

Government of Nepal
Ministry of Local Development

Social and Environmental Safeguards Framework

Local Governance and Community Development Program (LGCDP)¹

Executing Agency:

**Ministry of Local Development (MLD)
Government of Nepal**

August 2008

¹ ADB's support to this program is called the Governance Support Program Cluster (Subprogram 1).

CURRENCY EQUIVALENTS

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Re 1.00 = \$0.014533

\$1.00 = Re 68.8079

ABBREVIATIONS

ADB	–	Asian Development Bank
CBO	–	community-based organization
CIDA	–	Canadian International Development Agency
DAG	–	disadvantaged group
DDC	–	District Development Committee
DFO	–	District Forest Officer
DOLIDAR	–	Department of Local Infrastructure Development and Agricultural Roads
DPs	–	development partners
EA	–	executing agency
EIA	–	environmental impact assessment
EMS	–	Environmental Management Section
EO	–	Executive Officer
EPA	–	Environmental Protection Act
EPR	–	Environmental Protection Regulations
FY	–	fiscal year
GE/SI	–	gender equality/social inclusion
GON	–	Government of Nepal
GSP	–	Governance Support Program
IEE	–	initial environmental examination
IP	–	indigenous people
IPF	–	indigenous people's framework
LBs	–	local bodies
LBFAR	–	Local Body Financial Administration Regulations
LDO	–	Local Development Officer
LEP	–	Labor-based, environmental friendly, and participatory approach
LGCDP	–	Local Governance and Community Development Program
LSGA	–	Local Self-Governance Act
M&E	–	monitoring & evaluation
MLD	–	Ministry of Local Development
MOEST	–	Ministry of Environment, Science, and Technology
MOF	–	Ministry of Finance
NFIN	–	National Federation of Indigenous Nationalities
NGO	–	non-government organization
PCU	–	Program Coordination Unit
PWD	–	Public Works Directive
RF	–	resettlement framework
RoW	–	right-of-way
SA	–	social assessment
TA	–	technical assistance
TOR	–	terms of reference
VDC	–	Village Development Committee

Table of Contents

I.	INTRODUCTION	4
A.	Context	4
B.	Objectives of the Social and Environmental Safeguards Framework (SESF)	6
C.	Application of this Framework	6
D.	Key Definitions and Terminologies	6
E.	Policy Principles	8
II.	ENVIRONMENTAL AND SOCIAL IMPACT FRAMEWORK	10
A.	Objective and Coverage	10
B.	Existing Legal and Policy Environment	10
C.	Implications of the Legal and Policy Environment	12
D.	Sub-project Classification	13
E.	Potential Impacts and Proposed Mitigation Measures	15
F.	Environmental Assessment and Review	19
G.	Monitoring and Supervision	21
H.	Reporting and Auditing	21
I.	Capacity Building for Review Procedures	22
J.	Responsibilities and Authorities	23
K.	Staffing Requirements and Budget	24
L.	Implementation Arrangement	25
M.	Conclusions and Summary	25
III.	INDIGENOUS PEOPLES FRAMEWORK	45
A.	Context	45
B.	Indigenous Peoples in Nepal	45
C.	Relevant Policies on Indigenous Peoples	45
D.	Objectives of the Indigenous Peoples Framework (IPF)	46
E.	Procedures for Sub-project Planning and Participation of IPs	46
F.	Consultation, Participation and Disclosure	49
G.	Monitoring and Evaluation	49
H.	Budget	50
I.	Capacity Building for Review Procedures	50
IV.	INVOLUNTARY RESETTLEMENT FRAMEWORK	54
A.	Context	54
B.	Likely Scope of Land Acquisition, Resettlement and Screening of Sub-Projects	54
C.	Applicable Legal and Policy Framework	55
D.	Definition, Objectives and Principles	56
E.	Screening and Categorization of Impacts on IR	58
F.	Preparation of a Resettlement Plan	59
G.	Entitlement for Various Losses	59
H.	Specific Procedures for Sub-project Planning and Participation of APs	61
I.	Capacity Building	62
J.	Complaints and Grievance Procedures	63
K.	Information Dissemination, Consultation, Participation, and Disclosure	63
L.	Institutional Responsibilities and Implementation Schedule	64
M.	Budget and Financing	65
N.	Monitoring and Evaluation	65
O.	Conditionality and Covenants	66
P.	Reporting	66

INTRODUCTION

A. Context

1. The Government of Nepal has finalized the Local Governance and Community Development Program (LGCDP, or ‘national program’) which aims to strengthen local bodies (LBs) in service delivery, local communities in holding to account the LBs for such service delivery, and central level institutions in providing strong support to the work of the LBs and communities. One primary method used in the program to achieve its objectives is to ensure a greater amount of funds transfers to LBs and communities (particularly of disadvantaged groups) so that they can provide more services more effectively and in an accountable and inclusive manner. Such funds transfers can be for recurrent or capital expenditures and on a conditional or unconditional basis. The LBs, under the Local Self Governance Act, 1999, are entitled to make investment decisions on the unconditional capital grants based on the demands expressed by citizens at the local level.

2. However, prior to any investments LBs can make, they will be required to ensure compliance to safeguards against possible socio-environmental impacts (including impacts on indigenous people, and impacts that might force communities to be involuntary resettled). As such, LBs are required, under the implementation arrangements for the national program, to specify the relevant frameworks that they will use prior to the approval of any activity or sub-project² that could have an impact on these three domains. Should an investment decision be made that requires consideration of any one of these three safeguard mechanisms, LBs will be mandated by the Grant Agreement to first assess possible impacts on the environment, involuntary resettlement, and on indigenous people (IPs) before deciding to either proceed with the sub-project with no need for safeguard measures in place or prepare the necessary assessments and mitigation plans prior to commencement of the sub-project (see Figure 1). This safeguard framework document details how LBs should handle issues related to environment, involuntary resettlement, and IP impact in the sub-project area(s).³

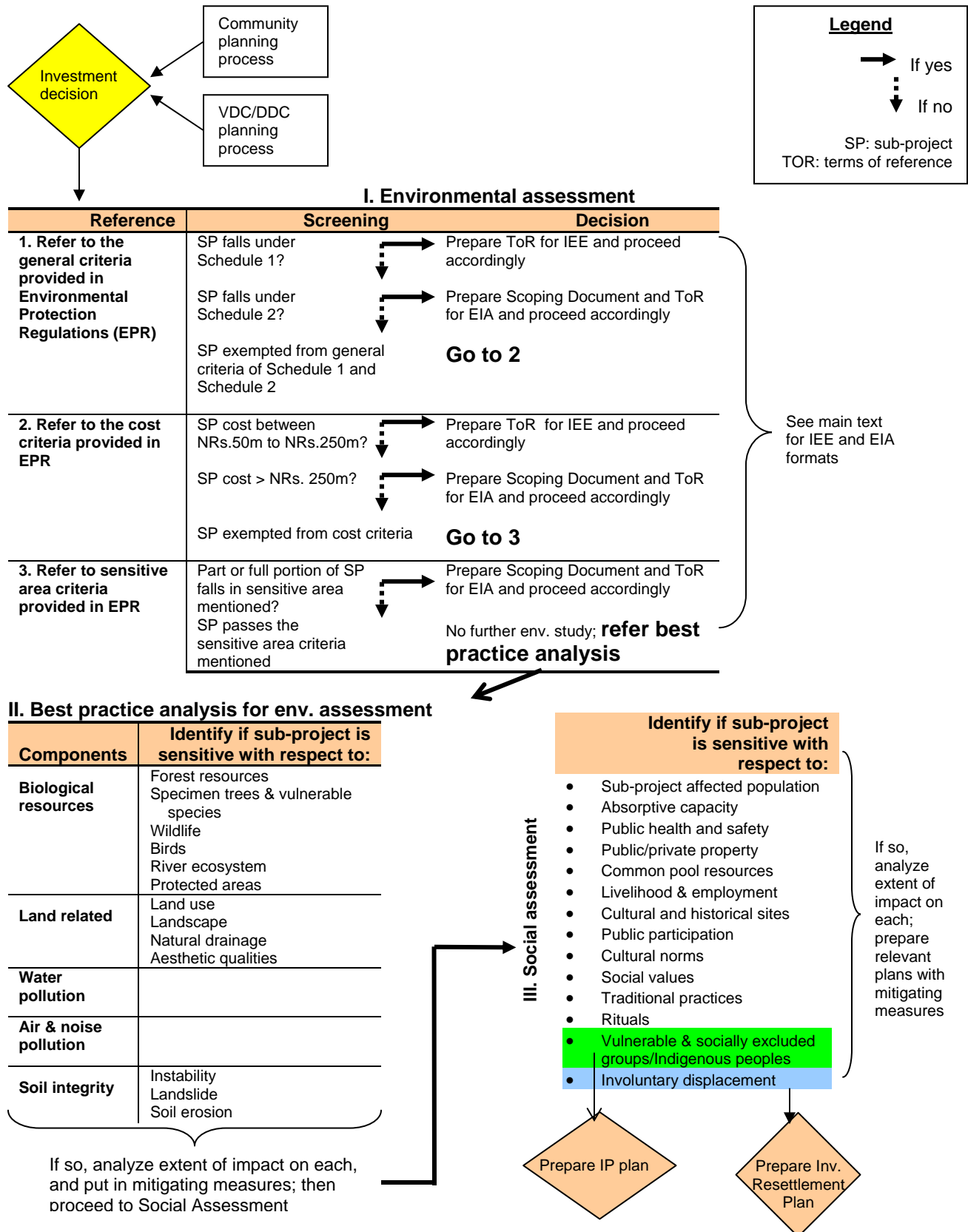
3. All sub-projects that will be selected will be constructed based on a labor-based, environment-friendly and participatory (LEP) approach.⁴ Ministry of Local Development is the Executing Agency (EA) and the District Development Committees (DDCs), Village Development Committees (VDCs) and Municipalities will be the Implementing Agencies. Specification of the safeguards framework for the national program relies on two sources: Government’s Environmental Protection Act (EPA) and Environmental Protection Regulations (EPR), 1997, and ADB’s policies and guidelines.

