

Resettlement Framework

August 2013

Mongolia: Ulaanbaatar Urban Services and Ger Areas Development Investment Program

Prepared by {complete and accurate name of government agency or private sector project sponsor} for the Asian Development Bank.

Resettlement Planning Document

Draft Resettlement Framework
Document Stage: Draft for Review
Project Number 7970-Mon
July 2013

**Ulaanbaatar Urban Services and Ger Areas
Development Investment Program
22 August 2013**

Definition of Terms

Affected Household: All persons residing under one roof and eating from the same kitchen, who are adversely affected by the Project, or any of its components; may consist of a single nuclear family or an extended family group

Affected Persons: 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.

Compensation: Cash or in-kind payment of the replacement cost of an asset lost due to Project-related impacts

Entitlement: Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to affected people, depending on the nature of their losses, to restore their economic and social base

Host Population: Community residing near the area where the affected entities are relocated

Income Restoration: Reestablishment of income sources and livelihoods of affected entities

Involuntary Resettlement: Full or partial, permanent or temporary physical displacement (relocation, loss of residential land or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a consequence of development projects, compelling affected entities to rebuild their lives, incomes and asset bases

Land Acquisition: The process whereby a person is compelled by a government agency to relinquish their land or land use rights to the government (i) for a public purpose and (ii) in return for compensation. This land may be either owned or possessed by the affected person.

Rehabilitation: Compensatory measures provided under the ADB Policy Framework on Involuntary Resettlement other than payment of the replacement cost of acquired assets

Relocation: The physical resettlement of an AP from her/his pre-Project place of residence

Replacement Cost: The value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material

Servitude (easement): A restriction or obligation attached to a property that entitles somebody other than the owner to a specific use of it such as the right to cross it or occupy it temporarily for maintenance of utility services.

Social Preparation: Process of consultation with affected entities undertaken before key resettlement decisions are made, to build their capacity to deal with resettlement

Subcenter: Subcenters are clusters of public facilities and businesses (often) with an associated transport hub. Generally, they are characterized by urban settlement around public infrastructure built during the Soviet period and new public amenities built more recently by government and donor programs (for example khoroo offices, police stations, schools and kindergartens). Their sphere of influence is from 30,000 to more than 100,000 people. Residential areas surround the core of subcenter and consist mostly of individual residential structures on large plots, although in some areas a densification process has started by the division of the parcels and construction of multifamily houses.

Temporary Land Use Impacts: When land outside the proposed ROW is required temporarily to carry out construction, persons may be affected in terms of temporary land loss, damage to attachments or disruption of living or business conditions, for which compensation or mitigation is required to offset such impacts

Vulnerable Groups: Distinct group of people (poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement effects

Abbreviations

ADB	Asian Development Bank
BIC	Business Incubator Centre
DMS	detailed measurement survey
EMA	external monitoring agency
GAF	Grievance Action Form
GOM	Government of Mongolia
GRM	grievance redress mechanism
IPSA	initial poverty and social assessment
IR	Involuntary Resettlement
IRP	Involuntary Resettlement Policy
RP	resettlement plan
M&E	monitoring and evaluation
MFF	multitranches financing facility
MUB	Municipality of Ulaanbaatar
PMO	project management office
PRD	Property Relations Department
PSC	Program Steering Committee
ROW	right of way
RPIC	Resettlement Plan Implementing Committees
SIA	social impact assessment
SPS	Safeguard Policy Statement
SRA	Subcenter Redevelopment Agency
UB	Ulaanbaatar
USGDIP	Ulaanbaatar Urban Services and Ger Area Development Investment Program
VTC	Vocational Training Center

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I. INTRODUCTION

1. This document constitutes the resettlement framework (RF) for the Ulaanbaatar Urban Services and Ger Area Development Investment Program (USGDIP). The RF describes the policies that the project will follow regarding eligibility, entitlements, valuation, participation, resettlement implementation, and monitoring and evaluation related to program land acquisition and resettlement impacts. The RF has been prepared in accordance with the Asian Development Bank's (ADB's) Safeguard Policy Statement (SPS) on environment and social safeguards, and in particular Safeguard Requirements 2: Involuntary Resettlement, as well as national legislation and guidelines.

2. This RF serves as the foundational document for land acquisition and resettlement activities undertaken at all sites impacted by the USGDIP. Impacts may include (i) land acquisition, (ii) acquisition of physical structures and utilities, (iii) loss of livelihoods due to temporary or permanent loss of access to land or other productive assets, and (iv) loss of common/community resources.

3. This RF is agreed upon between the Government of Mongolia (GOM) and ADB and establishes a policy framework for compensation eligibility and entitlements for all types of project affected persons (APs). It outlines the steps required to prepare satisfactory Resettlement Plans (RPs) and stipulates arrangements for consultation and public participation, grievance redress, and monitoring and evaluation.

A. Project Description

4. The proposed investment program aims to improve the quality and coverage of urban infrastructure and basic services, and to implement a sustainable and inclusive process of urban development in Ulaanbaatar's Middle *Ger* Areas.¹ It is expected to directly benefit 400,000 people living in the Middle *Ger* Areas and to indirectly benefit the entire population of Ulaanbaatar. Combining spatial and sector approaches, it will support the socioeconomic development of existing urban subcenters and urban corridors to progressively transform the ger areas into more liveable, productive and well-functioning urban areas with improved residential, commercial and public services. To be developed in close coordination with the Government and international partners, the investment program is envisioned to provide a long-term commitment by ADB to the Municipality of Ulaanbaatar (MUB) to implement key physical investments, policy reforms, institutional strengthening, and capacity development.

5. The expected impact of the investment program will be improved living conditions in Ulaanbaatar. The expected outcome will be a sustainable, inclusive, and well-structured development of ger areas in Ulaanbaatar. The investment program will produce an investment plan, which will include asset creation, operation, and maintenance; and frameworks for institutional development and coordination, a legal and regulatory environment conducive to ger development, and capacity development.

¹ There are three types of *ger* areas: (i) Central *Ger* Areas are located around the city's built core and where the potential for access to water, roads, and solid waste collection is highest. They are characterized by modern style buildings, which are replacing the traditional *gers*, and developing microenterprises as household incomes and savings increase. (ii) Middle *Ger* Areas are located around the Central *Ger* Areas and whose inhabitants depend on water from tankers and use pit latrines. These areas have intricate streets that are difficult to access and are prone to flooding because of lack of drainage—with conditions worsening during the winter months. (iii) Peri-Urban *Ger* Areas surround the Middle *Ger* Areas and are expanding at an accelerating pace. They have the least access to basic infrastructure and services. Inhabitants of these areas mainly rely on tanked water supply, simple pit latrines, and are built on or along hazardous sites near high-tension lines, natural drainage channels, or steep slopes.

6. The USGDIP is proposed to be funded through a multitranche financing facility (MFF) lending modality totaling up to \$350 million over a period of 10 years or which the first tranche will be approximately \$45 million.

7. The first tranche will support the city master plan to develop Selbe and Bayankhoshuu subcenters: (i) construction of sewerage network extension from the city core of 6.1 kilometers (km) collector main, 2.9 km of sewer pipe extension; (ii) within the subcenters, 15 km priority roads; 17.6 km water supply network, 18 km sewerage network, 21 km district heating network and five heat-only boilers for a total capacity of 42 megawatts; (iii) social and economic facilities, such as (a) two kindergartens, green areas, and small squares; and (b) two business incubators, associated with two vocational training centers. The first tranche will focus on two priority subcenters, Selbe and Bayankhoshuu, located in the north and north-west of Ulaanbaatar City respectively. The Selbe subcenter covers an area of 156 hectares and is host to approximately 1,970 *khashaa* (parcels/house plots). Bayankhoshuu, slightly larger at 162 hectares, hosts approximately 2,114 *khashaa*.

