members of the GRC until proper venue has been provided to discuss and settle the reported issues.

110. There are different modes of filing complaints with the GRC:

- (i) Filing of complaints through GRC Logbook /database – the barangays officials will be required to provide a Logbook to record complaints raised by community member(s) or any individual in relation to the project implementation.
- (ii) Complaints/Grievance Reports via text messages – members of the GRC will make available official contact numbers for complaints/grievance filing (depending on availability of resources and technology). However, such messages will need to be documented and signed by a responsible official.
- (iii) Letter addressed to any GRC head or committee member.
- (iv) Any other mode, e.g. direct hotline, social media, etc.

111. Irrespective of the above provisions, similar to ADB's SPS provision, an aggrieved party may file his complaint directly with a court of competent jurisdiction pursuant to Section 45 of R.A. 7279.

112. **Ethnic Minority Grievance Redress Procedure.** Conflicts between members of the affected ethnic minority will be addressed by the community in the context of customary laws and dispute resolution mechanisms. If invited, project-related staff and other stakeholders, e.g., barangay or municipal officials, may participate in the process, but their role will be defined by the officiating leader or council. Inter-community conflicts will be addressed by the communities themselves according to their customary or agreed upon dispute resolution processes. If an outside facilitator, mediator, or arbiter is required or requested, the project implementing and monitoring units will seek the intervention of the LGU to assume the role. This guideline applies to conflicts or disputes between the affected ethnic group and any of the project units or others groups or individuals involved in project implementation.

113. **ADB's Accountability Mechanism.** In addition to the project level GRM required by ADB's SPS, ADB also has an Accountability Mechanism Policy (May 2012). However, while the project level GRM is the responsibility of the EA, the Accountability Mechanism is the responsibility of ADB. The accountability mechanism provides opportunities for people (2 or more complainants) that are adversely affected by ADB-financed projects to express their grievances, seek solutions, and report alleged violations of ADB's operational policies and procedures, including safeguards policy. ADB's accountability mechanism comprises of (i) consultation led by ADB's special project facilitator to assist people adversely affected by ADB-assisted projects in finding solutions to their concerns and (ii) providing a process through which those affected by projects can file requests for compliance review by ADB's Compliance Review Panel.

VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

A. Institutional Arrangements

114. **National Level.** The Executing Agency (EA) for the project will be the Department of Public Works and Highways (DPWH). As the executing agency, DPWH will be responsible for

overall oversight, strategic and policy direction. The EA will also be responsible for organizing and convening the steering committee, obtaining all relevant government approvals related to the works, and monitoring and reporting on project activities and outputs. The Environmental and Social Safeguards Division (ESSD), Planning Service will provide technical guidance and support in the implementation and monitoring of the REMDP. They are tasked to:

- (i) carry out overall preparation and planning of the REMDP;
- (ii) submit REMDP budget plans (to include compensation, relocation costs, operations) for approval and allocation of needed resources by the DPWH central office;
- (iii) in accordance with the Department's resettlement policies, guide the District Engineering Offices and the Regional Offices in their tasks, such as the verification of PAPs, final inventory of affected assets, consultation, and information dissemination;
- (iv) amend or complement the REMDP in case problems or potential problems are identified during the internal monitoring of its implementation;
- (v) in collaboration with its counterpart in the Region, work closely with the DPWH Regional Office on the processing of compensation claims of PAPs;
- (vi) in collaboration with UPMO, monitor the progress of compensation payment to PAPs and other resettlement-related activities stated in the REMDP;
- (vii) in collaboration with its regional counterpart, prepare semi-annual monitoring reports on REMDP implementation for submission to the UPMO and ADB;
- (viii) for preparing the REMDP, the District Engineering Office with assistance of the RIC shall conduct an inventory of losses, detailed measurement surveys and socio-economic surveys for the validation of the ESSD and UPMO;
- (ix) provide REMDP orientation to DPWH Regional and District Engineering Office Team and RIC to strengthen the social, legal, and technical capabilities of these resettlement implementing entities; and
- (x) assist the RIC in community awareness raising activities for the resettlement implementation.