² The term ‘sub-project’ is used here to denote that particular activity that a LB (either as part of its own planning exercise, or in support of a community’s prioritized proposal) will be engaged in as part of the national program.

³ The three frameworks that are presented here are adapted from the ones prepared by ADB and the Government for the same EA (i.e., MLD) for the ADB-supported Rural Reconstruction and Rehabilitation Sector Development Project (RRRSDP) (NEP 40554-01). This is done for two reasons: (i) the fact that the EA is the same for both the programs means that transaction costs are lower for the EA to monitor and review; and (ii) many potential sub-projects at the local level are likely to share similar characteristics between these two programs (such as, e.g., small-scale physical infrastructure).

⁴ The Labor-Based, Environmentally Friendly, and Participatory Approaches (LEP) construction approach has evolved over several years of experience as the technically, environmentally and socially appropriate method for constructing rural roads in the hill and mountain areas of Nepal. As the name implies: (i) labor, hand tools, and small equipments are used for construction; (ii) the natural environment is conserved as much as possible; and (iii) local interests and opinions are incorporated into the design and implementation of the schemes.

Figure 1. Flowchart for Safeguards Assessment



B. Objectives of the Social and Environmental Safeguards Framework (SESF)

4. This framework has been prepared to set out the policy, screening, and planning procedures that will apply to sub-projects that may be prepared and approved by LBs during ADB grant implementation to ensure that they are in keeping with the relevant laws and policies of Nepal, including:

- a. Environmental Protection Act (EPA) (1997) and Environmental Protection Regulations (EPR) (1997);
- b. Land Acquisition Act (1977) and Land Acquisition Regulations (1963);
- c. Local Self-Governance Act (LSGA) (1999) and Local Self-Governance Regulations (LSGR) (1999);
- d. Forest Act (1993) and Forest Regulations (1995);
- e. Local Infrastructure Development Policy (2004);
- f. National Parks and Wildlife and Conservation Act (1973, as amended 1993);
- g. Soil and Watershed Conservation Act (1982) and Watershed Conservation Rules, 1985; and
- h. Water Resources Act (1992) and Water Resources Regulations (1993).

5. This SESF document is also in consonance with ADB policies on: (i) Involuntary Resettlement (1995), (ii) Indigenous Peoples (1998), and (iii) Environment (2002).

C. Application of this Framework

6. This framework will apply to all sub-projects financed under the Local Governance and Community Development Program, including by the unconditional capital grants component of the support from ADB and other development partners to the national program.

D. Key Definitions and Terminologies

7. The definitions of the key terminologies/concepts used in this Framework are as follows:

- a. **Affected Person (AP):** All persons who, as of the cut-off-date, stand to lose for the sub-project all or part of their land or other assets, irrespective of legal or ownership title.
- b. **Compensation:** Payment in cash or in kind of the replacement value of the acquired property.
- c. **Cut-off Date:** The date of census survey to count the APs and their affected land and assets.
- d. **Grievances Redress Committee:** Committee established under the sub- project to resolve local grievances.
- e. **Indigenous Peoples (IP):** Groups with social or cultural identities distinct from that of the dominant or mainstream society ('Indigenous peoples' is a generic concept that includes cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, natives, and aboriginals).
- f. **Involuntary Resettlement:** Social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of an operation/sub-project.

- g. **Land Acquisition:** Process whereby land and properties are acquired for the purpose of the sub-project construction.
- h. **Land Donation:** Land owner's willingness to provide part of his/her land for the sub-project in expectation of sub-project benefits (this must be voluntary or unforced and confirmed in written agreement and witnessed by a third party).
- i. **Legalizable:** Those who do not have formal legal rights to land when APs are recorded, but could claim rights to such land under the laws of Nepal.
- j. **Non-titled:** Those who have no recognizable rights or claims to the land that they are occupying.
- k. **Poverty Line:** The level of income below which an individual or a household is considered poor.⁵
- l. **Project Affected Family:** A family consisting of APs, his/her spouse, sons, unmarried daughters, daughters-in law, brothers or unmarried sisters, father, mother, and other legally adopted members residing with him/her and dependent on him/her for their livelihood.
- m. **Rehabilitation:** The measures provided under the resettlement plan other than payment of the compensation of acquired property to improve (or at least to restore) income and livelihood of an affected person. It also means the re-establishment of destroyed or disturbed cultural and social networks and the provision of any damaged or destroyed community facilities to the affected communities.
- n. **Relocation:** Physical relocation of APs from their pre-project place of residence.
- o. **Replacement Cost:** The method of valuing assets to replace the loss at market value before the sub-project or dispossession, or its nearest equivalent, plus any transaction costs such as administrative charges, taxes, registration, and titling costs.⁶
- p. **Resettlement:** All the measures taken to mitigate all or any adverse impacts of the sub-project on the APs' property and/or livelihoods including compensation, relocation (where relevant), and rehabilitation.
- q. **Severely Project Affected Family/People (SPAF):** A Project Affected Family that is affected by the sub-project such that: (i) there is a loss of land or income such that the affected family falls below the poverty line; and/or (ii) there is a loss of residential house such that the family members are physically displaced from housing.
- r. **Squatters:** People living on, or farming, land not owned by themselves and without any legal title or tenancy agreement (the land may belong to the Government or to individuals).
- s. **Third Party:** An agency or organization to witness and/or verify "no coercion" clause in an agreement with APs for voluntary land donation.
- t. **Titled:** APs who have formal legal rights to land, including any customary or traditional rights recognized under the laws of Nepal.
- u. **Vulnerable Group:** Distinct group of people who are considered to be more vulnerable to impoverishment risks than others. Households that are poor, are

⁵ Nepal's national poverty line (currently about NRs 9,000 for most districts), which is based on a food consumption basket of 2,124 calories and an allowance for non-food items of about two thirds of the cost of the basket, will be adopted by the sub-project to count APs under the poverty line. The determination of poor households or persons under the sub-project will be based on the census and socio-economic surveys and confirmed by community meetings that the affected person/household falls below the poverty line.

⁶ Replacement cost is based on market value before the sub-project or dispossession, whichever is higher. In the absence of functioning markets, a compensation structure is required that enables affected people to restore their livelihoods to levels at least equivalent to those maintained at the time of dispossession, displacement, or restricted access.

headed by women, by *Dalits*, and by IP households who fall below the poverty line are counted as vulnerable APs.

- v. **Women-headed Household:** Household headed by women; the woman may be divorced, widowed, or abandoned or her husband can be working away from the district for long periods of time, but where the woman takes the decisions about the use of, and access to, household resources.

E. Policy Principles

8. In keeping with the various Acts and Regulations, as well as ADB's policy on Involuntary Resettlement (1995), on Indigenous Peoples (1998), and on Environment (2002), the following principles will guide preparation of all sub-projects to be decided upon by LBs under the national program:

- a. MLD, or its offices at local body level, will ensure sub-projects' compliance with all applicable environmental policies, rules, regulations, and Acts as well as with applicable ADB's environmental assessment requirements.
- b. As a matter of policy, land acquisition, involuntary resettlement, and environmental impacts will be avoided or minimized as much as possible.
- c. Any land acquisition and/or resettlement will be carried out and compensation provided in order to improve or at least restore the pre-Project income and living standards of the affected people.
- d. All information related to resettlement preparation and implementation will be disclosed to all concerned, and people's participation will be ensured in planning and implementation of the sub-project.
- e. All land acquisition will be as per the Land Acquisition Act (1977) and Land Acquisition Regulations (1963), which provide for compensation for properties to be acquired (however, payment of compensation for acquired assets will be at replacement cost).
- f. The persons affected by the sub-project who do not own land or other properties, but who have economic interest or lose their livelihoods will be assisted as per the broad principles brought out in this policy.
- g. Subject to the specified criteria on resettlement decisions subsequent to an investment decision at the local level, payment of compensation for lost land, housing, assets, and resettlement allowances will be in full prior to the contractor taking physical acquisition of the land and prior to the commencement of any construction activities.
- h. All compensation and other forms of assistance⁷ will be paid to all APs prior to commencement of civil works on the site(s) acquired.
- i. Broad entitlement framework of different categories of project-affected people has been assessed and is given in the Entitlement Matrix (see p. 61); however, anyone moving into the sub-project area after the cut-off date will not be entitled to assistance.
- j. The affected people will be provided with sufficient resources and opportunities to restore, and reestablish their income and livelihoods as soon possible.

⁷ While compensation is required prior to dispossession or displacement of affected people from their assets, the full resettlement plan implementation, which may require income rehabilitation measures, might be completed only over a longer period of time after civil works have begun. Affected people will be provided with certain resettlement entitlements, such as land and asset compensation and transfer allowances, prior to their displacement, dispossession, or restricted access.