8. If successful, the program's activities will be further expanded within the two subcenters, with this expansion funded by the second tranche of investment. In Bayankhoshuu, the subcenter would be expanded to include Bayankhoshuu 3 and there would be additional investments made into improving the areas roads and other infrastructure. In Selbe, it is planned to provide additional neighborhoods with connections to trunk infrastructure and with improved roads. This expansion is planned first for the western portion of Selbe, including the neighborhoods of Chingeltei, Khailast, and the Market Area; and then if feasible, for the eastern portion of Selbe, including the neighborhoods of Dambadajaa, and Dari-Ekh 1, 2, and 3. The remainder of the second tranche of investment will be used to study the feasibility of using the third tranche of investment to replicate program activities in a major subcenter in eastern Ulaanbaatar, such as Amgalam or Uliastai.

B. Potential Resettlement Impacts

9. Based on preliminary designs, an assessment of land acquisition and resettlement impacts from tranche 1 activities was made. As the location of a number of facilities, including kindergartens, business incubator/vocational training centers, parks and boiler houses, will only be identified through a forthcoming community led planning exercise, the assessment was restricted to improvements to roads and construction of service infrastructure. These components will be prepared after Board approval in accordance with the provisions of ADB Operations Manual FI (paragraph 51) and this RF. The land acquisition and resettlement impacts of these subprojects will be insignificant.

10. Table 1 presents expected impacts associated with identified infrastructure investments, based on geographic information system mapping analysis and field verification of preliminary designs.

Table 1: Tranche 1 Land Acquisition and Resettlement Impacts (Status June 2013)

Subcenter	Affected Households/ Entities	Structures # ²		Land m ²
		Residential	Other ³	
Bayankhoshuu	23	5	5	6,350 ⁴
Selbe	52	30	34	6,800 ⁵

² Assessment of estimated impact resulting from improvements to roads and construction of service infrastructure. Excludes impacts to immovable assets related to development of social facilities, the locations for which yet to be confirmed.

³ Includes latrines, sheds, garages and other ancillary structures.

⁴ Includes 4,600 m² for development of social facilities.

⁵ Includes 4,600 m² for development of social facilities.

C. Land Acquisition and Resettlement Related Program Processing Requirements of ADB

11. Land acquisition tasks for the approval and implementation of the USGDIP and each tranche will require the preparation of the following documents:

- (i) A RF applicable to all subprojects implemented under the investment program. The RF will be reviewed and submitted for ADB approval.
- (ii) An initial poverty and social assessment (IPSA) and categorization for each tranche indicating land acquisition impacts, magnitude, and type and likelihood of impacts on Indigenous Peoples (IP).
- (iii) A resettlement plan (RP) prepared in conformity with this RF for each subproject or component that entails physical and/or economic displacement. The RP will detail the compensation measures adopted and their costs and will identify both a schedule and the actors responsible for implementation. The RPs for the first tranche will be approved when the USGDIP is approved by ADB.

12. The appraisal of the USGDIP and subsequent approval for project implementation will be based on the following conditions:

- (i) USGDIP and first tranche appraisal: Conditional to the preparation and disclosure of: (a) RF acceptable to ADB and Government, (b) IPSA, and (c) RPs acceptable to ADB and Government for Project (Tranche) 1 subprojects involving land acquisition and resettlement.
- (ii) Approval of PFRs subject to preparation and disclosure of RPs consistent with the RF and acceptable to ADB and Government for each tranche subproject.
- (iii) Implementation–Start of Contract (construction) for subprojects with impacts on landholdings: Conditional to the disclosure of final RPs acceptable to ADB and reflecting final impacts, affected person lists, and compensation rates.
- (iv) Initiation of physical civil works in subproject sections with impacts on landholdings: Conditional to the full implementation of the relevant RP including full delivery of compensation and rehabilitation. Such a condition will be clearly spelled out as a condition of award in the text of the civil works contract.

II. Objectives, Policy Framework, and Entitlements

13. The main objective of this RF is to set out a policy and entitlement framework, as well as procedures for preparing and approving subproject RPs as per SPS. It provides tools to project proponents and stakeholders that will ensure that all affected entities receive the appropriate assistance, compensation and access to project planning in a timely manner to enable them to maintain a level of well-being, which is at least equivalent to or better than what it would have been without the subproject. To achieve this, the affected entities must be fully informed, closely consulted, compensated for their losses, assisted to gain possession or ownership of replacement land and property, in order to reestablish their living conditions and enterprises. All affected entities should be provided opportunities to participate in any decision making pertinent to involuntary resettlement (IR).

A. Legal Framework of Mongolia for Land Acquisition and Resettlement

14. Mongolia does not have dedicated and comprehensive law on land acquisition. The system regarding taking over land for state purposes remains incomplete, imprecise, and fails to adequately protect the rights of affected persons. Firstly, the scope for taking over land is limited to national State needs, which means that when land must be acquired for such important needs as urban infrastructure it can only be purchased by agreement with the owner. Secondly, the rights of affected persons to compensation and resettlement measures fall short of international social safeguard standards. Thirdly, the procedures that the State must follow in acquiring land are not fully defined.

15. The Government of Mongolia, with the support of the Asian Development Bank and other development partners, is currently in the process of reforming its legal framework for urban development, including those laws related to involuntary land acquisition and resettlement for public need. This will support the implementation of the GOM's urban development strategy.

16. Article 6.17 of the draft Law on Land Acquisition with Compensation Based on Inevitable Public Need currently before parliament extends the power of the State and local government to acquire private property for State special and public needs as defined in Article 13.4 of the proposed amendments to the Land Law, including (but not limited to) development of water and waste water systems, and road construction and improvement. .

17. The basic legislative framework for land acquisition and resettlement under the existing regime consists of the Constitution (1992), the Land Law (2006) and the Law on Allocation of Land to Private Citizens (2003), as well as the Civil Code. The Land Law specifies three kinds of private land tenure: (i) ownership, which may be granted only to citizens of Mongolia; (ii) possession, granted under license, to Mongolian citizens, economic entities and organizations, for terms of 15 to 60 years, extendable up to 40 years at a time; and (iii) use, granted under contract or lease to foreign countries and legal entities.

18. The Constitution of Mongolia states, *inter alia*, that "The State shall have the right to hold landowners responsible in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security" and "If the State and its bodies appropriate private property on the grounds of exclusive public need, they shall do so with due compensation and payment" respectively.

19. The Land Law governs expropriation of land allocated for possession or use. The Law on Allocation of Land to Private Citizens contains provisions respecting expropriation of land under private ownership. Non-titled occupants of land are considered illegal land users

and can be evicted on the basis of Article 27.4 of the Land Law, which states that “possessing land without a valid license is prohibited”.

20. Article 13.1 of the Land Law lists special needs for which land in private possession can be acquired by the state: (i) land under special government protection; (ii) border strip lands; (iii) land for ensuring national defense and security; (iv) land for foreign diplomatic missions and consulates, as well as resident offices of international organizations; (v) free zone area; (vi) land for scientific and technological tests, experiments and sites for regular environmental and climatic observation; and (vi) *aimag* level reserve rangelands.

21. Article 32 of the Law on Allocation of Land to Private Citizens includes among the special needs “to build roads, lines and networks and other objects of national scale” (32.1.3). Article 13 of the Land Law defines land under roads and networks as “land outside cities, villages and other urban settlements” (13.1).

22. Article 3 of the Law on Auto Roads defines as national scale roads those which connect the capital city to *aimag* cities, *aimag* cities to *aimag* cities and *aimag* cities to border points and defines local scale roads as those which connect soums, districts, cities and urban settlements in the territory of the capital city and *aimags* (3.1.8).

23. Consequently, urban roads, water supply and sewerage facilities and district heating facilities, belonging to cities, villages and other urban settlements, are on a local scale. Accordingly, the civil works under the USGDIP are not of a national scale, so exercise of eminent domain under current legislation is not possible.

24. In the absence of legal provisions regulating land acquisition and resettlement in the context of local scale infrastructure facilities, including roads and sewerage networks, the Civil Code provides a legal framework which place land acquisition and resettlement in the context of negotiated settlement. This implies that the State or its legally appointed agents and affected persons engage with each other contractually as equal and autonomous legal persons and participants in a civil legal relationship (Article 1). Citizens and organizations, as well as aimags, the capital city, soums and districts are able to enter into civil legal relations with regard to objects of material and non-material wealth and their acquisition and possession (Articles 6, 7 and 8).

