

Resettlement and Customary Communities Development Framework

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CURRENCY EQUIVALENTS

(as of 17 November 2018)

Currency unit	–	rupiah (Rp)
Rp1.00	=	\$0.000068828
\$1.00	=	Rp 14,529

ABBREVIATIONS

ADB	Asian Development Bank
AHs	Affected Households
APs	Affected Persons
CAP	Corrective Action Plan
DDR	Due Diligence Report
DMS	Detailed Measurement Survey
EA	Executing Agency
Gol	Government of Indonesia
GRM	Grievance Redress Mechanism
IOL	Inventory of Loss
IP	Indigenous peoples
KATR/BPN	<i>Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional (Ministry of Agrarian and Spatial Planning/National Land Agency)</i>
LAIT	Land Acquisition and Implementation Team
LAT	Land Acquisition Team
MAPPI	<i>Masyarakat Profesi Penilai Indonesia (Indonesia Appraiser Profession Society)</i>
MOT	Ministry of Transport
MPWH	Ministry of Public Work and Housing
NGO	Non-government organization
RCCDF	Resettlement and Customary Communities Development Framework
RCCDP	Resettlement and Customary Communities Development Plan
RCS	Replacement Cost Study
SES	Socioeconomic Survey
SIA	Social impact Assessment
SPS	Safeguard Policy Statement

NOTES

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

This Resettlement and Customary Communities Development Framework is a document prepared by the Ministry of Public Works and Housing and the Ministry of Transport as the borrower. Policies in this document are formulated after receiving inputs from various parties associated with land acquisition policy and resettlement in Indonesia and do not reflect the views of the Board of Directors, Management, or staff of Asian Development Bank. This document can be viewed in full on the website of the Asian Development Bank in the "Terms of Use".

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DEFENITION OF TERMS

Affected persons (APs)/ Community/ Households (Ahs)	Refers to any person or persons, customary or local community, private or public institution who are displaced (physical or economic) as result of temporary impacts during construction, restriction on land use or on access to legally designated parks and protected areas. The affected community/ households/person are those who utilize, control, or possess the affected land or non-land objects
Compensation	Payment in cash or in kind (e.g. land-for-land) to replace losses of land, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is the method of valuing assets to replace the loss at current market value, and any transaction costs such as administrative charges, taxes, registration and titling costs. In the absence of functioning markets, a compensation structure is required that enables affected people to restore their livelihoods to level at least equivalent to those maintained at the time of dispossession, displacement, or restricted access
Communities	indigenous territory and have sovereignty over land and natural resources. Social and cultural life is governed by customary laws and institutions that manage the continuity of life of its people. <i>(Definition according to Aliansi Masyarakat Adat Nusantara AMAN [Indigenous Peoples Alliance of the Archipelago] in the First Congress in 1999 still in use today.)</i>
Cut-off date	Refers to the date prior to which the occupation or use of the project area makes residents/users of the same eligible to be categorized as AP, regardless of tenure status. In this project, the cut-off date will be the final day of the census of APs and the detailed measurement survey (DMS) of APs' land and/or non- land assets. APs will be informed of the cut-off date for each project component, and any people who settle in the subproject area after the cut-off date will not be entitled to compensation and assistance under the project
Displaced Persons (DPs)	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (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 (ADB IR Source Book, 2012)
Eligibility	Refers to any person who has settled in the subproject area before the cut-off date that suffers from (i) loss of shelter, (ii) loss of assets (land, space above and below the surface of the land, buildings, plant, and objects related to the land) and/or or ability to access such assets, permanently or temporarily, or (iii) other losses that can be appraised. such as transaction costs, interest, on loss of residual land, loss of income sources or livelihood

	<p>regardless of relocation, profession shift, and other types of loss stated by the assignor, will be entitled to compensation and/or assistance)</p>
Entitlement	<p>A range of measures comprising compensation, income restoration support, transfer assistance, income substitution, relocation support, etc. which are due to the AHs, depending on the type and severity of their losses, to restore their economic and social base.</p>
Income/Livelihood Restoration Program	<p>This involves re-establishing productive livelihood of the displaced persons to enable income generation equal to or, if possible, better than that earned by the displaced persons before the resettlement (ADB IR Source Book, 2012).</p> <p>This is a program designed with various activities that aim to support affected persons to recover their income / livelihood to pre-subproject levels. The program is designed to address the specific needs of the affected persons based on the socio-economic survey and consultations</p>
Indigenous Peoples	<p>ADB Safeguard Policy Statement 2009 Indigenous Peoples Safeguards (p. 18):</p> <p><i>“The term Indigenous Peoples is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. In considering these characteristics, national legislation, customary law, and any international conventions to which the country is a party will be taken into account. A group that has lost collective attachment to geographically distinct habitats or ancestral territories in the project area because of forced severance remains eligible for coverage under this policy.”</i></p> <p>The term used by the project in current safeguard documents is customary communities (see above)</p>
Inventory of loss	<p>The listing of assets as a preliminary record of affected or lost assets during the preparation of the RCCDP/RP where all fixed assets (i.e., land used for residence, commerce, agriculture; dwelling units; stalls and shops; secondary structures, such as fences, tombs, wells; standing crops and trees with commercial value; etc.) and sources of income and livelihood inside the Subproject boundaries are identified, measured, their owners identified, their exact location pinpointed, and their replacement costs calculated. The severity of impact on the affected assets and the severity of impact on the livelihood and productive capacity of the APs are likewise determined</p>

Involuntary Resettlement	Refers to physical and economic displacement 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. Such displacement can be full or partial, permanent or temporary
	When the displaced persons have no right to refuse the land acquisition by the state that result in their displacement. This occurs when land is acquired through (i) expropriation by invoking the eminent domain power of the state, or (ii) land is acquired through negotiated settlement when the pricing is negotiated in a process where expropriation will be the consequence of a failure in the negotiation. (ADB IR Source Book, 2012)
Land acquisition	The process where an individual, household, firm or private institution is compelled by an agency needing land for public interest to alienate all or part of the land it owns or possesses to the ownership and possession of that agency in return for compensation at replacement costs
Meaningful Consultation	A process that (i) begins early in the project preparation stage and is carried out on an on-going basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues
Negotiated Land Acquisition	The agency in need of land can carry out land acquisition directly with the respective owners through negotiation based on the result of appraisal by an Appraiser or a Public Appraiser for the sake of efficiency
Rehabilitation	Assistance provided in cash or in kind to project APs (especially the vulnerable) due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets, to achieve, at a minimum, full restoration of living standards and quality of life
Relocation	The physical displacement of an AP from her/his pre-project place of residence and/or business
Replacement cost	The value enough to replace affected assets and/or cover transaction costs necessary to replace the affected assets without depreciation for such assets as well as material advantage, taxes and/or travel expenses
Resettlement Plan	The social safeguard document that contains the policies and guidelines and time-bound action plan with budget, setting out

the resettlement objectives and strategies, entitlements, activities and responsibilities, resettlement monitoring, and resettlement evaluation

Severely affected persons

Those who experience significant/major impacts due to (i) losses of 10% or more of their total productive land, assets and/or income sources due to the project; and/or (ii) relocation due to insufficient remaining residential land to rebuild.

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. **Overview.** The Government of the Republic of Indonesia (the Government) has requested the Asian Development Bank (ADB) to finance the Emergency Assistance for Rehabilitation and Reconstruction (EARR) from recent disaster events. The emergency assistance loan (EAL) supports the Government of Indonesia to build back better critical infrastructure damaged following the devastating disaster events in Central Sulawesi in September 2018. The EARR will support rehabilitation and reconstruction of education facilities, water supply, water resources, ports, and airport. All infrastructure will be built to higher standards of disaster resilience to help finance rehabilitation works benefiting disaster affected area to recover from the damage caused by the earthquake and tsunami. To comply with the ADB social safeguard requirements this Resettlement and Customary Communities Development Framework (RCCDF) was prepared. The RCCDF guides the assessment process to screen subproject interventions, sets up institutional arrangements in relation to social safeguards management and monitoring, and defines social assessment requirements in accordance with the existing procedures to comply with the applicable laws and regulations of the Government and with ADB Safeguard Policy Statement, 2009 (SPS 2009).¹

2. To achieve its expected outcome the EARR will include the following outputs. Targets and indicators are described in detail in the Design and Monitoring Framework. Subprojects under each output of the EARR will be subject to a selection criterion since the EAL will apply a sector lending approach in selecting investments.

3. **Component 1: Public Works Infrastructure** comprising:

- (i) **Output 1: Human settlements infrastructure constructed, rehabilitated and upgraded.** The output will construct, rehabilitate and/or upgrade (i) education facilities, and (ii) water supply (treatment and distribution facilities) infrastructure. The facilities will be built back better to higher standards of disaster resilience, which will ensure risks from future hazards are reduced through structural design features. At the same time, non-structural measures such as disaster preparedness plans will also be implemented. The output will ensure that sustainability plans are in place and capacity of agencies strengthened to better manage water supply services.
- (ii) **Output 2: Water resources infrastructure constructed, rehabilitated and upgraded.** The output will (i) reconstruct the Gumbasa irrigation system; (ii) reconstruct and upgrade the PASIGALA raw water supply system; and (iii) construct coastal protection works to prevent coastal erosion and tidal flooding. Where possible, nature-based solutions will be promoted. The river basin organization will be strengthened to better design resilient infrastructure, improve O&M of assets, and stay equipped with hydrometeorological instruments for managing water flows across the river basin.

4. **Component 2: Transportation Infrastructure** comprising:

- (i) **Output 3: Ports rehabilitated and reconstructed.** The output will (i) rehabilitate the damaged ports in Pantoloan, Donggala, and Wani; (ii) restore and improve their

¹ ADB. 2009. *Safeguard Policy Statement*. Manila.

operating capacity; and (iii) establish safety and emergency response plans for the rehabilitated ports.

- (ii) **Output 4: Airport rehabilitated and reconstructed.** The output will repair and/or reconstruct the runway, terminal building and related infrastructure of the Mutiara Sis Al Jufri airport in Palu and will establish a safety and emergency response plan for the rehabilitated airport.

B. Anticipated Social Safeguards Impacts

5. **Land Acquisition and Involuntary Resettlement Impacts.** At preparation of this RCCDF no specific information was available on subproject covered under the EARR. However, category A projects for involuntary resettlement will be excluded as subprojects. EARR outputs will mainly focus on the reconstruction and rehabilitation of disaster affected public infrastructure on existing sites. However additional land may be acquired either through involuntary resettlement, negotiated land acquisition, or voluntary donation. For water resources (irrigation, river and drainage system, and coastal protection) the EARR will include rehabilitation and reconstruction, and involuntary resettlement is anticipated. Voluntary donation might apply for water supply subprojects. If any land acquisition is required, it will be carried out under this RCCDF

6. **Potential Indigenous People Impacts.** The maps on Indigenous People issued by the Ministry of Social Affairs and World Bank indicate that Indigenous People groups (Customary Communities) live in Central Sulawesi. Given that no specific subprojects have been identified at this stage and the existence of Customary Communities in the EARR areas, the project team consider category B for Indigenous People safeguard. Subprojects triggering category A for Indigenous People safeguard as per Asian Development Bank's (ADB) Safeguard Policy Statement (SPS) will not be financed under the emergency assistance loan.

7. Based on the preliminary assessments. Table 1 summarizes these potential impacts along with corresponding mitigating measures for negative impacts.

Table 1. Potential Positive and Negative Impacts

EARR Output	Impact	
	Positive	Negative
Output 1. Human settlements infrastructure constructed, rehabilitated and upgraded Output 2. Water resources infrastructure constructed, rehabilitated and upgraded Output 3. Ports rehabilitated and reconstructed Output 4: Airport rehabilitated and reconstructed	Involuntary Resettlement and Customary Communities <ul style="list-style-type: none"> Local communities and customary communities may benefit from reconstruction of disaster resilient schools and other educational institutions; Children and youth may benefit from better equipped schools and university facilities, better protection against natural disasters; Expanded access to water supply through more reliable water supply services and access of local communities including customary communities to sanitation. Improved farm productivity through reliable irrigation infrastructure, O&M for rural 	Involuntary Resettlement The following permanent and temporary losses, partial and whole will be encountered. <ul style="list-style-type: none"> Loss of land Loss of trees, crops Loss of structures Loss of over ground and underground space Things attached to the land Other appraisable loss Customary Communities <ul style="list-style-type: none"> Loss of property right over the communal land assets (<i>tanah ulayat</i>). Loss of income due to loss of their economy assets and access to nature resources for their livelihood. This include the use of area owned by other parties but benefits to CC, such as for grazing or hunting ground. Any construction works might need existing roads or other public facilities used by

EARR Output	Impact	
	Positive	Negative
	<p>communities, including customary communities</p> <ul style="list-style-type: none"> • Better customary community's access to domestic water supply through raw water supply systems rehabilitation and management • Reduced risk of natural disasters for local and customary communities in the EARR area • expanded port facilities leading to better supply of goods and services to local communities including customary communities, better employment opportunities for local people that may include customary communities 	<p>customary community;</p> <ul style="list-style-type: none"> • Social interaction between outside workers with customary or local peoples. • Increased access to services may lead to higher costs unaffordable to some customary communities' groups.

C. Rationale for the Resettlement and Customary Communities Development Framework²

8. The EARR is considered category B for involuntary resettlement and Indigenous People Safeguards. Following ADB SPS no resettlement plan and Indigenous People plan must be prepared for emergency assistance loans, before ADB Board approval. In such cases, an RCCDF is prepared. As most of the impacts of the envisioned subprojects are similar, this RCCDF covers both resettlement and impacts on Indigenous People

9. This RCCDF uses the term Customary Community (CC) rather than Indigenous People. Customary communities are a group of people who have lived on their ancestral land for generations, have sovereignty over the land and natural wealth in their customary bounded territory, where *adat* law and institutions arrange the social life of the community, and carry out the social-political and economic lives of the community.³ Additional characteristics of customary communities include 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 EARR 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.

II. OBJECTIVES AND POLICY FRAMEWORK

10. This RCCDF is prepared in compliance with ADB SPS (2009) and the prevailing Indonesian legal framework related to land acquisition and involuntary resettlement and customary communities.

² This framework is prepared using reference from (i) RCCDF for Sustainable Energy Access in eastern Indonesia – Power Generation Sector Project, (ii) Resettlement Framework of Flood Management in selected River Basin Program; and (iii) Resettlement Framework for Neighborhood Upgrading and Shelter Project- Phase 2.

³ Aliansi Masyarakat Adat Nusantara (AMAN), indigenous peoples' organization of Indonesia.

11. This RCCDF is prepared and considers the uniqueness of prevailing conditions in Central Sulawesi. Due consideration is made in the preparation of this framework document as follows: (i) potential presence of customary communities in some EARR areas, who generally have higher poverty rates as compared with the nationally dominant groups, and (ii) impacts are expected to be positive and negative impacts will be mitigated accordingly; (iii) vulnerability will be assessed and programs will cater to the needs of vulnerable groups including customary communities.

12. The objective of involuntary resettlement is to avoid and minimized involuntary resettlement by exploring project design and use as much as possible the existing subproject areas and government's lands. Enhance or at least restore the livelihood of the displaced or affected persons and improve the standards of living of vulnerable groups. The objectives of customary communities safeguard is to design and implement project with full respect to the customary communities so that they receive the appropriate project benefit. Customary communities actively participate and do not suffer adverse impacts from the project.

A. Objectives and Scope of the Resettlement and Customary Communities Development Framework

13. This RCCDF provides guidelines for involuntary resettlement and customary communities planning. It also provides guidance for customary communities screening and the type of social safeguards planning documents to be prepared for subprojects including (i) Resettlement Plans (RP); (ii) Resettlement and Customary Communities Development Plans (RCCDP); and (iii) Due Diligence Reports (DDR) completed with Corrective Action Plan (CAP), if any.

14. The RCCDF is prepared to guide subproject selection, screening, and categorization, social assessment, and implementation of safeguard plan. Future social safeguards planning documents will be prepared and implemented following the principles established by this RCCDF. Table 2 summarizes when each type of document to be applied for submission by Executing Agencies (EAs) and Implementing Agencies (IAs) to ADB for review and approval prior to subproject implementation.

Table 2: Guidance of Social Safeguards Documents Application

Document	When to Apply
Resettlement and Customary Development Plan	A RCCDP is prepared in case of impact on both IR as well as impacts on CC or IP.
Resettlement Plan	Having IR impacts that may include; (i) physical displacement (relocation, loss of residential land, or loss of shelter) and; (ii) economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (a) involuntary acquisition of land, or (b) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.
Due Diligence Reports	For subprojects involving reconstruction or rehabilitation of facilities or in case land has already been acquired, a social compliance audit, including on-site assessment, to identify past or present concerns related to impacts on the IR and CC. The objective of the compliance audit is to determine whether actions were in accordance with ADB's SPS. Where noncompliance is identified, a CAP agreed on by ADB and the EA will be

Document	When to Apply
	<p>prepared. The plan will define necessary remedial actions, the budget for such actions, and the time frame for resolution of noncompliance. The audit report (including CAP, if any) will be made available to the public in accordance with the information disclosure requirements set forth in RCCDF.</p> <p>If a project involves an upgrade or expansion of existing facilities that has potential impacts on IR, and/or CC, the requirements for environmental and social impact assessments and planning specified in Safeguard Requirements of ADB SPS that is also reflected in RCCDF will apply in addition to compliance audit.</p>

ADB = Asian Development Bank; CAP = corrective action plan; CC = customary communities; DDR = due diligence report; EA = executing agency; IP = indigenous people; IR = involuntary resettlement; RCCDF = Resettlement and Customary Communities Development Framework; RCCDP = Resettlement and Customary Development Plan; RP = Resettlement Plan; SPS = Safeguard Policy Statement.

B. Policy Framework

1. The ADB Policy on Involuntary Resettlement and Indigenous Peoples

15. **Involuntary Resettlement.** The objectives of the ADB safeguards policy are to avoid involuntary resettlement whenever possible; to minimize involuntary resettlement by exploring design alternatives; and to enhance, or at least restore, the livelihoods of all displaced and vulnerable persons in real terms relative to pre-project levels, and to improve the standards of living of the displaced poor and other vulnerable groups.⁴

16. The involuntary resettlement safeguard covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary land acquisition, or (iii) involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.

17. The following ADB SPS principles are stipulated and will also apply to the EARR: (i) early screening of subprojects for past, present and future involuntary resettlement impacts; (ii) conduct of survey and census of displaced persons including gender analysis related to involuntary resettlement impacts; (iii) conduct of meaningful consultations with APs, host communities, non-government organizations (NGOs) in the region; (iv) developing measures to improve or at least restore the livelihoods of APs to pre-project levels; (v) provision of needed assistance to physically and economically displaced persons; (vi) improving living standards of the displaced poor, vulnerable groups to at least national minimum standards of living; (vii) developing procedures in an equitable, transparent, consistent manner; (viii) ensuring that all APs without land title are provided resettlement assistance and compensation for non-land assets lost; (ix) preparation of resettlement plan; (x) timely and full disclosure, and implementation of resettlement plan as part of a larger development program; (xi) pay full compensation, relocation and resettlement assistance prior to physical and or economic displacement; and (xii) monitor and assess the outcomes and impacts of involuntary resettlement.

⁴ ADB. 2009. *Social Safeguards Policy* Appendix 2. Manila.

18. **Indigenous people.** ADB's SPS for indigenous people requirements include: (i) screening; (ii) meaningful consultation and participation; (iii) social impact assessment; (iv) consent of affected indigenous people; (v) avoid any restricted access to and physical displacement from protected areas; (vi) indigenous peoples planning; (vii) information disclosure; (viii) grievance redress mechanism (GRM); (ix) monitoring and reporting; and (x) unanticipated impacts.⁵

19. **Other Policies.** The ADB policy on gender and development 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.

