

# Land Acquisition and Resettlement Framework

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## KGZ: Multisector Activities Support Facility

Prepared by the State Agency for Architecture, Construction, Housing and Public Utilities - Department of Drinking Water Supply and Sewerage Development for the Asian Development Bank.

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## Abbreviations

ADB	Asian Development Bank
ADB SPS	ADB Safeguard Policy Statement
AH	affected household
AP	affected person
CC	Civil Code
DDWSSD	Department of Drinking Water Supply and Sewerage Development
DLARC	District Land Acquisition and Resettlement Committee
DMS	detailed measurement survey
DP	displaced person
EA	executing agency
IA	implementing agency
IR	involuntary resettlement
LAR	land acquisition and resettlement
LARF	land acquisition and resettlement framework
LARP	land acquisition and resettlement plan
MOF	Ministry of Finance
PC	public consultation
PIU	Project Implementation Unit
PMO	Project Management Office
SAACHPU	State Agency for Architecture, Construction, Housing and Public Utilities
SCLRGCS	State Committee on Land Resources, Geodesy, Cartography and State Cadaster
SEFF	small expenditure financing facility
SES	socioeconomic survey
SSMR	semi-annual social monitoring report
WTP	water treatment plant

## I. INTRODUCTION

### A. Overview

1. Over the years, a significant portion of Asian Development Bank (ADB) investment projects in Kyrgyz Republic has experienced significant challenges in terms of delays in project startup and implementation. For the existing ADB portfolio in the Kyrgyz Republic (as of December 2018), the average time between loan approval and first contract award is nearly 20 months due to the need for design work prior to bidding civil works contracts and delays hiring the design and implementation consultants. As a result, projects are rarely completed on schedule, and have experienced procurement, design, and implementation challenges, and cost overruns.

2. The Multisector Activities Support Facility, hereafter referred as the Facility, will help alleviate bottlenecks in project startup by financing early design work, advanced procurement actions, and help the government efficiently establish project implementation capacity to ensure project readiness and expedite implementation. The Facility will finance, through subgrants, a series of individual small-value activities which will support and complement larger ADB-financed projects in the country. In particular, activities under the Facility will improve the efficiency and development impact of ADB financing in the country through focusing on the following outputs:

- (i) **Output 1: Project implementation readiness for ensuing projects improved.** Support for the project preparation and design activities for investments that are expected to be financed under one or more ensuing ADB-financed projects. The Naryn rural water supply and sanitation project readiness activity would be an example for this output.
- (ii) **Output 2: New technology, innovation or improvement in standards piloted.** Support for the piloting of advanced technologies that reduce life cycle costs and increase durability, improve the efficiency and quality of services, and minimize negative environmental and social impacts. The development of the road asset management would be an example of a new technology activity under the facility.
- (iii) **Output 3: Project efficiency and sustainability enhanced.** Support for enhancing the efficiency and sustainability of projects, including for capacity and implementation support for ongoing projects, and rehabilitation and operation and maintenance for completed projects. The first activity of the facility, the Osh water treatment plant (WTP) chlorine neutralization unit, falls under this output.

3. Each activity to be financed under the facility will be linked to a planned, ongoing, or completed ADB-financed project which supports a sector or activity in line with ADB's country partnership strategy (CPS) for the Kyrgyz Republic. The Facility is planned to support activities under the following main sectors: energy; transport; agriculture, natural resources and rural development; education; public sector management; and water supply and other municipal infrastructure.

4. Only the first activity under the Facility has been identified at this stage. The first activity aims to improve the development impact and sustainability of the closed Emergency Assistance for Recovery and Reconstruction (EARR) project. A key objective of the project was to rebuild damaged dwellings and improve essential public infrastructure suffering from the disturbances. One of subcomponents of the project included the rehabilitation of the Osh-Plotina (Ozgor) WTP. Although the project completion report concluded that the project was successful, it raised issues

related to standards being employed in the water sector in the Kyrgyz Republic, in relation to current standards. ADB and the government agreed that upgrading the chlorine neutralization units at WTPs was a priority to meet the most recent international standards with the highest safety levels available in the market. Given its urgency, the government requested to upgrade the chlorine neutralization unit at the Osh-Plotina WTP as the first activity under the Facility. The upgraded chlorine neutralization unit will ensure (i) safety during operation stage of the WTP, (ii) neutralization of any chlorine leakage, and (iii) safe and sustainable operations within the existing WTP.

5. Taking into account that the first activity (new activity for the installation of chlorine gas neutralization system) will be held within the area of Osh-Plotina WTP (within the "Oshgorvodokanal" Utility owned territory) and moreover inside the chlorination plant building, it will not cause any land acquisition and resettlement impacts. Thus, the resettlement classification for the first activity is categorized as category C.

6. As the other activities will be identified during project implementation, this land acquisition and resettlement framework (LARF) has been prepared to provide guidance on the safeguards screening and impact assessment processes for future activities. The details on indicative activities under the SEFF are presented in the next section.

## **B. Land Acquisition and Resettlement Framework**

7. The LARF presented here, is prepared in accordance with ADB's Safeguards Policy Statement (2009), Operation Manual F1/OP, requirements of national legislation and endorsed by the Ministry of Finance (MOF) of Kyrgyz Republic, provides guidance on subgrant activity selection and the requirements to adequately screen, assess, review, and monitor the land acquisition and resettlement (LAR) impacts of the activities under the Facility, if any. It outlines provisions, procedures and institutional requirements for preparing and implementation of the future land acquisition and resettlement plan (LARP), if any, and particularly includes information on the assessment of legal framework and institutional capacity, guide on the LAR assessment for activities, entitlement matrix and eligibility for compensation, consultation, information disclosure, and grievance redress, institutional responsibilities of various agencies, and monitoring and reporting.