25. Chapter 10 of the Civil Code defines property and assets, including land and other immovable property. Chapter 11 details provisions for their possession by legal acquisition and Chapter 12 for property ownership by individuals and other legal persons. The Civil Code in Article 101 provides general terms for the possession, use and disposal of property (further elaborated in Articles 109 to 112), but refers to the subsequently enacted Land Law and Land Allocation Law with regard to land ownership and possession. A number of special provisions pertaining to common property ownership (Article 108), common property of family members (Articles 126 and 128) and easements (servitude) (Article 151) may be relevant to specific cases in the USGDIP. Chapter 15 stipulates the negotiated agreement on transfer of land.

26. The right of a landowner to dispose of owned land through sale ‘according to relevant procedures’ (notarized contract) is guaranteed in Article 27 of the Law on Allocation of Land to Private Citizens. Possessors, according to Articles 35 and 38 of the Land Law, are also entitled to transfer their possession licenses via a notarized contract, but need to seek the approval of the governor of the soum or district.

27. The local practice of land acquisition and resettlement among district or *soum* and *khoro* or *bagh* level land administration officers, sanctioned by the Directors of the Capital City or *Aimag* Property Relations Departments, does to some extent reflect the legal framework of the Civil Law based on contracts between autonomous legal persons, but also contains certain elements of involuntary land acquisition and resettlement. After identification of the required properties, affected persons are sent official notifications or “demand letters” by the Property Relations Department, often repeatedly, if no positive response to the

government's claim to land is forthcoming. Thereafter, negotiations about the terms of compensation take place with titled affected persons (owners and possessors) and eventually a written agreement is reached. The land administration officers generally follow Cabinet Resolution 103 of 13 April 2003, which determines land valuation tariffs. Once at least 50 percent of the agreed compensation is paid, the land is acquired; when structures have been moved or land is vacated so construction works can commence, the remaining compensation is paid.

B. ADB Involuntary Resettlement Policy Requirements

28. The 2009 ADB Safeguard Policy Statement (SPS) outlines the requirements that ADB borrowers/clients are required to meet in delivering involuntary resettlement (IR) safeguards to ADB supported projects. The overriding objectives of the safeguards are: (i) avoid involuntary resettlement wherever possible; (ii) minimize IR by exploring project and design alternatives; (iii) improve, or at least restore the assets, living conditions and livelihoods of affected persons; and (iv) improve the standards of living of vulnerable displaced groups.

29. The ADB's IR safeguards state that eligibility includes all people with formal legal rights to affected land (in whole or part) and those who have claims to the affected land that is recognized under national laws. People without formal legal rights or recognized claims, but who have occupied the land or structure prior to the agreed upon and publicized cut-off date, are eligible for compensation for non-land assets and resettlement assistance.

30. The ADB's IR principles also describe the compensation and assistance that will be provided, including: adequate and appropriate replacement land and structures, or cash compensation at full replacement cost without depreciation, transaction costs, accrued interest, transitional/restoration costs and any other payments; where feasible preference for land-based (not cash) resettlement strategies; assistance with relocation and improved housing with comparable access to employment/productive opportunities, civic infrastructure and community services; transitional support and development assistance; and opportunities to share in project benefits. For those who are economically displaced, they will be compensated for loss of income, and be assisted in restoring, and where possible improving, their earning capacity, production levels and standard of living.

31. Project proponents are expected to carry out meaningful consultations with affected persons and other stakeholders, including disclosure of information on entitlements and resettlement options, participation in the resettlement planning process, and establishment of a transparent and effective grievance redress mechanism (GRM), and, wherever possible, negotiate fair settlements to avoid forcible evictions.

32. Project proponents are also expected to undertake a comprehensive social impact assessment (SIA) in order to understand fully who will be displaced and how it will impact them currently and into the future. The SIA is to include an inventory of affected people, their assets, their income and livelihoods, and should be disaggregated based on gender. The SIA should also describe the people who might be more vulnerable to negative impacts, and suggest targeted measures the proponent will put in place to ensure vulnerable people do not suffer disproportionately and can share equally in the project opportunities and benefits.

33. The ADB SPS requires preparation and disclosure of a Resettlement Plan (RP). The RP should describe in detail affected people's entitlements; income and livelihood restoration strategy (including measures for vulnerable people); institutional arrangements; consultation, participation and disclosure; GRM; monitoring and reporting framework (including external monitoring for projects with significant land related impacts), budget and time-bound implementation schedule. Displacement may not occur prior to implementation of the resettlement plan, including payment of compensation and provision of other resettlement entitlements.

C. Assessment of Policy Gaps

34. There are several significant policy gaps between the Mongolian legal framework and the ADB IR safeguard requirements. According to Mongolian law or practice: (i) nontitled occupants of land (without ownership or possession license), including lessees of land and structures, are not eligible for compensation and rehabilitation entitlements; (ii) compensation for affected land is based on a government compensation tariff, not market rates, although there is room for negotiation with individual APs; (iii) a depreciation coefficient is applied in the valuation of affected structures; (iv) income and livelihood rehabilitation is not normally considered in local land acquisition practice; (v) transaction costs are not included in compensation payments; (vi) there are no project internal grievance procedures preceding dispute resolution by governors and the courts; (vii) public consultation and information disclosure is not practiced; (viii) an eligibility cut-off date is not declared; (ix) there is no limitation on commencement of civil works until after completion of all land acquisition procedures, and (x) there is no need to prepare an RP or to undertake monitoring and evaluation activities.

35. Table 4 outlines the key provisions of existing Mongolian laws and practices relevant to land acquisition and resettlement and indicates their compatibility or inconsistency with ADB IR safeguard requirements.

Table 4: Comparison of Involuntary Resettlement related provisions in Mongolian Law and the ADB Safeguard Policy Statement

Involuntary Resettlement issues	Provisions of Mongolian law	ADB Policy Requirements
Involuntary Resettlement	Invoking eminent domain is only legally recognized when taking back land for special needs of the State including, lines and networks and other objects of national scale (Law on Allocation of Land to Private Citizens, Articles 32 and 37; Land Law, Articles 42 and 43). This law does not apply to this USGDIP; consequently, the Civil Code will apply. Current practice by government in local scale projects entails a demand letter with threat of sanctions and offer of payment of compensation.	Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing land acquisition and replacement of lost assets and rehabilitation of livelihoods. Affected entities to be at least as well-off as without project.
Negotiated Settlement	The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from affected entities to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).	Recognition of negotiated settlement, where there is a willing buyer and a willing seller.
Eligible affected entities	Licensed owners, possessors and users of land can transfer their titles to other legal persons recognized under the Land Law (Articles 35 and 38) and the Law on Allocation of Land to Private Citizens (Article 27). Nontitled occupants of land as illegal possessors are not eligible to transfer the land occupied or receive compensation (Land Law, Article 27.4). The Civil Code recognizes the right of	Titled and nontitled affected entities are eligible to receive different entitlements. Titled affected entities are entitled to compensation and rehabilitation for affected land and nonland assets at replacement cost. Nontitled affected entities are eligible for entitlements for nonland assets at replacement cost and to rehabilitation assistance, possibly including replacement land, such that they are no worse off than before the project.

Involuntary Resettlement issues	Provisions of Mongolian law	ADB Policy Requirements
	a long term non-owner occupant of ownerless immovable property (incl. land) to own it after 15 years, if registered in the State register (104.2).	
Compensation for land	Contractually agreed payment for land transferred to the government. Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with affected entities as well. Replacement land can be provided if AP's entire land or large part thereof is acquired.	Land compensation at replacement cost based on land valuation at average market value within 1 year before the delivery of compensation or replacement land of similar size and quality.
Compensation for structures	Contractually agreed payment for transfer of structures located on land acquired. The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.	Valuation of structures is based on current market value, i.e. replacement cost of new construction of the structure without deduction of depreciation. Affected entities permitted to salvage materials.
Joint property ownership	The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128). Common property ownership requires permission of other owners to dispose of part of the property (108.4). Family property includes 'other properties accrued since the marriage, notwithstanding in which name of spouses or family members the property is registered' (126.2.4). Disposal of immovable (incl. land) family property requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).	No conflict with ADB SPS. Joint signatures are encouraged.
Easement (property servitude)	Legal provision for easements or property servitude, allowing the use of another person's property for specific public or private purposes is permitted under local law; mutual agreement and payment of a fee are required (Civil Code, Article 151, Land Law, Article 48 and Law on Allocation of Land to Private Citizens, Article 33).	No conflict with ADB SPS.
Rental of land or house	The Civil Code, Chapter 25 regulates the lease of property, including land and houses. If ownership is transferred the new owner incurs all rights and obligations of a lessor (Article 297). No provisions for lessee rights in case of land acquisition for a project, except that termination of a lease requires a 3 month notice	Lessee is considered an AP and eligible to receive entitlements based on the type and degree of impacts.