20. Another key policy is the ADB Public Communications Policy that seeks to encourage the participation and understanding of people and other stakeholders affected by ADB-assisted activities. Information sharing on ADB-funded projects should start early in the preparation phase and continue throughout all stages of project development, to facilitate dialogue with affected people and other stakeholders.

2. National Laws

21. **Involuntary Resettlement.** Act No. 2/2012 on Land Acquisition for the Development for the Public Interest and its implementing regulations is the main regulation applied for the EARR land acquisition. The Law provides a clear procedure and time frame which will accelerate the process of land acquisition. The government should undertake land acquisition by involving all entitled holders (*pihak yang berhak*) and concerned entities.⁶ The law recognizes that: (i) persons controlling and utilizing land are entitled to compensation; (ii) all losses - lost land and non-land assets, other structures that can be valued - should be evaluated by the independent appraiser; (iii) project location permit will be required that should refer to the spatial planning; and (iv) land acquisition will be undertaken by National Land Agency.

22. Land acquisition of not more than 5 hectares will be conducted through negotiated land acquisition per President of the Republic of Indonesia Regulation No. 40/2014 on amendment of Presidential Regulation No 71/2012. Land acquisition for public interest with size not more than 5 hectares can be implemented directly by the agency requiring land with the land rights holders, by way of sale or exchange or other means agreed upon by both parties. Independent appraiser shall be engaged to value the lost land, non-land assets, and other appraisable loss.

23. To resolve the issue of people occupying government land or institutions (non-land rights holders or squatters), the government issued a Presidential Regulation No. 68/2018 concerning Handling Community Social Impacts in the Framework of Provision of Land for National Development.

⁵ ADB Social Safeguards Policy Appendix 2, 2009.

⁶ The entitled parties shall be those who control or own the object of the land acquisition, inter alia: a. the holders of land rights; b. the holders of land rights to manage; c. nadzir for the waqf land; d. the owners of former customary rights secured land; e. customary communities; f. the parties occupying the state land in good faith; g. land tenure holders; and/or h. the owners of buildings, plants or other objects related to the land. The object of land acquisition includes: (i) land; (ii) above ground and underground space; (iii) plants; (iii) buildings; (iv) objects related to land; and (v) other appraisable loss that include non-physical loss such as loss of business, loss of job, cost of change of location, cost of change of profession, and loss of the remaining property (residual property that is no longer viable). Land acquisition should be conducted by providing fair and adequate compensation to the entitled parties.

24. Indonesia Valuation Standards 204 (SPI 2014) on the Assessment of Land Acquisition for Development for the Public Interest. The Indonesia Professional Appraisers Society (MAPPI) formulated the standards by adopting the development of international standards (IVS 2011). Standards 204 provides guidelines for assessment of land acquisition object for compensation in land acquisition for development in the public interest. Assessment includes adequate replacement value of property and land. Assessment standards are also associated with other standards, such as scope of assignment, land property and structures valuation, farmland property valuation, valuation of property with particular business, business valuation, and inspection of cases under consideration.
25. Other relevant national laws and regulations that impact involuntary resettlement which are considered in the preparation of the RCCDF are summarized in **Appendix 1**.
26. **Customary Communities.** The Ministry of Home Affairs issued Regulation Number 52 of 2014 on the Guidelines for Recognition and Protection of Indigenous Peoples stating that the identification of customary communities is based on history, indigenous territory, customary law, and indigenous objects. Although ethnical groups are not considered as members of customary communities, yet they strongly maintain their culture, belief, and social pattern, so that these should be respected by the projects.
27. The existence of customary communities (*adat* communities) is recognized in Article 18 of the Constitution and its explanatory memorandum. It states that in regulating a self-governing region and *adat* communities, government needs to respect the ancestral rights of those territories. After amendments, recognition of the existence of *adat* communities was provided in Article 18 B Para. 2 concerning “*adat* law community” (*masyarakat hukum adat*) and regional government and Article 28 I Para. 3 on “traditional community” and Human Rights.
28. Indonesian Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (or Basic Agrarian Law, BAL), Article 2 Para. 4, Article 3, and 5 provide general principles that accommodate recognition of *adat* communities, *ulayat* land rights, and *adat* laws. In later developments BAL recognition of *adat* law is straightforwardly tied to “national interest”.
29. While Law 41/1999 on forestry does not provide a definition of *masyarakat hukum adat*, also widely known as *adat* community, the elucidation of Article 67 (2) lists five conditions, on the basis of which the government will recognize customary community: (i) in the people's daily life, it still is a communal society (*paguyuban*); (ii) the community has *adat* institutions and *adat* leaders; (iii) the community has clear boundaries; (iv) the community has well-functioning customary law institutions, particularly an *adat* judicial system; and (v) the community still collects forest products for its subsistence.
30. The most recent policy on customary communities is the Constitutional Court Decision No. 35/2012, which was officially enacted on 16 May 2013 regarding the status of customary forest. The Constitution of the Republic of Indonesia Article 18 B and 28 I recognize customary communities' existence and traditional rights, though it includes conditions for the recognition: ‘as far as they still exist, conform with social development, in line with the principles of the Republic of Indonesia, and administered by law’. Other laws that impinge on the plight of customary communities are summarized in **Appendix 3**.

3. Gap-Equivalence Analysis

32. The Government of Indonesia (GoI) enhanced its country system to address land acquisition issues for public interest development project purposes. The new Land Acquisition Law No. 2/2012 and its implementing rules and regulations approximate harmonization with the ADB SPS of 2009.

33. The Indonesia legal framework overall has strong provision on involuntary resettlement. However, there are still key gaps between the Indonesian legal framework and the ADB SPS that should be bridged by the provisions of project specific policies. The key gaps revolve around (i) emphasize intention to avoid or minimize involuntary resettlement wherever possible; (ii) attention of gender and vulnerable groups in consultations; (iii) the provision of livelihood recovery programs for severely affected people and vulnerable groups to ensure that their lives will not be worse due to the project, (iv) relocation assistance for physically displaced residents; (v) transition allowance; (vi) assistance for non-land rights holders (squatters); (vii) compensation payment prior to physical displacement for emergency; and (viii) monitoring of resettlement impact and disclosure of reports. A comparison between ADB SPS 2009 and government regulations on involuntary resettlement along with gap filling measures proposed as project policies is presented in **Appendix 2**.

34. For customary communities, the main principles of the government policies related to customary communities and consultation and social assessment are generally parallel to ADB SPS 2009. Gaps remain but some have been addressed by other relevant laws. Outstanding gaps are on (i) project screening, (ii) social impact assessment, and (iii) monitoring and evaluation. A comparison between ADB SPS 2009 and government regulations on customary communities is presented in Appendix along with gap filling measures proposed as project policies. A comparison between ADB SPS 2009 and government regulations on customary communities along with gap filling measures is included in **Appendix 4**.

4. Social Safeguards Policy Principles

35. The EARR shall, under the aegis of EAs, uphold legal provisions of the GoI in harmony with ADB-SPS 2009 safeguard requirements. Based on the above legal framework and equivalence-gap analysis, the resettlement and customary community policy principles for the EARR are as follows:

- a. Screen subproject components during early stages to identify involuntary resettlement impacts and risks as well as presence of customary communities and the likelihood of impacts on identified customary communities per project activity. These impacts and risks shall be avoided or minimized. Appropriate social safeguards planning documents will be developed precisely and accurately as a result of a social assessment. Land acquisition of traditional/ancestral lands will be avoided;
- b. Carry out culturally appropriate and gender-sensitive Social Impact Assessments (SIA) to assess potential impacts on APs particularly with customary communities living in the EARR areas and concerned NGOs. Inform all APs including customary communities on potential restriction to access to natural resources because of the EARR and ensure their participation in the project cycle;
- c. Conduct meaningful consultations with affected APs/customary communities, host communities (if any relocation), and concerned NGOs or community groups to solicit their participation across the project cycle to (a) avoid adverse impacts or - issues of access restriction will be avoided as much as possible - when avoidance is not possible, to minimize, mitigate, or compensate for such effects; (b)

- entitlements of displaced persons and develop project benefits for affected customary communities in a culturally appropriate manner; (c) provide culturally appropriate and gender inclusive capacity development; and (d) establish a culturally appropriate and gender inclusive GRM. Pay attention to the need of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, customary communities, and those without legal title to land and ensure their participation in consultation;
- d. Consultation: In areas that affect customary lands, full consultation to generate consensus with customary communities will be upheld to define the areas with customary rights of the local people and reflect the issues in the social safeguards planning document with actions to protect or compensate customary communities;
 - e. Improve or at least restore the livelihood of the APs/customary communities through (a) land-based resettlement strategies or cash compensation; (b) prompt replacement of assets with equal or higher value; (c) prompt compensation at full replacement cost for lost assets that cannot be restored; and (d) additional revenues and services through benefit sharing schemes where possible;
 - f. Involve APs/customary communities in resettlement and customary communities planning and cover all appropriate mitigation measures to improve, or at least restore, the livelihoods of all APs/customary communities, especially vulnerable groups so that the living standard of APs/customary communities do not become worse off compared to pre-project levels. Social safeguards planning documents should elaborate on culturally appropriate GRM, AP/customary communities' entitlements, strategy for income and livelihood restoration, including institutional arrangements, monitoring and evaluation, budgeting, and time-bound implementation schedule, and provide APs/customary communities with appropriate assistance;
 - g. Assist and compensate APs/customary communities without title or any recognizable legal rights to land for non-land assets at replacement cost. Specific attention will be paid to women, women-headed households, the elderly and other vulnerable persons;
 - h. Disclose the draft social safeguards planning documents and its updates before subproject appraisal to the APs/customary communities and other stakeholders in an accessible place and a form and understandable language;
 - i. Ensure costs for preparing and implementing RP/RCCDP will be included in and financed out of the project cost.
 - j. Any voluntary donation and negotiated settlement will follow procedure in a transparent, consistent, and equitable manner principles and be confirmed through written record and verified by an independent third party;
 - k. Pay compensation and other entitlements before physical and economic displacement. Civil works and/or restrictions to use of land resources will not commence unless APs/customary communities are fully compensated, and all other entitlements provided;
 - l. Monitor implementation of the social safeguards planning documents; monitor and assess resettlement outcomes, their impacts on the standards of living of APs/customary communities and disclose the monitoring reports;
 - m. Disclose monitoring reports as uploaded on to ADB and the project websites; and with project sites specifically to the affected communities/persons in summary form; and
 - n. Should unanticipated involuntary resettlement and customary community impacts be determined during project implementation, the IAs will ensure the conduct of a

social impact assessment and update the social safeguards planning documents or formulate a new one covering all applicable requirements specified in this RCCDF.

36. **Voluntary Donation.** If the EARR communities or individuals decide to make voluntary contribution of the affected land and non-land assets for the EARR activities, this shall be acceptable only if the following requirements are in place:

- a. the impacts are marginal (based on percentage of loss and minimum size of remaining assets);
- b. impacts do not result in displacement of households or cause loss of household's incomes and livelihood;
- c. the households making land donations are direct beneficiaries of the project;
- d. donated land is free from any dispute on ownership or any other issues;
- e. consultations with the affected households are conducted in a free and transparent manner;
- f. land transactions are supported by transfer of titles;
- g. proper documentation of consultation meetings, grievances, and action taken to address such grievances is maintained; and
- h. any voluntary "donation" will be confirmed through verbal and written record and verified by an independent third party such as a designated non-government organization or legal authority.

37. Criteria and parameters and term of reference of verification for voluntary donation are included in in **Appendix 5**.

38. **Negotiated Land Acquisition.** The ADB SPS on involuntary resettlement does not apply to negotiated settlements even if among the stakeholders, unless expropriation would result upon the failure of negotiations. Negotiated land acquisition may be applied if lands to be acquired are mostly small plots (not more than 5 ha) and will be used for non-public interest, such as land acquisition for the development of office, warehouse, official residence etc. Thus, consultation processes, policies, and laws that are applicable to such transactions, third-party validation, mechanisms for calculating the replacement costs of land and other assets affected, and record-keeping is required.

39. The transaction process must openly address the risk of asymmetry of information availability and bargaining power of both parties. All documents pertaining to negotiated land acquisition shall be independently verified by an external party. A negotiated settlement will offer adequate and fair price for land and/or other assets based on the valuation by independent appraiser. A Negotiated Land Acquisition Form as included in **Appendix 11** must be attached to the social safeguards planning documents.

40. The principle and procedures for negotiated land acquisition or land include:

- a. Preparation of land acquisition plan/ resettlement plan document.
- b. Location determination may not be needed but the proposed project must be in line with regional spatial planning and land acquisition shall be reported/coordinated with the respective land office.
- c. All negotiations with the landowners and users will be carried out in an accessible location, in an open and consultative manner without any coercion and with enough time for consideration of offers.
- d. Adequate and fair price for land and/or other assets will be offered, within 30 days

after the unit rate determined by Independent Appraiser. Owners are free to refuse to sell their land or to refuse the offer of Land Acquisition Team (LAT) of agency needing the land (IAs). If negotiations fail, IAs LAT will conduct mediation and continued negotiations involving the head of Village, Head of Sub-district and community leaders.

- e. In case an agreement is reached between the AHs and the LAT, the LAT will submit a determination of the amount of compensation based on the estimated price of independent appraisal or based on cost analysis in the form of nominative list.
- f. The negotiated amount will be paid immediately to landowners after all necessary documents required for the land acquisition processes have been completed by land owners.
- g. LAT can prioritize compensation to those entitled who are in a state of urgency, such as a natural disaster, the cost of education or health treatment. Compensation in a state of urgency condition was given a maximum of 25% of compensation based on the previous year estimated tax object selling value. The remaining compensation will be given after establishment of appraisal result.
- h. IAs will ensure that the land be acquired swiftly and in a timely manner.
- i. The LAT shall request the entitled parties to sign a statement letter regarding the relinquishment of the right of land and/or building and/or plants and/or other things related to the land and give the original documents regarding the ownership of the land/ control of land and other documents in accordance with applicable regulations.

41. **Social Handling for Land acquisition.** In the case of land has been owned by the project proponent or agency needing the land, in addition to preparation of RP to be submitted to ADB, the IA will prepare a Social Handling Document based on the identification of affected assets and other losses. Principles of involuntary resettlement set forth in para 34 of this resettlement framework applies. The length of stay of APs in the project area will not eliminate their eligibility to receive resettlement assistance and compensation payment for loss of nonland assets. The procedure of social handling will follow procedure set in the Presidential Regulation No. 62/2018.

C. Subproject Screening and Minimizing Social Safeguard Impacts

42. **Criteria for Involuntary Resettlement screening and selecting subproject.** The EAs/IAs will screen subprojects for their potential land acquisition and resettlement impacts and will adopt measures to avoid or minimize the impacts. At preliminary design stage, the EAs/IAs shall indicate the type and extent of work. A screening form (see proposed form in **Appendix 6**) will be completed after site visits, and as relevant, in consultation with potential APs to understand local land and natural resource use and ownership arrangements. The screening process will indicate: (i) a brief description of the site and proposed works; (ii) whether the subproject will require land acquisition and involuntary resettlement; (iii) land status and ownership arrangements; (iv) land/resource usage; and (v) characteristics of affected persons. If any land acquisition and involuntary resettlement impacts are identified, the EAs/IAs will undertake an assessment of social impacts (census of APs, inventory of losses, and socioeconomic survey) and prepare the resettlement planning documents.

43. **Measures to Avoid and Minimize IR Impacts.** The subprojects will avoid and minimize impacts of involuntary resettlement - brought about by land acquisition, physical and economic displacement or denial of access to resources currently under use by the beneficiaries, by exploring project and design alternatives. Consultation and participation strategies and appropriate grievance redress mechanisms are in place to ensure that concerns of APs are

addressed and incorporated in the EARR design and safeguards planning documents.

44. Intensive capacity building across the project cycle, and ensuring community participation in subproject prioritization, planning, selection, and implementation will be observed.

1. Identification of Customary Communities

45. **Criteria of Screening for Customary Communities.** For initial screening of customary communities, the EAs/IAs shall refer to the Ministry and Social Affair and World Bank list of remoted customary communities and latest AMAN listing, with the understanding that the list is periodically updated. **Appendix 7** includes a sample screening checklist for customary communities.

Table 3. Involuntary Resettlement and Indigenous People/ Customary Community Impact Categories

Category	Characteristics	
	Involuntary Resettlement	Indigenous People
A Significant Impact	200 or more persons experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive (income generating) assets	if the proposed subproject is likely to have significant impacts on IP/CC ⁷
B Not Significant	Involuntary resettlement impacts are deemed not significant	if the proposed subproject is likely to have limited impacts on IP/CC.
C No impact	No involuntary resettlement impacts are foreseen.	If the proposed subproject is not expected to have impacts on IP/CC

CC = customary communities; IP = indigenous peoples.

46. A proposed subproject with category A either for involuntary resettlement and Indigenous People will not be selected under the emergency assistance project.

47. **Customary Communities in Central Sulawesi.** The remote customary map issued by Ministry of Social Affair in 2009 indicates that the remote customary communities live in districts of Banggai Kepulauan, Banggai, Donggala, Morowali, Parigi Moutong, Poso, Tojo Una-Una, and Toli-Toli. Kaili is the biggest ethnic and Central Sulawesi. Some Kaili groups are considered as a customary community.⁸ The population of Kaili people is spread in some districts including: Sigi,

⁷ A subproject is likely to have significant impact (Category A) when: (i) acquires a huge land area or forest that makes villagers unable to continue their existing traditional livelihood system; (ii) changes the status of IP communities from self-subsistence farmers and forest products gatherers to factory workers; (iii) results in physically displacing a sub-community far away from its wider community of origin; (iv) causes contamination of the major communal water sources resulting in water borne diseases of the IP community; (v) only promotes the use of the national language of instruction in primary education, causing loss of fluency in the use of local language; (vi) restricts forest-dependent IP community from accessing the forest area where for generations they used to hunt boars and collect rattan, wild fruits and other forest products; (viii) undermines the existing traditional irrigating system and the associated institutional arrangement for water distribution. Determination of category A shall be made in close consultation with ADB.

⁸ Melalatoa, Junus. M. 1995. Ensiklopedi suku bangsa di Indonesia. Vol. 1. Jakarta: Departemen Pendidikan dan Kebudayaan.

Donggala, Parigi Moutong and Palu City.

48. Most people of Kaili has been integrated in mainstream social economy system. They live in the urban area and have jobs in many non-agricultural sectors, such as traders, state employees, services sectors and industry. Kaili people who live in rural areas (highland), they generally farm or harvest forest products. They still practice traditional way of life, manage social daily life under cultural norms and believe system, and has customary leaders. These type of group of Kaili be considered as the customary communities (*masyarakat hukum adat*) that include community of Ngata Toro, Katu, Lore, Lindu, and Parekumahua. They claim forest area as their customary territory (*wilayah adat*) managed traditionally from generations to generations.

49. Some districts in Central Sulawesi have issued Local Government Regulation on Recognition of Customary Community's Rights (*Pengakuan Hak-hak Masyarakat Hukum Adat*) including Sigi District. The customary community of Marena in Sigi district has received legal recognition letter from Ministry of Environment and Forestry for their *hutan adat*. In the case of land acquisition, the subproject shall identify carefully the affected land and ownership to avoid the overlap ownership and dispute. Customary community mostly live in some villages in the highland area covering the forest. Some of their territory overlaps with Lore Lindu National Park or other State-owned forest.