115. The Local Water Utilities Association (LWUA) is the implementing agency (IA) for the water supply component and the Department of Health (DOH) is the IA for the health component. The LWUA and DOH as the implementing agencies will be responsible for the overall delivery of outputs, including ensuring that outputs are delivered complying with agreed standards/quality. As the IA, LWUA and DOH will liaise and coordinate closely with MCWD, DOH-ARMM, IPHO, CHO, LGU and other agencies to ensure field support for grant activities and works. LWUA and DOH will also establish and oversee project accounting and auditing; prepare and submit quarterly reports to the EA for submission to ADB; ensure compliance with relevant grant covenants; approve and allocate counterpart budget (if applicable) and ensure that sufficient resources are allocated for O&M of water supply systems. To ensure effective project implementation, LWUA and DOH will make sure that the following will be systematically implemented:

- (i) **Procurement of Goods, Works, and Services**
 - Procure all civil works, goods and consulting services as per ADB's policies and regulations.
- (ii) **Safeguards Compliance**

- Implement and monitor safeguards compliance, including through submission of quarterly reports to the EA
 - Coordinate with the EA, Steering Committee and Technical Working Groups regarding any land acquisition or resettlement issues related to the grant.
- (iii) **Capacity Building**
- Propose and participate in consultations and public awareness campaigns.
 - Implement gender action plan and stakeholder communication strategy.

116. Project oversight will be provided through a steering committee comprising DPWH, LWUA, DOH, MCWD, Marawi LGU, HUDCC/TFBM, DOH-CO and DOH-ARMM. The steering committee will advise all ADB-financed Marawi project be convened regularly to provide guidance and recommendations to the EA and IA on all aspects of grant implementation. The steering committee members will review achievements and provide guidance on key issues, including ensuring that outputs comply with required standards and specifications, that counterpart staff and resources are made available, that beneficiaries are engaged, and that relevant agencies collaborate effectively to deliver the project outputs. The existing TFBM Technical Working Committee for WASH concerns, WASH cluster, and health cluster will serve as the technical working groups for the project.

117. Separate structures and project management arrangements for the health and water projects at the local level should be established. The IPHO and CHO will directly implement the health component and MCWD will directly implement the water component with assistance from the IA. It is important to build on the experience of the local institutions in delivering services to the Maranao communities. Most of the staff are from the area and are familiar with the power dynamics at the barangay and municipal levels.

118. **Local Government unit.** The LGU will secure legal instruments in the municipality government (e.g., Executive Orders, Municipal Resolutions, Memorandum Orders, etc.) that is necessary for the implementation of the REMDP. In particular, LGUs shall (i) identify and provide the necessary land for relocation purposes, (ii) cooperate with UPMO to form and mobilize RIC to direct and oversee implementation and monitoring of the REMDP implementation; and (iii) address issues, grievances and complaints as indicated in the GRM section of this document.

119. **National Housing Authority.** Per RA 7279, the local government unit, in coordination with the National Housing Authority (NHA), shall provide relocation or resettlement sites with basic services and facilities and access to employment and livelihood opportunities sufficient to meet the basic needs of the affected families. NHA is tasked with the development of shelters/housing for relocation.

B. Capacity Building

120. DPWH will build the capacity of the partners at the local level to ensure meaningful consultation, provide support for project affected persons, and institute a land acquisition process that involves both legal and culturally accepted practices. At present a culture-based approach of land acquisition is being used, but there is a need to institutionalize the process of consultation and decision making at the project level.

121. The capacity enhancement will include an overall understanding of ADB's SPS (2009). With ADB's assistance, training will be conducted prior to social safeguards planning. Specific topics recommended for the training are:

Activities	2018/2019												
	6	7	8	9	10	11	12	1	2	3	4	5	
5. Approval of the Updated REMDP													
6. Implementation of the Updated REMDP													
- Disbursement of Compensation and Allowances													
- Development/preparation of relocation sites													
- Income restoration program													
- Relocation of PAPs (residual land / new sites)													
- Consultation and Disclosure Activities													
- Grievance redress mechanism													
7. Internal monitoring													

VIII. BUDGET AND FINANCING

123. The REMDP preparation and implementation costs including cost of compensation and resettlement administration will be considered as an integral part of the project cost. Each project REMDP will include a budget section indicating: (i) unit compensation rates for all affected items and allowances; (ii) methodology followed for the computation of unit compensation rates; and (iii) a cost table for all compensation expenses including administrative costs and contingencies.