8. This LARF specifically sets out the following:

- (i) describes the Multisector Activities Support Facility and its activities;
- (ii) specifies the requirements that will be followed in relation to activities screening and categorization for LAR, assessment, and planning, including arrangements for meaningful consultation with affected people and other stakeholders and information disclosure requirements and, where applicable, safeguard criteria that are to be used in selecting activities;
- (iii) describes the national laws and ADB's requirements and principles related to LAR planning and implementation;
- (iv) presents the proposed entitlement matrix and eligibility for compensation/assistance in case of LAR;
- (v) specifies implementation procedures, including the institutional arrangements;
- (vi) specifies monitoring and reporting requirements; and
- (vii) describes the responsibilities of the borrower/client and of ADB in relation to the preparation, implementation, and progress review of safeguard documents of activities under the Facility.

## II. THE FACILITY AND ITS INDICATIVE ACTIVITIES

### A. Description of Facility

9. The Facility will finance a series of small-scale activities covering multiple sectors and linked to planned, ongoing, or completed ADB-financed projects that are in line with the target outputs of the Facility, namely (i) project implementation readiness for ensuing projects; (ii) piloting of new technology, innovation, or improvement in standards; and (iii) enhanced project efficiency and sustainability; and in accordance with the following expenditures and criteria:

10. Expenditures:

- (i) consulting services that support project preparation and implementation, such as feasibility studies, detailed engineering design, bidding support, safeguard assessments, surveys for impact assessment, and capacity building; and
- (ii) non-consulting services, small works, and goods that are associated with an ADB-financed project, such as pilot testing and other preparatory works, O&M service contracts, post-disaster early recovery, and rehabilitation works.

11. Activities supported under the SEFF should adhere to the following criteria:

- (i) the total estimated value per activity subgrant/subloan should not exceed \$15 million;
- (ii) activities are associated with an ADB-financed project, and support its preparation or implementation, or sustainability.

12. The list of indicative activities under the Facility is provided in Table and the summary of implementation arrangements for the Facility is provided in Table . The executing agency (EA) for all activities to be financed under the Facility will be the Ministry of Finance (MoF). Each activity will have an individual implementing agency (IA), which will be determined based on the nature of the activity to be supported under the Facility.

13. Currently, only the first activity under the Facility has been confirmed. As a general principle, the final selection of activities or sites will adopt the following criteria:

- (i) The siting of any of the activities should not have any significant impacts on the environment and should exclude activities categorized as environment category A;
- (ii) The activities should not result in any involuntary resettlement;
- (iii) The activities should follow all relevant government regulations;
- (iv) Activities listed in the prohibited investment activities of ADB SPS 2009, Appendix 5 (ADB Prohibited Investment Activities List) do not qualify for ADB financing.

**Table 1. Indicative list of activities under the Facility**

	<b>Name</b>	<b>Facility Outputs</b>	<b>Eligible Expenditure</b>	<b>Associated Project/s</b>
1	Osh Plotina WTP - Chlorine Neutralization Unit	Project efficiency and sustainability enhanced	Works	Emergency Assistance for Recovery and Reconstruction
2	Naryn Program Readiness	Program implementation readiness	Consulting	Naryn Rural Water Supply and Sanitation Development Program
3	New Osh-Plotina Water Intake	Project efficiency and sustainability enhanced	Works	Emergency Assistance for Recovery and Reconstruction

	Name	Facility Outputs	Eligible Expenditure	Associated Project/s
4	Kashka-Suu Water Main to Karakol Water Treatment Plant	Project efficiency and sustainability enhanced	Works	Issyk-Kul Sustainable Development Project
5	Rehabilitation of Bazarkorgon Wastewater Treatment Plant	Project efficiency and sustainability enhanced	Works	Emergency Assistance for Recovery and Reconstruction
6	Solid Waste Management in Karakol	Project efficiency and sustainability enhanced	Consulting	Issyk-Kul Sustainable Development Project
7	Development of Kyrgyz Energy Settlement Center	Project efficiency and sustainability enhanced	Consulting	Power Sector Rehabilitation Project
8	Detailed Design of a Transport Project for 2022	Project implementation readiness	Consulting	Road or railway sections to be determined
9	Development of Road Assets Management	New technology, innovation or improvement in standards piloted	Consulting	CAREC Corridors 1 and 3 Connector Road Project
10	Performance-Based Maintenance Contracts of Road Sections	New technology, innovation or improvement in standards piloted	Consulting	CAREC Corridors 1 and 3 Connector Road Project, Phase 2

**Table 2. Implementation arrangements for the Facility**

Aspects	Arrangements
Facility availability period	October 2019–October 2024
Estimated completion date for the initial activity	December 2020
<b>Management</b>	
(i) Executing agency for facility activities	Ministry of Finance
(ii) Implementing agency(ies) for facility activities	Will be determined for each activity based on the nature and scope of the activity to be supported under the facility.
(iii) Implementation unit(s) for facility activities	Will be determined for each activity subgrant. For the first activity, the IA will establish a project management office comprising 5 staff to support implementation.

## **B. Scope of the First Activity Subgrant and Related Land Acquisition and Resettlement Impacts**

14. The first activity will be the construction of the Chlorine Neutralization Unit in the Osh-Plotina (Ozgor) WTP. This activity aims to improve the development impact and sustainability of the closed EARR project.

15. In April 2010, the Kyrgyz Republic experienced political disturbances resulting in many deaths and injuries, substantial property damage, and a change in government. A key objective of the EARR project was to rebuild damaged dwellings and improve essential public infrastructure suffering from the disturbances. One of subcomponents of the project included rehabilitation of the Osh-Plotina WTP. To ensure sustainability of the previous project, the first activity under the Facility proposes the installation of a Chlorine Neutralization Unit to ensure: (i) safety during

operation stage, (ii) neutralization of any chlorine leakage, and (iii) safe and sustainable operations within the existing Osh-Plotina WTP.