50. To accommodate relocation of victims of the liquefaction areas, GoI plans to acquire land in three prospective locations namely Duyu and Tondo in Palu city, and Pombewe in Sigi district. While Duyu and Tondo are in urban area, the plan site in Pombewe should be considered as rural including the production forest (Hutan Produksi), Province Forest Park (Taman Hutan Raya/Tahura), and protected forest (Hutan Lindung). It is important to assess the area for relocation regarding to its potential impact to environment issues and the existing uses on land include by local community. The beginning screening on the presence of customary community also should be conducted in Pombewe to avoid potential overlap of land claims.

D. Affected Persons and Eligibility

51. **Affected persons or peoples** are those who stand to lose because of the EARR, all or part of their physical and non-physical assets, including homes, communities, productive lands, and resources such as forests, range lands, fishing areas, or important cultural sites, commercial properties, tenancy, income-earning opportunities, social and cultural networks and activities. Such impacts may be permanent or temporary. The eligible parties according to the Law No 2/2012 and Presidential Regulation No. 71 of 2012 are individuals, legal entities, social institutions, religious institutions or government institution that behold or control the land according stipulations in the legislation.

52. Types of affected peoples identified within the EARR areas that are eligible for compensation, replacement land, a replacement house, or other resettlement assistance under this project are as follows:

- a. Persons with formal legal rights to land and forest whether it is legal rights to housing, gardens and other forms of claims to resources that may be lost in its entirety or in part;
- b. Persons or peoples who may lose land and forest and access to these resources they occupy or utilize in its entirety or in part who have no formal legal rights to such land, forest or resources but have claims to such lands, forest or resources such as customary claims, that are recognized or recognizable under national laws; and

- c. Persons or peoples who may lose land, forest and resources they occupy or utilize in its entirety or in part who have neither formal legal rights nor recognized or recognizable claims to such land, forest or resources.

53. **Eligibilities and Cut-Off Date.** A cut-off date for eligibility to entitlements is established by the project. The cut-off date sets the time limits to determine eligibility of persons or peoples living and/or with assets or interests inside the EARR areas during the period to be counted as affected person or peoples. Those who encroach into the EARR area, or any of its subprojects, after the cut-off date will not be entitled to compensation or any other assistance. The cut-off date for eligibility to project entitlements coincides with the date when the Land Acquisition and Implementation Team (LAIT) or Land Acquisition Team (LAT) posts relevant announcement of inventory of loss in public places (e.g., village office).⁹⁹ The cut-off date will be made known to affected peoples and other stakeholders.

54. This RCCDF recognizes that certain social groups may be less able to restore their living conditions, livelihoods and income levels and therefore, at greater risk of impoverishment when their land and other assets are affected. The extent of impact on customary communities and other disadvantaged groups, such as landless, poor, households headed by women, elderly, and disabled, who will receive special rehabilitation assistance will be determined during preparation of subproject feasibility study and social safeguards planning document preparation. Cut-off date will be considered flexibly for affected persons who would come forward after cut-off but can substantially prove eligibility. This would be made on a case-by-case basis to accommodate APs who may have moved away from the area due to natural calamity.

III. SOCIAL IMPACT ASSESSMENT AND RESETTLEMENT AND CUSTOMARY COMMUNITIES PLANNING

A. Identification of Potential Impacts

55. **All potential impacts must be identified.** Past impacts refer to involuntary resettlement activities that may have been undertaken in the proposed project area in anticipation of a project. Present and future potential impacts refer to the likely impacts due to the project under consideration. According to the Law No 2/2012, compensation assessment conducted for physical losses (land, over ground and underground space, building plant) and other appraisable loss such as loss due to loss of business or job, cost of change of location, cost of change of profession, and loss of value of the remaining property.

56. **Identify and assess potential impacts on vulnerable groups and women.** The SIA 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 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.

57. **Consider customary communities in the assessment of social impacts.** Should customary communities 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.

⁹⁹ LAIT to be used for land acquisition of more than 5 hectares while LAT is used for land acquisition of less than 5 hectares.

58. **Include impacts on public resources.** The SIA 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 subproject that will affect to common property will be avoided.

59. **Include impacts on livelihoods caused by activities other than land acquisition.** Project- related impacts on livelihoods are not related to involuntary land acquisition but must 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.

B. Prescribed Tools and Scope of Social Impact Assessment

1. Involuntary Resettlement

60. **Census of Entitled Party.** A complete enumeration of all entitled parties and their assets through household interview schedule will be conducted to establish the following: Complete inventory of entitled parties and their assets as a basis for compensation;

- b. Determine persons entitled to compensation and assistance Determine;
- and
- c. Minimize impact of later influx of “outsiders” to project area.

61. **Socioeconomic Survey.** The socioeconomic survey (SES) will be conducted to establish a profile of demographic and socioeconomic conditions of people affected by the subproject. The SES will be done in detail after selection of project sites. The SES focuses on income-earning activities and other socioeconomic indicators and utilizes both secondary and primary data sources. It will be carried out through a household survey instrument that applies gender balance in the selection of respondents. Data sets will be disaggregated by gender and ethnicity. A sample SES instrument is provided in **Appendix 8**.

62. The SES data shall include information on the demographic characteristics of the entitled party’s household members, ownership of land and other assets, household living conditions and sources and levels of household income. a socioeconomic survey may be carried out on a sample basis, i.e., 20%-30% of all APs statistically acceptable in the subproject area 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, ethnic and income group. It also includes the socioeconomic conditions of specific entitled party groups. Results of the SES will be entered into the EARR database.

63. **Inventory of Loss and Detailed Measurement Survey.** The IAs (agency requiring land) conduct Inventory of Losses (IOL) at the planning stage assisted by a consultant or professional organization if necessary, based on the estimated number of beneficiaries. IOL is done through census covers 100% of the APs to address the social and resettlement impact andfor budgeting purposes. IOL will be updated at land acquisition implementation stage by the land agency (land acquisition team) based on the final design of the EARR.

64. Entitled parties will be notified before the conduct of the IOL/ Detailed Measurement Survey (DMS) and requested to participate in the survey. The IOL/DMS will survey all entitled parties and collect data on:

- a. identification of the affected entitled parties, the number of family members, and the name;

- b. identification of landholdings and tenure of land, buildings, plants, and / or objects related to land;
- c. evidence of occupancy and / or ownership of land as well as the identification of the impact on land, buildings, plants, other assets attached to land, and all or part of other assets;
- d. location of the land, land area and land identification number, the status of the land and the document, the type of land use and utilization;
- e. control and identification of space above and below the affected / lost land, if any; and.
- f. identification of economic loss, such as loss of business income, employment, profession shift, the cost of removal.

65. Other relevant information in land measurement and mapping include (i) measurement of acquired land circumference; (ii) measurement per plot; (iii) calculating, drawing acquired land per plot and the circumference; and (iv) land mapping per plot, boundary around the plot; and (v) photographs of each parcel of affected / lost land and structures (i) technical drawing of structures; (ii) exact measurements of land and other fixed assets; (iii) detailed descriptions and specifications of building materials; and (iv) photographs of each structure. The IOL/DMS will be carried out in the presence of heads/guardians or members of households. The IOL/DMS will be discussed during the community assembly during RP preparation.

66. The information to be obtained in the IOL/DMS will include the following for each entitled party include:

- a. identification of the affected entitled parties, the number of family members, and the name;
- b. location, area of all land owned and lost, tenure status, and functions;
- c. number, and the lost / affected structures area, building function;
- d. amount, category / type of affected crops and trees;
- e. other objects associated with the affected land.
- f. number and category of loss of fixed assets; and
- g. temporary losses of productive assets.

67. The data derived from the IOL/DMS will constitute the basis for valuation of losses at replacement cost, calculating compensation amounts and determining compensation packages. The data will then be encoded and stored into the EARR database maintained by Project Implementation Unit. Appendix 8 provides a guide to the combined SES and IOL instrument.

68. **Replacement cost study (RCS), and Resettlement.** An RCS shall be conducted by a licensed property appraiser licensed by the Ministry of Finance and Ministry of Agrarian and Spatial Planning/National Land Agency (KATR/BPN). Law No. 2/2012 enacts that Land Acquisition compensation assessment by appraisers conducted at the stage of land acquisition implementation. However, to obtain more accurate data on object value estimate for land acquisition, the involvement of appraisers is recommended from the land acquisition planning stage (preparation of planning documents for land acquisition). The objective of the RCS during the preparation of the RP is to provide the EAs/IAs with a basis for calculating compensation at replacement cost so that the entitled populations/ parties can acquire or purchase a replacement for affected/lost assets and other economic loss.

69. At the implementation phase, the Land Acquisition Implementation Chairman at the KATR/BPN or the Regional Land Office will assign appraisal services in accordance with government procurement regulations. If the provision of independent appraisal cannot be

obtained or implemented within a period of 30 working days, the Land Acquisition chairman will appoint a government appraiser licensed by the Minister of Finance. Appraiser conducts compensation assessment for physical losses (land, space is above or below the ground such as structure, plants, and other assets related with the land) and for non-physical losses (loss due to relinquishment of right by the land owner that will be given in cash (premium), as well as for other losses that can be calculated through transaction costs, interest, on loss of residual land, loss of business, job, profession shift, and other types of loss stated by the assignor). Assessment will be conducted per plot of land affected by the EARR. The assessment results will be the official basis for compensation determination that will be delivered to the entitled parties.

70. Land acquisition objects assessment will refer to the Indonesia Valuation Standards 204.¹⁰¹⁰ The adequate replacement value shall be higher than the Property Market Value, or at least equal to the compensation transaction value of similar property condition (if the comparator is similar property from a compensation transaction).

71. Assessment approach is specified in the detailed SPI 204 in Table below:

Table 4: Assessment Approach of SPI 204 and PP 104

Valuation Object	Market Method	Income Method	Cost
Physical Losses:			
• Land	Empty land	Land with commercial potential	-
• Land and Building	calculated as one unit using similar and comparable data	commercial property such as offices, hotels and so on	indication of the market value of land in an empty condition plus new replacement costs (RCN) of buildings adjusted for depreciation. Depreciation will be put back in the form of premium rate.
• Building and SPL	-	-	RCN with adjustment of conditions or depreciation
• Land and Plants	calculated as one unit using similar and comparable data, such as oil palm and so on.	used on plants (without soil) that produce commercially such as coffee, corn, horticulture plants, and so on	indication of market value of land in an empty condition plus RCN of plants adjusted for depreciation
• Plants	calculated as a stand of plants using similar and comparable data, such as mango trees, durians, and so on	Used on plants (without soil) that produce commercially such as coffee, corn, horticulture plants, and so on	RCN of immature plants adjusted with depreciation.

¹⁰ The basic of assessment are: (i) fair replacement value. This value can be understood as a value based on the interests of the owner (the value to the owner); (ii) market value equivalence; (iii) non-physical losses caused by the compulsory right relinquishment of property owner; (iv) property ownership is not limited to ownership rights, but can be interpreted as the control, management and use of property in accordance with applicable laws and regulations or according to the agreed scope of the assignment; (v) valuation date is the announcement date site determination for development for the public interest in accordance with the applicable legislations; and (vi) value adding should be calculated based on the risks incurred from owner potential losses and measured appropriately.

Valuation Object	Market Method	Income Method	Cost
<ul style="list-style-type: none"> Personal properties related to land 	Calculated using similar and comparable data, such as pipe installation, electrical installations, elevators and so on		RCN of personal property adjusted with depreciation.
Non-physical Losses:			
<ul style="list-style-type: none"> Compensation to the relinquishment of land rights owner, given in cash (premium): Job loss or loss of business, including profession conversion emotional losses (solatium) 	<p>Market and non- market</p> <p>Additional compensation calculated based on the percentage of the value of physical loss</p>	Income approach Cost approach	<p>Based on the prevailing regulations and laws</p> <p>Losses due to cessation or closure of business premises. Examples: fish farmers, restaurant, garage.</p> <p>Example: 20% – 30% of the value of physical compensation to the benefit of the owner's residence.¹¹</p>
Transaction cost	Relocation cost Land Discharge cost Related taxes	Cost approach	Based on socioeconomic study conducted by expert consultants and / or applicable laws and

¹¹ The solatium (emotional loss) is calculated based on the length of AHs stay in the affected project area: stay period with < 4 years is compensated 5%; 4 – 9 years is compensated 10%; 10 – 19 years is compensated 15%; 20 – 30 years is compensated 20%; > 30 years is compensated 30%. The basic calculation for the solatium are i) indication of market value of residential houses (land and buildings) with a balanced land area, location of settlements and non- settlements; ii) value indications of excess land markets are not considered.

Valuation Object	Market Method	Income Method	Cost
	Land Deed cost		regulations
Waiting period compensation	Based on the risk-free rate, or interest on government bank deposits	Cost and market approach	Based on applicable laws and regulations or other binding opinions
Residual Land losses	Market	Market data approach	Based on applicable laws and regulations
Other non-physical losses	Reparation cost	Cost approach	Based on applicable laws and regulations or other binding opinions

Source: MAPPI and KEPI - SPI 204 and PP 104. The Indonesia Code of Conduct and the Indonesia Assessment Standard applied starting February 2019.

2. Social Impacts Assessment on Customary Communities

72. Where screening indicates potential project impacts on customary communities, the SPS requires a field-based social assessment. The SIA is conducted in a gender-sensitive manner and in consultation with customary communities. The assessment has the following elements:

- a. A review of the legal and institutional framework applicable to customary communities in the EARR context;
- b. Identification and confirmation of the presence of customary communities in the EARR area and project impact zone;
- c. Baseline socioeconomic profile of the customary communities in the project area and project impact zone;
- d. Assessment of their access to basic social, economic, and community services, including their land and resource use and land tenure system;
- e. Assessment of the short- and long-term, direct and indirect, and positive and negative impacts of the EARR on each group's social, cultural and economic status and differential impacts of the EARR on their livelihood systems, culture and socioeconomic status;
- f. Assessment and validation of vulnerability among customary communities;
- g. Gender-sensitive assessment of the perceptions among affected customary communities of project impacts on them;
- h. Report on meaningful consultation with affected customary communities on the conduct of the social assessment and recommendations for culturally appropriate consultation approaches during project implementation;
- i. Recommendations for culturally appropriate methods to proportionally include customary communities in receiving project benefits;
- j. Recommendations for culturally appropriate mitigations plans, if negative effects are unavoidable, including measures to avoid impacts on customary lands, sacred sites, cultural-valued artifacts, and natural resources in customary lands;
- k. Recommendations for resource requirements and culturally appropriate institutional arrangements to address the various project-related concerns and issues; and
- l. Identification of culturally appropriate indicators for monitoring project activities.

73. Risk and vulnerability profile will identify the most vulnerable groups, major risks affecting these groups; and opportunities to reduce risks or mitigate their impact on vulnerable groups through available or new mechanisms. Vulnerability of customary communities range from economic, social, and political to cultural aspects that need serious protection and assistance from other stakeholders. Involvement in decision making related to natural resources

management is a very important aspect in addressing vulnerability and empowerment of customary communities.

74. If the assessment identifies negative impacts of the subproject to the customary communities, necessary measures to avoid adverse impacts shall be developed. If avoidance is not possible, mitigation and beneficial measures alternatives will have to be mutually developed with Customary Communities through meaningful consultation, to ensure that Customary Communities receive culturally appropriate benefits under the EARR.

C. Social Safeguards Planning

75. The IAs will prepare safeguard planning, if the proposed project will have involuntary resettlement impact or impact on customary communities. Social safeguard plans (RP, RCCD or Updated RP/RCCDP, and DDR) shall be submitted to ADB for review before any contract are awarded. The appropriate social safeguards planning document should consider quantitative/ demographic information, particularly about level of poverty and educational attainment, and gender disaggregated data and customary communities/ ethnic affiliation as generated from the social assessment. It should consider cultural aspects that support the project and those aspects, which would possibly impede project implementation. The information contained in a resettlement plan may be tentative until a census of affected persons has been completed. The IAs will update or finalize the RP or RCCDP after the completion of engineering designs and completing the census and inventories of loss of assets before the compensation payment.¹² Civil works and/or restrictions to use of land resources will not commence unless APs/customary communities are fully compensated, and all other entitlements provided.

76. Qualified and experienced specialists will prepare planning documents based on social impact assessment and series of consultations. The planning document shall set out the measures to operationalize mitigating measures. The level of detail in the social safeguards planning document will vary depending on the specific subproject and the nature of impacts to be addressed. If ADB funds are used for land acquisition and involuntary resettlement cost, such expenditure items will be clearly reflected in the RP or RCCDP. Key elements of social safeguards planning documents are presented in **Appendix 9** in the form of an annotated report outline.

77. **Due Diligence.** Several conditions existed that necessitated due diligence under IR and CC: (i) subprojects to be constructed within existing facilities, (ii) results of environmental assessment that define limits on the use of land and resources, and (iii) completion of land acquisition during the finalization of the RP or the RCCDP.¹³ The objective of the due diligence is to determine whether actions were in accordance with ADB's safeguards principles and requirements and to identify and plan appropriate measures to address the outstanding compliance issues. Where noncompliance is identified, a corrective action plan agreed on ADB and the EAs/IAs will be prepared. The due diligence is to confirm (i) key potential social impacts and risks of a project are identified and mitigated; (ii) that effective measures to avoid, minimize, mitigate, or compensate for the adverse impacts are addressed during project design; and (iii) that consultations with affected people are conducted in accordance with ADB's requirements. **Appendix 10** provides a suggested outline for the DRR report.

¹² The entitlement matrix of the resettlement plan may be updated to reflect the relevant changes, but the standards set in the original entitlement matrix cannot be lowered when the resettlement plan is revised and finalized.

¹³ ADB's safeguard due diligence and review emphasizes environmental and social impact assessments and the planning process, in addition to safeguard documentation. The ADB-OM Section F1/OP 2013 paragraph 53 states that for projects involving facilities and/or business activities that already exist or are under construction before ADB's involvement, a social compliance audit is required to determine social safeguard compliance status. Where noncompliance is identified, ADB and the EAs agree on a corrective action plan, implementation schedule, and sufficient funds to bring the project into compliance with the SPS requirements.

78. If potential adverse economic, social, or environmental impacts from project activities other than land acquisition (including involuntary restrictions on land use, or on access to legally designated parks and protected areas) are identified, such as loss of access to assets or resources or restrictions on land use, they will be avoided, or at least minimized, mitigated, or compensated for, through the environmental assessment process. If these impacts are found to be significantly adverse at any stage of the project, the EAs will be required to develop and implement a management plan to restore the livelihood of affected persons to at least pre-project level or better.

D. Gender Strategy

79. The overall project categorization for gender is Effective Gender mainstreaming (EGM). It is expected that women, children, people living with disabilities and the elderly can participate and fully benefit from the disaster rehabilitation and reconstruction interventions supported by the project. Gender issues is crucial in the implementation of social safeguard plans as participation to planning activities affect home-based activities that women often engage in to contribute to household income. Thus, the following shall be observed to ensure women's meaningful participation and be included in the planning documents (RP, RCCDP, DD):

- a. Both women and men will participate during consultations, conduct of DMS, income and livelihood restoration program, and discussions on relocation options.
- b. Gender issues will be included in the training to be provided during social safeguards planning document implementation.
- c. Both husband and wife will be invited to receive compensation and other allowances/assistance.
- d. Women will be given equal chance in getting hired for jobs related to EARR and to receive equal remuneration for the same work as the men.
- e. Special measures will be taken in helping elderly, disabled and women-headed households relocate or reconstruct their affected shops and houses.
- f. Women will be prioritized in livelihood restoration program.
- g. Disaggregated monitoring indicators by gender will be developed for monitoring social benefits, economic opportunities, livelihood, and resettlement activities.