Involuntary Resettlement issues	Provisions of Mongolian law	ADB Policy Requirements
	(Article 294.3)	
Community and public resource losses	Affected community and public assets can be transferred through contractual agreement under the Civil Code. The cost of moving affected infrastructure is included in cost of civil works under the Project.	Common property resources or public structures and infrastructure affected by land acquisition are eligible for compensation.
Income and livelihood rehabilitation	No provisions in contractual agreements for transfer of property.	Assistance for economic and social rehabilitation due to loss of jobs, incomes and livelihoods, including (i) income compensation or support for the period of interruption of business or employment, and (ii) priority employment in project civil works, especially to poor and vulnerable households.
Relocation and transaction costs	The Mongolian Law on State Registration of Property Allocation Rights and Other Related Rights requires payment of registration duties and service fees for the registration of immovable property with the State Administrative Authority in charge of state registration of property rights (Article 9). All registration and other fees, as well as cost of relocation, are responsibility of parties to a contract and can be included in a contract.	Relocation and transfer expenses, including fees for the registration of properties and other administrative charges, are part of the replacement cost of lost assets and included in compensation.
Grievance procedure	The Land Law refers disputes over land to the governors of administrative units and eventually the courts (Article 60). The Civil Code and Law on Allocation of Land to Private Citizens refer various types of disputes to the courts.	An adequate grievance redress mechanism for affected people is required.
RP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	Affected entities are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised RPs is to be disclosed and discussed, as well as published on ADB's website.
Cutoff date	Not applicable	An eligibility cut-off date is to be set when the project is officially notified, the project area is delineated or the census of the AP population is taken, to prevent influx of non-eligible persons and land speculation.
Right of way	Water pipes up to 1000 mm diameter require a safety zone of 10m (5m from center of pipe) in dry soil. It may be narrowed in built-up areas. (Mongolian Law on Water Supply and Sewerage System Utility of Cities and Settlements, Article 12.6; Construction	No conflict with SPS.

Involuntary Resettlement issues	Provisions of Mongolian law	ADB Policy Requirements
	Standard and Procedure of Mongolia BNBD 40-02-06, paragraph 10.20).	
Notification period for vacating property and commencement of civil works	Time period for vacating a property may be defined in contract. Civil works commence in parallel with acquisition of property, but without defined waiting period.	Notification periods are not specified by ADB. Cash compensation and/or replacement of assets must be completed before displacement; land acquisition procedures, except for rehabilitation measures, must be completed before commencement of civil works.

III. Eligibility and Entitlements

36. To bridge the gap between Mongolian Law and the ADB SPS, this RF provides a policy framework and entitlement provisions, which integrate both, while ADB policy requirements prevail in cases of discrepancies.

37. To establish a land acquisition and resettlement policy framework with clear eligibility and entitlement provisions for the Project, which addresses the gaps between local laws or practice and the ADB IRP, the following measures will be adopted:

- Design and implementation of the subprojects will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.
- The project will adopt a negotiated land acquisition practice involving contractual agreements on the basis of the Civil Code of Mongolia.
- All compensation and allowances will be determined and paid or provided as specified in the contractual agreements, and all agreements will be certified by a notary and registered with the State Administrative Authority in charge of state registration of property rights.
- Adequate GRMs will be established.
- All affected entities will be eligible for compensation and rehabilitation entitlements irrespective of their property status, including unlicensed occupants of land, and of the type of use of their property (residential, commercial, public or community⁶).
- Affected land will be compensated either at replacement cost based on market rates for comparable land or the applicable government compensation tariff, whichever is higher, or, in the case of full loss of a plot of land, with replacement land, including land preparation and restoration of utility services (electricity, water etc.), as applicable. The Property Relations Department (PRD) will assist the affected persons to identify and approve the relocation plot. The loss of 50% or more of a plot is considered a full loss eligible for compensation for the entire plot, if the affected person so desires.
- Affected users of land with use licenses will be provided where possible with replacement plots in similar locations suitable to business operations and new use licenses or, if possible and desired, with a license of ownership, within three months of conclusion of a contractual agreement between the government and the AP.
- Unlicensed occupants in case of full loss of land (i.e., greater than 50%) will be provided relocation assistance sufficient for them to restore their standard of living at an adequate alternative site with security of tenure (through grant of possession license), as well as compensation at full replacement cost for loss of non-land assets, such as dwellings and other improvements to the land.
- Unlicensed occupants in case of partial loss of less than 50% of their land will be awarded a possessor license for remaining contiguous unlicensed land. All taxes and fees associated with grant of possession rights will be covered by the program.

⁶ Not applicable if the replacement of public structures (electricity, water supply lines, etc.) is covered under civil works contracts.

- All affected entities agreeing to receive replacement land or affected entities with pending license approval for ownership or possession or affected entities with possession licenses seeking ownership status, will be provided with ownership licenses prior to displacement and the affected entity will be registered with the State Administrative Authority in charge of state registration of property rights.
- Affected structures⁷ will be compensated at replacement cost based on prevailing market rates for comparable types of structures determined through professional valuations by a certified valuer without deduction of depreciation. Materials may also be salvaged by the affected entities.
- In cases of joint property ownership, the written notarized consent of the partners in a common property relationship or of an adult family member will be required.
- Temporary disturbances, including removal of fences and civil works on land outside ROW, will be compensated in cash based on negotiated agreement with affected entities. Affected entities will enjoy continued access to land and residences. Civil works contractors will move fences and will restore land and fences upon completion of works.
- Temporary loss of employment income will be compensated for the period of interruption of employment. Permanent loss of employment will be compensated with cash indemnity for three months wages for workers/employees that have been engaged for at least one year; otherwise entitlement is one month wage. The affected persons with permanent loss of employment shall be provided also (a) other labor benefits and retrenchment allowances according to the national labor law, (b) skills development trainings for new employment opportunities, and (c) assistance to find new employment.
- Temporary loss of business income to the owner will be compensated through cash compensation equivalent to the net profit after tax, i.e., for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in project areas.
- For permanent business loss, compensation shall include also any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of one year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within one year of displacement.
- Land lessees, including those living in *gers*, provided cash refund at rental fee rate and proportionate to duration of remaining lease period.
- Vulnerable and poor households will be provided preferential employment in project-related workforce, if available and desired by affected entities.⁸ Depending on nature of impact, other support may include: cash assistance up to a maximum of six months, guaranteed at the rate of minimum wage and assistance in reconstituting affected business or employment; assistance with

⁷ Including houses, fences, sheds, latrines, garages and other immovable structures built on affected land.

⁸ If they lack of required skills, the contractor will provide basic training to the employed APs.

selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot; and, assistance with house relocation and other construction activities (new construction should meet minimum standards), registration of property should meet minimum standards), registration of property titles, relocation expenses, or a minimum housing guarantee.

- All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the contract price of the affected properties.
- An eligibility cutoff date will be set for each subproject with land-take at the time of the AP census and detailed measurement of affected land and property.
- Civil works shall not commence unless all compensation, relocation have been completed and short-term financial assistance for loss of income has been paid.
- Cash compensation will not be taxable, and all fees and transaction costs to register property will be paid by the project owner.