16. For this first activity, the implementing agency will be the Department of Drinking Water Supply and Sewerage Development (DDWSSD) under State Agency for Architecture, Construction, Housing and Public Utilities (SAACHPU) and will be responsible for overall activity coordination and management.

17. The proposed new activity for the installation of chlorine gas neutralization system, will be held within the area of Ozgur DWTP (within the "Oshgorvodokanal" Utility owned territory) and moreover inside the chlorination plant building. It is planned, that the installation of chlorine gas neutralization system, will occupy up to 5 m<sup>2</sup> space.

18. During the implementation of the above-mentioned activity in the chlorination plant, there will be no land acquisition and resettlement impacts (full or partial, permanent or temporary physical displacement) or involuntary restrictions on land use or on access to legally designated parks and protected areas. Therefore, this proposed first activity does not involve involuntary Resettlement and is recommended to be categorized as category C for involuntary resettlement.

### **III. LEGAL FRAMEWORK AND ENTITLEMENTS**

19. This section of the LARF presents an overview of the policy/legislative framework and LAR assessment procedures of Kyrgyz Republic, as well as relevant ADB Safeguard Policies applicable to the Facility. Each activity selected under the Facility will be screened, classified, and assessed based on ADB's Safeguard Policy Statement 2009 (SPS 2009), and legislation of the Kyrgyz Republic, and, if necessary, will be reviewed and approved by ADB.

#### **A. Relevant Provisions of Kyrgyz Republic Laws and Regulations**

##### **1. National Constitution**

20. The Constitution of the Kyrgyz Republic (June 27, 2010), Article 12 provides that:

- (i) the Kyrgyz Republic recognizes diversity of ownership forms and guarantees the equal legal protection to private, state, municipal and other types of ownership (article 12, clause 1);
- (ii) Land can be in private, municipal and other types of ownership with an exception of pasturelands that cannot be held in private ownership (article 12, clause 5);
- (iii) Ownership is inviolable, and no one can be dispossessed of property arbitrarily. Property can be acquired by the state against the person's (party's) will only on the basis of a court ruling (article 12, clause 2); and
- (iv) Acquisition of property for the public purposes, as defined in the national laws, can be carried out only through court ruling and with fair and prior payment of compensation for the affected property, as well as for other costs (article 12, clause 2).

##### **2. Civil Code (8 May 1996, # 16; last amended 25 February 2013)**

21. The Civil Code (CC) provides that a party whose rights are violated can claim full compensation for losses, unless the national legislation or the agreements (contracts) prepared in line with the national legislation indicate the contrary (article 14, clause 1). The CC also specifies that the compensable losses include:

- (i) Costs that the party concerned has incurred or was going to incur in order to reinstate the party's right (article 14, clause 2);
- (ii) Losses or damages of the property (article 14, clause 2); and
- (iii) Lost profit that the party was supposed to receive under normal conditions, if the party's rights were not violated (opportunity costs) (article 14, clause 2);

### **3. Land Code (2 June 1999, # 45; last amended 16 May 2013)**

22. The Land Code (LC) provides that:

- (i) Land can be acquired (purchased) for state and public purposes based on agreement between the authorized body and landowner or land user. In case the land owner or land user disagrees with the acquisition (purchase), the authorized body can, within two (2) months, turn to the court with the request to carry out the acquisition with the payment to the owner or land user of the compensation for the land (article 68, clause 1);
- (ii) When determining compensation for the land being acquired, it should reflect the market value of the right to the land and associated structures, losses that the landowner or land user incurs, and liabilities to third parties (article 68, clause 3); and
- (iii) When acquiring land for the state or public purposes with the consent of the landowner or land user, the owner/user can be allocated replacement land with the value of this land to be counted towards compensation for the land acquired.

23. It should also be noted that the LC specifies instances when the right to the land and associated structures can be terminated. These include:

- (i) Failure to use the land according to its targeted purpose;
- (ii) Land needed for state or public purposes;
- (iii) Non-use of land provided for agricultural use for three years;
- (iv) Non-use of land provided for non-agricultural productive purposes for a period stipulated in the original provision;
- (v) Non-payment of land taxes;
- (vi) Non-payment of social taxes; and
- (vii) Annulment of license for mining on the basis of the Kyrgyz Republic's mining law.

24. The decision of a court is required to officially terminate the rights to the land and associated structures in instances 1 through 4, above. Acquisition of the land under these instances can be effected only after compensating the costs of the rights termination and associated costs (article 49, clause 4).

25. According to LC article 49, clause 1, the landowner or user, unless the legislation, land title or lease contract indicates to the contrary, has the right to:

- (i) Use the land at its own description and in accordance to the targeted purpose of the land (article 49, clause 1, sub-clause 1);
- (ii) Build structures on the land, according to its targeted purpose, following the established procedures and meeting architectural, construction, environmental, sanitary, fire safety and other requirements (article 49, clause 1, sub-clause 6); and
- (iii) Claim the compensation, as specified by the legislation of the Kyrgyz republic (article 49, clause 1, sub-clause 5.).

26. Finally, the LC (article 78, clause 2) also specifies the use regime with regards to the lands of common use. It particularly indicates that lands of common use in settlements, towns, and villages (e.g. roads, streets, squares, sidewalks, driveways, park bands, boulevards, mini parks, water bodies, etc.) cannot be in private ownership, and only in exceptional instances can be rented by the authorized state body to legal entities and individuals for a maximum of 5 years. The authorized state body may permit construction of light-weight structures on the lands of common use (clause 78, clause 3).

#### **4. Regulation on Assets Valuation**

27. The valuation of the assets is carried out on the basis of the Temporary rules for the valutors and valuation companies (Government Resolution, as of 21 August 2003, # 537), Valuation standards for the valutors (Government Resolution, 03 April 2006, # 217) and other provisions of national legislation.