E. Unanticipated Impacts

80. Should unanticipated involuntary resettlement and indigenous peoples impacts emerge during project implementation, the IAs 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 RCCDF. The EAs shall submit these documents to ADB for disclosure on ADB's website.

IV. CONSULTATION, PARTICIPATION, AND DISCLOSURE

A. Consultation and Participation

81. Meaningful consultation is upheld under the SPS 2009 to ensure issues, concerns, voices and potential of affected households are incorporated in the EARR preparation, implementation, monitoring and reporting. The following elements are included:

- a. Begins early in the EARR preparation stage and is carried out on an ongoing basis throughout the project cycle;
- b. Provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people;
- c. Is undertaken in an atmosphere free of intimidation or coercion;
- d. Is gender inclusive and responsive, tailored to the needs of disadvantaged and vulnerable groups; and

- e. 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;

82. Meaningful consultations will be carried out with the entitled parties/APs including vulnerable groups to ensure participation from planning up to implementation. Attention will be provided to the needs of vulnerable group (including women and youth) and ensure their participation.

83. Strategies to facilitate participation are through information sharing and consultation as example of which, though not limited to in Table 5.

Table 5: Strategies and Mechanisms for Consultation and Participation

Strategy	Mechanisms
Information sharing	<ul style="list-style-type: none"> • Informal discussions with presentations • Public meetings in accessible location • Translation of discussion points and associated materials (power points and project information booklets) into local languages
Consultation	<ul style="list-style-type: none"> • Consultative meetings with affected communities and stakeholders with due representation from local government and project management/implementation unit • Field visits and interviews of affected persons at various stages of project preparation

84. **Concurrence by customary community through meaningful consultations.** Physical displacement of customary communities with limited number and not trigger category A for Indigenous People safeguards as per ADB SPS is anticipated. Thus, meaningful consultations at each stage of the project will be conducted to identify customary communities' perspectives, issues and concerns.

85. Concurrence is much desired in all activities involving customary communities at each stage of the project. An issue in conducting consultations with customary communities is establishing proper representation and ensuring their preference for internally selected spokespersons, who may not be the same as the formal leaders of the administrative units. When several customary communities are likely to be affected, the consultation process needs a cross-section of said groups.

86. Consultation with customary communities across project stages will have to observe the following: (i) Logistical arrangements shall be coursed through prevailing customary structures and processes – either through traditional leaders or consensus amongst the community members; and (ii) Minutes will be documented in a language understood by the customary communities.

B. Consultations at Project Preparation and Implementation Stage

87. Consultation meetings during the preparatory and implementation stages of land acquisition shall be carried out with APs/AHs in all subproject sites where involuntary resettlement impacts are anticipated through land acquisition. At these meetings the following shall be disclosed to the attendees, and all records of attendance and discussions shall be maintained and disclosed.

- a. An orientation on the EARR, subproject designs, schedules of implementation, and identification/introduction of focal/contact persons;
- b. Probable benefits, adverse impacts, and mitigating measures to be taken;
- c. Grievance process;
- d. Subsequent schedule of meetings and activities, i.e., conduct of IOL-SES;
- e. Results of social assessment, IOL/SES otherwise known as results of inventory and identification of control, ownership, use, and utilization of land;
- f. Entitlements/compensation packages and other forms of assistance;

- g. Valuation methods per result of independent appraiser study

C. Disclosure

88. A Project information booklet summarizing the RP or RCCDP shall be prepared describing the overall project and specific subprojects, potential impacts and mitigation measures. The booklet shall be distributed to APs and customary communities, local governments and other stakeholders in a language(s) and manner suitable to them.

89. Information dissemination to all members of the customary communities will be conducted specifically targeting appropriate message routes in accordance with prevailing customs and traditions. The following shall be observed:

- a. Notices of meetings written in the commonly used customary communities' language and as authorized by community leaders shall be delivered and posted in conspicuous places or announced in the area where the meeting shall be conducted at least two (2) weeks before the scheduled meeting;
- b. All meetings and proceedings shall be conducted in a process and language spoken and understood by the customary communities; and
- c. The minutes of meetings or proceedings conducted shall be written in English or Bahasa Indonesia and in the language of the customary communities and shall be validated with those who attended the meeting or assembly before the finalization and distribution of the same.

90. The following are required to be disclosed: (i) draft social safeguards planning documents, as endorsed by the EAs; (ii) final social safeguards planning documents; (iii) new or updated social safeguards planning documents, if any; and (iv) monitoring reports. These documents will be generated and produced in a timely manner, and posted in both ADB and project websites, and at any locally accessible place in a form and language understandable to the affected communities and other stakeholders. The project information will be made available to affected customary communities as leaflets or brochure in Bahasa Indonesia or the prevailing community local language, whichever is applicable for greater customary community comprehension. The EAs shall also post the summaries of approved documents on the websites. During project implementation, the EAs/IAs will prepare monitoring reports on the application of the social safeguards planning documents and submit the same to ADB for review.

91. The ADB SPS 2009, ADB Public Communication Policy 2011 as well as government issuances will serve as guides. The documents listed above will be uploaded in the EARR management information system as well as in ADB website.

D. Institutional Roles in the Conduct of Consultations, Participation, and Disclosure

92. The key entities with responsibilities to promote and facilitate consultation with local stakeholders are the local counterparts in each Province that constitute the implementing agencies. The local government in the Province or District/City, supported by the sub district and village governments have responsibilities to conduct public consultation. Other entities with public consultation responsibilities include the ad hoc team (LAIT led by KATR/BPN or IAs LAT) set up in each subproject location to implement social safeguards planning activities. Roles and responsibilities of Institution for land acquisition and involuntary resettlement and customary communities are the following below;

93. Steps to be followed in the conduct consultation are shown in the Table 6 below:

Table 6: Roles and Responsibilities for Consultation in the Land Acquisition Process

Project Process Stage	Activities	Responsible Institution
During Land Acquisition Planning Phase	<ul style="list-style-type: none"> • Conducting initial survey in order to prepare Land Acquisition planning document in accordance with the laws and regulations and inform related local Government • Preparing RP or RCCDP completed with PIB for submission to ADB fore view and approval. • Preparing land acquisition to be submitted to Governor/ to get location stipulation (for land acquisition more than 5 Ha) 	<ul style="list-style-type: none"> • The EAs/IAs as the agencies needing the land supported by project implementation consultant as necessary
Preparatory Stage Public Announcement of the Project and confirmation of Project location	<ul style="list-style-type: none"> • Notification to communities (through Sub-district / Village leaders) • Preliminary data collection • Public Consultation to inform communities • Establish GRM for objection to project location Location Stipulation (determine the area to be affected) and location announcement to location communities to inform that location is approved to be developed to a project • Distribution of the Project Information Booklets to the APs and posting of summary social safeguards planning documents at District, Subdistrict and village government offices. Distribution will pay attention to women 	<ul style="list-style-type: none"> <input type="checkbox"/> Local Government (provincial or district/city level) and Land acquisition preparatory team). The EAs/IAs are part of the team. <input type="checkbox"/> Assessment Team established by the Governor/Regent/Mayor <input type="checkbox"/> The IAs supported by PIU as necessary
Implementation Stage Updating Social safeguards planning documents	<ul style="list-style-type: none"> • Conduct of DMS and SES. The SES method should consider gender balance Disclosure of DMS result to AP, put it in public space • Negotiation of type and amount of compensation with APs for affected asset and income losses. • Updating of the social safeguards planning documents and submission to ADB for review and approval • Distribution of the updated PIB to the APs and posting of summary updated RP at District, Sub-district and village government offices. Distribution will pay attention to women. • Payment of compensation and entitlement and implementation of livelihood restoration program. Women will be prioritized in implementation of IRP • Receipt and resolution of grievances of Aps related to IOL and amount of compensation 	<ul style="list-style-type: none"> <input type="checkbox"/> LAIT-led by KATR/BPN <input type="checkbox"/> Land Acquisition Team under the IAs for land acquisition less than 5 Ha <input type="checkbox"/> IAs supported by the PIU as necessary

Monitoring and evaluation	• Monitoring of social safeguards planning document implementation (internal)	The EAs and IAs
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ADB = Asian Development Bank; AP = affected person; DMS = detailed measurement survey; GRM = Grievance Redress Mechanism; IOL = inventory of loss; EA = executing agency; IA = implementing agency; LAIT = Land Acquisition Implementation Team; PIU = project implementation unit; PIB = public information booklet; RCCDP = Resettlement and Customary Communities Development Plan; SES = Socio- Economic Survey.

V. COMPENSATION AND LIVELIHOOD RESTORATION

A. Compensation and Entitlements

94. For land acquisition of more than 5 ha, the IAs will collaborate with LAIT led by the regional KATR/BPN to mobilize independent appraisers and disburse or pay the compensation. In case of negotiated land acquisition or land acquisition not more than 5 ha, the IAs LAT will handle the mobilization of appraisers and pay compensation to the APs. The entitlement matrix outlined in Table 7 below will be used for the compensation and assistance and in the preparation of the TOR for valuation of compensation by appraisers.

Table 7: RCCDF Entitlement Matrix

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
A. Land Loss				
1	Loss of land, including agricultural and residential land	Those who have formal legal rights (certificate) or those whose claim over the land is recognized as a full title including persons occupying the state land in good faith	<ul style="list-style-type: none"> Cash compensation at replacement cost and reflective of fair market value at the time of payment of compensation; or land replacement with at least similar attributes to the acquired land in term of value, productivity, location, and titling. Any taxes and transactional cost borne by the project. Financial assistance for the renewal of the land ownership documents (certificate or land documents recognized as full title) for the residual area of the entitled persons' land. If the remaining affected land can't be functioned for the specific use and utilization, the entitled party can ask for compensation for their entire land at replacement cost 	<ul style="list-style-type: none"> Valuation of compensation conducted by a licensed independent property appraiser. It will be used for compensation payment by the Land Acquisition Implementing Team For the negotiated land acquisition, in case there is deduction of tax as per government's requirements, the amount of the tax value and the deduction should be clearly consulted with and agreed by the APs
2	Loss of customary land	Customary communities	<ul style="list-style-type: none"> Cash compensation at replacement cost or other types of compensation agreed by the customary community as per provisions compensation for loss of land above and ceremonial rites of land Transfer 	<ul style="list-style-type: none"> Consultation to get agreement of compensation will be conducted with customary members and customary leader witnessed by Village and/or Sub District Official. Inclusion of customary communities to livelihood restoration programs

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
				<ul style="list-style-type: none"> Observe ceremonial rites prior to construction if upheld by customary communities. Extend assistance by way of facilitating for the Customary Communities to process certification of their remaining land with BPN per Regulation of the Minister of Agrarian and Spatial Planning/Head of National Land Agency No. 10 of 2016 on the Procedures for the Establishment of Communal Rights on Customary Land and the People Living In A Specific Area (updating regulation of the MASP No. 9/2015)
3	Government/state enterprise land	Land owned /controlled by the government, state enterprises, village treasury	<ul style="list-style-type: none"> Cash Compensation at replacement cost; or Land replacement with similar value or higher (in terms of value, productivity, location, and titling). 	<ul style="list-style-type: none"> Compensation will be provided for i) Land owned/ controlled by government with building used actively for governance; ii) land is owned/ controlled by national and local state owned enterprises; iii) village land MASP/NLA transfers the acquired land owned by government / provincial government / SOE / regional government / village owned enterprise, to the agency requiring land within 60 working days after the governor / district/mayor issued location Confirmation
4	Loss of Forest Land	Ministry of Forestry / Forestry Agency	<ul style="list-style-type: none"> Forestland compensation will be guided under the law and regulations related to land use permit issued by Ministry of Forestry. 	<ul style="list-style-type: none"> Land acquisition procedure will follow the Law No. / 12/201231 and consider relevant regulations on forestry

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
B. Loss of Trees/Crops:				
1	Loss of Crops and Trees	Owners, regardless of land tenure status (with certificate or recognizable rights, informal dwellers, occupants).	<ul style="list-style-type: none"> • Annual crops: cash compensation will be paid based on prevailing market rates. • Perennial crops: compensation at replacement cost taking into account their productivity and age. • Timbers/trees: compensation at current market rate based on age, type of trees and diameter of trunk at breast height. 	<ul style="list-style-type: none"> • Commercial crops: referring to income approach using Discarded Cash Flow (DCF) for 1 cycle • Non-commercial crops: referring to market approach with a standard price reference issued by the local government. • Non-productive Plants: referring to cost approach; • Valuation of non-productive plants will use cost approach; • 30 to 60 days advance notice before harvesting / land clearing.
2	Loss of livestock grazing areas	Owners, regardless of land tenure status (with certificate or recognizable rights, informal dwellers, occupants).	<ul style="list-style-type: none"> • Assistance to open livestock grazing area 	<ul style="list-style-type: none"> • The assistance may include helping to open livestock grazing areas, if available replacement land, fencing, and providing basic grazing facilities. • Participate in the livelihood restoration program
C. LOSS OF STRUCTURE				
1	Loss of main structures (houses, offices, independent shops) and secondary structures (fences, driveways, extended eaves, sheds, etc.)	Owners of the affected structure, regardless of tenure	<ul style="list-style-type: none"> • Compensation at full replacement cost that reflect prevailing market prices of materials and cost of labor for dismantling, transferring and rebuilding at the time payment. No depreciation should be applied or; • Option of Resettlement with comparable access to employment and production. • For partially affected structures, the cost of repairing the residual unaffected structure in addition to the compensation at replacement cost for the 	<ul style="list-style-type: none"> • discussed with the entitled parties, including the provision of public services and facilities as well as access to employment and production • If there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities • In case of delay in the construction of relocation sites, cash assistance equivalent to temporary house rental rates until the

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
			<p>affected portion of the same.</p> <ul style="list-style-type: none"> • Compensation for affected electric, telephone, and other services based on prevailing cost of disconnection and re-installation. 	<p>completion of resettlement in a new place.</p> <ul style="list-style-type: none"> • Resettlement / relocation option will not be granted for land Clearing • 3 months - 1 year advance notice, before the date on which the affected tenants must move
		Relocated entitled persons regardless of land tenure	<ul style="list-style-type: none"> • Moving Cost. Cash allowance for moving if the project is not able to provide the use of a truck or a means of transportation to carry goods to a new place. • Transitional Living Allowance Transitional allowance shall be covered by compensation for emotional loss. In the case that the compensation does not cover it, transitional allowance should be provided equivalent to 3 months of basic living expenses at the provincial poverty line per household Member 	<ul style="list-style-type: none"> • Moving cost and transition allowance will be provided as required in the Land Acquisition Provisions to be included in social programs. • These requirements will be incorporated into the TOR for valuation of object loss / acquired land in determining the value of compensation
2	Infrastructure and public facilities / objects attached to land	Government or State Enterprises/ communal property and assets (e.g. schools, mosques, village office power poles, etc.)	<ul style="list-style-type: none"> • Rebuilding the facility or provide cash compensation based on the agreement with the affected parties 	<ul style="list-style-type: none"> • Valuation of affected assets will be performed by an independent Appraiser
D. TEMPORARY OR PERMANENT IMPACTS ON NON-LAND ASSETS DURING CONSTRUCTION				
	Temporary or permanent impacts due to construction activities	For those who have formal legal rights (certificate) or those whose claim on land is recognized as a full right	<ul style="list-style-type: none"> • For lease payments of the affected land by the contractor based on the applicable rental fees and agreements with landowners. • For temporary impact on productive land, the AH may choose: (1) cost of the rental valued to be not less than the net income that will be generated from productive affected land; (2) Compensation for non- 	<ul style="list-style-type: none"> • 30-60 days prior notice given to the owner of the land before it is used temporarily by contractors. • This provision should be stipulated in the contract / agreement with civil works Contractors

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
			land assets acquired (trees / plants, structure) permanently affected will be compensated at replacement cost <ul style="list-style-type: none"> Land will be restored to pre-project conditions or even better after the construction is completed 	
		Those who do not have legal rights and entitlements that can be recognized as full ownership	<ul style="list-style-type: none"> There is no land rental costs during the period of impact Land will be restored as it was before the project, or even better 	
E. OTHER APPRAISABLE LOSS				
1	Loss of income, venture and job	Business owner and employees regardless the tenure	<ul style="list-style-type: none"> Per SPI 204, the loss of a permanent business (restaurant, barber) or a termination due to closure of business premises Replace the loss in cash based on the loss of business investment (capital, other production mode) is added to the total loss of revenue of at least 3 months as transition allowance in accordance with the time needed to stabilize the business 	<ul style="list-style-type: none"> For permanent loss, SPI 204 assess entire business losses include business interruption Waiting cost is needed so that affected operations business activities can resume
			<ul style="list-style-type: none"> Temporary Loss: Compensations in cash based on the loss of expected revenue is to be obtained from use of the affected assets. 	<ul style="list-style-type: none"> For land clearing compensation, it can be covered from social programs of the IAs in collaboration with the local government and/or local government
			<ul style="list-style-type: none"> Permanent job loss: Damages in cash equivalent to the amount of lost job income multiplied at least by 6 months, or Profession shift: Cash compensation based on the costs required to change the profession on par with previous professions based on an assessment by a licensed Appraiser 	<ul style="list-style-type: none"> Payment slip, or if no payment slip, minimum wage will be used for the calculation of restitution. For land clearance, compensation can be covered from social programs
			<ul style="list-style-type: none"> Loss of temporary employees: 	<ul style="list-style-type: none"> Payment slip, or if no payment slip, minimum wage will be used for

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
			<ul style="list-style-type: none"> • Compensation equivalent to the income loss during the disruption 	<p>the calculation of restitution.</p> <ul style="list-style-type: none"> • For land clearance, compensation can be covered from social programs
2	Loss of emotional attachment to assets (solatium)	Entitled party who lost the emotional bond with the affected assets (land, structures, and plants)	<ul style="list-style-type: none"> • Additional compensation of 5% - 30% of total compensation for physical assets affected. • Compensation will include funding for Transitional living allowance equivalent to 3 months of basic living expenses (at the provincial poverty line per household member, which will be included in the solatium. 	<ul style="list-style-type: none"> • Percentage of emotional loss compensation will be based on indicative market value of the house (land building as stipulated in SPI 366 guidelines with the agreement of the assignor). • Details calculation and coverage of solatium is set forth in the RP/ RCCDP document
3	Transaction Cost	The entitled party who lost land and non-land assets	<ul style="list-style-type: none"> • Allowance to cover administration cost, renewal of land ownership for residual land, acquired Land 	<ul style="list-style-type: none"> • Calculations are based on IOL (Inventory of Losses) and SES (Socio Economic Survey)
4	Compensation for the waiting period (interest)	The party entitled to receive compensation for late payment	<ul style="list-style-type: none"> • Cash compensation based on the risk-free interest, government bank interest 	
5	Loss of residual Land	Those who have formal legal rights (certificate) or those who make claim on land and recognized as legitimate owners including those who occupy state land in good faith	<ul style="list-style-type: none"> • If there are no residual land that can be used for a purpose, the entitled party is entitled to receive compensation for the entire land at replacement cost. 	<ul style="list-style-type: none"> • Refer to the Land Law No. 2 compensation for the entire land only given if the entitled parties raised their objection/asking
6	Refer to the Land Law No. 2 compensation for the entire land only given if the entitled parties raised their objection/asking	Entitled Party who loses 10% or more of total assets or earning revenue sources; Entitled Party, poor and vulnerable, regardless of the severity of the impact	<ul style="list-style-type: none"> • Participate in livelihood restoration program (LRP) • Given the opportunity to get a job related with the Project • Provide project benefit to the affected customary communities including electricity access/connection, basic health care, and school. 	<ul style="list-style-type: none"> • LRP includes agricultural support, provision of training, job placement, additional financial grants and micro loans for equipment and buildings, as well as organizational support / logistics to establish alternative income generating activities for affected populations • LRP will be integrated with Local government

No.	Impact/Loss Category	Entitled Person	Project entitlement	Remarks
				social programs where the project is located

B. Relocation Strategy

95. At screening stage, the IAs will ensure that significant resettlement, land acquisition, and physical displacement or denial of access to resources currently under use by APs will be avoided. If these will not be avoided, at least to contain at a minimal scale and conduct the necessary consultations to secure prior and informed consent.