38. The above described entitlements are summarized in the Entitlement Matrix presented in Table 3 below.

Table 3: Entitlement Matrix

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
LAND (residential/ commercial/public/ community)	Full loss of plot (=>50%)	Owner, possessor	The AP may choose between the following alternatives: Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration; OR Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price
		Unlicensed occupant of land	Relocation assistance sufficient to restore standard of living at an adequate alternative site with security of tenure (i.e. possession license). All taxes, registration and transfer costs are waived or included in compensation price
		User	Replacement plot with use license OR, if feasible and desired Ownership license and State registration; All taxes, registration and transfer costs are waived or included in compensation price
		Lessee	The AP may choose between the following alternatives: Allocation of plot with ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price OR

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
			Cash refund at rental fee rate and proportionate to duration of remaining lease period
	Partial loss of plot (<50%)	Owner, possessor ⁹	Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes are waived or included in compensation price
		Unlicensed occupant of land	Possession license and State registration for adjacent unlicensed land will be provided by government; All taxes, registration and transfer costs are waived
		User	Continuation of use license on remaining land
		Lessee	Cash refund at rental fee rate and proportionate to duration of remaining lease period
STRUCTURES (residential/ commercial/public/ community)	Full loss of structure and relocation	Owner, possessor, unlicensed occupant of land	Cash compensation for replacement of lost structure at market rate determined through professional valuations by a certified valuer without deduction of depreciation, based on contractual agreement and no deduction for salvaged materials
	Alteration to structure ¹⁰	Owner, possessor, unlicensed occupant of land	Cash compensation for lost part of structure and reconstruction of remaining structure at market rate without deduction of depreciation, based on contractual agreement and no deduction for salvaged materials
	Moving back of fences	Owner, possessor, unlicensed occupant of land	The AP may choose between the following alternatives: Cash compensation for relocation of fence at market rate without deduction of depreciation, based on contractual agreement OR Replacement/reconstruction of the fence by the Project owner/contractor There is no deduction for salvaged materials
	Moving or relocation of ger	Owner, possessor, unlicensed occupant of land, lessee	Cash compensation for cost of taking down and raising of ger and for transport, as applicable; to be included in contractual agreement
Temporary disturbance	Removal of fence, civil works on land outside ROW, restoration of land and fences	Owner, possessor, unlicensed occupant of land	Cash compensation fee negotiated with AP. Access to land and residences Fences will be moved by civil works contractor There is no deduction for salvaged materials

⁹ If the remaining landholding is no longer fit for original purpose (e.g. for habitation or commerce), the affected entity may opt to receive a new plot instead of cash compensation and will give up the entire plot.

¹⁰ Any required alteration to an occupied residential structure will be compensated as full loss.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
Businesses	Any business loss due to land acquisition or construction activities by Project	All affected entities so temporarily affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in project areas.
		All affected entities so permanently affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in project areas. AND Any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the affected entities: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within 1 year of displacement.
Employment	Any employment loss due to land acquisition or construction activities	All permanently laid-off employees of affected businesses	Compensation for loss of employment income for the period of interruption of employment.
		All temporarily laid-off employees of affected businesses	Compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1-month wage. AND Other labor benefits and retrenchment allowances according to the national labor law, Skills development trainings for new employment opportunities Assistance to find new employment.
Vulnerable and/or severely affected entities ¹¹	Permanent loss of livelihood	All vulnerable and/or severely affected entities	Preferential employment in project-related workforce, if available and desired by affected entities. Cash assistance up to a maximum of six months at guaranteed lowest living level and assistance in reconstitution of business or employment;
	Loss of land	All	Assistance with selecting a replacement plot

¹¹ Vulnerable groups are distinct groups of people (poor, elderly, disabled, and female headed households) who may suffer disproportionately from resettlement. Severely affected entities include those whose remaining landholdings are not fit for original purpose.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
		vulnerable and/or severely affected entities	and with preparation of contracts and administrative process of provisions of replacement plot;
	Loss of structure	All vulnerable and/or severely affected entities	Assistance with house relocation and other construction activities (new housing should meet minimum standard), registration of property titles, relocation expenses, minimum housing guarantee.
	Livelihood support	Any household member of a vulnerable affected entities	Preferential treatment for temporary employment during construction; Employment training (3–6 months).
	Temporary disturbance	All vulnerable affected entities	Preferential treatment to avoid, minimize or mitigate disturbance as quickly as possible.

39. It is important to reiterate however, that the objective of this RF is to ensure that land acquisition and resettlement is done through a negotiated process by the affected community members. All relevant information will be disclosed to stakeholders in a timely way. This disclosure will be done in accessible formats that give AP the means to participate effectively from an informed position. For more information on consultation activities see Section V: Consultation and Public Participation

IV. Socioeconomic Information

40. Early screening of the scope and scale of resettlement impacts helps avoid or minimize displacement, leads to more informed project decision-making (scheduling and budgeting), helps resettlement planners achieve goal of improving living conditions and standards of living of affected populations, and facilitates monitoring and evaluation activities. To that end, a range of surveys will be incorporated into resettlement planning to ensure that entitlements are measured and stored including census, asset inventory and household socioeconomic surveys.

41. As detailed in Section I, a preliminary estimate of potentially affected households and their assets has been conducted. Table 3 provides a summary of estimated impacts.

42. A comprehensive socio-economic survey of a sample of households and businesses in both subcenters has also been completed. In addition to basic household socio-economic data, including indicators of living standards and conditions, the survey collected information on willingness and ability to pay for proposed utility services. The survey also aimed to assess the needs, demands, and aspirations of resident households in terms of urban subcenter development and urban service delivery.

43. A total of 431 households in the Bayankhoshuu Subcenter and 396 households in the Selbe Subcenter were surveyed; as well as 182 business units across the subcenters. Questionnaire design was based on ADB guidance and the survey was iteratively developed through discussion with the survey team, key informants and translators. The survey was then pretested in the field before finalization. Completed surveys were reviewed by assistant researchers responsible for quality assurance and survey data was then entered into the database by dedicated data operators. Survey results, disaggregated where possible to ascertain possible differences in the situation and perceptions of women and men, will help inform land acquisition planning and implementation.

44. In summary, the subcenters were found to be broadly similar in terms of their social indicators such as household size and make-up, employment rates and educational achievement. Across the subcenters, approximately half the residents arrived after 2,000. There is a high demand for improved services such as waste management and access to potable water, and awareness of the pollution and other health risks associated with burning coal and wood. There is also a lack of communal facilities and green spaces. Lack of services is particularly acute in the Selbe subcenter, where flooding is a problem.

45. Following detailed engineering design and ground validation for each subproject, a 100% census of affected people will comprise the main survey that will form the basis of preparation of RPs. Information will be collected in such areas as household demographics, family structure (relation, age, residence status, occupation), and household livelihoods and economic information (income, occupation). The census will also provide: (i) enumeration and collection of basic socio-economic information of the affected population; and (ii) registration of the affected population as per their residency or locality.

46. An asset inventory (detailed measurement survey, or DMS) will record land and other impacted assets at household, enterprise and community levels. Asset identification will include, but not be limited to: (i) land including classification, use, holdings, and tenancy; (ii) structures including organization, size, building materials, and other characteristics of private and public structures in the area of direct influence; and (iii) water, power, and telecommunication networks including potable water supply, sanitation, solid waste management and communication networks.

47. In addition to the census and DMS, a more complete socio-economic baseline survey will be implemented, sampling a portion of households affected by the subproject. This will collect more detailed demographic data than the census, as well as information on migration,

employment and livelihood strategies, income and expenditure, education, health, transport, vulnerability, community needs and social cohesion.

48. Vulnerable households and their special needs will be identified in the census and socioeconomic survey and specified in the RPs. Subsequent consultation and measures for the re-establishment and enhancement of their livelihoods will be taken to safeguard against impoverishment and to reduce their vulnerability.

49. Vulnerability indicators will be established to identify vulnerable people and their households among affected entities. Potentially vulnerable households include those with one or a combination of the following conditions: (i) poverty line or less per capita per month income; (ii) female headed households without children/others contributing income; (iii) elderly head of household without children/others contributing income; (iv) untitled landholders; and (v) disabled persons.

50. A database to be used as a baseline for subsequent socioeconomic assessment search that may be required to identify income restoration and rehabilitation measures, vulnerable groups, other development interventions, and monitoring and evaluation programs.