- k. Appropriate grievance redress mechanisms will be put in place to ensure speedy resolution of disputes.
- l. All activities related to resettlement planning, implementation, and monitoring will ensure involvement of women; efforts will also be made to ensure that vulnerable groups are included.
- m. In case of sub-project where impacts on indigenous people (IPs) are identified, LBs shall ensure that IPs shall be informed, consulted, and mobilized to participate in sub-project preparation so as to ensure better distribution of the sub-project benefits and promote development of the IPs in sub-project areas.
- n. The environmental operational principles used in the national program are:
 - Ensuring that environmental safeguards as defined by the statutory rules and regulations of the Government are integrated into sub-project design prior to its financing and complied with during construction and operation.
 - Adopting environmental classification system in accordance with the Government's procedures and ADB environmental assessment requirements and in case of different results, the stricter requirement applies.
 - Where potential adverse environmental impacts are expected, the measures to prevent these from occurring in the first place are preferred to measures seeking minimization, mitigation, or compensation.
 - Early disclosure of relevant environment information and consultation with sub-project affected people and local NGOs for sub-projects with potential adverse environmental impacts.
 - Where required to mitigate significant adverse environmental risk, ensuring that appropriate and cost-effective environmental mitigation measures are integrated into sub-project design, implementation, construction, and operation.
 - Encouraging sub-project promoters and other sub-project partners to adopt environmentally sound practices.
 - Finally, should any LB make a decision to invest the grant funds in a sub-project that merits a Category A rating (and thus, preparation of an EIA), then the LB, through the Executing Agency, will, in addition to seeking the approval of the Ministry of Environment Science and Technology as required by the EPA and EPR, also secure ADB approval.

II. ENVIRONMENTAL AND SOCIAL IMPACT FRAMEWORK

A. Objective and Coverage

9. The objective of this Environmental Assessment and Review Procedure (EARP) is to provide guidelines for environmental assessment for future sub-projects in the Local Governance and Community Development Program (LGCDP) so that during the following four years of program implementation, LBs that decide to use the unconditional grants from the center to invest in physical infrastructure are aware of: (i) what they need to do to use the necessary and applicable checklist, and (ii) should an environmental assessment be necessary, know how to do one.

10. For preparation of environmental assessments of future sub-projects under LGCDP, this EARP includes:

- a. the process to be adopted while preparing environmental reports,
- b. the potential environmental impacts that could result from undertaking the sub-projects,
- c. the proposed mitigation measures to avoid the identified impacts,
- d. institutional capacity assessment and strengthening arrangements,
- e. legal framework for environmental assessment, and domestic and ADB environmental assessment and review procedures, and
- f. the approaches to be adopted during implementation of the sub-projects in order to ensure that environmental aspects are dealt with in a comprehensive manner.

B. Existing Legal and Policy Environment

11. *Local Self-Governance Act (LSGA) (1999) and Local Self-Governance Regulation (LSGR) (1999)* were promulgated with an aim to devolve the development authority and service delivery responsibility to LBs. The Act empowers Village Development Committees (VDCs), municipalities and District Development Committees (DDCs) (called Local Bodies or LBs collectively) to take responsibility for development programs and service delivery in their respective jurisdictions. The Act provides LBs to follow planned development programs and prioritize programs that can increase productivity, contribute to upgrading living standards, and generate income and employment opportunities. The Act also requires that local programs provide direct benefits to women and disadvantaged groups, and use community groups in the planning and execution of development programs.

12. *Local Infrastructure Development Policy (2004)* was formulated as per the provisions of LSGA. This policy was designed to make local infrastructure policy and strategy consistent with the LSGA and to harmonize donor and government practices in the sector. After the promulgation of the policy, a two tier infrastructure development hierarchy (strategic or central level and local level) was envisioned by GoN. Thus the responsibilities of local level infrastructure development now rely on the DDCs, VDCs, and/or municipalities.

13. The *Three-Year Interim Plan (2007/08–2009/10)* specifies decentralization as a main means of enhancing good governance and a strategy for promoting people's participation and empowerment. The Plan has a focus on improving the local governance and community development and envisions demand-driven, targeted, and community-focused and specific goal-oriented schemes and social mobilization.

14. *Environmental Protection Act (EPA) (1997) and Environmental Protection Regulations (EPR) (1997)* have been enacted and enforced to identify the environmental impacts likely to be caused by development activities and implement measures to mitigate or minimize the impacts. According to the EPA and EPR, all development projects should first be screened using criteria that are based on the scale of project stipulated in the Schedule 1 and Schedule 2 of EPR to determine the level of environmental assessment required. Projects that could result in some environmental impacts are required to conduct Initial Environmental Examination (IEE) and large projects that could result in major environmental impacts are required to go through an Environmental Impact Assessment (EIA) process. Projects smaller than those needing IEE are assumed to be exempted from the environmental assessment process because it is expected that they do not cause significant environmental damage.

15. *Land Acquisition Act (1977) and Land Acquisition Regulations (1963)* give legal provision to acquire the land for development projects. The Constitution of the Kingdom of Nepal, (1990) Article 17 (3) provides for compensation to be paid to the individual if the State takes land for development purposes. The Land Acquisition Act (1977) and the Land Acquisition Rules (1969) are the two main legal instruments that specify procedural matters of land acquisition and compensation.⁸ Articles 3 and 4 of the Land Acquisition Act empowers GoN to acquire any land at any place giving compensation and all other expenses pursuant to the Act for any public purpose. The regulations deal with the compensation rate, competent authority for compensation, and determination of the amount of compensation.

16. *The Forest Act (1993) and Forest Regulations (1995)* recognize the importance of forests in maintaining a healthy environment and distinguish the forests in the form of Government, protected, community, leasehold, and religious forests. Broadly speaking, the forests remain the property of GoN but are managed according to dedicated approved action plans by the forest user groups (community, private, or religious) under the supervision of a District Forestry Officer (DFO). The DFO may penalize forest users if the action plans are not adhered to, or if there are adverse environmental effects. Rule 65 of the Forest Regulations stipulates that in case the execution of any project in any forest area causes any loss or harm to any local individual or community, the proponent of the project shall bear the amount of compensation to be paid.

17. *The National Parks and Wildlife and Conservation Act (1973)*, as amended 1993, is the key legislation for wildlife conservation with provisions for national parks, conservation of species in their natural habitats, and it controls hunting, protection, management, and utilization of special sites and conduct of the users. A strict regulatory approach is taken under the authority of the Department of National Parks and Wildlife Conservation for national parks, wildlife reserves, controlled (strict) nature reserves, hunting reserves, and conservation areas. Severe penalties (significant fines and imprisonment) for possession and trading of animals or trophy specimens and the management of protected areas is enforced by National Parks and Wildlife and Conservation Regulation 2030(1974), Wildlife Conservation Regulations 2034 (1977), and the Buffer Zone (Management) Regulations (1996). The latter requires the Warden to submit a Buffer Zone Management work plan and form necessary user committees in coordination with local authorities to ensure the balanced utilization of forest resources and conservation of natural resources including wildlife. A participatory approach to the management of the buffer zones is encouraged.

⁸ The land acquisition rules were set up under the Land Acquisition Act (1962) that was replaced by the 1977 Act, but the rules, published in 1963, are yet to be updated. The rules are, therefore, older than the relevant Act and the Constitution that enshrines the principle.

18. The *Soil and Watershed Conservation Act (1982)* makes provision to control floods, landslides, and soil erosion in a highly regulatory framework (Watershed Conservation Rules, 1985). The Watershed Conservation Officer is the authority and the district Watershed Conservation Committee must implement watershed conservation practices and public participation for soil and land protection.

19. The *Water Resources Act (1992)* and *Water Resources Regulations (1993)* have established arrangements for the rational use of surface and underground water. The Act seeks to prevent environmental and hazardous effects from the use of water and prohibit water pollution by chemicals, industrial waste, or litter. Water may only be used in a manner that does not permit soil erosion, landslides, or floods.

20. The *Explosive Material Act, 1973*, specifies that if construction activities require the use of explosives, then in accordance with this Act, prior approval of the Chief District Officer (CDO) is needed to purchase such explosives. Also, the *Public Road Act, 1973*, is the governing legislation for construction and operation of roads in Nepal. The Act prohibits the construction of permanent structures (buildings) in a defined distance from the rural road, i.e., the road agency has the authority over everything within the right of way (ROW). If road projects temporarily require land and/or other properties during construction, rehabilitation, and maintenance, compensation is determined by the District Development Committee (DDC). Provisions are also detailed for compensation for the extraction of construction materials.

C. Implications of the Legal and Policy Environment

21. EPA and EPR serve the purpose of basic legal framework for environmental appraisal and mitigation in Nepal. The provisions made on the other relevant acts mentioned above comply with the essence and mandate of EPA and EPR. National Environmental Impact Assessment Guidelines and some sectoral guidelines have also been prepared (e.g., the Department of Roads and Department of Local Infrastructure Development and Agricultural Roads [DOLIDAR]⁹ both have published guidelines for the road sector in Nepal). The legal provisions for environmental appraisal and mitigation in Nepal are centered on the following major points:

- a. Environmental assessment is mandatory for sub-projects that have potential to create significant environmental impacts mainly in terms of physical activities. The scale of the sub-project and the scope of environmental impacts generated determine whether an Initial Environmental Examination (IEE) or an Environmental Impact Assessment (EIA) needs to be carried out.
- b. The executing body of the sub-project should serve as the proponent of IEE or EIA study and is responsible for commissioning the environmental appraisal.