96. Should relocation take place, entitled parties generally have two options:

- Self-relocation.** Entitled parties may take the initiative to relocate to a place of their choice instead of resettlement sites provided by the EARR.
- On-site relocation.** Displaced persons occupy the part of the land not required for the EARR.

97. The entitled parties choose any of the two, aside from compensation for affected land and structure, the EAs/IAs will provide displaced persons with the needed assistance that include (i) development assistance, such as training, livelihood restoration program (see sub chapter below), and employment opportunities and (ii) transaction cost that cover allowance for administrative costs, renewal of land ownership for residual land, and land clearing.

98. Relocation per Presidential Regulation No. 71/2012 covers (i) Compensation in the form of relocation shall be conducted in conjunction with the waiver by the entitled party without waiting for the completion of the new resettlement, (iv) During the process of resettlement, provision of new resettlement funds deposited in banks by and on behalf of institutions requiring the land, (v) New resettlement area should be completed within one year after agreement between APs and LAIT.

99. For relocation, adequate housing must be met and need to consider the following criteria: (i) security of tenure. The occupants have tenure security which guarantee legal protection against forced eviction and other threats; (ii) availability of services, materials, facilities and infrastructure. The occupants have safe drinking water, adequate sanitation, energy for cooking, lighting, and disposal; (iii) affordability. The housing cost or price is affordable to the occupants; (iv) habitability. The housing guarantee physical safety or provide adequate space, as well as protection against the heat, rain, wind, other threats to health and structural hazards; (v) accessibility. The housing considers the specific needs of disadvantaged and marginalized groups; (vi) location. The housing accessible from employment opportunities, health-care services, school, childcare centers and other social facilities, and not located in dangerous area; and (vii) cultural adequacy. The housing respects and considers the expression of cultural identity. Support the social and cultural institutions of displaced persons and their host population.¹⁴

100. Design of relocation area should consider the following: (i) options of diverse locations, (ii) good access, (iii). close to public facilities and services, (iv) opportunity to expand business activities, (v) gender sensitive: easy to get water supply, (vi) consider impact to host community, and (vii) no significant environmental impact due to construction of relocation area.

¹⁴ UNHABITAT; Human Rights: The Right to Adequate Housing, Fact Sheet No. 21 (Rev.1). Office of The United Nations High Commissioner for Human Rights.

C. Livelihood Restoration and Special Measures for Customary Communities, Severely Affected/Displaced Persons, and the Vulnerable Sector

101. Livelihood restoration program will be provided to the severely APs and vulnerable groups, so that they would benefit from the EARR. Strategy of increasing income and livelihood programs, funding sources and mechanisms, monitoring, implementation arrangements, and the time frame will be included in the RP, RCCDP, CAP plan to ensure that vulnerable groups and severely affected entitled parties can increase their economic income at least equal to the time prior to projects. Customary communities which form part of the vulnerable groups could receive additional assistance as project benefit to avoid further vulnerability and marginalization.

102. The scope of income / livelihood improvement program will be based on the extent of impact and assessment on the entitled parties' need per results of the SES and IOL thus tailored to their specific needs. Women groups will be prioritized to participate in the capacity building activities.

103. Livelihood restoration initiatives may be linked with existing programs of the EAs/IAs in collaboration with the local government. The EAs will prepare and implement the program, which by and large will address poverty reduction. Other potential programs to be provided for customary communities including:

- a. Business and employment opportunities;
- b. Basic health services;
- c. Basic education services;
- d. Access to electricity connection;
- e. Access to clean water;
- f. Access to housing and neighborhood services, and / or
- g. Access to training, venture capital, and Product Marketing

104. The livelihood restoration program will be delivered by the IAs in collaboration with the local government (for water resources, and education sectors). A monitoring program will be focused on the progress of the program implementation and achievements, including the entitled parties' participation and response to the program, the impact on their socio-economic condition, problems encountered and the solutions.

VI. GRIEVANCE REDRESS MECHANISMS

105. A Grieve Redress Mechanism (GRM) is a systematic process to receive, evaluate, and address the project-related grievances of affected persons (AP) and/or groups. An information disclosure mechanism in Bahasa will also be in place at district level to ensure that the local communities are aware of GRM and their potential involvement and responsibilities in the EARR activities. The IAs will ensure a culturally- and gender-sensitive GRM to receive and address, in coordination with provincial authorities, project related concerns and to resolve AP related disputes that may arise during project implementation. It is anticipated that all grievances related to benefits and other assistance will be resolved by the IAs.

106. Grievances related to any aspects of the EARR will be handled through negotiation with aim to achieve consensus. The procedures to be followed in resolving complaints on the affected assets, the level of compensation offered by the government, and other aspects of the projects are outlined below. No cost shall be borne to the APs in relation with the grievance redress mechanism.

107. **Grievance related to project location determination** will be addressed according to the following procedure:

- a. If in the repeated (second) public consultation, there are still APs objecting to the planned location of development, the AP may file the complaint to the IAs or the land acquisition preparatory team led by local government. The IAs will report such grievance/objection to the Governor.
- b. The Governor shall establish a team to make a study of the grievance. If the grievance to the planned location of development is rejected, the Governor shall determine the location of the development within 7 working days.
- c. If the grievance is accepted, the Governor shall notify the IAs to submit the planned location of development elsewhere.
- d. If after the confirmation of location, there is still grievance raised by the AP, the aggrieved AP may file a lawsuit to the Local State Administrative Court (LSAC) within 30 working days since the issuance of the location determination.
- e. The LSAC shall accept or reject the lawsuit within 30 working days of receipt of the lawsuit.
- f. If the aggrieved AP is not satisfied with the LSAC decision, the AP may file the complaint for cassation with the Supreme Court within 14 working days.
- g. The Supreme Court must issue a decision within 30 working days. This final and binding court decision shall be the basis whether continue or not with the land acquisition for the project.

108. **Grievance related to Inventory of affected assets/land acquisition objects** will be addressed according to the following procedure:

- a. In the case of the AP objected to the result of inventory and identification of affected assets/land acquisition objects, the aggrieved AP may file the objection/grievance to the LAIT/the IAs LAT within 14 working days since the announcement of the inventory result.
- b. If the grievance is accepted, the LAIT/IAs LAT shall verify and revise the land maps and/or nominative list.
- c. Verification and revision shall be made no later than 14 working days since the receipt of the grievance.
- d. In case of different calculation of inventory and identification results and verification, the revision shall be set out into an inventory and identification revised report
- e. If the grievance on inventory and identification results are rejected, the LAIT/IAs LAT shall prepare a rejection report.

109. **Grievance related to compensation** will be addressed according to the following procedure:

- a. In case there is no agreement on the form and/or amount of compensation during

consultation, an aggrieved AP may bring the grievance/complaint to the local district court no later than 14 working days since from the signing of deliberation forum report. If within 14 working days, no grievance filled by the APs to the court, the IAs will deposit the compensation to the District Court.

- b. The district court shall decide the forms and/or amount of compensation not later than 30 working days since receipt of the objections
- c. If the aggrieved AP rejected the district court decision, she/he can propose cassation to the Supreme Court no later than 14 working days.
- d. The Supreme Court must grant verdict (final decision) no later than 30 working days since the receipt of the cessation.

110. **Grievance related to other aspects of the EARR** will be addressed according to the following procedure:

- a. An aggrieved AP may bring any complaint either directly to Village office (or contractor or to community or customary leader in the village/sub-village level who will bring the grievance to the Contractor or the IAs to seek resolution. The aggrieved AP may also bring directly the complaints to the IAs. The IAs/contractor have 14 working days from receipt of grievance document to decide on the complaints.
- b. If the grievance cannot be resolved, the APs may convey the grievance to the IAs to get resolution of the complaint. The IAs has 14 working days to settle the complaint.
- c. If the grievance cannot be resolved, the AP may convey the grievance to the IAs for resolution. The regional infrastructure has 14 working days for resolution.
- d. If the aggrieved AP is not satisfied with the action taken on the complaint, she/he may file the complaint to the court for final adjudication

111. Complaints related to other aspect of the projects might include complaints about increasing dust and/or noise or any other impact due to the project construction.

112. For customary communities, the grievance mechanism shall follow their internal grievance mechanism (if any) or any mechanism provided by local government based on community request. The affected APs may bring their complaints to the village leaders and/or customary leaders. The village/customary leaders will settle the complaint within seven days working days upon receipt of the complaint notice. If this has not been settled, they may bring it to the project officers in the field office or subproject site office.

VII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

A. National Level

113. **Steering Committee.** At the national level, a steering committee comprising of Ministry of Finance, Ministry of National Development Planning/BAPPENAS, Ministry of Public Work and Housing (MPWH), Ministry of Transportation (MOT), Ministry of Religious Affairs, and Ministry of Home Affairs, will be formed to guide implementation of the EARR. At the provincial level, a steering committee will be formed comprising of Governor (Sedka) and the members to include Bupati/Walikota and related “dinas” (sectoral offices in the local government).

114. **Executing Agencies.** MPWH (through the Directorate General for Water Resources) will be the executing agency (EA) for output 1 and 2, and the Ministry of Transport (MOT) through the Secretariat General will be the EA for output 3 and 4. Each EA will establish a Central Project Implementation Management Unit (CPMU) to consolidate activities and reporting from implementing agencies. As indicated in the relevant PAMs for MPWH and MOT, EA/IAs will select and appraise subprojects according to subproject selection criteria and be responsible for overall project implementation including social safeguards.

115. **Implementing Agencies.** The Central Sulawesi Settlement Infrastructure Agency under the Directorate General of Human Settlements will be the implementing agency for Output 1.¹¹ The Directorate General of Water Resources (DGWR), MPWH, through its river basin organization Balai Wilayah Sungai Sulawesi III, will be the implementing agency for Output 2. The Directorate General of Sea Transportation, MOT, will be the implementing agency for Output 3 and the Directorate General of Civil Aviation, MOT, will be the implementing agency for Output 4. Implementing agencies are responsible for the preparation of relevant social safeguard documents as well as their implementation and monitoring.

116. **Project Implementation Unit (PIU).** Within MPWH and the MOT project implementation units will be established. Qualified loan funded safeguard experts will assist in safeguard documentation preparation and implementation monitoring for reporting to the CPMU and ADB. A Social Safeguard Specialist consultant would be provided to assist PIU in each EA/IA. At site level, each IA will establish a team of consultant to support, supervise and evaluate the implementation of project. Social Safeguard specialist and consultant team are responsible in ensuring the project activities will comply both to the ADB SPS and government regulation

117. **Staff Focal Persons for Social Safeguards and Consultants.** The EAs/IAs are required to retain adequate staff and a Consultants with relevant qualifications and experience, to be able to adequately design and deliver the social safeguards plans for the subprojects. They remain responsible for reviewing and if necessary updating the social safeguards plans at the time of each scheduled bi-annual report, particularly with regards to potential changes in project scope, location, timing, entitlements or valuations that might require additional resources.

B. Project site level

118. **Provincial/District Government** of Central Sulawesi. In case land acquisition is required, the EA submits land acquisition planning documents to the Governor. The Governor delegates to the Mayor/District to establish a Preparation Team which have tasks to conduct: (i)

¹¹ In close collaboration with the University and the Ministry of Religious Affairs for the Islamic University.

notification on the development plan; (ii) initial location identification on the development plan; and (iii) public consultation on the development plan. The Provincial Governor/District issues the location determination for project development. Should there be objections, the District will establish a special team to assess the situation.

119. Village and sub district government, customary community institutions, community leaders. Project implementation should involve the Village and sub district government in each phase of planning and implementation. Village and sub district governments (head of village and village representative body) would take significant role in organizing community for consultations, inventory of loss and SES, delivery of income restoration program. Community/customary leaders will have important role in consultation when project planning. Preliminary study should identify the key actors or institutions at village and community level.

C. Capacity Building

120. Capacity building will be conducted either to staff who will prepare and implement social safeguards plans, on preparation team established by Governor / Regent to prepare and determine the land acquisition location, on land acquisition and implementation team formed by regional KATR/BPN, on relevant agencies responsible in managing customary communities development to improve their technical and institutional capacity to implement the social safeguard for emergency situation.

121. Capacity assessment on project and social safeguards (involuntary resettlement and Indigenous People) implementing agencies and capacity building program will be included in safeguards plans. Capacity assessment will include, among others: (i) the knowledge on Indonesian policies and procedures on social safeguards and ADB social safeguard policies ; (ii) the capacity of project implementing agencies in implementing social safeguard; and (iii) needs for capacity building.

VIII. BUDGET AND FINANCING

122. The EAs will ensure that resources are made available on time for the EARR activities both at the preparation, implementation, and monitoring of social safeguards. If there is a fund contribution from the local government, coordination and agreement with the local government will be conducted to ensure that the resources and disbursement are made available on time.

123. For land acquisition, budget is prepared at the land acquisition planning stage with reference to the applicable laws and regulations. Table 8 below provides the indicative budget items for land acquisition and resettlement.

Table 8 Cost Items for Land Acquisition and Resettlement

Category	Cost Item
RP preparation and compensation for acquired assets	<ul style="list-style-type: none"> • Cost of census and socioeconomic survey of displaced persons and inventory of assets • Compensation for assets lost (land, structures, etc.) at replacement cost • Cost of preparation of replacement farmland
Relocation and Transfer	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Cost estimates for income restoration plans (e.g., training, small business, community enterprise) • Cost of incremental services (extension, health, education) • Environmental enhancement packages (forestry, soil conservation, grazing land, etc.)
Administrative/ Services Costs	<ul style="list-style-type: none"> • 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 RP implementation
Monitoring and Reporting	<ul style="list-style-type: none"> • Cost of monitoring the RP implementation • Verification of monitoring by qualified and experienced external experts or qualified NGOs for projects with significant involuntary resettlement impacts • Evaluation of RP implementation and reporting
Contingency	<ul style="list-style-type: none"> • About 10 percent of the estimated resettlement project costs

IX. MONITORING AND REPORTING

A. Monitoring Arrangements

124. **Objectives.** The objectives of monitoring are to assess(i) the implementation progress of the land acquisition and resettlement and customary communities plan activities; and (ii) the outcome of the plan activities to income and livelihood of the affected persons including customary communities.

125. **Procedure and Scope.** Monitoring is the responsibility of each EA and IA. The monitoring objectives, steps involved, scope and indicator, and reporting should be fully outlined in the RP/RCCDP/DDR-CAP. The EA/IA will establish a dedicated PIUs responsible for project management at implementation as well as monitoring and reporting. The PPIU shall oversee and liaison with IAs, relevant units or subdivision or sub directorate responsible for Social Safeguards, and ADB.

126. The EARR's semi-annual monitoring reports from the EAs/IAs should document:

- a. the process and the extent of implementing the RP/RCCDP/DDR-CAP;
- b. status updates on the RP/RCCDP/DDR-CAP monitoring indicators, and
- c. any unforeseen changes or impacts on RP/RCCDP/DDR-CAP from the EARR, so that these data can be fed back into the EARR's management and decision-making structure

127. The scopes of monitoring include but not limited to:

- a. Census of displaced person and the inventory of assets for the basis of resettlement plan.
- b. Payment of compensation to all APs including affected customary communities in various categories, according to the compensation policy described in this RCCDF.
- c. Delivery of income restoration and social support entitlements.
- d. Meaningful consultation principles and procedure and public information dissemination
- e. Adherence to grievance procedures and outstanding issues requiring management's attention.
- f. Priority of APs regarding the options offered.
- g. Benefits provided from the EARR.
- h. Assess outcome and impacts of social safeguards activities on the income and standards of living of APs and customary communities.

128. **Methodology.** The monitoring should be participatory, paying close attention to indicators based on social safeguards. Detail the resources required for field survey work with clear methodology (documents review; in-dept interview and meetings with affected persons, customary community, and stakeholders; quantitative survey as necessary), for record keeping, including the provision of specialists in sociology, social anthropology, and resettlement.

129. **Reporting and disclosure.** Semiannual monitoring reports will be prepared by the PIU in discussion and review by the IA. A semiannual monitoring report template which describes methodologies and parameter is in **Appendix 12**. The PIU in each EA shall submit the semiannual monitoring report endorsed by the EA/IA to ADB for review and disclosure on its website. Semi-annual monitoring will also be posted on project's website.

B. Monitoring Indicators

130. Potential monitoring indicators resettlement and customary communities' concerns, from which specific indicators, specifically process indicators at implementation, can be developed and refined as applicable to the pertinent social safeguard planning document, are set out in in **Appendix 5**.

131. **Voluntary Donation.** Monitoring of voluntary donation shall be included in the semi-annual monitoring for subproject applying voluntary donation. The objective of monitoring is to ensure that to verify that the land acquisition of the project follows the principles and procedures of voluntary donation set for the project. The criteria for voluntary donation to be monitored is in **Appendix 5** on TOR for Independent external Party for Voluntary donation

National Laws Governing Land

Other related laws and 2/2012 implementing regulations are:

- (i) Presidential Regulation No. 56/2017 Concerning of Handling Social Impact for Providing Land for National Strategic Projects. This regulates on handling social impacts for land that has already been owned by agency needing the land and occupied or used by the people.
- (ii) Presidential Regulation No. 88/2017 on the Settlement of Land Tenure within Forest Area. The government addresses the issues on land controlled by individuals, institutions, social / religious agencies, and customary communities who utilize plots of lands in forest areas. Settlement options are in the form of: (a) removing those plots of land from the forest by changing the boundaries of forest areas; (b) replace/exchange the forest areas; (c) provide access to forest management through social forestry programs; or (d) Resettlement/relocation. The options depend on the status of the forest and how long the controlling parties have utilized the forest area. Government will establish a team to Accelerate Completion of Land Tenure within the Forest Area, hereinafter referred to as the PPTKH Acceleration Team, which is headed by the Coordinator Minister for Economic Affairs. The members will consist of the representatives of the Ministry of Environment and Forestry, Ministry of Agrarian and Spatial Planning/Head of National Land Acquisition, Ministry of Home Affairs, Cabinet Secretary, and Head of Presidential Staff.
- (iii) The team will be assisted by the Implementation Team of PPTKH comprised of the Deputy and Director within the ministries/institutions cited above. At the Provincial Level, the Governor establishes the Inventory and Verification Team (Inver Team) who will collect data on land control, ownership, use or utilization per the complaint raised by parties through the Regent/Mayor. The inventory and verification results shall be submitted to the PPTKH Acceleration Team for resolution.
- (iv) Supreme Court Regulation No. 3/2016 on Procedure for Filing Objections and Deposit (Consignment) of Compensation to the Court of Land Acquisition for Development for Public Interest. This regulates the proceedings in court regarding the number of days the court will rule on the case and who bears the cost. Procedures for deposit of compensation is also covered in this regulation.
- (v) Supreme Court Regulation No. 2/2016 on Guidelines for Litigation of Disputes Related to the Development of Public Interest in the State Administration Court. This regulates the proceeding in courts as to how many days the court will rule on the case (30 days) and who bears the cost.
- (vi) Head of National Land Agency Guideline No. 5 / 2012 concerning Land Acquisition for Development in Public Interest and Ministry of Agrarian and Spatial Planning No. 6/2015 concerning amendment of the Head of National Land Agency Guidelines No. 5/2012 highlight application of procedures at implementation stage.
- (vii) Instruction of Ministry of Agrarian and Spatial Planning concerning Acceleration of Land Acquisition for Project National Strategic (PSN).
- (viii) accelerated implementation through intensive and continuous monitoring and evaluation of the implementation of that strategic project by the National Land Agency (BPN).