#### **B. ADB Safeguard Policy Statement (SPS 2009)**

28. ADB's SPS (2009) is aimed at avoiding involuntary resettlement wherever possible; minimizing involuntary resettlement by exploring project and design alternatives; enhancing, or at least restoration, the livelihoods of all displaced persons in real terms relative to pre-project levels; and improvement the standards of living of the displaced poor and other vulnerable groups. According to Safeguard Requirements No 2 on Involuntary Resettlement (SPS 2009), displaced persons are those who are physically displaced (relocation, loss of residential land, etc.) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihood) as a result of involuntary acquisition of land, or involuntary restrictions on land use.

29. Under ADB policy, people affected should be informed fully and consulted on resettlement and compensation options; absence of a formal legal title to land should not be a bar to compensation or rehabilitation of non-land assets; and particular attention should be paid to households headed by women and other vulnerable groups who may not be protected by national land compensation legislation and appropriate assistance provided to help them to improve their status.

30. In compliance with ADB's policy, APs in a subproject area could be of three types: (i) persons with formal legal rights to land or assets lost in their entirety or in part; (ii) persons who lose land or assets they occupy or own, in their entirety or in part, who have no formal legal rights to such land or assets, but who have claims to them that are recognized or recognizable under national laws; and (iii) persons who lose land or assets they occupy or use in their entirety or in part, who have neither formal legal rights nor recognizable claims to such land or assets. Involuntary resettlement safeguard requirements apply to all three types of APs.

31. The following are the basic policy principle of ADB's SPS, 2009:

- (i) Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with affected persons, host communities, and concerned non-government organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay

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

- (iii) Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- (v) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- (vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (viii) Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (ix) Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.

- (xii) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

### C. Reconciliation with ADB Policy

32. Comparison between ADB's SPS (2009) and Kyrgyz legislation is shown in Table IV.1 below. Reconciliation, when necessary, between these two instruments and legal practice is described in the comment's column.

**Table 3. Comparison of ADB Policy (SPS) with Kyrgyz Laws**

ADB Policy	Kyrgyz Legislation	Comments
When an ADB-financed project causes resettlement impacts, a RP has to be prepared	Under the Kyrgyz procedures, appropriate, documentation on impact and valuation is to be prepared; but such documentation does not have the format of an RP	Different practice without legal content
APs must be fully informed and consulted on compensation and rehabilitation options	Requires AP consultation and information disclosure prior to the start of project activities	Basically no difference
Lack of formal land title should not be a bar to rehabilitation and at least compensation for non-land losses	LC and CC provide compensation for land or other assets only for APs with legal land status and registered assets	Different legally and in practice
APs should be timely compensated	Clause 66 of LC stipulates that acquisition of land for state and public needs is made after compensation of losses and disbursement of entitlement	Basically no difference in case of titled land users
APs should be compensated and/or assisted, so as to maintain their pre-project livelihood	Compensation given for land, house, and other assets to legal but not to illegal land users/asset owners. No special rehabilitation allowance is given either to legal/illegal APs	Small difference for titled land users and registered asset owners. Major difference for untitled land users and unregistered asset owners

### D. Resettlement Principles, Entitlements, and Eligibility

33. To guide the screening and preparation of resettlement plan (RPs) for involuntary resettlement impacts of Facility subprojects (if any) and reconcile gaps between Kyrgyz law and ADB policy, the following resettlement principles, eligibility requirements, and entitlements matrix have been developed under this LARF. The proposed entitlement matrix (EM) can be updated during the preparation of the actual RPs, if needed, due to specific impacts identified but not covered by this EM.

#### 1. Resettlement Principles

34. RPs, as necessary, fitting the requirements of the applicable Kyrgyz Republic laws and ADB SPS (2009) will to be prepared and implemented. The goal of these plans and the policies and compensation measures described below is to ensure that people who may lose land, assets, or will retain the same or even better living standard as that of the without project situation. RPs will be officially approved by the Kyrgyz government and ADB.

35. The impacts caused by Facility subprojects (if any) will be compensated based on the laws, regulations, and policies of the Kyrgyz Republic and the requirements of the SPS Safeguard Requirements No 2 on Involuntary Resettlement, 2009. All impacts will be compensated at replacement rates and severely affected or vulnerable APs will receive special rehabilitation allowances. Based on the above assessment of national legislative provisions and ADB policy, the compensation/rehabilitation program under the Facility RPs will be based on the following underlying principles:

- (i) Involuntary resettlement is to be avoided or at least minimized;
- (ii) If impacts are unavoidable, appropriate compensation/rehabilitation at replacement value will be provided so as to preserve AP's pre-project living standards and livelihood status;
- (iii) APs will be assisted to restore their livelihood;
- (iv) APs will be fully informed and consulted on compensation options and implementation; and AP's participation, particularly for women and vulnerable groups, will be ensured in RP planning and implementation;
- (v) AP's socio-cultural institutions should be supported and used as much as possible;
- (vi) Compensation will be carried out with equal consideration of women and men;
- (vii) Lack of formal legal land title should not be a bar to compensation or at least rehabilitation;
- (viii) Particular attention should be paid to poor or women/disabled person-headed households; and appropriate assistance should be provided to them;
- (ix) Vulnerable APs will be provided special allowances;
- (x) Appropriate redress mechanisms to resolve AP's grievances in a rapid manner will be established;
- (xi) Compensation payments will be initiated only after ADB has approved the RP;
- (xii) AP consultation will continue during the implementation of the RP and RP implementation will be monitored and reported to ADB;
- (xiii) Before taking possession of acquired land and assets, compensation and rehabilitation assistance will be paid according to RP provisions; and
- (xiv) Civil works will only commence after the RP implementation has been completed and verified.