⁹ Department of Roads (DoR): Reference Manual for Environmental and Social Aspects of Integrated Road Development, DoR, Ministry of Physical Planning and Works, Government of Nepal, Kathmandu, 2003; and Department of Local Infrastructure Development and Agricultural Roads (DOLIDAR): Environmental and Social Management Framework- Rural Access Improvement Project (RAIP), DOLIDAR, Ministry of Local Development, Government of Nepal, Kathmandu, 2004

- c. The Terms of Reference (ToR) for IEE is approved by the concerned Ministry while the Scoping Document and ToR for EIA study are approved by the Ministry of Environment, Science and Technology (MoEST).
- d. The legislation provisions a mandatory public consultation. While carrying out an IEE, a public notice needs to be published in a national newspaper and the same is also put on the notice boards of the concerned local authorities. A deed of public enquiry (*Muchulka*) needs to be collected from the authorities. In case of an EIA, the public notice provision has been mandated during the scoping as well as during the approval of the EIA report while a provision of public hearing is also in place during the preparation of the EIA report. Following the public notice, feedback and suggestions from the affected stakeholders needs to be collected.
- e. The responsibility of implementing the mitigation measures identified in the study reports lies with the executing authority or the proponent.
- f. Monitoring and auditing responsibilities have been delegated to the concerned Ministry and MoEST.
- g. Provisions for compensation and punishment for violators during the course of IEE and EIA preparation, implementation, and monitoring are also clearly defined by the EPA and EPR.

22. As stated above, since the executing authority for the IEE and or EIA studies serves as a proponent, the concerned Local Body (i.e., VDC, DDC, or Municipality) will serve as the proponent of the studies. Since resource persons may not be available for conducting the studies in these entities, the preparation of the environmental assessment reports¹⁰ could be outsourced to qualified consultants or professional experts. However, statutory requirements (such as publication of the notice) should be fulfilled by the proponents and at the same time they should also serve as communication point for the stakeholders and authorities approving the studies.

D. Sub-project Classification

23. While the national program (i.e., the LGCDP) in its design appears to be a sectoral project, there are significant policy reform considerations and provisions in it which means that the sub-projects that the national program does fund, will tend to be small,¹¹ and that the likelihood of significant adverse impacts from any one sub-project is low. In essence, any sub-project requiring EIA will not be eligible for funding under the national program. In any event, a particular challenge in a program of the type that LGCDP is, has to do with the difficulty of determining à priori what specific sub-projects will result as a consequence of the planning

¹⁰ The Government's 2002 Public Works Directives (PWD) specify that the environmental assessment can be conducted either as an integral part to the project identification and feasibility study, or as a separate study. In either case, the assessment should be carried out in close co-ordination with the feasibility study, the social assessment, the engineering design work and construction activities. The assessment assists in determining the scope of the project, mitigation measures and implementation arrangements which should be incorporated into the project design and implementation plan.

¹¹ The June 2008 review of VDC Block Grants, commissioned by MLD, conclude that in the VDCs it surveyed in 6 districts, almost half the LB resources was spent on administrative and wage bill matters. Only about a quarter of the funds at the disposal of the VDCs was actually set aside for transportation and road construction/maintenance as well as other activities of the infrastructural type.

processes in LBs. It is the LBs' responsibility to ensure that all investment decisions first go through the safeguards filter.

24. To understand the classification process better, it is first useful to ascertain what specific activities fall under the jurisdiction of LBs (this will yield the universe of sub-project possibilities relevant to the environmental and social analysis); this is given in **Attachment 1**. The size and coverage of the activity determines what sort of environmental assessment or social assessment is essential. This could be assessed in terms of associated magnitude or scale of the activity.¹²

1. As per ADB¹³

25. All investments are subject to categorization using ADB's project classification system to determine the environmental assessment requirements. Categorization is to be undertaken using Rapid Environmental Assessment (REA), consisting of questions relating to: (i) the sensitivity and vulnerability of environmental resources in the sub-project area, and (ii) the potential for the sub-project to cause significant adverse environmental impacts. Sub-projects are then classified into one of the following categories (see Table 1):

Table 1: Classification of Environmental Assessment (ADB)

Category	Determination of the type of Environmental Assessment Needed
Category A	Projects with potential for significant adverse environmental impacts. An environmental impact assessment (EIA) is required to address significant impacts.
Category B	Projects judged to have some adverse environmental impacts, but of lesser degree and/or significance than those for category A projects. An IEE is required to determine whether or not significant environmental impacts warranting an EIA are likely. If an EIA is not needed, the IEE is regarded as the final environmental assessment report.
Category C	Projects unlikely to have adverse environmental impacts. No EIA or IEE is needed although environmental implications are still reviewed.

2. Environmental screening based on EPR

26. On the other hand, EPR contains two schedules listing the type of sub-projects¹⁴ requiring either an IEE or an EIA. All sub-projects emerging under the framework of LGCDP must be considered for conducting either an IEE, EIA, or no further environmental study.

- a. Schedule I lists sub-projects which are likely to have significant but easily identifiable adverse environmental impacts for which mitigation measures can be readily prescribed. Such sub-projects require an IEE (see **Attachment 2**).

¹² For example, a line project (trail, canal or water supply line) can be described in lengths covered. Location specific activity (industry, landfill, bridge, health-post, school, etc.) can be described with the associated production capacity or quantity of services provided. Area specific projects (catchment protection, development of recreational area, operation of *Haat*- flea markets) could be described with the ground area covered to establish the facilities.

¹³ ADB. 2003. *Environmental Considerations in ADB Operations. Operations Manual*, Section 20. Manila.

¹⁴ For purposes of this Framework document, and in keeping with the LGCDP focus, the term 'sub-projects' will be used to mean 'projects' that are referred to in the EPA and EPR; this is because there is a possibility of having several hundred individual projects that LBs will be involved in as part of the larger Government program.

- b. Schedule II lists sub-projects likely to have significant adverse environmental impacts and require full EIA and report (see **Attachment 3**).
- c. One criterion (*Section l, Schedule 1 of the EPR*) based on estimated cost indicates that any development projects, physical activities, or actions intended to change the land use which are not listed in Schedule 1 but estimated to be in the range of 50 million Nepali Rupees to 250 million Nepali Rupees, need an IEE study. Similarly, projects not listed under Schedule 2 but estimated to cost more than 250 million Nepali Rupees need an EIA study (*Section m, Schedule 2 of EPR*). Based on this, projects which are not listed in Schedule 1 and 2 and have a cost less than 50 million Nepali Rupees can be considered as exempted from the environmental assessment.
- d. Sensitive area criteria (*Schedule 2, section l*) refers to the following areas which are categorized as environmentally sensitive (and any sub-projects located within such areas need an EIA study): historical, cultural and archeological areas; national parks, wildlife reserves, wetlands and conservation areas; and areas containing sources of public water supply.

27. Furthermore, PWD recommends that sub-projects which, as per the criteria above, do not require further environmental assessment shall be designed and implemented following good environmental and engineering practices. A basic norm for this would be the social and ecological justice. Expert judgment is crucial for the decision on identification of impacts and design of mitigation measures. These practices may include pollution prevention, compensatory, and mitigation measures. The type and extent of the preventive, compensatory, or mitigation measures depends on the magnitude and extent of the impacts identified.

28. The decision rule with respect to sub-project classification is simple: the stricter rule applies. That is, if ADB's project classification system recommends a higher level of environmental assessment compared with that resulting from EPR screening, ADB's requirement applies. On the other hand, if the EPR screening of the sub-project gives a stricter requirement compared with ADB's, the former applies.

E. Potential Impacts and Proposed Mitigation Measures

1. Environmental

29. Quite apart from the classification process, in considering the various environmental implications of investment decisions that LBs may make regarding sub-projects, it is useful to assess the impacts of these decisions on specific environmental components, including biological resources, land use, water pollution, air and noise pollution, soil erosion, etc. A description of these impacts follows:

- a. *Biological resources*. It is essential to know, for example, that if any kind of forest falls under the sub-project area, there are likely disturbances to the wildlife and birds in the project area or its proximity. If the sub-project will clear specimen trees or protected tree species, an assessment would be required. Similarly, if any natural water bodies (such as rivers or lakes) also lie in the sub-project area, it is essential to know if there will be significant impacts on the river or lake ecosystem. If the impacts are identified then mitigation measures must be suggested (for example, loss of trees due to forest clearance must be compensated by tree plantation as per the Forest Act and Regulations).

- b. *Land use, landscape, natural drainage, aesthetic qualities.* The intended activity may trigger many effects. For example, a road project may modify the overland flow patterns causing no flow or reduced flow in some natural channels and high/concentrated flow in others. This may induce a risk of instability or soil erosion and ultimately disruption in the associated ecosystem. Similarly, sub-project activities may lead to change in value of the land leading to alteration in existing land use. Agriculture land may be used to establish sub-project facilities. These impacts are identified and assessed in details if IEE or EIA studies are conducted. If the sub-project falls under the 'exemption' category, then good engineering practices should be followed to mitigate the impacts.
- c. *Water pollution.* The sub-project may contribute to polluting the natural water bodies during the construction or operational phases; and there may be spoils generated during the construction stage, runoff from unprotected slopes, spillage and leakage from storage sites and machines, and domestic sewage from the temporary camps for workers. The sub-project activities may also lead to the establishment of new activities (hotels, industries, settlements) discharging additional waste which will need additional facilities or expansion of existing facilities for the treatment and disposal of waste.
- d. *Air and noise pollution.* Earthwork and activities such as rock-crushing will give off dust and vehicles used for construction activities will contribute to air and noise pollution. Direct effects of the dust could be hazardous to the health of the workers and residents adjacent to the project site. Careful management of construction sites, storage of construction materials, and mitigation measures such as water sprinkling could reduce the problem.
- e. *Instability, landslide and soil erosion.* Construction activities may trigger these problems particularly in the weak and vulnerable geological areas. The type, size, frequency, and location of the existing unstable areas or landslides are important information which could help to design the mitigation measures. As far as applicable, these problems should be avoided by selecting the sub-project sites with least risks, reducing the area of ground clearance, using bio-engineering measures, and controlling the speed and volume of the water flows. Resource maps prepared by the LBs should be useful to identify these problems and recommend best engineering practices to be followed.
- f. *Sensitive areas.* It is essential to know if the sub-project site falls under listed sensitive areas such as historical, cultural and archeological sites, national parks, wildlife reserves, wetlands and conservation areas, and areas containing sources of public water supply. In cases when the sub-project site is part of such areas, an alternative option could be investigated. If encroachment or use of the sensitive areas is found unavoidable, then an EIA study is essential for the sub-project (careful planning is essential in such a case because an EIA study takes about a year for approval).