- (ix) Presidential Regulation No. 68/2018 Concerning of Handling Social Impact for Providing Land for National Development. This regulates on handling social impacts for land that has already been owned by agency needing the land and occupied or used by the people.

Assessment on Involuntary Resettlement Policy Gaps

Principles	GOI Laws: Law 2/2012 & Implementing Regulations & other relevant laws & regulations	ADB Policy	Project Policy
Screening of the project	The legal framework lacks a stand-alone screening requirement for involuntary resettlement impacts. There is no explicit stipulation for conducting a screening and assessment of impacts when land acquisition involves land purchase.	Screen the project early on to identify past, present, and future involuntary resettlement,	Screen the subproject to identify involuntary resettlement impacts and risks. Subproject triggers involuntary resettlement and subproject with category A as per SPS will not be selected.
Meaningful Consultations	The legal framework provides greater protection of human rights to children, the poor, and the disabled, also against discrimination to women. However, it does not mandate to afford special attention to the needs of vulnerable groups and to ensure their participation in consultations. Some key groups may not be considered as vulnerable (e.g., women, the landless, and those without legal title to land)	Pay attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations applied.	Meaningful consultation shall pay attention to the vulnerable groups (the poor, the landless, the elderly, women and children, Indigenous Peoples, and those without legal title to land). Ensure their participation in consultations
Negotiated Land Acquisition	A government regulation on negotiated settlement provides for a procedure to implement direct purchase for parcels of land of 5ha and less; however eminent domain may still be triggered if negotiations fail. There may be no option for an affected person to opt out from the deal	Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement	Negotiated land acquisition shall be undertaken in a transparent, free from intimidation, compensation at replacement cost. Independent party shall be mobilized to ensure that the negotiations are fair and transparent,
Level of Compensation and bases of Calculation Depreciation of affected structure value	<p>Compensation will be provided based on valuation of independent appraiser that cover (i) land; (ii) over ground and underground spaces; (iii) building; (iv) plant related to land and/or; (v) objects other appraisable loss such loss of business, jobs, change of professional, and moving costs.</p> <p>Tax incentive is provided to: (a) person who supports the project; (b) person who does not file a complaint related to project location determination and/or compensation.</p> <p>Law is silent on issue of application of depreciation when calculating compensation for affected structures. However, evaluation standard set by</p>	<p>Compensation rate will be calculated at full replacement cost to be determined by an independent appraiser experienced in assessing acquired assets. For involuntary resettlement, no deduction on taxes and administrative costs for affected lands, as well as no depreciation in the value of the affected structure will be applied,</p>	<p>The principle of full replacement cost will be applied. In case of involuntary resettlement, capital gains tax and the costs of transferring ownership, including the cost of new land certificates, will not be deducted from the compensation of those who will lose lands.</p> <p>In case there will be deduction of tax for negotiated land acquisition, the deduction should be clearly consulted and agreed by the affected persons.</p> <p>Compensation at full replacement cost for affected structures will be determined based on the replacement</p>

Principles	GOI Laws: Law 2/2012 & Implementing Regulations & other relevant laws & regulations	ADB Policy	Project Policy
Compensation for Sharecroppers	<p>Independent appraisers' association (MAPPI, 2015) does not apply depreciation for physical condition of the affected building. For affected buildings, MAPPI applies solatium (emotional compensation) of 10% - 30% of the total compensation for physical loss. administrative costs will be Transaction and borne by the project.</p> <p>Law 2/2012 and its elucidation, 71/2012 stipulate that owners of trees/plants are entitled for compensation of affected trees/plants.</p>	Compensation for affected land and non-land assets should be provided at replacement cost.	<p>cost of a new building without any depreciation.</p> <p>Compensation at full replacement cost based on valuation by independent appraisers for any physical and economic displacement.</p> <p>Compensation for share based on losses at croppers be provided at replacement cost prior to economic and physical displacement</p>
Compensation and assistance to displaced persons without legal title or any Recognizable legal rights	<p>The legal framework provides compensation and assistance for displaced persons without title or any recognizable legal rights to land unless their legitimate claims cannot be proven/recognized prior to land LAR implementation. However, application of full replacement cost for people utilizing land has been owned by the agency needing the land is unclear.</p> <p>Article 36 of Perpres 71 of 2012 indicates the task of appraiser to carry out the appraisal of the amount of compensation which includes: a. Land; b. Space above and below the surface of the land; c. Buildings; d. Plants; e. Objects related to the land; and/or f. Other appraisable loss" means nonphysical loss equivalent to money value, for example, loss due to loss of business or job, cost of change of location, cost of change of profession, and loss of value of the remaining property.</p> <p>The law and regulations stipulate on compensation for affected asset, yet do not stipulate on the assistance to the non-land rights holders and other economic loss.</p>	<p>Ensure displaced persons without titles or any recognizable training, or employment opportunities. legal rights to land are eligible for resettlement assistance and compensation at replacement cost for loss of non-land assets.</p> <p>Physically and Economically displaced persons are provided transitional support and development assistance, such as land development, credit facilities,</p>	<p>The principle to provide compensation for non-land assets at replacement cost will be applied.</p> <p>Assistance in the form of livelihood restoration and relocation assistance will be provided.</p> <p>If there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities.</p> <p>Transitional support and development assistance will be included in the total cost born by displaced persons. Institution needing land can address this through livelihood restoration measures</p> <p>Integrate resettled persons economically and socially into their host communities, and extend project benefits to host communities.</p>
Relocation Support Hight Risk of Impoverishment	Not covered in new Land Law but Law No. 11/2009 on Social Welfare and its implementing regulation Ministry of Social Welfare Decree No. 39/2012 states: To cover or identify vulnerable/severely impacted people by the project as early as	Particular attention must be given to the needs of poor and vulnerable APs that face the risk marginalization and of further impoverishment.	<p>Livelihood restoration measures or program will be provided to severely affected and vulnerable AHs.</p> <p>Severely affected household and other vulnerable groups will be identified at resettlement</p>

Principles	GOI Laws: Law 2/2012 & Implementing Regulations & other relevant laws & regulations	ADB Policy	Project Policy
Public Disclosure	<p>possible it can be covered in Social Impact Assessment of AMDAL as referred in Environmental Law no. 32/2009 and other relevant Government Regulation on Environmental Permits.</p> <p>Disclosure of resettlement activities is done part by part, not in a piece of LAP document.</p> <p>There has been disclosure on project plan and requirement for land acquisition at the preparatory stage of land acquisition handled by the Office of the Governor and implementation of land acquisition stage by Land Acquisition Implementation Team (LAIT) led by regional ATR/BPN. In addition, there are consultations should be conducted at the preparatory and implementation stages of land acquisition to discuss project plan, project location and land acquisition needs, valuation by appraiser, identification and inventory, identification and inventory, compensation.</p>	<p>The draft and agreed social safeguard planning document at PPTA, and the draft and agreed updated social safeguard planning document at project implementation will be disclosed to the APs and other stakeholders in accessible forms, languages and places. The same will be posted on the ADB website.</p>	<p>planning stage. Livelihood restoration assistance will be provided to them through social program in collaboration with the local government</p> <p>Pre-IOL and post-IOL consultations will be held with stakeholders and entitled parties. The approved social safeguard planning document will be disclosed to entitled parties and other stakeholders in accessible forms, languages and places, and posted on the ADB website. Monitoring reports during implementation will likewise be posted on the project and ADB websites.</p>
Monitoring of resettlement impacts at Project Implementation	<p>Land National Agency (BPN) carries out the monitoring and evaluation towards the control, ownership, utilization and benefits of the results of the Land Acquisition for Development in the Public Interest.</p> <p>MASP/NLA is only responsible in the monitoring implementation phase and delivering result excluding planning and preparation states.</p>	<p>Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.</p>	<p>English versions of social safeguard planning document implementation M & E reports will be prepared and submitted to the ADB and results posted on the ADB and project websites.</p>

National Laws Relating to Customary Communities

- (i) Regulation of the Minister of Agrarian and Spatial Planning/Head of National Land Agency No. 10 of 2016 on the Procedures for the Establishment of Communal Rights on Customary Land and the People Living In A Specific Area (updating regulation of the MASP No. 9/2015) set forth that: a) the land entitlement can be granted to customary law community who meet the requirements, b) the land entitlement can be granted to community living in a specific area and meet the requirements. This regulation stipulates that groups of people living in a specific region (forests and plantations) who meet the requirements may be granted the land entitlement.⁶It further states that communal rights outside of particular areas (forest and plantation/leasehold land), can be transferred in accordance to provisions applicable to customary law with consent from members of the customary community.
- (ii) Regulation of the Minister of Home Affairs No. 52 Year 2014 about Guidelines for Recognition and Protection of Customary Communities. The regulation stipulates that Governors/District Heads/Mayors shall appoint a committee to carry out recognition and protection of customary communities through identification, verification, validation and formal recognition.
- (iii) Act No. 23/2014 concerning Local Government – establishes division of authority between Central, Provincial and District Government regarding customary land and recognition of customary communities, local wisdom or traditional knowledge and rights to local wisdom or traditional knowledge, rights of customary communities to PPLH, and capacity building of customary communities.
- (iv) Environmental Protection and Management (Law No. 32 of 2009) tasks local governments to stipulate policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respect to environmental protection and management, and implement policies on procedures for recognizing the existence of traditional communities, local wisdom, and rights of traditional communities with respect to environmental protection and management in the regency/municipal level.
- (v) Indonesia is a signatory to the 2008 UN Declaration on the Rights of Indigenous Peoples. While it is not a legally binding instrument under international law, it does “represent the dynamic development of international legal norms and reflects the commitment of the UN's member states to move in certain directions”.
- (vi) Regulation No. 5 of 1999 by the Minister of State, Agrarian Head of National Land provides guidance for resolution of problems within ulayat lands of adat law communities.
- (vii) Act No. 25. By 2000, Act No. 25 concerning the National Development Program (Program Pembangunan Nasional; PROPENAS) asserts the importance of active participation of communities in making use of, access to, and controlling the use of, natural resources in the framework of protecting public rights and rights of adat communities (Appendix Chapter X).
- (viii) Act No. 39 of 1999 on Human Rights. Article 6 Para. 1: “In the framework of maintenance of human rights, the differences in and the needs of, adat law communities are observed and protected by the law of society and Government.” Article 6 Para. 2: “Cultural identity

of adat law communities, including rights to ulayat land, is protected in line with the evolvement of time.”

Other Laws. Other key laws and regulations that impinge on involuntary resettlement and customary communities' issues include:

- (i) Government Regulation on the Environmental Permit, Ministry of Environment Regulation No. 17 / 2012 where vulnerable / severely affected people are identified as early as possible through the Social Impact Assessment of AMDAL that also seeks participation guidance from local communities in order to obtain the AMDAL and Environmental Permit Issuance. These are likewise referred previous environmental laws.
- (ii) Law No. 11/2009 on Social Welfare and its implementing regulation Ministry of Social Welfare Decree No. 39/2012 on Delivery of Welfare. Vulnerable / severely affected people are identified as early as possible through the Social Impact Assessment of AMDAL as referred to in the Environmental Law no. 32/2009 on Environmental Protection and Management; Indonesia Government.
- (iii) Act No.41/2009 on Protection on Agricultural Land for Sustainable Food – stipulates special compensation if a project impacts *sawah* (wet rice) land, which is important to food security.
- (iv) PP. 71 / 2008 On the Third Amendment to Government Regulation No. 48 / 1994; (PP. 27 / 1996 jo and PP. 79 / 1999 jo); Basic Law Government regulation that relate to tax incentive or the income tax rate of land and / or building ownership transfer.
- (v) Law 26 of 2007 on Spatial Planning (State Gazette of the Republic of Indonesia Year 2007 No. 68, Supplement of State Gazette of the Republic of Indonesia No. 4725); provides that development and land acquisition in the public interest should be carried out in accordance with regional spatial planning.
- (vi) The Law of the Republic of Indonesia Number 27 Of 2007 Concerning the Management of Coastal Zones and Small Islands.⁷ The Government shall regulate, encourage, and/or carry out research and development of the Management of Costal Zone and Small Islands, to produce the necessary science and technology for the management of Costal Zone and Small Islands, to make it more effective, efficient, economic, highly competitive and environment friendly, while respecting traditional wisdom or local culture. The inclusion of the public based on principles, standard, and guidelines is carried out through public consultations and/or Adat consensus, be it formal or non-formal. Further, that the empowerment of traditional communities and coastal communities shall be executed through socialization of policies of the government, provincial governments and regency/municipal governments regarding resource management policy in maritime territory.
- (vii) Minister of Finance Regulation No. 96/PMK.06/2007 related to Procedures for the Implementation of the Use, Utilization, Omission and Transfer of State Property and The Minister of Finance Regulation No. 168/PMK.05/2015 on Mechanism of Implementation of Government Assistance Budget at State Ministries/Institution, provide the procedures for donating land and building for projects.
- (viii) Law No.11/2005 on the Ratification of the International Covenant on Economic, Social

and Cultural Rights. This Act protects people rights of economy, social, and culture including right to live descent and protection of culture. As stated in Article 11 of the Convention, the state recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State will take appropriate steps to

ensure the realization of this right, recognizing the essential importance of international cooperation based on free and prior informed consent.

- (ix) Act No. 39 of 1999 on Human Rights describes vulnerable groups: the elderly, children, the poor, pregnant women and people with disabilities. It also recognizes the differences in and the needs of, adat law communities that have to be observed and protected by the law of society and Government” as well as the “Cultural identity of adat law communities, including rights to ulayat land that need protection.” It espouses that the acquisition of ulayat land by government must be done through due process of law following the free, prior and informed consent of adat communities.
- (x) For customary communities, the main principles of the government policies related to customary communities and consultation and social assessment are generally parallel to ADB SPS 2009. Gaps remain but some have been addressed by other relevant laws. Outstanding gaps are on (i) project screening, (ii) social impact assessment, and (iii) monitoring and evaluation.

Assessment on Customary Communities Policy Gaps

Principles	GOI Laws	ADB Policy	Project Policy
Project screening	The screening conducted under Land Law 2012 with regards to spatial planning, designation, conformity, and development priority and project level does not specify a customary communities safeguard documentation to prepare if customary communities is triggered.	Screen early on to determine (i) whether customary communities are present in, or have collective attachment to, the project area; and (ii) whether project impacts on customary communities are likely.	Conduct appropriate screening at subproject planning/preparation stage.
Social impact assessment	<p>Land Law 2012 specifies a social survey and feasibility study to be done for preparing land acquisition plan. Yet, does not specify to cover specific need for conducting social impact assessment in regard to customary communities. It is treated as part of the land acquisition planning process.</p> <p>Under Forestry laws, SIA is conducted through an inventory of assets that will be affected but impacts on masyarakat hukum adats are not assessed.</p>	Undertake a culturally appropriate and gender-sensitive social impact assessment or use similar methods to assess potential project impacts, both positive and adverse, on customary communities.	Conduct appropriate social impact assessment and consultation procedures.
Monitoring at Project Implementation	<p>The Land Law 2012 specifies the task of BPN to monitor and evaluate the results of the Land Acquisition yet it does not specify to monitor CCDP implementation impacts that may require some corrective actions to be performed by agencies acquiring land.</p> <p>Law 27 - Chapter VI, Article 36 (5) In the execution of control and monitoring of the Coastal Zone and Small Islands as is stipulated in paragraph (1), the Government and the Local Government has the obligation to monitor, carry field observation, and/or evaluating the plan and its implementation; (6) The Community may participate in the control and observation of the Coastal Zone and Small Islands as is stipulated in paragraph (1).</p>	Monitor implementation of the social safeguard planning document using qualified and experienced experts; adopt a participatory monitoring approach, wherever possible; and assess whether social safeguard planning document objective and desired outcome have been achieved, taking into account the baseline conditions and the results of social safeguard planning document monitoring. Disclose monitoring reports.	With the assistance of qualified and experienced experts, M&E will be conducted and English versions of social safeguard planning document implementation M & E reports will be submitted to the ADB and results posted on the ADB website.

Terms of Reference for an Independent Party to Verify Voluntary Donation

* [Shaded items in the bracket] will be replaced with information from the specific project.

Objectives

1. The objective of this consulting service is to verify that the land acquisition of [name of the project] follows the principles and procedures of voluntary donation set for the project. The project is supported by the Asian Development Bank (ADB) and will [a brief description of the project]. The [name of the borrower/client] is assisted by [name of the entity assisting the implementation of land acquisition] for implementing the land acquisition. An independent external party such as a qualified NGO or legal authority¹⁵ will be engaged by the project to undertake the verification.

Scope of Work – General

2. This scope of work will require the independent party to undertake the following general tasks among others:
 - (i) Using verbal and written records, verify that the donation is in fact voluntary, did not result from coercion, and was accomplished through the consultation process.
 - (ii) Ensure that voluntary donations do not severely affect the living standards of affected persons and benefit them directly.

Scope of Work – Specific

3. The independent party's work will include several specific tasks:
 - (i) Review all project documents (including [loan/grant] agreement and MoUs or correspondences between ADB and [name of the borrower/client]) related to the project's land acquisition.
 - (ii) Visit the project site to verify whether the voluntary donation process follows the principles and procedures agreed in [loan/grant] agreement, MoUs and Resettlement Plan/Framework (if any). Verification will cover an adequate representative random sample¹⁶ of the affected households who voluntarily donated the land.
 - (iii) Conduct interviews and/or participatory community meetings with the affected peoples/affected households to obtain perception of the voluntary donation.
 - (iv) Interview relevant stakeholders including [name of the borrower/client], construction supervision and project implementation consultants, and [name of the entity assisting the implementation of land acquisition], community leaders and local authorities regarding the principles and procedures followed in voluntary donation.
 - (v) Verify whether the criteria set for voluntary donation were properly applied.

¹⁵ Please define or provide an example

¹⁶ The number of households covered by the verification may rise or fall, depending on the total number of affected households who donated. The often "acceptable" margin of error used by survey researchers falls between +/- 4% and 8% at the 95% confidence level. The 95% confidence level means that there is a 95% chance that the difference is real and not just a quirk of the sampling. If we repeated the study 100 times, 95 of the samples drawn would yield similar results. Websites that can be used to calculate the required sample size for a population (N), include http://www.raosoft.com/sample_size.html, <http://www.calculator.net/sample-size-calculator.html>

Table: Criteria and Guidance Notes on Voluntary Donation

Criteria	Parameters
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 household due to the project and 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 to them.
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 and/or used by any other party. - The land is not in dispute for its ownership.
Consultations with the affected households is conducted in a free and transparent manner;	<ul style="list-style-type: none"> - The affected household should be informed that they have the right to receive compensation for their land and the equivalent amount of 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 on voluntary donation are integrated into the decision making process at community level.
Land transactions are supported by transfer of titles; and	<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, [name of the borrower/client] and witnesses. - Consultation meetings, grievances and actions taken to address such grievances are properly recorded.

(vi) Verify whether the procedures of the voluntary donation were properly implemented.

(vii) Prepare a verification report.

Outputs

4. The independent party will prepare the following reports and submit them to [name of the borrower/client] and ADB.

- (i) Inception report that demonstrates the design and methodology of the verification.
- (ii) Draft report that documents the voluntary donation processes, the findings, conclusion, and recommendations. This report includes the minutes of interviews/meetings held for verification.
- (iii) Final report that incorporates inputs from [name of the borrower/client] and ADB, and is acceptable to both said parties.