124. All costs for compensation, allowances, and administration of REMDP preparation and implementation will be provided by DPWH from its own budget. In order to ensure that sufficient funds are available for land acquisition and resettlement tasks, the Government shall allocate 100% of the cost of compensation at replacement cost and expected allowances estimated in each REMDP plus 15% of contingencies and transfer to DPWH before the REMDP(s) implementation.

125. An itemized budget in the social safeguard document/plan is required for all social safeguards activities, including compensation for land acquisition. An annual resettlement budget is prepared, showing the budget- scheduled expenditure for key items. Land acquisition and resettlement costs are reflected in the project costs. Income restoration and resettlement costs may be through the project entity. LGU contributions to development of income restoration schemes and resettlement sites and services may similarly be valued and reflected as part of the cost.

126. The Department of Finance will responsible for the timely allocation of the required funds to the DPWH for implementing the REMDP. The budget for land, tree and crop compensation as well as structures/houses, employment loss, income loss, relocation cost (if any), etc. will be disbursed by DPWH to the PAPs through the Resettlement Committees. Allowable resettlement costs by category are presented in Table 4.¹⁰

¹⁰ ADB: A Planning and Implementation Good Practice Sourcebook – Draft Working Document, November 2012.

Table 4: Allowable REMDP Costs and Budget Line Items

CATEGORY	COST ITEM
Resettlement plan preparation and compensation for acquired assets	Cost of census and survey of affected people and inventory of assets Compensation for assets lost (land, structures, etc.) at replacement cost Cost of preparation of replacement farmland
Relocation and transfer	Cost of moving and transporting movable items Cost of replacement housing Cost of site and infrastructure development and services Subsistence allowances during transition Cost of replacement businesses and downtime
Income/Livelihood programs	Cost estimates for income restoration plans (e.g., training, small business, community enterprise, livelihood specialist) Cost of incremental services (extension, health, education) Environmental enhancement packages (forestry, soil conservation, grazing land, etc.)
Administrative/ Services costs	Physical facilities (office space, staff housing, etc.) Transport/vehicles, materials Operation staff (managerial, technical), and support staff Staff training for capacity development and monitoring Information disclosure, consultations, and grievance redress mechanism NGO services for resettlement plan implementation
Monitoring and reporting	Cost of monitoring the resettlement plan implementation Evaluation of resettlement plan implementation and reporting
Contingency	About 15 percent of the estimated resettlement project costs

127. **Sources of funds and flow of funds.** Fund source will be through the government's budgetary provision, and downloaded through the EA. The resettlement committees will ensure payments are made to the PAPs.

IX. MONITORING AND REPORTING

128. The project is categorized as B for involuntary resettlement and B for indigenous peoples safeguards according to ADB's SPS. As such, all land acquisition and resettlement tasks under the project will be subjected to internal monitoring. The monitoring exercise will be routinely supervised by DPWH ESSD Safeguards Division for internal monitoring. DPWH will communicate the monitoring results semi-annually to ADB, which shall be posted on the ADB website. Indicators for the internal monitoring will be those related to the processes and immediate outputs and results. This information will be collected directly from the field and reported monthly to the PMU. The monthly internal reports will be consolidated and included in the semi-annual monitoring reports to ADB.

A. Internal Monitoring

129. Implementation of REMDP will be regularly supervised and monitored by DPWH ESSD Safeguards division in coordination with implementers at the ground level. The findings will be

recorded in monthly internal reports in turn, will consolidate and submit these as semi-annual monitoring reports to ADB.

130. Internal monitoring and supervision will:

- (i) Verify that the baseline information of all PAPs has been secured and that the valuation of assets lost or damaged, the provision of compensation and other entitlements, and relocation (if any) has been carried out.
- (ii) Formulate performance indicators, benchmarks and success/hurdle rates for the project.
- (iii) Oversee that the REMDP is implemented as designed and approved.
- (iv) Verify that funds for implementing the REMDP are provided by the DPWH in a timely manner and in amounts sufficient for their purposes, and that such funds are used in accordance with the provisions of the respective REMDP.
- (v) Record all grievances and their resolution and ensure that complaints are dealt with in timely manner.

131. Key points for monitoring are provided, though not limited to these:

- (i) Payment of compensation to all PAPs in various categories, according to the compensation policy described in the social safeguards planning document.
- (ii) Delivery of livelihood restoration and social support entitlements.
- (iii) Public information dissemination and consultation procedures.
- (iv) Adherence to grievance procedures and outstanding issues requiring management's attention.
- (v) Priority of PAPs regarding the options offered.
- (vi) The benefits provided from the project.