2. Social impact assessment

30. The supporting legal provisions for social assessment (SA) are yet to be formally organized in Nepal. GON has not adopted any specific regulations or guidelines for SA in the manner that EPA and EPR have been enacted and applied in all development projects and sub-

projects. However, PWD provides guidelines for carrying out SA applicable to the context of Nepal; major donor agencies have also provided such guidelines.

31. PWD recommends that awareness of social dimensions and issues is required in all sub-projects regardless of their size. It also says that while a specific SA may not be required for all sub-projects, an environmental assessment is recommended if any of the following is triggered:

- a. populations who historically have been disadvantaged or excluded from development sub-projects,
- b. large social and economic inequalities,
- c. post-conflict or acute social problems,
- d. large-scale plans (e.g., use of users' committees instead of contractors),
- e. anticipated adverse impacts upon indigenous people or cultural heritage,
- f. involuntary resettlement,¹⁵
- g. changes in existing patterns of behavior, norms or values are required,
- h. insufficient understanding of local needs and problems, and
- i. identification criteria and mechanisms for targeting beneficiaries are unclear.

32. The SA should be an integral part of the sub-project cycle and conducted either as a complementary part of sub-project feasibility study or as a separate study which should be carried out in close coordination with the feasibility study and environmental assessment. The SA will assist in determining the scope of the sub-project, mitigation measures, and implementation arrangements which should be incorporated into sub-project design and implementation plan.

33. PWD has identified the following core aspects which should be examined during the SA process: (i) the client population (which includes beneficiaries, and others affected without benefiting from the sub-project), (ii) needs of the client population, (iii) demands of the client population, (iv) absorptive capacity of the client population, (v) gender issues, and (vi) potential adverse impacts, especially on vulnerable groups.

34. PWD has also identified fifteen steps in carrying out a SA. These include: (i) initial social assessment, (ii) creation of a socio-economic profile, (iii) identification of the client population, (iv) creation of socio-economic profiles of sub-groups, (v) assessment of needs of client population, (vi) assessment of demand for proposed sub-project, (vii) assessment of absorptive capacity of sub-groups, (viii) addressing of gender issues, (ix) assessment of adverse impacts on vulnerable groups, (x) identification of target beneficiaries and targeting mechanisms, (xi) instituting participatory development process, (xii) formulation of implementation modalities (sub-project delivery mechanisms), (xiii) involuntary resettlement planning, (xiv) preparation of a framework for monitoring and evaluation of sub-project benefits, and (xv) preparation of social assessment reports.

35. Furthermore, LSGR (1999) has made a provision that the LBs prepare a resource map including mapping of poverty and social mobilization and situation of *Dalits* and indigenous population. It is expected that this will be a useful resource for the social assessment of unfolding sub-projects. LSGR (1999) has also mandated the establishment of a Population and Social Committee to look after sectoral issues and to provide suggestions to the respective Councils in all three LBs.

¹⁵ A framework for involuntary resettlement is presented later on in this report.

36. The mandatory environmental assessment process in the form of an IEE or an EIA requires that the assessment also include some aspects of social impacts. The discussion below focuses on the generic issues to be covered under the framework of social assessment.¹⁶

3. Social Impacts and Mitigation Measures

37. *Project affected population.* It is essential to identify the population who will be benefited by the services to be delivered by the sub-project and others who may be affected but are not direct beneficiaries. Active participation of the beneficiaries is essential for achieving the objectives of the sub-project and ensuring the sustainability of the sub-project. However, based on the evaluation of the sub-project affected population, compensatory measures may need to be designed and implemented.

38. *Absorptive capacity.* For sub-projects which provide facilities and services to beneficiaries with low incomes, skills, and levels of literacy, it is necessary to assess the extent to which they will acquire, operate, and maintain the new facilities and services. It is also essential to know their ability to cope with the changes which will be created after the sub-project intervention. If the assessment shows that the absorptive capacity is low, it may be necessary to incorporate a component for social mobilization to assist the targeted groups in developing the capabilities to absorb the sub-project benefits.

39. *Public health and safety.* Poorly managed sub-project interventions may lead to the proliferation of disease vectors and incidence of water-related infectious diseases. Similarly, safety issues of workers, beneficiaries, and trespassers need to be addressed during the construction and operational periods of the sub-project.

40. *Public/private property.* The sub-project may, partly or fully, encroach upon agriculture land or seize houses, schools, health-posts, temples, etc. The precautionary principle needs to be followed to avoid such instances, however, if it is a must to occupy any property, proper compensatory measures need to be employed.

41. *Common pool resources.* For construction and operations of sub-project activities, there could be either temporary or long-term impact on common pool resources such as *Chautari*, canal, tapstand posts, trails, water mills, and *haat-bazar*. The facilities may need to be relocated if the impacts are unavoidable.

42. *Impacts on livelihoods and employment.* Construction of new facilities or sub-projects may have impacts on the livelihoods or employment of individuals (e.g., a road sub-project could take away jobs from porters). A provision of alternative livelihood or employment (either with the same project or elsewhere) is mandatory in such cases.

43. *Cultural/historical sites.* Cultural and historic sites (temples, shrines, religious sites, festival sites, caves, graveyards, forts, palaces, etc.) may be threatened by sub-project activities and associated works (such as extraction of construction materials, etc.).

44. *Vulnerable and excluded social groups.* Some sub-projects may have adverse impacts on some population groups (such as *Dalits* or other indigenous groups recognized by GoN).

¹⁶ Two specific aspects of the SA that are critical here relate to: (i) the Indigenous Peoples Framework, and (ii) Involuntary Resettlement Framework. Both are discussed in detail in subsequent sections of this document.

These impacts may be involuntary resettlement, loss of livelihood, price changes, or adverse changes in social and physical environments. It is necessary to identify such vulnerable groups that may be adversely affected and formulate mitigation measures (this is discussed in detail in a later section).

45. *Involuntary resettlement.* If involuntary resettlement is unavoidable, a land acquisition and resettlement plan needs to be prepared by the Executing Agency (in this case, MLD, or its field-based entity). Such document will contain: (i) information about the affected people, (ii) acquisition and resettlement issues, (iii) estimated costs to execute the plan (including by compensating, relocating, and providing resettling allowances). The extent of acquisition and resettlement needs to be reflected in an entitlement matrix based on the prevailing Land Acquisition Act, 2034 (1977) (refer to subsequent section for details).

46. *Public participation.* To achieve meaningful participation, it is necessary that sub-project documents describe in detail the mechanisms for beneficiaries and potentially vulnerable and excluded social groups to participate during sub-project design and implementation. There could be two levels of participation:

- a. the participation of beneficiaries is crucial to meet sub-project objectives and ensure sustainability; whereas
- b. the participation of adversely affected groups will be useful in determining compensation and/or resettlement options and in assessing alternative livelihoods.

47. *Cultural norms, social values, traditional practices, rituals.* In Nepal, traditional practices in using natural resources are interlinked with numerous festivals, rituals, and group activities. This linkage has created a fabric of cultural norms and social values (for example, water sources are regarded as holy places and people have ethical and moral obligations to protect and maintain cleanliness). Thus, an assessment in this regard is also essential to determine possible consequences of sub-project interventions.

48. The foregoing description of the impacts portrays a generic picture of the environmental and social attributes to be verified during the feasibility study of the sub-project. Considering that the scale and size of possible activities to be covered under LGCDP will very likely be small, no IEE or EIA studies are, in general, expected to be triggered. Nonetheless, the list provides sufficient information for environmental and social screening. As outlined above, if the sub-project passes the criteria and no further environmental study is required, the checklist should be used to identify relevant environmental and social concerns. This information should be used to design the best environmental and engineering practices to avoid or mitigate any adverse environmental and social impacts.

F. Environmental Assessment and Review

49. After the screening has been prepared by the LB (or a contracted party), MLD (or its field level entity) will confirm the level of environment assessment to be prepared. An IEE will also include an environmental management plan (EMP) consisting of mitigation measures for identified environmental impacts, staffing, monitoring, and reporting arrangements and budget for its implementation.

50. Once the environmental assessment report has been prepared by the LB with assistance from a third party/contractor, MLD will review the environmental assessment report to ensure the adequacy of the proposed EMP, if any, to manage the risks, and to ensure

compliance with all applicable statutory environmental regulations and ADB's environmental assessment requirements.

51. MLD must ensure that LBs comply with the requirement to consult with sub-project affected people and local NGOs accompanied by information disclosure to those being consulted before or during the consultation in accordance with ADB's Public Communication Policy (2005). Information relevant to a sub-project's environmental issues is disclosed and consultation with sub-project affected people are done at the early stage of environmental assessment work so that the views of the affected people are taken into account in sub-project design. For Category A sub-projects, consultation will be done at least twice: once during the early stages of EIA field work and another time when the draft EIA report is available. Environmental information will be made available in a form, manner, and language that is accessible to those being consulted. Consultations will continue during construction and implementation.

52. MLD (or its field level entity) will conduct a site visit to validate or update the information or to verify environmental assessment or audit findings (as required).