Qualifications

5. The independent party will have work experience in and familiarity with all aspects of resettlement operations. Persons with a social science background will be preferred.
6. Interested NGOs or agencies should submit proposals for the work with a brief statement of the approach, methodology, and relevant information concerning experience on land acquisition. The profile of the NGO or agency along with full CV of key personnel proposed to be engaged must be submitted along with the proposal.
7. The independent external party cannot be associated with the project in any past or present capacity.

Estimated Person-Months

8. [Number] [domestic/international] persons will be recruited for a total of [number] person-months (estimate)

Budget and Logistics

9. The proposal—both technical and financial—should be submitted and the budget should include all costs and logistics necessary for the assignment

Example of Voluntary Contribution Consent Form
 Integrated Citarum Water Resources Management Investment Program, Indonesia

CERTIFICATE OF LAND/ASSET TRANSFER

Surat Pernyataan Penyerahan Hak Milik

I, the undersigned here

Saya, yang bertanda tangan di bawah ini

Name
Name :

Age
Umur :

Nationality
Kebangsaan :

Occupation
Kepemilikan :

Occupation
Kepemilikan :

Residence Located in
Bertempat tinggal di :

Village
Desa .

Sub District
Kecamatan .

District
Kabupaten .

Province
Propinsi .

Certify that I have been previously informed by local authority of my right to entitle compensation *Menyatakan bahwa saya telah mengetahui tentang kompensasi terhadap penyerahan hak milik saya for any loss of property (house, land and trees) that might be caused by the construction of*

atas kepemilikan Rumah, Tanah dan Pohon yang mungkin diperlukan untuk pembangunan infrastruktur and related facilities under water supply system or development / improvement for prasarana dan sarana sehubungan dengan jaringan air bersih atau pembangunan / perbaikan urban environmental under the Integrated Citarum Water Resources Management Investment Lingkungan Perkotaan dalam Program Investasi Pengelolaan Sumber Daya Air Citarum Secara Terpadu Program in Village: _____ District: _____

I confirm that I voluntarily accept the land of square meters located in
Saya menyatakan dengan suka rela menerima kehilangan atas tanah seluas m² terletak di Village: _____, District: _____

to be provided by the local authority for compensation. I also confirm that I do not request any sebagai kompensasi oleh pihak yang berwenang. Saya juga menyatakan bahwa Saya tidak meminta compensation of other loss of *Bangunan, Pohon,*
penggantian apapun atas kehilangan¹⁷

and would request the local authority to consider this as my contribution to the Project.

dan Saya berharap agar dapat dipertimbangkan sebagai Peran Serta saya bagi pelaksanaan Projek ini Jenis dan Nilai kerugian atas kepemilikan yang dihibahkan sebagai peran serta:

<u>Type of Loss</u> Jenis Kerugian	<u>Quantity</u> Banyaknya	<u>Unit</u> Satuan	<u>Unit Rate</u> Nilai Satuan	<u>Total</u> Total Nilai	<u>Comments</u> Catatan
Land/ Lahan Trees		M ² Batang			
¹⁷ Diisi sesuai kebutuhan atau coret apabila tidak diperlukan.					
<hr/> <hr/> <hr/> <hr/>					

<hr/> <u>Total</u> <hr/>	
Therefore, I prepare and sign this certificate for the proof of my decision. <i>Demikian pernyataan saya buat dengan sebenarnya dan sadar tanpa paksaan</i>	
 20.....
	<u>The owner of the land</u> <i>Pemilik Tanah</i>
	(_____ _____)
<u>Witnesses:</u> <i>Saksi-Saksi:</i>	
1. _____ :	
2. _____ :	
3. _____ :	
4. _____ :	
Certified by: <u>The</u>	
<u>Chief of the Village</u> <i>Kepala Desa:</i> _____	<u>The Chief of Sub District</u> <i>Kepala Kantor Kecamatan</i>

(_____)	(_____)

ADB Safeguard Policy Statement (2009)

[Policy Principle for Involuntary Resettlement Safeguards] 6. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.

[SAFEGUARD REQUIREMENTS 2: INVOLUNTARY RESETTLEMENT / Para 5] The involuntary resettlement requirements apply to full or partial, permanent or temporary physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) resulting from (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. Resettlement is considered involuntary when displaced individuals or communities do not have the right to refuse land acquisition that results in displacement. This occurs in cases where (i) lands are acquired through expropriation based on eminent domain; and (ii) lands are acquired through negotiated settlements, if expropriation process would have resulted upon the failure of negotiation.

Involuntary Resettlement Safeguards A Planning and Implementation Good Practice Sourcebook – Draft Working Document (Nov 2012)

14. Voluntary Resettlement. Voluntary resettlement, on the other hand, refers to any resettlement not attributable to eminent domain or other forms of land acquisition backed by powers of the state. The important principles in voluntary resettlement are informed consent and power of choice. Informed consent means that the person involved is fully knowledgeable about the project and its implications and consequences and freely agree to participate. Power of choice means that the person involved has the option to agree or disagree with the land acquisition, without adverse consequences being imposed formally or informally by the state. Power of choice is only possible if project location is not fixed. The route for a rural road project, for example, could be changed if a landowner objected. The area of the reservoir in a hydropower dam project, by contrast, is immutable. The former project could allow for voluntary resettlement, the latter could not.¹⁸ The SPS does not apply to voluntary resettlement.

15. Voluntary Land Donation. Voluntary donation of land usually involves the contribution by individuals of land for a project that has community benefits, such as a school or health care facility. For example, even rural roads that are part of the community driven development are built with voluntary donation of land. The basic idea is that the project benefits will realistically offset the size of the donated land. In the case of voluntary land donation, eminent domain or other powers of the state should not be involved in the acquisition. Therefore, voluntary land donation is not within the scope of the SPS. However, the project team should exercise judgment in such cases and conduct due diligence to avoid adverse impacts on affected persons and possible reputational risks to ADB. The project team should (i) verify that the donation is in fact voluntary and did not result from coercion, using verbal and written records and confirmation through an independent third party such as a designated nongovernmental organization or legal authority; and (ii) ensure that voluntary donations do not severely affect the living standards of affected persons and benefit them directly. As a good practice, an ADB project team may consider including appropriate loan or grant conditions. Voluntary land donation is only possible if a project is not location-specific—for example, a school or health care facility that can be built somewhere else if the landowners object. Appendix 2 (Section A) of this Sourcebook provides a sample for voluntary donation agreement, which may be improvised for a given project.

Appendix 2

A Sample Voluntary Donation of Land Agreement

The following agreement has been made on _ _ _ _ .day of _ _ _ _ . Between Mr./Ms.
_ _ _ _ _ , aged _ _ , resident of _ _ _ _ _ zone, district _ _ _ _ _ (the
owner) and _ _ _ _ _ (the recipient/subproject proponent).

¹⁸ The World Bank. 2004. Involuntary Resettlement Sourcebook. Washington, D.C. (page 21.)

1. That the land with certificate no _ _ _ _ is a part of _ _ _ _ , is surrounded from eastern side by _ _ _ _ , western side by _ _ _ _ , northern side by _ _ _ _ , and southern side by _ _ _ _ .
2. That the owner holds the transferable rights of land .. _ _ _ _ (area in sqm), with plot No _ _ _ _ at the above location (include a copy of the certified map, if available).
3. That the Owner testifies that the land/structure is free of squatters or encroachers and not subject to any other claims.

Section A: in the case of voluntary donation:

- 3.1 That the Owner hereby grants to the _ _ _ _ _ (name of the recipient) this asset for the construction and development of the _ _ _ _ _ for the benefit of the community.
- 3.2 That the Owner will not claim any compensation against the grant of this asset nor obstruct the construction process on the land in case of which he/she would be subject to sanctions according to law and regulations.
- 3.3 That the _ _ _ _ _ (name of the project proponent) agrees to accept this grant of asset for the purposes mentioned.

 Name and Signature of the Owner Signature of subproject proponent/representative
 Witnesses:

1 ----- 2 -----
 (Signature, name and address)

Criteria for Voluntary Land Donations

- Voluntary donation of land by beneficiary households is acceptable where:
- (a) The impacts are marginal (based on percentage of loss and minimum size of remaining assets);
 - (b) Impacts do not result in displacement of households or cause loss of household's incomes and livelihood;
 - (c) The households making voluntary donations are direct beneficiary of the project;
 - (d) Land thus donated is free from any dispute on ownership or any other encumbrances;
 - (e) Consultations with the affected households is conducted in a free and transparent manner;
 - (f) Land transactions are supported by transfer of titles; and
 - (g) Proper documentation of consultation meetings, grievances and actions taken to address such grievances is maintained

Subproject Social Safeguards Screening Checklist

Involuntary Resettlement Screening Checklist

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
A. 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?				
B. 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?				
C. 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 Customary Communities? <input type="checkbox"/> No <input type="checkbox"/> Yes				

Customary Communities Screening Checklist

KEY CONCERNS (Provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
A. Customary Communities Identification				
1. Are there socio-cultural groups present in or use the project area who may be considered as Customary Communities?				
2. Are there national or local laws or policies as well as anthropological researches/studies that consider these groups present in or using the project area as Customary Communities?				
3. Do such groups self-identify as being part of a distinct social and cultural group?				
4. Do such groups maintain collective attachments to distinct habitats or ancestral territories and/or to the natural resources in these habitats and territories?				
5. Do such groups maintain cultural, economic, social, and political institutions distinct from the dominant society and culture?				
6. Do such groups speak a distinct language or dialect?				
7. Have such groups been historically, socially and economically marginalized, disempowered, excluded, and/or discriminated against?				
8. Are such groups represented as Customary Communities in any formal decision-making bodies at the national or local levels?				
B. Identification of Potential Impacts				
9. Will the project directly or indirectly benefit or target Customary Communities?				
10. Will the project directly or indirectly affect Customary Communities' traditional socio-cultural and belief practices? (e.g. child-rearing, health, education, arts, and governance)				
11. Will the project affect the livelihood systems of Customary Communities? (e.g., food production system, natural resource management, crafts and trade, employment status)				
12. Will the project be in an area (land or territory) occupied, owned, or used by Customary Communities, and/or claimed as ancestral domain?				
C. Identification of Special Requirements				
<i>Will the project activities include:</i>				

13. Commercial development of the cultural resources and knowledge of Customary Communities?				
14. Physical displacement from traditional or customary lands?				

KEY CONCERNS (Provide elaborations on the Remarks column)	YES	NO	NOT KNOWN	Remarks
15. Commercial development of natural resources (such as minerals, hydrocarbons, forests, water, hunting or fishing grounds) within customary lands under use that would impact the livelihoods or the cultural, ceremonial, spiritual uses that define the identity and community of Customary Communities?				
16. Establishing legal recognition of rights to lands and territories that are traditionally owned or customarily used, occupied or claimed by Customary Communities?				
17. Acquisition of lands that are traditionally owned or customarily used, occupied or claimed by Customary Communities?				

Sample Survey Instruments – IOL and SES SOCIOECONOMIC SURVEY

I. Basic Information

A. Basic information about the head of the AH

1. Name:	2. Home address: Ward: _____	Village/Township: _____
3. Gender: a. Male b. Female	4. Age: _____	5. Physical condition: a. Normal b. Disabled
6. Civil status: a. Single b. Married c. Widow/Widower d. Divorced		
7. Educational attainment:	7. Main livelihood activity of the head of AH: a. _____ (specify) b. No work/looking for work c. Retired/not looking for work	

B. Socioeconomic information on the AH

1. Number of persons presently living with the household: (specify number) _____					
2. Basic information on persons <i>presently and actually</i> living with the AH:					
Household member	Relationship with head of AH	Age	Gender	Educational attainment	Main Livelihood activity
1					
2					
3					
4					
5					
6					
7					
8					
9					
3. Average monthly income of the AH (combined from all members): Rp_ _____				4. Average monthly savings: a. Rp_ _____ b. _____ . None	
5. Please estimate how much of the average monthly income of the AH goes to the following expense items (in Rp): a. Food: ___ b. Clothing: ___ c. Health: ___ d. House maintenance: ___ e. Education: ___ f. Savings/investment: ___					

6. Health concerns:

a. Most common ailments (not-serious) that afflicted members of the AH the past one year:

i. _____ ii. _____

b. Serious (acute) and chronic ailments of members of the AH the past year:

i. _____ ii. _____

c. For serious and chronic ailments that afflicted members of the AH the past year, did you go to a doctor, medical clinic, or hospital?

i. Yes

ii. No Why not? _____

d. Where is the nearest medical clinic or hospital located from where you live? i. Same village/ward of the AH

ii. In another village/ward

iii. In the district/town center

7. Sanitation concerns:							
a. Source(s) of water for drinking:					i. Ground well		
belonging to the AH		ii. Pump well belonging to the AH			iii. Piped water from public provider		
		iv. Public/neighbor's open well			v. Public/neighbor's pump		
		vi. River/canal					
		vii. Buy from retailers			viii. Other (specify) _____		
b. Source(s) of water for washing:					i. Ground well		
belonging to the AH		ii. Pump well belonging to the AH			iii. Piped water from public provider		
		iv. Public/neighbor's open well			v. Public/neighbor's pump		
		vi. River/canal					
		vii. Buy from retailers			viii. Other (specify) _____		
c. Toilet facility used by the AH:					i. Simple water sealed (use pail for flushing)		
Water sealed with flushing mechanism					ii. Open pit		
		iv. Closed pit			v. None		
d. Bathing facility used by the AH:		i. Enclosed bathroom in the house			ii. Open bathing area		
beside the house		iii. River/canal					
e. Garbage disposal practice: i. Burry by the AH ii. Collected by local government iii. Throw indiscriminately anywhere							
8. Main fuel/power used for lighting: i. Electricity from public provider ii. Kerosene iii. Rechargeable battery iv. Own generator							
v. Other							
9. Main fuel/power used for cooking: i. Electricity ii. Charcoal iii. LPG iv. Wood v. Other							
10. Ownership of home appliances:		i. Television		ii. Refrigerator		iii. Radio/cassette recorder	
player				iv. Telephone/cellphone		v. DVD/CD	
		vi. Oven/stove		vii. Electric fan		viii. Computer	
				ix. Air conditioner			
v. Others (specify)							
11. Ownership of transportation		i. Car Truck		ii. Pick-up		iii. Motorcycle	
				iv. Bicycle		v. Other (specify)	
						vi. None	

II. Reconstruction option of AH losing entire house and/or store:

1. Build on the remaining area of land outside of the plant site
2. Build on land of another person outside of the plant site
3. Relocate on another land owned by the AH unaffected by the project
4. Nowhere to go (landless informal setter)

III. Public Participation and perception about the Project:

1. Are you aware of the proposed construction of the (name of the project) that is located in your village/ward?
 - a. Yes Where or how did you learn about the proposed construction of the power plant?

 - b. No _____
2. What are your positive and/or negative views, if any, about the proposed project that is located in your village/ward?
 - a. Positive: _____
 - b. Negative: _____
3. Do you support the proposed project?
 - a. Yes: _____
 - b. No: _____

IV. Grievance redress:

1. If you have any complaint or concern regarding any aspect related to the proposed construction of the project that is located in your village/ward, such as accuracy of the inventory of your affected assets; amount or level of compensation for your affected assets; construction activities of the civil works contractor; etc.
 - a. To whom do you think your complaint or concern should be brought to? _____
 - b. In what way should you bring forward your complaint or concern? b.1 Verbal b.2 Written
2. In the event that you are not satisfied with the action taken by the person or office where you first brought your complaint or concern, to whom do you want to bring your complaint or concern next for appropriate action? _____

Name and Signature of head of AH or a representative of the AH

Relationship of representative with the AH

Name and Signature of Enumerator

Date accomplished: _____

INVENTORY OF LOSS OF AHs

INSTRUCTION: To be accomplished for all persons/households and organizations/institution with affected assets (e.g., land, houses, shops, waiting sheds, and trees) located within and near the land to be acquired

Survey Code: _____

I. **Location of the affected asset of the affected person (AP), affected household (AH), or**

A. Location of affected asset(s): District/SubDistrict: _____ Village: _____

B. Name* of Occupant/Owner of the Affected Asset(s):

organization

***NOTE:** If a single-person household, write the name of the AP; if an AH, write the name of the head of the AH. A person who lives alone by himself/herself is considered a single-person household.

II. **Affected Assets** (This section will be filled-out for all AHs affected by the loss of assets)

A.1 **Land:**

Classification* of affected land	Total area (m ²) of Land	Area (m ²) of the land to be acquired permanently	Area (m ²) of the land to be affected temporarily*	Area (m ²) of the land for which use will be restricted***	Type of Land Certificate with the Land Owner

***Classification:** According to what is written in the land certificate, it could be agricultural, residential, commercial, etc.

****Affected temporarily:** After construction, the land will be returned to its owner.

*** **Restriction** due to location below power transmission line/road access

B.1 **Main structures***

Type or use of the affected main structure**	Structure Classification n***	Total area (m ²) of the Structure	Area (m ²) of the affected portion of the structure	State whether the structure will have to be acquired/affected PARTIALLY or TOTALLY

***Main structures:** Regardless of structural condition and construction materials used, these are buildings that are fixed on the ground with at least four posts, with roof, and used as residence, shop or place of commerce, residence and shop at the same time, etc.

** **Use of main structure:** Examples are “house”, “shop”, “house-shop”.

*****Specifics of classification:** Use structure classification system of the local government (district or township).

B.2 **Tenure status over the affected main structures:**

Main Structure	Tenure (check the appropriate box below)			
	Owner	Tenant/ Renter	Occupying WITH permission of owner	Occupying WITHOUT permission of owner

	[]	[]	[]	[]
--	-----	-----	-----	-----

B.3 If the affected house/store/building does not belong to the AP/AH:

1. Name of owner of affected main structure	Address of owner of affected main structure	Paying Rent? <i>Check appropriate box below</i>		If Paying Rent, How much is Monthly Rent? <i>(Indicate in Rp)</i>
		No	Yes	
		[]	[]	
2. Does the tenant AH own a house/building elsewhere? [] No [] Yes, location:				

C. **Secondary structures*:**

Type of affected secondary structure	Structure Classification**	Total area (m ²) / length (lm) of the structure	Affected area (m ²) / length (lm) of the structure
1.			
2.			
3.			

***Secondary structures:** Structures that are not moveable and not part of the main structures, such as fence, driveway, waiting sheds, farm sheds, irrigation canal, etc.

** **Specifics of classification:** Use structure classification system of the local government (district or township).

D. **Type and number (count) of perennials:**

Name of perennial	Young and not yet bearing fruit	Bearing fruit (within age of peak production)	Bearing fruit (old)
1.			
2.			
3.			
4.			
Total			

E. **Income from annual crops:**

Name of crop	Net Yearly Income (Rp)	Land used WITH permission of owner	Land used WITHOUT permission of owner	Duration of Disruption (Check appropriate box)	
				Permanent	Temporary
1.		[]	[]	[]	[]
2.		[]	[]	[]	[]
3.		[]	[]	[]	[]
4.		[]	[]	[]	[]

F. **Loss of business and income:**

Nature of Business*	Net Monthly Income (Rp)	Duration of Disruption in Business Operation (Check appropriate box)	
		Permanent†**	Temporary
		[]	[]
		[]	[]

***Examples of business:** motor vehicle repair shop, grocery store, eatery, etc.

****Permanent:** No more space to re-organize the business. Therefore, it will stop operation permanently even after construction.