## **2. Eligibility**

36. Fitting ADB policy and local law, the compensation eligibility and entitlements framework, aim to assist APs to maintain or improve their standard of living after the subproject. APs eligible to compensation or at least rehabilitation provisions under the Facility subprojects will be:

- (i) All APs losing land, whether covered by legal title/land rights, legalizable, or without legal status;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, plants, or other assets attached to the land; and
- (iv) APs losing business, income, and salaries.

37. Compensation eligibility will be limited by a cut-off date to be set on the day of the end of the subproject impacts survey and AP Census and notification provided by the local authority within the preparation of respective RP(s). Persons that settle in or otherwise make use of affected areas after the cut-off date notification will not be eligible for compensation. Impacts occurring or detected after this date will be handled by the GRG and compensated if found valid and eligible by the GRG.

### 3. Entitlements

38. In principle, the Land Code of the Kyrgyz Republic and ADB policy both adhere to the objective of compensation at replacement cost. Under the Facility subproject RP(s), if any, all APs will be entitled to a combination of compensation and necessary assistances reflecting type of property lost or asset loss, magnitude of loss, impact on livelihood, and degree of APs socio-economic vulnerability. APs that do not own land or other properties but have economic interests and suffer loss of income or livelihoods will be assisted.

39. To assist recognized vulnerable households and further mitigate impacts, a vulnerability allowance computed based on the current official minimum subsistence level (MSL) of the Oblast will be provided to the household head, multiplied by three (3) months. A similar allowance will be provided to severely affected households suffering more than 10% loss of agricultural land or income.

40. A comprehensive set of compensation and rehabilitation entitlements and provisions for persons to be affected by Facility subprojects is provided in Table 4 below. This Entitlement Matrix draws on the EM prepared for the Component 3A subproject of EARR.

**Table 4. RP Entitlement Matrix Provisions**

Asset/Impact	Eligible APs	Entitlements	Notes
Agricultural Land	Titled/Legalizable Owner suffering permanent loss of agricultural land	Land for land compensation with plots of equal value and productivity to plots lost; or cash compensation for affected land at replacement cost based on market value free of taxes, registration, and transfer costs	Cash compensation, as determined by the Independent Valuator and as supported by legal opinion from competent authority.  Land should be acquired in its entirety if the remaining parcel after acquisition is no longer economically viable. For purposes of RP, economic viability is compromised when less than 80% of plot remains after acquisition
	Leaseholder / Tenant	Renewal/reallocation of lease of equal duration in other plots of equal value and productivity to plots lost; or cash compensation equivalent to potential income loss from leased land measured as net annual yield of affected land multiplied by the number of remaining years under the current lease, if any.	Comparative value/productivity of lease and cash compensation determined by the Independent Valuator and as supported by legal opinion from competent authority.  Net income determined by value of total crop yield (gross) minus production costs
	Sharecropper	Sharecroppers will receive their share of harvest at market rates plus cash compensation equivalent to net income from one (1) additional harvest	
	Squatter/Encroacher	Rehabilitation for land use loss equal to market value of one (1) gross harvest	No compensation is provided to the illegal/un-titled land users for the land.

Asset/Impact	Eligible APs	Entitlements	Notes
		(in addition to crop compensation, if necessary) + improvements made to the land plot used	Cash compensations determined by Independent Valuator and as supported by legal opinion from competent authority.
Residential/Commercial Land	Titleholder/Owner	Land for land compensation through provision of land of comparable value and location to plots lost; or cash compensation for affected land at full replacement cost free of taxes, registration, and transfer costs.	
	Renter/Leaseholder	Land renters/leaseholders who leased land for residential/commercial purposes will be provided rental allowance for the number of months remaining under the current lease contract for equivalent accommodation/premises at prevailing market rate.	
	Squatter	Three (3) months self-relocation allowance for equivalent accommodation/premises at prevailing market rate	
Buildings, Houses, and other Structures	APs including squatters	Cash compensation at Replacement rates for other fixed assets based on cost of materials, labor, transport of materials, and reinstallation of facilities, free of salvageable materials, depreciation, and transaction costs. In case of partial impacts, full cash assistance to restore remaining structure.	
Trees: Productive	Owner of Trees Affected	Fruit bearing trees will be compensated on the basis of the sum of present value of foregone earnings from the crop sale.	
Trees: Non-productive	Owner of Trees Affected	Timber and other non-productive trees will be compensated at commercial value of the wood multiplied by its volume. Calculated on the basis of tree diameter. Compensation for trees will be free of deduction for the value of the wood left to the AP.	
Fences	Owner	Compensation for fence relocation, plus eventual	

Asset/Impact	Eligible APs	Entitlements	Notes
		damages.	
Business	All APs suffering temporary or permanent loss of business	Compensation of business income lost for the period of business stoppage due to water and sewage transmission line construction.	
Employment	Laborers	Cash indemnity corresponding to their salary for the remaining part of contract.	
Relocation	All APs affected by relocation	Relocation subsidy Including transport allowance sufficient to cover transfer costs and transitional livelihood expenses for one (1) month at official minimum subsistence level.	
Severe Impacts Allowance	AP suffering >10% loss of productive assets or income  Titled/legalizable landowner  Leaseholder squatter/encroacher	When >10% of APs land or income is affected, APs will receive a severe impact allowance equal to a three (3) month allowance based on minimum subsistence level.	
Vulnerable Households Allowance	Officially defined and recognized households below poverty line; families headed by women/ disabled; and families with more than five children	A three (3) month allowance equivalent to the official minimum subsistence level	
Crops	All APs (including squatters) with crops affected	Crop losses, in the event they occur, will be compensated in cash at full market rate based on actual losses	
Remediation Allowance	All APs, as identified in RP-associated Corrective Action Plan (CAP).	Allowance equivalent to net income from one (1) year's harvest provided to LAR-affected landowners, leaseholders, and/or informal land-users affected by inconveniences associated by the project activities.	
Unforeseen impacts due to construction work or design adjustments subsequent to RP preparation.	Any	If found eligible by the GRG, these impacts will be compensated as per the policy framework and entitlements defined above.	