51. To ensure a clear understanding and due consideration of the specific needs and problems of female APs and to safeguard their livelihoods, a number of gender provisions will be adopted by the land acquisition and resettlement process of the Project: (i) women will receive compensation pertaining to their economic activities in their name; (ii) female heads of households will be registered as the recipients of compensation and rehabilitation measures due to their households; (iii) land titles for replacement land will be registered in the name of women, when land lost to the project was legally owned by women; (iv) women will be included in the participation process in all consultation meetings alongside male APs; (v) due consideration is to be given to complaints and grievances lodged by affected women; and (vi) access for women to project related employment opportunities and targeted needs based special assistance will be guaranteed in case of loss of livelihood.

V. Consultation and Public Participation

52. Affected entities must be fully informed, closely consulted, and encouraged to participate in any decision making pertinent to land acquisition and resettlement, including the final design of infrastructure facilities, preparation of contractual agreements, determination of prices for assets to be transferred, selection of replacement plots and the restoration of livelihoods.

53. Disclosure of information to and consultation with affected entities at an early stage ensures that they can express their opinions, apprehensions and objections. Project proponents, including government stakeholders, can address the issues raised and, upon careful consideration, incorporate them in the final design and RP, insofar as they are compatible with applicable local law and the ADB IR safeguards.

54. Consultation activities are on-going throughout all land acquisition and resettlement processes under the USGDIP. This means that most entities potentially affected by the Selbe and Bayankhoshuu subproject were initially engaged regarding the broader USGDIP, prior to the development of subproject activities. The two primary means through which households were engaged with regarding the USGDIP were (i) the USGDIP socioeconomic survey activities; described in Section IV, (ii) the mobilization of households into Community Development Councils (CDCs) in support of subcenter development, and (iii) a series of briefing meetings held with potentially affected subcenter residents.

55. Support for USGDIP consultation activities is being provided by UN-Habitat. The goals of the consultation program are to i) garner stakeholder input, ii) drive inclusive subproject development, iii) increase the sense of ownership among affected community members and iv) enhance affected households' willingness to pay for the services introduced under the USGDIP.

56. Briefing meetings held in April and May of 2013 served to introduce the USGDIP planning process, and garner community feedback on program development options under consideration, including priority road improvements service infrastructure construction. Feedback was positive, with participants expressing support for the USGDIP and, importantly, the community led planning process applied in identifying priority investments to be financed under the program. Questions and comments at the workshops often related to whether the compensation related to the program would be fair, allowing households to maintain their quality of life. There were concerns around whether the land acquisition and compensation process, once begun, was guaranteed to be completed. Households expressed hesitation to proceed in the absence of strong commitment to program completion.

57. Complementary to the broader USGDIP activities, engagement with households specifically affected by the subprojects have commenced, in support of subproject impact assessment and draft RP preparation. Initial surveys of affected entities were conducted in May and June, 2013, and included engagement with affected households. Assets were surveyed and where possible, a socio-economic survey conducted with individual households. Entitlements were not discussed with households in detail, but the broad parameters of the subproject were described.

58. During disclosure of the draft and final RPs and this Resettlement Framework, the entitlement matrix will be explained in detail, with compensation measures for affected land, structures, businesses, and employment income each presented separately. Measures to protect vulnerable people will be described, and the subproject's Grievance Redress Mechanism will be explained.

59. The resettlement plans will include a full list of all consultation activities conducted and planned activities during implementation (including those discussed above), and a detailed description of the consultation process, which will at minimum involve the following:

- Individual consultations with affected entities during and after the census and socioeconomic survey, to ensure that they have understood the project's parameters and their own rights, and have had the opportunity to provide input.
- Public consultation meeting (early in the project process) open and accessible to all affected entities and other interested community members to inform affected entities and other stakeholders about the land acquisition and resettlement planning process, its guiding legal and policy framework and its anticipated scope of impact (who is identified as a potential AP).
- Public consultation meeting open to all affected entities to announce declaration of the entitlement cut-off date and identify its geographical scope.
- Public consultation meeting with all affected entities to disclose the draft RP, including eligibility and entitlements, grievance procedures and monitoring, and to discuss changes and other concerns of the affected entities and other stakeholders.
- Continued individual consultations to prepare contract negotiations and address individual concerns.
- Individual negotiations of contract terms with AP households.
- Public consultation meeting with all affected entities to disclose and discuss revised draft RP.
- Public consultation meeting with all affected entities to disclose approved RP and to announce the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements.
- Additional individual and public consultation meetings will be held throughout the planning and implementation¹² of the RP as required by any issues arising.
- Attendance lists and minutes of all public consultations will be kept and appended to RPs and subsequent monitoring reports.
- Use of an accessible, identifiable project information board or project information office.
- Documentation of the consultation and participation process.

60. English versions of the draft RP will be submitted to ADB for review and approval. Final RPs will be endorsed by the City Government of Ulaanbaatar. Each RP will list the public consultations conducted and planned. This Resettlement Framework and each RP will be published on the ADB website (Mongolian and English versions).

¹² Selection of plots, timing of construction, temporary impacts, etc.

VI. Institutional Arrangements and Implementation

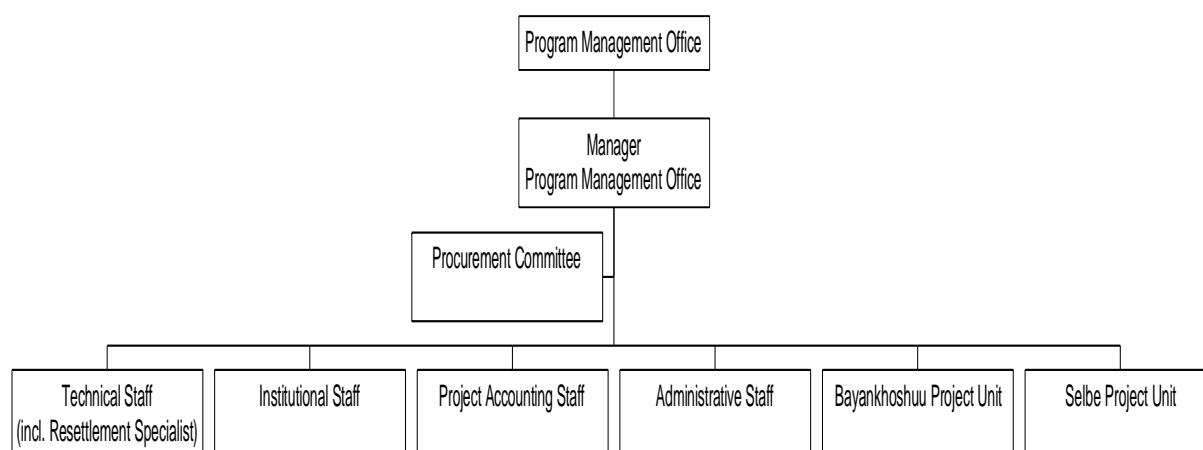
61. The executing agency (EA) and implementing agency (IA) for the program will be the Municipality of Ulaanbaatar. Facilitation, coordination and management of subcenter redevelopment will be undertaken by the Subcenter Redevelopment Authority (SRA). SRA will be set up as a city-owned enterprise under the Vice Mayor in charge of Urban Development and Investment.

62. The Vice Mayor in charge of Urban Development and Investment of the MUB will be responsible for coordinating the program implementation. A project management office (PMO) has been established under the Chief of the Mayor Office and will be transferred to the Vice Mayor in charge of Urban Development and Investment. The PMO director will be the Vice Mayor in charge of the Urban Development and Investment. The PMO will be operational and fully staffed by September 2013.

63. The PMO will ensure compliance with assurances, including safeguards and preparation, finalization and implementation of RPs. Since the PMO will be a relatively new entity, support will be provided by external staff, including specialists in land acquisition and resettlement, and by a member of the Technical Assistance Consultant Team who will be engaged—as part of the Capacity Building/Institutional Support TA—to ensure the effective implementation of project related land acquisition and resettlement activities.