53. The environmental safeguard officer/project team of MLD will present the findings on the environmental safeguards as a part of its sub-project appraisal report to the DDC through the LDO (who implements the national program at the district level) who is responsible for later on approving the full credit appraisal of the proposed sub-project.

54. The environmental safeguard officer will conduct an indepth review of environmental safeguard plans including the budget. Review will also be made of statutory environmental approvals, clearances, and consents from the Ministry of Environment, Science, and Technology and other government agencies received for the sub-project. The sub-project IEE and MLD's due diligence report along with government appropriate permits and clearances will be provided to ADB for review. In case of issues, the MLD Environmental Safeguards Officer assists the client to address ADB's comments.

55. Subsequently, MLD will ensure that, through the LDO, there is an agreed upon and appropriate implementation plan of the recommended environmental safeguards described in the environmental mangement plan (EMP and/or in the IEE).

56. The results of environmental assessment are reflected in the feasibility and appraisal report which highlights the recommended environmental safeguards required to manage and mitigate the risks.

57. **Information disclosure.** Environmental assessment reports for the sub-projects will be made accessible to interested parties and the general public. The Summary IEE and Summary EIA reports will be required to be circulated widely (both in the MLD and ADB websites). The full IEE or EIA reports are also to be made available to interested parties on request. Finally, ADB's '120-day rule' will also be applied, which requires that the Summary EIA, or in the case of category B sub-projects that are deemed environmentally sensitive, the Summary IEE, is available to the general public at least 120 days before the sub-project is submitted for final approval by the local body (or in relevant cases, before approval of significant changes in

project scope). This 120-day rule applies to all public and private sector category A sub-projects and to those category B sub-projects deemed to be environmentally sensitive.¹⁷

G. Monitoring and Supervision

58. Monitoring is an important element of environmental management. To improve the implementation of mitigation measures, the following activities will be undertaken during environmental monitoring: (i) determine indicators to be used, (ii) collect important and relevant information, (iii) apply quantifiable criteria with respect to prescribed indicators, (iv) conduct objective analysis of the information collected, and (v) based on that analysis, recommend improved mitigation measures to implementing agencies.

59. During sub-project implementation, the MLD (either through the Environmental Management Section [EMS] at the central level or through its field-level entity) will monitor and supervise implementation of sub-projects with potential adverse environmental impacts. The review and monitoring activities include, but are not limited to, the following activities:

- a. Visit sub-project sites to monitor the implementation of environmental mitigations measures for existing sub-projects or the EMP implementation of new sub-projects;
- b. Review sub-project environmental performance;
- c. If changing sub-project circumstances would result in adverse environmental impacts, revise the environmental management plan and work with the proponent (i.e., the LB) to address them;
- d. Require LBs to notify MLD immediately of any accidents and incidents (e.g., spillages) that have, or are likely to have, a material adverse effect on the environment, health, or safety, including any remedial action planned or taken by it in response to the accident/incident.
- e. If the LB fails to comply with its environmental commitments, work with it to ensure compliance to the extent feasible, and if the LB fails to re-establish compliance, exercise remedies when appropriate.
- f. MLD (or its field entity) will monitor and record the implementation of environmental safeguards, and health and safety measures for each sub-project.

H. Reporting and Auditing

60. MLD will prepare and submit an environmental compliance monitoring report to ADB¹⁸ (and after the JFA is finalized for the national program, to all participating development partners) twice a year. The report will include, among others, the environmental performance of each sub-project with respect to EMP implementation and environmental concerns, if any; measures adopted to address these; and any follow-up measures, as required. The report will also include issues related to the performance of the environmental assessment and review framework and new measures, if any, for continual improvement.

¹⁷ Category B sub-projects that are deemed to be environmentally sensitive for the purposes of the 120-day rule could involve sub-projects that are: (i) near environmentally sensitive areas, (ii) involve deforestation or loss of biodiversity; (iii) involve involuntary resettlement issues, (iv) involve the processing, handling, and disposal of toxic and hazardous substances, or (v) involve other environmentally sensitive activities that also may be of concern to a wide group of external stakeholders.

¹⁸ Once the MOU regarding the co-financing agreement between ADB and CIDA has been signed for its participation in the national program, all reports to be sent to ADB will be copied to CIDA as well. However, this reporting regime will be superseded by any JFA arrangements which will mandate the submission of reports to all JFA participating development partners.

61. In the event that a significant or material health, safety, or environment-related accident or incident occurs in a sub-project, MLD will notify ADB immediately upon becoming aware of the matter and indicate the proposed corrective actions to be taken. Upon the request of ADB, MLD will arrange access for ADB staff to visit sub-projects to verify compliance with ADB's environmental safeguard policies.

62. LBs that invest in sub-projects with potential adverse impacts are encouraged to engage the social mobilization group for the area (contracted through component 1 of the national program) in order to ensure that the interests of the community are maintained in the sub-project. Such a group will also be able to help in community involvement in the event that a full or partial environmental audit is needed.

63. Auditing refers to a general class of environmental investigations that are used to verify past and current environmental performance. The audit will assess the actual environmental impact, accuracy of prediction, effectiveness of environmental impact mitigation, and enhancement measures as well as how well the monitoring mechanisms are functioning.

64. For the national program, necessary auditing requirements of sub-projects that trigger environmental safeguards will be specified in the EMP. The EMP will also have to detail the relevant party that will do the auditing, and the resource requirements for such activities, including the reporting mechanisms for such audits.

I. Capacity Building for Review Procedures

65. As most of the LBs do not have sufficient staff with strong environment backgrounds, the national program will make provisions for capacity building at the local level. Assistance will also be provided by MLD to the LBs, in the short term, to help conduct the necessary determination assessments (for example, using the checklists to determine whether or not an IEE or an EIA is triggered). While this could be contracted out through support from the national program, this is not a long-term solution. For this, MLD will need to put in place skills development plans—and fund them—in order to support extensive capacity building for environmental and social assessments. Various training sessions will have to be carried out for communities, VDCs, DDCs, contractors, and other relevant program staff members at the local level.

66. To address environmental management capacity constraints, meet the environmental requirements of the program, and contribute to capacity building in general, the national program will:

- a. finance the costs of conducting IEEs and EIAs, if unavoidable (and if local consultants are utilized),
- b. finance costs of environmental monitoring, including logistics and support costs; and
- c. through relevant Output Managers in MLD's Environment Management Section (EMS) (along with professional staff members that will be backstopping them) provide capacity building and awareness raising support that will also demonstrate how the private sector can be used to fill capacity gaps.

67. For this purpose, Government has agreed to earmark specific resources for the program period to assist local bodies in two specific ways: (i) provide necessary technical assistance to have the assessments provided by a third party to deal with short-term capability gaps; and (ii) develop, and finance, a capacity building plan whereby officials of the District Technical Office

(DTO), and other relevant individuals, will be given training opportunities to acquire relevant skills to deal with long-term gaps.

J. Responsibilities and Authorities

1. MLD (Environment Management Section)

68. At the central level, the existing EMS will be bolstered by staff from within the branches of the MLD, but also by external expertise. The EMS will play a vital coordination role both during (i) sub-project preparations and implementation, and (ii) ensure smooth communications within MLD, with DDCs, and other sub-project stakeholders. EMS will coordinate and facilitate the overall responsibility for ensuring environmental assessments throughout sub-project feasibility study, preparation and implementation stages, and management of the program itself.

69. MLD will appoint a senior environmental officer at EMS to look after LGCDP-related activities. EMS will take the specific responsibility for technical support to VDCs, DDCs and municipalities in environmental preparation, supervision, monitoring and enforcement of mitigation measures, including review of environmental performance during sub-project implementation. In particular, the EMS will have the following specific responsibilities in its environmental aspects of operations:

- a. Provide inputs in sub-project identification and implementation with regard to environmental and social considerations.
- b. Confirm sub-project environmental categorization, and corresponding environmental documentation requirements, in consultation with the concerned environmental authorities, and in accordance with the relevant ADB guidelines and GON regulatory requirements.
- c. Facilitate engagement of consulting firms as requested by DDCs or DTOs in preparation for environmental impact assessment documents to comply with the relevant regulatory requirements and ADB safeguard policies.
- d. Review completed IEEs or EIAs for sub-projects to ensure the documents meet ADB requirements and government statutory ones.
- e. Review and clear all IEEs for Category B sub-projects (with a copy to ADB for information); and submit an EIA or IEE for Category B (sensitive) sub-projects to MoEST and ADB for review and clearance.
- f. Supervise the actual implementation of environmental mitigation measures prescribed in the IEEs or EIAs during the project construction stage, through site visits, inspection tours, receiving and responding public concerns and complaints, and review reports from contractors and DDCs and DTOs.
- g. Facilitate engagement of independent environmental monitoring institutions to support DDCs and or DTOs to carry out the environmental monitoring programs. The EMS will also be responsible for reviewing the monitoring reports and responding to any recommendations made in the monitoring reports.
- h. Initiate corrective actions and additional mitigation measures to those proposed in the EMP as may be needed during the sub-project construction phase, in responding to site supervision, monitoring, and/or public complaints.
- i. Prepare an environmental monitoring report and submit to ADB twice a year for review (see para 60).
- j. Organize and coordinate project completion, environmental acceptance inspections and review in accordance with relevant domestic regulatory requirements.

2. Ministry of Science, Environment, and Technology (MoEST)

70. MoEST will be responsible for: (i) issuing necessary environmental permits or consents for Category A sub-projects when all conditions are met, and (ii) participate, as necessary, in the environmental monitoring to be conducted by MLD during implementation.