#### IV. CONSULTATION AND INFORMATION DISCLOSURE

41. For activities that are deemed to have adverse environmental and social impacts (in this case, project first activity is classified as category C), it is important that aspects relating to consultation, information disclosure and grievance redress mechanisms be thoroughly considered and reflected in the RP(s), if any. RP preparation involves public consultation, public participation, and information dissemination carried out during Subproject-associated involuntary resettlement impacts assessment, AP census, inventory of loss, household-level socio-economic survey and interviews, cut-off date notification, valuation of affected assets, and AP and public comment on the Draft RP.

42. The relevant IA for each activity, through its Project Implementation Unit (PIU) or Project Management Office (PMO), has the responsibility to inform the activity's affected people and other stakeholders of the nature of the proposed activity and the likely land acquisition and resettlement impacts, as well as allow them to access general information about the Facility and its activities. In addition, should the affected people or stakeholders have any grievances, they have the right to lodge complaints through a grievance redress process established for each activity under the Facility.

#### **A. Public Consultation**

43. Meaningful and informed consultations with affected persons and the public shall be undertaken during Subproject design, impacts assessment, and RP preparation. Consultations shall be based on the following principles:

- (i) Public consultation should be carried out during the early stages of an activity (i.e. project preparation stage) and should be continued throughout the project cycle (i.e. implementation stage);
- (ii) Timely disclosure of relevant information in a comprehensible and readily accessible to affected people format;
- (iii) Ensuring the absence of intimidation or coercion during public consultation;
- (iv) Gender inclusive and responsive with focus on disadvantaged and vulnerable groups, and
- (v) Enabling the integration of all relevant views of affected people and stakeholders into decision-making.

#### **B. Information Disclosure**

44. The Ministry of Finance and ADB agree that in disclosing information for each of the activity under the Facility:

- (i) The IA, through its PIU/PMO, will ensure that meaningful public consultations are undertaken during the assessment process for the subgrant activities;
- (ii) The respective IA for each activity, through its PIU/PMO, is responsible for ensuring that all LAR assessment documentation, including the LAR due diligence and monitoring reports, are properly and systematically kept as part of the activity records;
- (ii) The records of public consultation carried out shall be properly documented within the RP(s).
- (iii) The RP(s) shall be disclosed to the public on the ADB and the MOF/PIU websites in English, Russian, and Kyrgyz languages and in local government offices in the Subproject Area. Any RP must be reviewed by ADB before it is disclosed to the public;
- (iv) Prior to public consultation on the Draft RP, an associated informational brochure in Kyrgyz and Russian languages shall be also distributed to APs, NGOs, civil society organizations, and local governments in the Subproject Area;
- (v) The RP Information Brochure must be prepared and distributed to public.

#### **V. GRIEVANCE REDRESS MECHANISM**

45. In order to receive and facilitate the resolution of affected peoples' concerns, complaints, and grievances about the project's/activity's environmental and social performance, a Grievance Redress Mechanism (GRM) will be established for each of the activity under the Facility.

46. The concerned IA, through its PIU/PMO, will be responsible for establishing and implementing the GRM in accordance with the LARP prepared for the Facility subproject. The GRM will be in compliance with the Law of the Kyrgyz Republic “On procedure of processing complaints of citizens” as well as ADB Safeguard Policy. When and where the need arises, the mechanism will be used for addressing any complaints that arise during the implementation of subgrant activities identified under the Facility. The IA through its PIU/PMO will inform the concerned community members of the mechanism with assistance from local leaders, and community representatives. The GRM will be fleshed out after discussion with community members and other stakeholders. Actual responsibilities will be assigned after the consultation process has identified relevant members from the local government structure, or communities or community pressure groups, if and where they exist.

47. Each PIU/PMO will designate Grievance Focal Points (GFPs), who will be the designated personnel at various levels responsible for receiving complaints, resolving it or ensuring that it reaches the right people where it may be resolved. These designated GFPs will be identified after consultations have been held with communities and stakeholders, these could be community leaders, local administrations, or environmental and social officers of the contractor or construction supervision consultant. Affected people may lodge their complaint for registration through a personal visit, call or letter to any of the GFPs. Besides, Grievance Redress Group (GRG) will be established with participation of IA representatives, local authorities, APs, technical specialist(s) from the relevant organizations as required and NGOs.

48. Each focal Point will maintain a record of the complaints received and will follow-up the complaint’s rapid resolution. The respective PIUs/PMOs will enter and maintain a complete record of all complaints received alongside the record-book that serves as the environment complaints register. The PIU/PMO will also keep track of the status of complaints and will ensure that these are addressed in a timely manner.

49. A grievance redress mechanism (GRM) responsive to ADB Safeguard requirements was established for the previous EARR project. The same procedure will be adapted for the first activity project under the prepared IEE. The future LARPs (if any) for facility subprojects will consider the application of the same GRM as for the EARR based on consultations with stakeholders.

## **VI. INSTITUTIONAL ARRANGEMENT AND RESPONSIBILITIES**

50. The MoF will be the EA and each activity will have a different IA, which will be determined for each activity based on the nature of the activity to be supported under the Facility.