64. Training workshops will be organized for the staff of the PMO, Khoroo and other government officials involved in LAR activities, including members of Resettlement Plan Implementation Committees (see below), representatives of the affected persons and other stakeholders about the RP provisions and implementation arrangements, as well as the principles and safeguards requirements of ADB resettlement policy, the agreed RF and legislation of Mongolia. The training will also highlight the differences between the provisions of the ADB's Safeguard Policy Statement and the Mongolian laws and explain how to ensure that the ADB's Safeguard Policy Statement requirements are met. Figure 1 presents the structure of the PMO.

Figure 1: Structure of the PMO



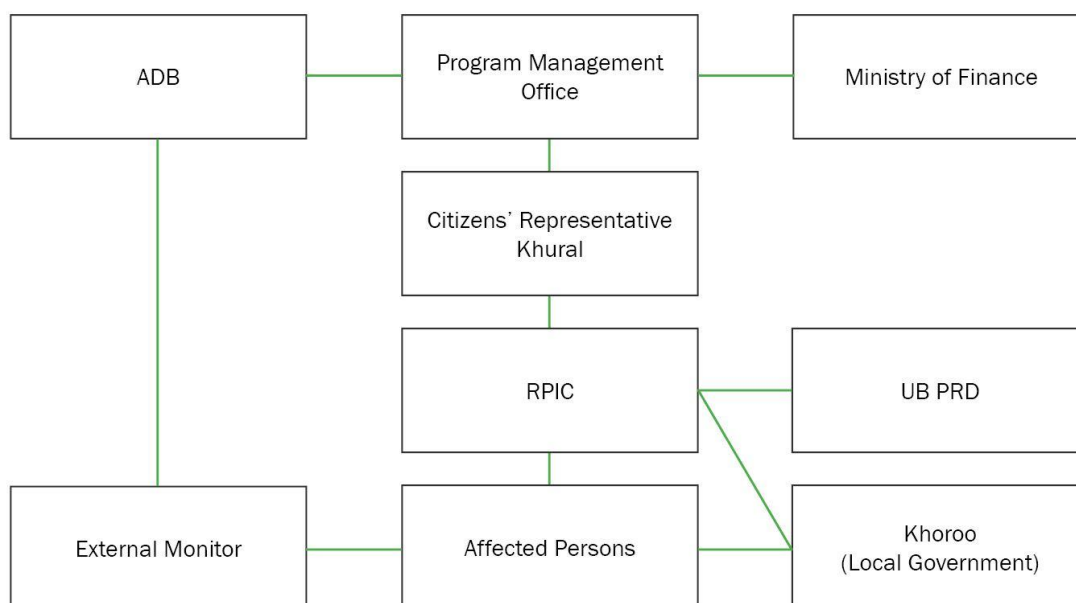
65. RP implementation activities will also be overseen by a Resettlement Plan Implementing Committee (RPIC). The RPICs will be comprised of key government officials at the district and khoroo levels, and other relevant¹³ government departments and agencies

¹³ Agencies responsible for water supply, sewerage, urban roads etc.

from MUB including representatives of Ulaanbaatar Property Relations Department (PRD)¹⁴, the PMO, and representatives of affected entities. Where possible, the RPICs will include representatives of affected women and NGOs. The RPICs will be formed at the start of subproject design so that affected entities' input may be incorporated into the design. The RPICs will ensure that key government institutions including local governments are involved and their coordination is ensured in carrying out the LAR tasks.

66. Figure 2 presents the institutional arrangements for land acquisition and resettlement for this subproject.

Figure 2: Institutional Arrangements for LAR



A. Procedural Steps

67. All subproject RPs will meet ADB SPS requirements, closely follow the provisions of this RF and observe the following procedure:

- Identification of scope of land acquisition for every subproject (impact category A, B or C).
- Field verification and modification of design of infrastructure facility, as far as technically feasible, to avoid and minimize impact.
- Preparation of map of final design of infrastructure facility, ROW and land acquisition impacts, with design engineers.
- AP lists and cadastral maps, Detailed Measurement Survey and land valuation, as well as valuation of affected non-land assets on the basis of mapped impact.
- Census of all affected entities and inventory of affected land, property and income losses.
- Notification of cutoff date and notification of affected entities.

¹⁴ The PRD is responsible for allocating new land plots and making changes to existing land plots, registering property rights, and independently evaluating all affected assets based on current market values.

- Socioeconomic household survey and identification of vulnerable households/persons.
- Preparation of draft final RPs based on consultation with individual affected entities, including impact assessment, compensation standards, relocation and livelihood rehabilitation plans, itemized compensation and resettlement budget, institutional arrangements and grievance mechanism, implementation schedule and internal and external monitoring and evaluation procedure.¹⁵
- Disclosure of Draft RPs and formal consultation meetings with affected entities.
- Finalization of RPs.
- Disclosure of the revised Draft RPs to affected entities.
- Government endorsement and submission to ADB for review and approval.
- Disclosure of approved RPs (locally and on ADB website).
- Implementation of RPs.
- Inform the affected entities about the schedule of payments, relocation arrangements, if any, and the commencement of civil works once the compensation and entitlement estimates have been completed for each AP.
- Validate the inventory of affected assets, and negotiate contractual agreements with the affected households.
- Once the AP agrees, contractual agreements indicating the negotiated terms for each AP will be prepared and signed by the concerned AP, and notarized by a registered notary. After completing all the necessary agreements, the RPIC will inform the affected entities about the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements.
- Participating Community Based Organizations will work with affected entities and the Khorroos and facilitate communication and monitoring the land acquisition process.
- Provide an updated land management map prepared by the Ulaanbaatar Property Relations Department indicating all lands that are eligible for ownership to affected entities to be relocated and assist the process of allocation of land ownership to these affected entities.
- The District Governor will review and resolve the applications within 3 months, as specified by law, and issue orders allocating lands to the affected entities.
- Facilitate the process of consolidation, review, approval and allocation of compensation, including livelihood restoration measures, for the subprojects' affected entities.

68. The PMO will be responsible for adequate monitoring and supervision of the implementation of the RPs and the resulting impacts on affected entities, and will be responsible for reporting the progress in implementing the RPs to the City and ADB. The

¹⁵ Draft RPs have been prepared for Tranche 1 based on preliminary development plans and engineering designs. These draft RPs provide an estimate of the likely scope of displacement. They will be finalized based on final detailed design, DMS, and census of the affected entities carried out by the PMO with support of RPIC. The draft and final RPs will be submitted to ADB and MUB for review and approval.

PMO will also provide necessary capacity building on the ADB's SPS, this RF and the implementation of RPs.

VII. Grievance Redress Mechanism

69. MUB will set up a Grievance Redress Mechanism (GRM) to support the affected persons on problems arising from land acquisition and associated impacts, and provide means by which the various conflicting stakeholders may be consulted and negotiated agreement reached, paying particular attention to the impacts on vulnerable groups. Affected persons will be informed and consulted about the detailed process of the GRM during the public and individual consultations, interviews and through the disseminations of pamphlets on the RP and land acquisition and resettlement tasks. Importantly, affected persons will enjoy the right to access the judicial system at any time if they feel their grievance or concern is not being adequately addressed through the GRM.

70. A Grievance Action Form (GAF) will be designed during the detailed design stage to cover the various aspects of land acquisition addressed by the RPs and used in the grievance redress process to log and follow up any grievance. **Annex 1** presents a Sample GAG. The GAF, a copy of which will be provided to AP, will at minimum contain the following:

- Basic information about affected entities (name, address, contact number)
- Date of last disclosure meeting
- Category of grievance filed (legal, technical/engineering, social, financial)
- Detailed description of grievance
- Type of action taken (resolved at the RPIC level or referred to higher authorities)

71. As a grievance is addressed, the type of action taken will also be recorded on the GAF, in order to document how the grievance was resolved.

72. The Project Management Office will be the initial recipient of the grievance, establish complaint registry system and maintain records of all grievances and status of resolution. It will resolve minor issues directly or with assistance of local Khoroo. The PMO shall address the grievance within one week, inform the affected person and initiate actions.