Table 4: Assessment Approach of SPI 204

Valuation Object	Input Base	Method	Remarks
Physical Losses:			
• Land or Land and structure	Market and non-market	Market approach Income approach	-
• Building and / or supplementary facilities	New replacement cost	Depreciated replacement cost method (DRC)	The calculation on depreciation shall only be used for the adjustment of the asset physical condition. If any deduction will be put back in the form of premium rate.
• Plants (may or may not include land)	Market	Income approach/DCF Market Approach Cost approach	"Single Cycle" For non-commercial crops, using references from the relevant authorities Immature plants
Non-physical Losses:			
<ul style="list-style-type: none"> • Compensation to the relinquishment of land rights owner, given in cash (premium): • Job loss or loss of business, including profession conversion • emotional losses (solatium) 	<p>Market and non-market</p> <p>Additional compensation calculated based on the percentage of the value of physical loss</p>	Income approach Cost approach	<p>Based on the prevailing regulations and laws</p> <p>Losses due to cessation or closure of business premises. Examples: fish farmers, restaurant, garage.</p> <p>Example: 20% – 30% of the value of physical compensation to the benefit of the owner's residence</p>
Transaction cost	Relocation cost Land Discharge cost Related taxes Land Deed cost	Cost approach	Based on socioeconomic study conducted by expert consultants and / or applicable laws and regulations
Waiting period compensation	Based on the risk-free rate, or interest on government bank deposits	Cost and market approach	Based on applicable laws and regulations or other binding opinions
Residual Land losses	Market	Market data approach	Based on applicable laws and regulations
Other non-physical losses	Reparation cost	Cost approach	Based on applicable laws and regulations or other binding opinions

Guide in the Preparation of a Resettlement Plan and Customary Communities Plan

Resettlement Plan (Source: ADB SPS 2009)

A. Executive Summary

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

B. Project Description

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

C. Scope of Land Acquisition and Resettlement

This section:

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

D. Socioeconomic Information and Profile

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

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

E. Information Disclosure, Consultation, and Participation

This section:

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

process for consultation with affected persons during project implementation.

F. Grievance Redress Mechanisms

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

G. Legal Framework

This section:

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

H. Entitlements, Assistance and Benefits

This section:

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

I. Relocation of Housing and Settlements

This section:

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

J. Livelihood Restoration and Rehabilitation

This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on
- (ii) demographic data and livelihood sources;
- (iii) describes livelihood restoration programs, including multiple options for

- restoring all
- (iv) types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (v) outlines measures to provide social safety net through social insurance and/or project special funds;
- (vi) describes special measures to support vulnerable groups;
- (vii) explains gender considerations; and
- (viii) describes training programs.

K. Resettlement Budget and Financing Plan

This section:

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

L. Institutional Arrangements

This section:

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

M. Implementation Schedule

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

N. Monitoring and Reporting

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

Resettlement and Customary Development Plan

I. Project Description

- A. Project Overview
- B. Project Location and Route
- C. Project Components Resulted from Land Acquisition and Involuntary Resettlement
- D. Measures Adopted to Minimize Resettlement Impacts

II. Social Impact Assessment and Scope of Land Acquisition and Resttelerment

- A. Potential Adverse and Positive Impact of The Project To The Affected Persons And Customary Communities And Necessary Measures To Avoid Or Minimize Adverse Impacts
- B. Characteristic of Affected Persons and Customary Communities
- C. Socioeconomic Survey
- D. Inventory of Losses and Detailed Measurement Survey
- E. Replacement Cost Study and Assessment

III. Socio Economic Profile of Affected Households

- A. Basic Socioeconomic Information from the Census of APs
- B. Educational Attainment
- C. Livelihood and Household Income
- D. Health and Sanitation
- E. Amenities in AHs Surveyed
- F. Perception About the Project and Suggestions

IV. Consultation, Participation and Information Disclosure

- A. Consultation and Participation
- B. Institutional Roles in the Conduct of Consultations
- C. Disclosure

V. Grievance Redress Mechanism

- A. Related to Location of Project Component
- B. Related to Compensation
- C. Related to Other Aspects of the Project

VI. Legal and Policy Framework

- A. Relevant Laws and Regulations In Indonesia
- B. ADB Safeguards Policy Statement of 2009
- C. Gaps Analysis and Project Principles
- D. Principles of Land Acquisition and Resettlement Policy for the Project
- E. Land Acquisition Process
- F. Measures to Address Gender Issues

VII. Project Entitlements, Assistance and Beneficial Measures

- A. Eligibility and Compensation
- B. Relocation/Replacement Land
- C. Livelihood Restoration Program
- D. Special Attention to the Vulnerable Groups and Gender Strategy
- E. Unanticipated Impacts

VIII. Budget and Financing Plan

- A. Procedures for flow of funds
- B. Cost estimates and inflation adjustment
- C. Implementation, administration and contingency costs
- D. Estimated Cost of Resettlement

IX. Institutional Agreements and Implementation

- A. Institutional arrangement responsibilities
- B. Capacity building program

X. Implementation Schedule

- A. RCCDP Updating and Implementation
- B. Detailed measurement survey and updated census of AHs

XI. Monitoring and Reporting

- A. Internal Monitoring and Reporting
- B. Assessment and Evaluation

Appendices

Guide in the Preparation of a Due Diligence Report

A typical DDR/audit report includes the following major elements:

- (i) Executive summary;
- (ii) Introduction that includes the audit and site investigation procedure;
- (iii) Facilities description, including both past and current activities;
- (iv) Summary of national, local, and any other applicable laws, regulations, and standards;
- (v) Findings and areas of concern;
 - Scope of land acquisition
 - Presence / Absence of indigenous peoples
 - Scope of impacts / losses
 - Consultations
 - Prevailing policies and methods for valuation of associated losses
 - Livelihood restoration and assistance to vulnerables and severely affected
 - Perceptions on land and non-land acquisition
 - Grievance redress
 - AP perception about the proposed subproject
- (vi) Corrective action plan that provides the appropriate corrective actions for each area of concern, including costs and schedule.

Sample Negotiated Settlement Agreement

The following agreement has been made on.....day of between Mr./Ms. , aged....., resident of zone, district (the owner) and (the recipient/subproject proponent).

1. That the land with certificate no.....is a part of, is surrounded from eastern side by....., western side by....., northern side by, and southern side by..... .
2. That the owner holds the transferable rights of land(area in sqm), with plot No..... at the above location (include a copy of the certified map, if available) .
3. That the Owner testifies that the land/structure is free of squatters or encroachers and not subject to any other claims.
 - a. That the owner(s) agree to sell above assets for the negotiated price in accordance with the attached schedule.
 - b. That the project owners agree to pay the agreed price for the land and other assets within two weeks from the date of getting approval for the project from the Government of/IAs
 - c. In case of any delay in payment within the stipulated time, this agreement will become null and void and the recipient will no longer have any claim over the land and assets.
4. That the recipient shall construct and develop theand take all possible precautions to avoid damage to adjacent land/structure/other assets.
5. That the provisions of this agreement will come into force from the date of signing of this deed.

.....
Name and Signature of the Owner

.....
Signature of subproject proponent/
representative

Witnesses:

1.....

2.....

(Signature, name and address)

Suggested Outline for the Internal Monitoring Report Date of Monitoring Period

I. GENERAL INFORMATION ABOUT THE PROJECT

A. Project Objectives

State the project objectives as consistently as possible. Refer to stipulations in both the PAM and the RCCDDF.

B. Project Components

Again, with reference to the PAM and RCCDF, enumerate and briefly describe the subproject components.

C. Scope of Project Impacts

Present impacts by loss per subproject as applicable, discuss each and should there be changes through each monitoring period.

- Per IOL/DMS – Losses (land, structure, trees, and crops)
- Impact on customary community (Group and number of AHs)
- By severity (Number of AHs)
- Permanent/Temporary (Number of AHs)
- By vulnerability (Number of AHs)

II. OBJECTIVES AND SCOPE OF SOCIAL SAFEGUARDS INTERNAL MONITORING

A. Objectives of Internal Monitoring

Refer to RCCDF Chapter on monitoring. Always remember to balance involuntary resettlement (IR) and indigenous peoples (IP) safeguards under the ADB SPS 2009:

B. Scope of Internal Monitoring: Required Social Safeguards Documents

Table 1: Status of Required Social Safeguards Documents as of (Date, Month, Year)

Subproject	Social Safeguards Document	Remarks
Subproject ??		
Subproject ??		
Subproject ??		
Subproject ??		
Subproject ??		
Subproject ??		
Subproject ??		

III. DETAILED SOCIAL SAFEGUARDS IMPLEMENTATION PROGRESS

There are 5 key areas of concern as regards social safeguards implementation and these are:

- (i) Consultation and participation of customary communities, where applicable
- (ii) Public information, disclosure and consultation
- (iii) Payment of compensation, allowances, and assistance viz civil works
- (iv) Livelihood restoration/project benefit to the AHs and communities around the project area
- (v) Grievance redress

A. Consultation and Participation of Customary Communities and AHs**B. Public Information Disclosure and Consultation****1. Disclosure**

Provide text for Table 2.

Table 2: Disclosure on Social Safeguards Planning Documents and Related Activities as of (Date, Month, Year)

Subproject	Safeguards Document	Information disseminated	Date	Method of dissemination	Key issues
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					

2. Consultations

Provide text for Table 3 that summarizes the Public Consultation and Participation activities and outcomes during the monitoring period. Attendance will be disaggregated by gender and ethnicity – member of customary community (CC) or not as indicated in the screening guide of the RCCDF – Volume 2 Appendices 1-3.

Table 3: Consultation / Meetings Conducted as of (Date, Month, Year)

Subproject	Social Safeguards Document	Consultation topic	Date	Venue	Participants				Key Issues
					Male		Female		
					CC	Non-CC	CC	Non-CC	
Subproject ??									
Subproject ??									
Subproject ??									
Subproject ??									
Subproject ??									
Subproject ??									
Subproject ??									
Totals									

B. Payment of Compensation, Allowances, and Assistance Viz Civil Works**1. DMS Process**

Complete Table 4 and discuss particulars in text.

Table 4. Updated Progress of Social Safeguards Implementation as of (Date, Month, Year)

Subproject	Safeguards Document	DMS		Payment of Compensation		Resettlement and site clearance		Bid awarded
		Start	End	Start	End	Start	End	
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								

2. Progress of Payments for Compensation, Relocating AHs and Civil Works

This section covers two key areas as operationalized for this monitoring period: (i) compliance to payment of compensation and allowances - noting relocation, and (ii) start of civil works. The purpose of this section is to assess progress and readiness to hand land over for civil works as well as compliance with conditions for handing over. Complete Table 5 below and present key points in text.

Table 5: General Progress in Land Clearance and Handing Over of Land for Civil Works as of (Date, Month, Year)

Subproject	Safeguards Document	AHs Eligible for Compensation/ Allowance			AHs Required to Relocate		Remaining Encumbrances (Yes/No)	Date Land Hand Over for Civil Works
		Total AHs	# AHs fully paid	% Progress	Total AHs	Actual AHs to be Resettled		
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Subproject ??								
Totals								

C. Livelihood Restoration and Rehabilitation

Restoration and rehabilitation approaches may vary significantly from village to village. Complete Table 6 and describe participation to available livelihood restoration and rehabilitation programs, disaggregated by gender and ethnicity (CC). You may add more for the type of livelihood restoration.

Table 6: Participation to Livelihood Restoration and Rehabilitation as of (Date, Month, Year)

Subproject	Safeguards Document	Participation to Livelihood Restoration Activities																								GRAND TOTAL		
		CSR x						CSR y						CSR z						Male			Female			Total		
		Male		Female		Total		Male		Female		Total		Male		Female		Total		Male	Female	Total	Male	Female	Total			
		CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total	CC	Non-CC	Total			
Kaltim 2 Peaker	DDR																											
Kupang 2 Peaker	RCCDP																											
Minahasa Peaker?	RP																											
KaiBar?	RP???																											
Subproject x	IPP???																											
Subproject y	Etc																											
Subproject z	Etc																											
Totals																												

4. Other Remarks on Livelihood Restoration

Please describe any issues encountered and approaches to resolve identified issues (if at all).

D. Grievance Redress

When grievances surface, provide a narrative summary of grievance cases by type of issue and location. How grievances are resolved must be documented as these happen. Refer to Table 7 to present this section in text form.

Table 7: Status of Grievance Redress as of (Date, Month, Year)

Subproject	Safeguards Document	Grievance			Elevated to Court: # of complainants
		Grievance Topic	# of complainants	# of satisfied AHs	
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Subproject ??					
Total					

IV. INSTITUTIONAL SUPPORT TO SOCIAL SAFEGUARDS

A. Staff Support to Ensure Compliance

This section presents the involvement of social safeguards-related staff within PIU and Project Implementation Consultant. All focal persons will be listed along with contact details. Include any issues specifically addressed by management when engaging at the site level.

B. Funding Allocation and Disbursement

Funds disbursement refers to handing over payments from the IAs-Pusat down to APs per stipulated social safeguard document budget allocation. Discuss Table 8.

Table 8: Disbursement of Funds as of (Date, Month, Year)

Subproject	Safeguards Document	Social Safeguards Budget	Funds Disbursed this Monitoring Period	Comment/s
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Totals				

V. OVERALL STATUS, ISSUES, CONCERNS, AND PROPOSED ACTIONS

Under this section, provide information on identified issues impacting the implementation of social safeguards compliance. You may choose to divide this section by crosscutting issues or by social safeguard document type. These may include resource constraints, changes in scope of impacts, etc.

For succeeding internal monitoring reports, it is imperative to include resolution of issues cited in previous internal monitoring reports as well as those that may be cited during independent evaluation from ADB Headquarters.

With Table 9 below, indicate the estimated percentage of work accomplished eventually through time reflecting cumulative achievements per subproject up to the point of the current monitoring period.

TABLE 9: Social Safeguards Implementation Progress as of (Date, Month, Year)

ACTIVITIES	Subproject	Subproject	Subproject	Subproject	Subproject	Subproject	Subproject
Location stipulation (N/A for negotiated LA)							
Formation LAIT/LAT							
Appointment of Independent Appraisal							
Public information dissemination & consultation with APs & CCs							
Detailed Measurement Survey (DMS)							
Disclose DMS in the public space							
Preparation & disclosure of Compensation Plan to APs							
Update of social safeguards document (if applicable) & approval of ADB							
Payment of Compensation & allowances							
Implementation of IRP							
Relocation process (if any)							
Resettlement & Land Clearance							

For Table 10, indicate the issues and concerns per subproject as indicated in the headings and the way forward to overcome issues and concerns.

Table 10: Social Safeguards Issues, Concerns and Proposed Actions as of (Date, Month, Year)

Subproject	Safeguards Document	Issues and Concerns		Proposed Action/s
		New/Current	Pending from previous monitoring reports	
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				
Subproject ??				

Attachment 1. Minutes of Consultations Conducted as of (Date, Month, Year)

Attachment 2. Photo-documentation for the Monitoring Period

Monitoring Parameters and Suggested Indicators

Monitoring parameters	Suggested indicators
RESETTLEMENT	
Consultation and Grievances	<ul style="list-style-type: none"> • Consultations organized as scheduled including meetings, groups, and community activities. • Knowledge of entitlements by the APs (of customary communities, women, men, and other vulnerable groups). • Use of the grievance redress mechanism by the APs (of customary communities, women, men, and other vulnerable groups). • Information on the resolution of the grievances. • Information on the implementation of the social preparation phase. • Implementation of special measures for customary communities.
Communications and Participation	<ul style="list-style-type: none"> • Number of general meetings (for customary communities, women, men, and other vulnerable groups). • Number of meetings exclusively with customary communities. • Percentage of women out of total participants. • Number of meetings exclusively with women. • Number of meetings exclusively with vulnerable groups. • Number of meetings between hosts and the APs. • Level of participation in meetings (of customary communities, women, men, and other vulnerable groups). • Level and adequacy of information communicated. • Information disclosure. • Translation of information disclosed in the local languages.
Delivery of Entitlements	<ul style="list-style-type: none"> • Entitlements disbursed, compared with number and category of losses set out in the entitlement matrix. • Disbursements against timelines. • Identification of APs losing land temporarily, e.g. through soil disposal, borrow pits, contractors' camps, have been included. • Timely disbursements of the agreed transport costs, income substitution support, and any resettlement allowances, according to schedule.

Monitoring parameters	Suggested indicators
	<ul style="list-style-type: none"> • Provision of replacement land plots. • Quality of new plots and issuance of land titles. • Restoration of social infrastructure and services. • Progress on income and livelihood restoration activities being implemented as set out in the livelihood restoration plan. • Affected businesses receiving entitlements, including transfer and payments for net losses resulting from lost business.
Budget and Time Frame	<ul style="list-style-type: none"> • Social safeguards staff appointed and mobilized on schedule for field and office work. • Capacity building and training activities completed on schedule. • Achieving resettlement and customary community implementation activities against the agreed implementation plan. • Funds allocation for resettlement-to-resettlement agencies on time. • Receipt of scheduled funds by resettlement offices. • Funds disbursement according to the RCCDP/RP//DDR. • Social preparation phase as per schedule. • Land acquisition and occupation in time for implementation.
Livelihood Restoration	<ul style="list-style-type: none"> • Number of APs under the rehabilitation programs (customary communities, women, men, and vulnerable groups). • Number of APs who received vocational training (customary communities, women, men, and vulnerable groups). • Types of training and number of participants in each program. • Number and percentage of APs covered under livelihood programs (customary communities, women, men, and vulnerable groups). • Number of APs who have restored their income and livelihood patterns (customary communities, women, men, and vulnerable groups). • Number of new employment activities. • Extent of participation in rehabilitation programs. • Extent of participation in vocational training programs. • Degree of satisfaction with support received for livelihood programs. • Percentage of successful enterprises breaking even (customary communities, women, men, and vulnerable groups). • Percentage of APs who improved their income (customary communities, women, men, and vulnerable groups) • Percentage of APs who improved their standard of living (customary communities, women, men, and vulnerable groups) • Number of APs with replacement agriculture land (customary communities, women, men, and vulnerable groups) • Quantity of land owned/contracted by APs (customary communities, women, men, and vulnerable groups) • Number of households with agricultural equipment • Number of households with livestock
Benefit Monitoring	<ul style="list-style-type: none"> • Noticeable changes in patterns of occupation, production, and resource use compared to the pre-project situation. • Noticeable changes in income and expenditure patterns compared to the pre-project situation. • Changes in cost of living compared to the pre-project situation. • Changes in key social and cultural parameters relating to living standards.

Monitoring parameters	Suggested indicators
	<ul style="list-style-type: none"> • Changes occurred on customary communities and other vulnerable groups benefiting from the project.
CUSTOMARY COMMUNITIES	
Demographic baseline	<ul style="list-style-type: none"> • The numbers of affected members of customary communities by category of impact, gender, age, habitat (village etc), income, status and position • Number of households with handicapped, elderly or invalid members • Number of female headed households • Number of vulnerable households (poor, elderly) • Number of households by ethnic group • Number of births and deaths
Consultation and participation	<ul style="list-style-type: none"> • Number of consultation and participation activities that occur -meetings, information dissemination, brochures; flyers, training • Percentage of women members of customary communities as participants; number of meetings exclusively with women members of customary communities • Percentage of vulnerable members of customary communities represented / attending meetings; number of meetings exclusively with vulnerable customary communities • Languages used at meetings • Good faith negotiations—recording of process, participants, locations, correspondence • Broad community support—record of processes, participants, locations and agreement obtained • Consultation and participation progress against plan and budget

Source: ADB Source Book on A Planning and Implementation Good Practices on Involuntary Resettlement and Indigenous People Safeguards, 2013; RCCDF INO: Sustainable Energy Access in Eastern Indonesia-Power Generation Sector Project, 2018