51. Each IA will establish a PIU or PMO, which will be responsible for the overall planning, management, implementation, monitoring and reporting of activities, including those related to IR safeguards, which shall include the following:

- (i) Preparation of involuntary resettlement (IR) screening checklists and respective social due diligence reports;
- (ii) Preparation of the draft/final LARP report (s) (for category B) based on preliminary/detailed design and their proper disclosure;
- (iii) Implementation of LARP (s) within the set timelines;
- (iv) Ensuring meaningful public consultations are conducted as per requirements of the ADB SPS;

- (v) Supervision and monitoring of the implementation of LARPs and other commitments related to safeguards, including development of CAPs as needed and ensuring that these CAPs are undertaken in a timely manner;
- (vi) Ensuring that LARP implementation completion report is prepared and submitted for ADB approval;
- (vii) Ensuring that no civil works for the activity are started unless the LARP implementation completion report is approved by ADB;
- (viii) Appointment of a social safeguards/resettlement specialist to monitor the implementation of the LARP required for each activity;
- (ix) Preparation of social monitoring reports every six months, or as stated in the legal agreement, to be delivered to the ADB and the PIUs;

52. ADB will be responsible to ensure that the Facility and all subgrant activities comply with the ADB SPS. More specifically, ADB will be responsible for the following:

- (i) Review and approval of IR categorization and LARPs;
- (ii) Conduct safeguards supervision missions for category B activities;
- (iii) Review the semi-annual monitoring reports to ensure that all the IR/social impacts and risks are mitigated as planned and that necessary corrective actions have been identified and are being implemented;
- (iv) Provide assistance to the IA/PIUs, as required, in carrying out its responsibilities
- (v) Conduct capacity building or trainings to IA/PIUs on safeguard requirements of ADB based on its SPS 2009, as needed.

53. The Facility's costs have incorporated budget and resource needed to (i) implement the IR review and screening procedure, (ii) undertake the land acquisition and resettlement assessment surveys for the activities, (iii) monitor the implementation of LARPs, and (iv) undertake any other corrective measures as required.

54. The detailed institutional arrangements will be set for each activity and appointed PIU/PMO within the preparation of LARP (s).

## **VII. MONITORING AND REPORTING**

### **A. Monitoring Objectives and Responsibilities**

55. ADB reviews and supervises project performance against the commitments of the borrower/client as described in the legal agreements. The extent of monitoring activities, including the scope and periodicity, will be commensurate with the project's risks and impacts. Based on the ADB's SPS, category B projects are required to prepare and submit periodic social monitoring reports as deemed appropriate by ADB. Typically, this would mean a semi-annual monitoring report submitted to ADB, unless otherwise stated in the legal agreements.

56. The respective PIUs/PMOs for each activity under the Facility are required to implement safeguard measures and relevant safeguard plans, as provided in the legal agreements, and to prepare and submit periodic monitoring reports on the implementation performance of the activities under the Facility. For the future LARPs (if any), ADB will require the PIUs/PMOs to:

- (i) Establish and maintain procedures to monitor the progress of implementation of LARPs based on the set indicators;
- (ii) Verify the compliance with compensation, livelihood restoration measures and their progress toward intended outcomes and prepare LARP implementation completion report for ADB approval;

- (iii) Document and disclose monitoring results and identify necessary corrective and preventive actions (i.e. CAP) in the periodic monitoring reports;
- (iv) Follow-up on these actions to ensure progress toward the desired outcomes;
- (v) Submit periodic monitoring reports on safeguard measures as agreed with ADB.

57. ADB will also carry out the following monitoring actions to supervise the implementation of activities:

- (i) Conduct supervision missions with detailed review by ADB's safeguard specialists/officers or consultants for activities with LAR impacts;
- (ii) Review the periodic social monitoring reports submitted by the PIUs to ensure that all the LARPs are implemented as planned and as agreed with ADB;
- (iii) Work with PIUs/PMOs to rectify to the extent possible any failures to comply with their safeguard commitments, as covenanted in the legal agreements, and exercise remedies to reestablish compliance as appropriate; and
- (iv) Prepare project completion reports that assesses whether the objective and desired outcomes of the LARPs have been achieved.

## **B. LARP Implementation Completion Report**

59. The LARP Implementation Completion Report will be the basis for ADB to provide no-objection to the start of Subproject civil works. The IA will closely monitor the implementation of the LARP and engage in the following tasks: (i) review of LARP and Information pamphlet disclosure; (ii) review of action taken to compensate APs with particular attention to the way this action fits stipulations of the LARP; (iii) review all compensation accounts and records; (iv) verify whether the LARP compensation has been thoroughly provided to all APs and in the amounts specified in the LARP; (v) assess the satisfaction of the APs with LARP information dissemination, disclosure, and consultation; with the compensation package provided to them; and with other LARP provisions and measures; (vi) review complaints and grievance cases; and (vii) carry out an AP satisfaction survey.

60. The main milestones to be monitored during the LARP implementation process are:

- (i) LARP disclosure and information dissemination to APs;
- (ii) Public Consultations;
- (iii) Dissemination of information to APs on compensation and allowance payment arrangements;
- (iv) Payment of compensation and allowances;
- (v) Effectiveness of the complaints handling mechanism and number of complaints review sessions by GRG, and

61. The detailed monitoring framework will be prepared within the LARP for further application based on the above set milestones and actual scope of impacts. The outline for LARP implementation Completion Report is attached in Appendix 2.

## **C. Monitoring and Reporting Methodology and Arrangements**

62. The monitoring and reporting exercise will involve desk and field activities. Similarly, monitoring of LARP implementation will involve advance design and development of a variety of survey tools and instruments, including those for AP surveys and interviews, formats for verification of disclosure and information dissemination; planning for meetings and focus group discussions with APs, LARP implementing partners, and others; and other arrangements for

survey execution and AP participation in monitoring activities. To enable rapid start-up of LARP implementation monitoring, these preparatory steps and measures will be begun in anticipation of LARP approvals.