73. Unresolved/or major issues will be presented to Resettlement Plan Implementing Committee for deliberation and appropriate action. Through the assistance of District Governor, RPIC proposes its resolution to the Citizens Representative Khural for approval and action. If the affected persons are still dissatisfied by the decision of the RPIC they can file their case with the court of law.

74. With specific regard to land disputes, in accordance with the Land Law (Article 60, "Settlement of Land Related Disputes"), these will be settled by the relevant Khoroo Governor. Where this is unsuccessful, the dispute shall be settled by a higher level authority, or in court. Alternatively, residents may also go directly to the District Land Officer.

75. If an AP is still not satisfied and believes they have been harmed due to non-compliance with ADB policy and they have made good faith efforts to solve their problems by working with the ADB Project Team, they may submit a complaint to ADB's Office of Special Project Facility or Office of Compliance Review in accordance with ADB's Accountability Mechanism.

VIII. Monitoring and Evaluation

76. Monitoring of compliance with the RPs and the RF during implementation will be carried out by the PMO, as well as by an external monitoring agency (EMA) which may be a local consulting firm or NGO, or a qualified individual. Each RP will include indicators for both internal and external monitoring.

77. The PMO will conduct internal monitoring of RP implementation and submit monthly reports to the City. The PMO will include the results of internal monitoring in its quarterly reports to the ADB.¹⁶ The Project mid-term review will include a separate section on the progress of RP implementation. Upon completion of resettlement activities in a subproject, the PMO will prepare a resettlement completion report for submission to ADB.

78. The objectives of internal monitoring will be to ensure: (i) proper execution of responsibilities of key stakeholders; (ii) protection of the rights of affected entities under Mongolian laws, ADB Safeguard Requirements 2, this RF and the subproject RPs; (iii) adequate and prompt payment of compensation; and (iii) timely grievance redress.

79. In addition, the Audit Department of the concerned District Government will independently audit and monitor the agencies involved in the land acquisition and resettlement process, based on relevant laws and regulations. The PMO will periodically review audits, and report any irregularities to ADB, to allow early identification and resolution of problems encountered.

80. Among the key indicators will be the following.

- Number of displaced entities
- Number of information sessions and other consultation activities conducted with affected entities.
- Status of land acquisition, compensation payment and entitlement delivery
- Status of livelihood restoration activities and impact of these activities on displaced entities
- Number of and length of time taken to redress grievances

81. External monitoring and evaluation will be conducted to provide independent concurrent and ex-post evaluation of resettlement in the Project as a whole to (i) assess the effectiveness, impact and sustainability of resettlement measures, (ii) determine whether safeguard compliance has been met, and (iii) learn strategic lessons for future policy formulation and planning. For this project the Ulaanbaatar City Government will be responsible for engaging an EMA which will investigate and assess RP implementation in each subproject and regularly report to the subproject RPICs, the PMO and ADB.

82. External monitoring will be carried out semi-annually during the implementation of RPs and its results will be reported to the PMO and ADB in semi-annual reports at the end of each input. The resettlement specialists of the project implementation consultant's team will review and discuss the external monitoring design with the EMA. The external monitoring process will include the following: (i) review and verification of the internal monitoring reports and resettlement completion report of PMO; (ii) identification and selection of impact

¹⁶ As and when necessary to report significant progress, implementation issues, or status of earlier identified problems.

indicators; (iii) impact assessment through quantitative and qualitative surveys; (iv) consultation with local stakeholders; (v) assessment of compliance with local laws, ADB's IRP and the RP; (vi) recommendation of land acquisition process modification and adaptation measures; (vii) lessons learned for future resettlement policy formulation and planning; and (viii) all data collection and analysis will be gender disaggregated.

83. Among the key indicators will be the following:

- Economic status of affected households, including employment, income and household assets;
- Status of vulnerable persons, in terms of food security, household demographics, livelihoods and health;
- Impact of land acquisition on women, children, elderly, the poor and other vulnerable groups;
- Degree of support for and post land acquisition status of affected vulnerable households;
- Perceptions of the affected entities regarding the land acquisition process implementation;
- Participation and involvement of affected entities in RP implementation
- Effectiveness and fairness of valuation, compensation assessment and disbursement;
- Implementation and effectiveness of income restoration measures;
- Effectiveness and fairness of grievance redress mechanisms;
- Level of satisfaction among affected entities in the post-resettlement period; and
- Adequacy of resettlement funds and results of financial audits.

84. The EMA will carry out post-implementation evaluation on the basis of the socio-economic baseline surveys 1 and 2 years after the completion of land acquisition activities in each subproject, to ascertain whether the subproject was able to implement the objectives and provisions of the RP. In case of a short-fall the EMA will recommend remedial measures.

IX. Budget and Financing

85. The total cost of resettlement including the cost of compensation, rehabilitation administration and monitoring is an integral part of the Project cost. Each sub-project RP will include a budget section with a table of costs for all compensation expenses including administration and contingencies.

86. Finances for implementation of RPs will be provided by MUB from government funds. The MUB is responsible for timely allocation of funds needed to implement land acquisition for each tranche. Allocation will be reviewed semi-annually based on the budget requirements indicated in the RPs.

87. The PMO will work with the MUB, Ulaanbaatar Property Relations Department (PRD), and other state agencies to manage the process of formal contractual agreements with the affected persons and disbursement of compensations. After having concluded contractual agreements about the transfer of the affected assets from the affected persons to the government, the Ulaanbaatar PRD will consolidate all financial commitments of the contracts and refer these to the MUB. The MUB will initiate the transfer of funds to the PMO. The PMO with the assistance from resettlement specialist (or NGO if applicable) will be responsible for delivery of entitlements to the affected persons.

88. Payment of at least 50% of compensation will be made at the time of signing agreement or within 1 month of the time of conclusion of contractual agreements about the transfer of affected assets from the affected persons to the government. The remaining payment will be paid at the time of vacating the affected land and/or assets. Disbursement of compensations and entitlements will be carried out in the Khoroo Governors' offices. No land will be acquired by the government or handed over to the PMO for commencing construction works prior to implementation of approved Resettlement Plans, and full payment of due compensation and other resettlement entitlements to the affected person.

Annex 1. Sample Grievance Action Form (GAF)

The Project welcomes complaints, suggestions, queries and comments regarding project implementation. We encourage persons with grievance to provide their name and contact information to enable us to get in touch with you for clarification and feedback.

Should you choose to include your personal details but want that information to remain confidential, please inform us by checking box on CONFIDENTIALITY given below. Thank you.

Request for Confidentiality

CATEGORY OF GRIEVANCE

Legal Administrative Social Financial Technical Environment Other

Date	Place of registration	Project site:
Name (if not confidential)		
Home address		
District/Khoroo		
Phone number/email:		
Description of grievance/comment or suggestion:		
If includes attachment/note/letter, please tick here: <input type="checkbox"/>		

FOR OFFICIAL USE ONLY

Registered by: (Name and signature of officer registering grievance)
Mode of communication: Note/Letter E-mail Verbal/Telephonic
Reviewed by: (Names/Positions of Official(s) reviewing grievance)
Action Taken:
Whether Action Taken Disclosed: <input type="checkbox"/> Yes <input type="checkbox"/> No
Means of Disclosure:

Annex 2. Outline of Resettlement Plan

A RP is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

A. Executive Summary

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

- i. Project Scope
- ii. Key Survey Findings
- iii. Entitlements
- iv. 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.

- i. General Description
- ii. Project Components
- iii. Project Area
- iv. Alternatives Considered

C. Scope of Land Acquisition and Resettlement

Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities; describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project; summarizes the key effects in terms of assets acquired and affected persons; and 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: define, identify, and enumerate the people and communities to be affected; describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account; discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

This section: identifies project stakeholders, especially primary stakeholders; describes the consultation and participation mechanisms to be used during the different stages of the project cycle; describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; 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; confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and 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 affected persons;
- iii. outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods;
- iv. set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and
- v. describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

This section:

- i. defines affected 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 leases to resettled persons;
- v. outlines measures to assist affected persons with their transfer and establishment at new sites; and
- vi. describes plans to provide civic infrastructure; and (vii) explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

This section:

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