APPENDIX 1: INVOLUNTARY RESETTLEMENT SCREENING CHECKLIST

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
Involuntary Acquisition of Land				
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?				
Involuntary restrictions on land use or on access to legally designated parks and protected areas				
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?				
Information on Displaced Persons:				
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				

APPENDIX 2: OUTLINE FOR A RESETTLEMENT AND INDIGENOUS PEOPLES/ETHNIC MINORITY DEVELOPMENT PLAN

A. Executive Summary

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

B. Project Description

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

C. Scope of Land Acquisition and Resettlement

This section:

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

D. Socioeconomic Information and Profile

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

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

E. Social Impact Assessment

This section:

- (i) reviews the legal and institutional framework applicable to Indigenous Peoples in project context.
- (ii) provides baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples communities; the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
- (iii) identifies key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with Indigenous Peoples at each stage of project preparation and implementation, taking the review and baseline information into account.
- (iv) assesses, based on meaningful consultation with the affected Indigenous Peoples communities, the potential adverse and positive effects of the project. Critical to

- the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.
- (v) includes a gender-sensitive assessment of the affected Indigenous Peoples' perceptions about the project and its impact on their social, economic, and cultural status.
 - (vi) identifies and recommends, based on meaningful consultation with the affected Indigenous Peoples communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

F. Information Disclosure, Consultation, and Participation

This section:

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation;
- (vii) summarizes the comments of the IP communities on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;
- (viii) in the case of project activities requiring broad community support, documents the process and outcome of consultations with affected Indigenous Peoples communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities.

G. Grievance Redress Mechanisms

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

H. Legal Framework

This section:

- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
- (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;

- (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.
- (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

I. Entitlements, Assistance and Benefits

This section:

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

J. Relocation of Housing and Settlements

This section:

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

K. Livelihood Restoration and Rehabilitation

This section:

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

L. 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.

M. Institutional Arrangements

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management.
- (v) describes measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address Indigenous Peoples issues in the project area; and (b) Indigenous Peoples organizations in the project area to enable them to represent the affected Indigenous Peoples more effectively.

N. 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.

O. Monitoring and Reporting

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

APPENDIX 3: SAMPLE DEED OF LAND DONATION

DEED OF DONATION

KNOW ALL MEN BY THESE PRESENTS:

That I, _____ of legal age, single / married to _____ with postal address at _____

_____ hereinafter referred to as the DONOR, and _____, likewise of legal age, single / married to _____ with postal address at _____ hereinafter called the DONEE, witnesseth:

That the DONOR is the registered owner of a parcel of land, more particularly described as follows:
(Insert description of property to be donated)

That the DONEE is a _____;

That the DONOR hereby voluntarily GIVES, TRANSFERS, and CONVEYS by way of donation, unto the said DONEE, his heirs and assigns, the above described property, together with all the improvements found thereon, free from all liens and encumbrances;

That the DONOR affirms that this donation is not made with intent to deceive his creditors, and that he has reserved for himself sufficient funds and property;

That the DONEE hereby accepts and receives this donation made in his favor by the DONOR, and hereby manifests his gratefulness for the latter's generosity.

IN WITNESS WHEREOF, both the DONOR & DONEE have hereunder subscribed their names this _____ day of _____ 200_ at _____, Philippines.

_____	_____	_____
DONOR	WITNESSES:	DONEE
_____	_____	_____

ACKNOWLEDGEMENT

Republic of the Philippines)
_____) S.S

BEFORE ME, a notary for and in the _____ (Locality) _____, personally appeared:

Name CTC Number Date/Place Issued
(Donee) 00000000 (Date), 200_ / Locality

known to me and to me known to be the same persons who executed the foregoing Deed of Donation and acknowledged to me that the same is their free and voluntary act and deed.

WITNESS MY HAND AND SEAL, on the date and place first above written. Notary Public
Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 200_.

This is a sample of a Deed of Donation. You may freely copy and revise this form.