3. ADB

71. The main responsibilities of ADB will be: (i) review and clear environmental assessment reports for Category A sub-projects and Category B sub-projects deemed sensitive by ADB, and (ii) conduct review missions to monitor the implementation of the environmental management plan (EMP). ADB reserves the right to review any sub-program proposal or its EIA or IEE.

72. Capacity building and institutional strengthening for MLD (EMS), and LBs in general, are critically important for the success of environmental management. Many of the responsibilities and functions listed above go far and beyond the standard requirements for LBs for their regular annual projects. This is because the LBs will have to be thoroughly familiar with the ADB environmental requirements. Towards this end, ADB will provide technical support to enable MLD and LBs to put in place necessary environmental assessment requirements and procedures.

K. Staffing Requirements and Budget

1. Staffing and Training

73. The primary entity responsible for managing environmental affairs in the national program will be EMS at the central level. Its responsibilities include providing environmental inputs for sub-project identification and analysis of alternatives, sub-project classification, and review and recommendation for clearance (see paragraph 69 for details).

74. A training program will be designed for concerned officials and technical persons who will be involved at different stages of sub-project implementation. This program will be finalized in coordination with other training programs and after a needs assessment is carried out.

2. Budgeting

75. Implementation of the sub-projects is the responsibility of the LBs (the proponents, or implementing units), i.e., the concerned VDCs, DDCs, and municipalities. Similarly, conformance with any management plan drawing from the environmental assessment the EMP is also the responsibility of the LBs, including bearing the costs for various environmental tasks. The costs of the environmental aspects of EMS work are already inherent in the program budget, and cannot be disaggregated specifically so as to be able to determine the funding levels for environment issues alone. Budgeting for the national program has been thoroughly reviewed by ADB, and it is taken that the budget figures are more or less realistic.

76. Resources (\$1.8 million over the program period) have been ring-fenced in the national program for support to Government on capacity building for review procedures.¹⁹ All necessary

¹⁹ It has to be noted that **this ring-fencing does not include costs for compensation, or application of any mitigating measures**. Those costs will have to be borne by the proponent out of its total budget envelope that is provided from the center and from own-source revenues. The earmarked funds are only to assist LBs to do the necessary assessments (and apply the framework), not pay for the mitigating measures that may result from the

financial and program assurance provisions have been made in the program document towards this end.

L. Implementation Arrangement

77. The various stages of the environmental assessment process pertaining to the national program involve more than one government agency, different management levels within each agency, and various other parties, such as contractors, local communities, LBs, and the people themselves. The success of EARP implementation depends heavily on the ability of the program's management personnel, in collaboration with specialists from other agencies, to take appropriate actions throughout the various stages of the sub-projects. In addition, the table below identifies the common implementation mechanism to be undertaken to ensure successful implementation of the environmental and social assessment.

Table 2. EARP Implementation Mechanism for LGCDP

	Mechanism	Responsibility
1	Defining policy directions for national program in light of GON policies and legislation	MLD, National Advisory Committee
2	Drafting ToR for specific sub-projects	Concerned LBs (with assistance from third party, as needed)
3	Assembling teams to conduct environmental assessments	Concerned LBs, with support from MLD (or its field-based entity) ²⁰
4	Ensure internal coordination among different level of authorities within the government agency	MLD, EMS, and LB
5	Staying updated with regulations and developments pertaining to relevance of the national program	LB, EMS
6	Defining priorities for the national program	DOLIDAR, DDC, EMS
7	Organizing public consultations and participatory processes to ensure environmental assessment obligations	LBs, EMS, Local NGOs
8	Develop methods and operational tools for environmental awareness at policy, program, and operations level	LBs, EMS
9	Organizing training and information campaigns	MLD, DDC and/ or DTOs, EMS

M. Conclusions and Summary

78. This section is to confirm that environmental assessment and review procedures conform to ADB's environmental and social safeguard policies, based on the evaluation of the adequacy of the procedures in the context of ADB's environmental assessment requirements. The main characteristic of the approach used in the national program is that a very large number of mostly small scale and relatively simple sub-projects are to be identified during the sub-project implementation stage. The primary responsibility for sub-project review and approval will be conducted at the level of the proponent (that is, for VDCs at the VDC level, etc.). All IEE assessments will be sent to EMS (MLD) for approval, and all EIA assessments will be sent to MOEST through the EMS (MLD). For all levels of assessments, the processes and procedures themselves as well as the standards and quality requirements including categorization and environmental documentation will be the same.

assessments on the assumption that the assessments allow the investment decision to proceed. This is an important point to note.

²⁰ The MLD's field-based entity refers to the District Technical Office (DTO) across the 75 districts.

79. The environmental and social aspects of the national program here on local governance and community development draw substantially from the ADB-supported RRRSDP, which has itself been described as a “showcase for identification, preparation, and execution, including environmental assessment, of further sub-projects”. Most of the infrastructural investments by LBs in the national program will clearly be a Category C (thus, neither requiring EIAs nor IEEs for these sub-projects, although clearly there will have to be a review of possible environmental impacts for them). IEEs required for what would in effect be Category B sub-projects will benefit from the framework that has been specified here.

Attachment 1. List of Sectoral Activities for LBs (Article 28, Section 4 of LSGA, 1999)

Table 1A. Range of Activities for Village Development Committees (VDCs)

Sector	List of Activities
1. Agriculture	<ul style="list-style-type: none"> • To carry out or cause to be carried out agricultural development programs within the village development area. • To arrange for agricultural <i>Haats</i> (weekly temporary bazaar), markets and fairs or to assist in organizing such fairs within the village development area. • To operate or cause to be operated veterinary hospitals, as per necessity, for the prevention and control of animal diseases within the village development area, and to arrange or cause to be arranged for pasture areas, as required, for cattle grazing.
2. Rural drinking water	<ul style="list-style-type: none"> • To prepare drinking water projects for the supply of drinking water required within the village development area and to implement and operate the same, and to arrange or cause to be arranged for their maintenance. • To construct, maintain and repair or cause to be constructed, maintained and repaired wells, deep water, ponds, taps etc. within the village development area. • To preserve or cause to be preserved the sources of water within the village development area.
3. Works and transport	<ul style="list-style-type: none"> • To prepare projects on tracks and trails, and rural roads required within the village development area and to implement the same and make arrangement for their maintenance and repair. • To maintain and repair bridges, twines, ghats (embankments) and culverts handed over by various agencies.
4. Education and sports	<ul style="list-style-type: none"> • To establish pre-primary schools with own source, to give permission to establish them and to operate and manage the same. • To supervise and manage the schools being operated within the village development area. • To assist in providing primary level education in mother tongue within village development area. • To make programs on adult education and informal education and to carry out or cause to be carried out the same. • To establish and operate or cause to be established or operated libraries. • To formulate plans on the development of sports and to implement the same, and to extend support to the development of sports by constituting village level sports development committee. • To make arrangements for providing scholarships to the students of oppressed ethnic communities who are extremely backward on economic point of view.
5. Irrigation and soil erosion, and river control	<ul style="list-style-type: none"> • To prepare projects of irrigation, dams, canals, water channel, water bank, etc., required within the village development area and to implement or cause to be implemented the same. • To prepare programs on soil-erosion and river control that affects the village development area and to implement or cause to be implemented the same. • To generate and distribute electricity and to cause to be generated and distributed the same.
6. Physical development	<ul style="list-style-type: none"> • To build community buildings, rest houses and public toilets. • To prepare criteria for houses, buildings, roads and other physical infrastructures etc. to be constructed within the village development area, and to grant approval as prescribed for the construction of them. • To formulate village land-utilization plans and implement, or cause to be implemented, the same. • To make or cause to be made arrangements for necessary sewerage/drainage in settlements.
7. Health services	<ul style="list-style-type: none"> • To operate and manage village level health centre, health post and sub-health posts. • To prepare programs on primary health education and sanitation and disposal of waste and garbage in the village development area and to implement the same. • To provide assistance in the development and expansion of herbs. • To launch programs on family planning and maternity and child care.
8. Forests and environment	<ul style="list-style-type: none"> • To have afforestation in barren land, hills, steppe and steep land and in public land. • To prepare programs in respect of forests, vegetation, biological diversity and soil conservation and to carry out or cause to be carried out the same. • To have programs on environment protection and carry out, or cause to be carried out, the same.
9. Tourism and cottage industries	<ul style="list-style-type: none"> • To preserve, develop and expand tourist areas and to make or cause to be made arrangements for preventing pollution in such places. • To act as a motivator for carrying out cottage industries in the village development area.