## APPENDIX 1 INVOLUNTARY RESETTLEMENT IMPACT SCREENING CHECKLIST

A. Project Name:

Possible Involuntary Resettlement Effects	Yes	No	Not known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Is the site for land acquisition known?				
2. Will there be any land acquisition?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will subproject be implemented within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
<b>Involuntary restrictions on land use or on access to legally designated parks and protected areas</b>				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
<b>Quantification of private land require to be acquired:</b>				
Any preliminary estimate of the likely affected land that will be required by the Project?				

**Possible Involuntary Resettlement Effects****Yes****No****Not known****Remarks**

[ ] No [ ] Yes

If yes, approximately how much? \_\_\_\_ hectares

Information on displaced persons

Any estimate of the likely number of persons that will be displaced (economically and physically) by the Project?

[ ] No [ ] Yes

If yes, approximately how many? \_\_\_\_

Any estimate of the likely number of persons that will be physically displaced (relocated) by the Project?

[ ] No [ ] Yes

If yes, approximately how many? \_\_\_\_

Any estimate of the likely number of persons that will experience loss of more than 10% of productive assets?

[ ] No [ ] Yes

If yes, approximately how many? \_\_\_\_

Are any of them poor, female-heads of households, or vulnerable to property risks?

[ ] No [ ] Yes

If yes, approximately how many? \_\_\_\_

Are any displaced persons from indigenous or ethnic minority groups?

[ ] No [ ] Yes

If yes, how many? \_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

## APPENDIX 2. LARP IMPLEMENTATION REPORT STRUCTURE, CONTENTS, AND KEY INDICATORS

	Section	Contents	Key Indicators
Executive Summary			
1	Introduction	<ul style="list-style-type: none"> <li>• Report purpose and objectives</li> <li>• Key dates and milestones</li> <li>• Implementation process</li> <li>• Report methodology</li> </ul>	
2	RP Implementation Process	<ul style="list-style-type: none"> <li>• Assessment of actual vs. planned RP implementation process</li> <li>• Completion of RP Implementation tasks, including payment of RP compensation and allowances and execution of other corrective measures</li> </ul>	<ul style="list-style-type: none"> <li>• Conformance with RP implementation schedule</li> <li>• Extent of task completion</li> <li>• Extent of compliance with RP principles and provisions</li> </ul>
3	Payment of AP Compensation and Allowances	<ul style="list-style-type: none"> <li>• Results of review of documentation</li> <li>• Comparison of the RP-approved compensation/allowance packages with those actually provided to APs</li> </ul>	<ul style="list-style-type: none"> <li>• % APs receiving RP-stipulated compensation and/or allowances</li> <li>• % RP budget disbursed</li> </ul>
4	Grievance Resolution	<ul style="list-style-type: none"> <li>• Review of complaints and grievance registered and their resolution</li> <li>• Evaluation of Grievance Redress Mechanism (GRM) and Subproject GRG effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• #Grievances/complaints registered</li> <li>• #Grievances/complaints resolved</li> <li>• # Grievances/complaints pending</li> </ul>
5	Public Consultation and Information	<ul style="list-style-type: none"> <li>• Extent /effectiveness of disclosure and dissemination of RP and RP information</li> </ul>	<ul style="list-style-type: none"> <li>• % AP participation in public consultation on Draft RP</li> </ul>
	Disclosure	<ul style="list-style-type: none"> <li>• brochures disclosure</li> <li>• Verification of distribution of RP Information Brochure/notification of public consultation to APs prior to public consultation on Draft RP</li> <li>• Verification of in-country website disclosure of RP and RP information prior to public consultation on Draft RP and upon approval of Final RP on EARR website</li> <li>• Verification of local disclosure of RP and RP information prior to public consultation on Draft RP and following approval of Final RP</li> <li>• Verification of public accessibility of Valuation Report</li> <li>• Verification of AP awareness of GRM and GRG LPC</li> </ul>	<ul style="list-style-type: none"> <li>• #/% APs acknowledging receipt of RP Information</li> <li>• #/% APs acknowledging access of RP information on EARR website</li> <li>• #/% APs acknowledging access of RP information at LA offices</li> <li>• #/% APs acknowledging access of Valuation Report at SAACCS</li> <li>• #/% APs acknowledging awareness of GRM/GRG LPC</li> </ul>

6	AP Satisfaction with RP Implementation	<ul style="list-style-type: none"> <li>• Assessment of AP satisfaction with RP implementation, including: information disclosure and dissemination,</li> <li>• public consultation,</li> <li>• amounts of compensation and allowances,</li> <li>• compensation and allowances payment process,</li> <li>• grievance redress mechanism, (GRM)</li> <li>• grievance/complaints resolution</li> <li>• implementation of corrective measures</li> <li>• Review of AP suggestions for improvement or corrective measures that remain necessary</li> </ul>	<ul style="list-style-type: none"> <li>• Degree of AP satisfaction with RP information disclosure and dissemination</li> <li>• Degree of AP satisfaction with public consultation</li> <li>• Degree of AP satisfaction with compensation and/or allowance packages</li> <li>• Degree of AP satisfaction with compensation and allowances payment process</li> <li>• Degree of AP GRM satisfaction</li> <li>• Degree of AP satisfaction grievance/complaint resolution among APs registering complaints or grievances</li> <li>• Degree of AP satisfaction with implementation of other corrective measures</li> <li>• Degree of AP satisfaction with overall RP implementation</li> </ul>
7	Conclusion and Recommendations	<ul style="list-style-type: none"> <li>• General findings on assessment of overall RP implementation, safeguards compliance, and the extent to which RP compensation and allowance measures were implemented in line with RP stipulations and provisions</li> <li>• Identification of corrective action or remedial measures required to complete satisfactory RP implementation</li> <li>• Specific recommendation to ADB regarding issuance of NOL to commencement of civil works</li> <li>• Lessons learned for application in future projects</li> </ul>	
(Satisfaction indicators will include: HS=CiPCly satisfied' S=satisfied; US=unsatisfied)			