APPENDIX 4: LAND DONATION PROCESS AND TRANSFER OF TITLE

Voluntary donation of land is a result of negotiation or negotiated settlement. Hence, although this is not involuntary resettlement, ADB's requirements for negotiated land acquisition should be applicable in the case of voluntary donation as a good practice. This means, the EA (i) will engage an independent external party to document the negotiation and settlement processes; (ii) will agree with ADB on consultation processes, policies, and laws that are applicable to such transactions; (iii) third-party validation; and (iv) record-keeping requirements.

Proper transfer of title for the portion of donated land needs to be undertaken and monitored. This will facilitate avoiding the titleholder paying relevant duties and taxes on the donated portion of the land in the future. Transfer can take place via voluntary land donation agreement or MOU.

A thorough consultation and discussion must first take place as part of the negotiation process for voluntary donation, and the project benefits explained that shall realistically offset the size of the donated land. A signed MOU must be completed to initiate the process.

The following steps should be followed for the title transfer:

- Step 1 Consultation, discussion and signing of the voluntary land donation agreement or MOU.
- Step 2 Submit an acquisition proposal to ARMM including details of land sections that need to be acquired.
- Step 3 Invoke land acquisition process and use the voluntary land donation agreement or MOU that the land owner has already agreed to give the land.
- Step 4 The land portion will be transferred to ARMM.

A robust record-keeping and monitoring mechanism needs to be in place for the third-party validation. The following monitoring formats are suggested (appended).

Form Title	Responsibility
Summary Monitoring Sheet (Form M-1)	PMO
Verification of Ownership of Land and Assets (Form M-2)	PMO
MOU Collection and Grievance Redress (Form M-3)	PMO

Form M-1: Summary Monitoring Sheet (monthly)

(as of end (month, year))

Province: ARMM

City: Marawi

Name of Social Infrastructure:

Project stage	Task	Completed (Date)	Outstanding tasks	Time frame for completion
Social Infrastructure Selection stage	Selection of Social Infrastructure			
Project Planning & Design Stage	Dissemination of Project Information			
	Sensitization of community			
	Finalization of design			
	Consultations with Community/APs			
	Survey for Profile of APs			
	Identification of vulnerable APs			
	Dissemination of process of voluntary donation, support/assistance options & grievance procedures			
	Finalization of support / assistance, if any			
	Marking of land requirement on the ground			
	Incorporating impact mitigation measures			
	Scrutiny and approval of design			
Site Preparation Stage	Collection of MoU			
	Advance notice to farmers with standing crops, if any			
	Relocation/Shifting of structures / Common Property Resources, if any			
	Provision of support/assistance, if any			
	Enrollment into livelihood training program			
	Physical possession of land by PMO			
Construction stage	Redress of grievances			
	Unforeseen impacts			
	Any other issue - specify			

Note: This form will be prepared monthly by the PMO for each village till issues related to voluntary donation of land are addressed.

APPENDIX 5: OUTLINE FOR A PROJECT INFORMATION BROCHURE

- Project Information, time frame when the project is likely to commence construction and when constructions ends.
- Safeguards (IR/IP) issues: how the project adversely affects people in the project area, who are the affected people, approximately how many persons/households will be affected and how (loss of homes, loss of income due to the loss of agricultural land other productive assets, e.g. shops, etc.), what mitigation measures have been planned.
- Insert the entitlement matrix.
- Consultations and their outcome – how the project has addressed the concerns of the affected persons and other stakeholders. Inform the audience that consultation is a continual process and will be carried out through the project implementation.
- Disclosure – Inform the audience that relevant information from the safeguards planning document(s) will be disclosed to the project affected persons, and the entire document(s) will be submitted to ADB for review and posting on its website.
- Grievance redress mechanism – if the project affected persons and/or other stakeholders have any grievances or complaints related to the project, who do they complain to? Hence, GRM is a project level mechanism to resolve issues. Describe the proposed GRM structure at the local and provincial level, comprising (members), and describe the step-by-step process for GRM to resolve issues. The GRM should be free of cost to the aggrieved persons. Despite the GRM, the aggrieved persons are free to access the country's legal system, at their cost, at any stage of the GRM, irrespective of its outcome.
- Safeguards implementation monitoring – monitoring would be participatory as much as practicable involving the project affected persons. Periodical monitoring reports would be compiled into semi-annual monitoring reports for submission to ADB, which ADB will review and post on its website.
- Insert the names, designations, and contact numbers and/or email addresses of the responsible persons in EA who could be contacted for information.