Table 1B. Range of Activities for Municipalities

Sector	List of Activities
1. Physical development	<ul style="list-style-type: none"> • To frame land-use map of the Municipality area and specify and implement or cause to be implemented, the industrial, residential, agricultural, recreational areas etc. • To prepare housing plan in Municipality and implement or cause to be implemented the same. • To carry out plans on drinking water and drainage in the areas of Municipality and operate, maintain and repair or cause to be operated, maintained and repaired the same. • To develop, or cause to be developed, green zones, parks and recreational areas in various places in the Municipality area. • To arrange for, or cause to be arranged for, public toilets in various places in the Municipality. • To approve or cause to be approved designs of houses, buildings etc. to be constructed in the areas of the Municipality. • To build community building and rest houses.
2. Water resources, environment, and sanitation	<ul style="list-style-type: none"> • To preserve rivers, streams, ponds, deep water, wells, lakes, stone water-taps etc. and utilize, or cause to be utilized them properly. • In the event of necessity to carry out irrigation plans in the Municipality area, to make plans thereof and implement and cause to be implemented the same. • To control and prevent, or cause to be controlled and prevented the possible river-cuttings, floods and soil erosion in the Municipality area. • To assist, or cause to be assisted, in environment protection acts by controlling water, air and noise pollution to be generated in the Municipality area. • To protect or cause to be protected the forests, vegetation, and other natural resources within the Municipality area. • To carry out or cause to be carried out sanitation programs in the Municipality area. • To carry out and manage or cause to be carried out and managed the acts of collection, transportation and disposal of garbage and solid wastes. • To generate and distribute or cause to be generated and distributed electricity in Municipality.
3. Education and sports development	<ul style="list-style-type: none"> • To establish, operate and manage pre-primary schools with own source in the Municipality area and give permission to establish the same. • To extend support in the operation and management of schools being operated within the Municipality and to make recommendations for establishment and dissolution of such schools. • To assist in providing primary level education in mother tongue within the Municipality area. • To make arrangements for providing scholarships to the students of oppressed ethnic communities who are extremely backward on economic point of view. • To prepare and implement or cause to be implemented programs on Municipality level adult education and informal education. • To open, operate and manage or cause to be opened, operated and managed, libraries and reading halls in the Municipality area. • To prepare and implement or cause to be implemented, sports development programs. • To develop or cause to be developed sports by constituting Municipality level sports development committee.
4. Culture	<ul style="list-style-type: none"> • To prepare an inventory of the culturally and religiously important places within the Municipality and maintain, repair, protect and promote them, or cause to be made so. • To protect, promote and use or cause to be protected, promoted and used, archaeological objects, languages, religion and culture within the Municipality area.
5. Works and transport	<ul style="list-style-type: none"> • To prepare plans of unpitched and pitched roads, bridges and culverts as needed within the Municipality area, except those roads which are under the responsibility and control of the central Government, and construct, maintain and repair them, or cause to be so. • To arrange or cause to be arranged for bus parks and parking places of rickshaws (three-wheelers), horse-carts, trucks etc. within the Municipality area. • To prescribe the upper limit of push-carts, rickshaws, horse-carts etc. in consideration of transport requirement of the Municipality and register and provide number to them.
6. Health service	<ul style="list-style-type: none"> • To operate and manage, or cause to be operated and managed, municipal level hospitals, Ayurvedic dispensaries and health centers. • To open, operate and manage, or cause to be operated and managed, health posts and sub-health posts within the Municipality area. • To formulate programs relating to family planning, mother and child welfare, extensive vaccination, nutrition, population education and public health, and to implement or cause to be implemented the same.

	<ul style="list-style-type: none"> • To arrange, or cause to be arranged, for prevention of epidemics and infectious diseases. • To ban the public use of such things and objects in the Municipality area as are harmful to the public health or remove the same. • To ban the sale, distribution and consumption of such type of consumer goods which may cause adverse effects on public health.
7. Industry and tourism	<ul style="list-style-type: none"> • To act or cause to act as a motivator to the promotion of cottage, small and medium industries in the Municipality area. • To protect, promote, expand and utilize or cause to be protected, promoted, expanded and utilized, natural, cultural and tourist heritage within the Municipality area.
8. Miscellaneous (1)	<p>(1) To do plantation on either side of the roads and other necessary places in the Municipality area, (2i) to determine and manage places for keeping pinfolds and animal slaughter house, (3) to protect barren and governmental unregistered (Ailani) land in the Municipality area, (4) to determine and manage crematoriums, (5) to act for the development of trade and commerce, (6i) to frame bye-laws of the Municipality and submit it to the Municipal Council, (7) to carry out necessary functions on the controlling of natural calamities, (8) to maintain inventory of population and houses and land within the Municipality area, (9) to register birth, deaths and other personal events pursuant to the prevailing law, (10) to maintain inventory of the helpless, orphan and disabled children within the Municipality area and arrange to keep them in appropriate place, (11) to secure public interest by killing rabid and strayed dogs and specify the places to bury dead animals and birds into, (12) to have such trees cut and houses, walls etc. creating hazardous results demolished, (13) to up-date the block numbers of the houses in the Municipality area, (14) to arrange for animal slaughter houses, (15) to impound and auction strayed animals, (16) to arrange for lighting on the roads and alleys, (17) to grant approval to open cinema halls in the Municipality area, (18) to arrange or cause to be arranged for <i>Haat</i> bazaar, markets, fairs and exhibitions etc., (19) to operate and manage or cause to be operated and managed fire brigades, (20) to confer the honor of distinguished person of the town on any distinguished person, (21) to carry out or cause to be carried out other acts relating to the development of the Municipality area, (22) to render assistance for the development of cooperative, (23) to evaluate the performance of the Secretary and forward it with recommendation to the authority, (24) to encourage or cause to be encouraged to carry out cooperative, industrial and commercial activities generating income to the Municipality with the investment of private sector as well, (25) to formulate various programs based on cooperativeness and to carry out or cause to be carried out the same, and (26) to carry out such other functions as are prescribed under the prevailing law.</p>
9. Miscellaneous (2)	<p>In addition to the functions, and duties referred to in sub-section (1), the Municipality may also perform the following optional functions in the Municipality area: (1) to make necessary arrangement for providing standard school education in the Municipality area, (2) to launch literacy programs to eradicate illiteracy from the Municipality area, (3) to open and operate libraries and reading halls in various places within the Municipality area, (4) to control unplanned settlement within the Municipality area, (5) to make the structure and development of the town well-planned through the functions such as guided land development and land use, (6) to arrange for the aged rest- houses and orphanages, (7) to arrange for the supply of electricity and communications facilities, (8) to arrange for recreational parks, playing grounds, museums, zoos, parks etc. in the Municipality area, (9) in order to reduce unemployment, to collect the data of unemployed persons and launch employment generating programs, (10) to launch programs to control river pollution, (11) to provide ambulance service in the Municipality area, (12) to arrange for dead body carriers in the Municipality area, (13) to carry out preventive and relief works to lessen the loss of life and property caused from natural calamity.</p>

Table 1C. Range of Activities for District Development Committees

Sector	List of Activities
1. Agriculture	<ul style="list-style-type: none"> • To make District level policy on agriculture and livestock development, and formulate and operate programs in consonance therewith, and inspect and monitor, and cause to be inspected and monitored, the programs operated. • To arrange for, and cause to be arranged for, the seeds, fertilizers and other agricultural inputs required in the District. • To provide, and cause to be provided, the services relating to agriculture extension in the district development area. • To promote, and cause to be promoted, the agricultural <i>Haat</i> markets and fairs. • To manages and cause to be managed, the markets for agricultural products.
2. Rural drinking water and habitation development	<ul style="list-style-type: none"> • To formulate and implement, and cause to be implemented, such drinking water plans as are to benefit the people in more than one village development area in rural areas of the district development area. • To formulate plans on habitation and market development in rural areas of the district development area, and implement and cause to be implemented them.
3. Hydropower	<ul style="list-style-type: none"> • To formulate, implement, operate, distribute and maintain and repair projects on mini and micro hydropower and other energy, and cause to be done the same.
4. Works and transport	<ul style="list-style-type: none"> • To prepare a master plan of district-level roads in the district development area and get it approved by the District Council. • To build, operate, monitor, evaluate and maintain and repair the approved District level roads, and cause to be done the same. • To formulate, build and maintain and repair the plans of suspension bridges required in the district development area, and cause to be done the same. • To make necessary arrangements on the means of transport to be operated within the district development area. • To give license to "D" class contractors and cancel and renew it pursuant to the prevailing law. • To develop and promote the water-ways and ropeways.
5. Land reforms & land management	<ul style="list-style-type: none"> • To protect and promote the Ailani (unregistered) land and governmental barren land situated within the district development area.
6. Development of women and helpless people	<ul style="list-style-type: none"> • To prepare and implement a plan required for the upliftment of women in the district development area. • To carry out acts on the protection of the orphans, helpless women, the aged, disabled and incapacitated persons as per the national policy, and to carry out or cause to be carried out acts on the wiping out of social ill-practices and the protection of the girls and women.
7. Forests and environment	<ul style="list-style-type: none"> • To prepare plans on forests, vegetation, biological diversity and soil conservation, and implement and cause to be implemented the same. • To protect and promote, and cause to be protected and promoted, the environment.
8. Education and sports	<ul style="list-style-type: none"> • To set priority for establishing schools in the district development area and make recommendation there for. • To make recommendation, setting out rationale and reasons, for the approval and dissolution of the schools in the district development area. • To supervise and monitor the schools in the district development area and assist in their operation and management. • To formulate policies/programs on the District level adult and informal education. • To set programs relating to sports and physical development, and implement and cause to be implemented them. • To form a District level sports development committee.
9. Wages for labor	<ul style="list-style-type: none"> • To determine rate of wages for labor and rate of workmanship at the district level. • To set and operate programs on abolition of child labor and rescue of the children,
10. Irrigation and soil erosion and river control	<ul style="list-style-type: none"> • To formulate, implement, operate and maintain and repair programs on irrigation, ditch, embankment, and small ditch providing facility to more than one village development area in the district development area, and cause to be done the same. • To formulate plans on prevention of soil- erosion, river cutting etc. in the areas affected from such acts, and implement and cause to be implemented the same.
11. Information and communication	<ul style="list-style-type: none"> • To give approval to set up cinema halls in district development area except Municipality area. • To open district level libraries, reading rooms and information centers in other rural areas except the Municipality area in the district development area.

12. Language and culture	<ul style="list-style-type: none"> • To keep records of culturally and religiously important places located within the district development area and to preserve and promote them by having them repaired and maintained. • To promote, and cause to be promoted, various languages, religions and cultures • To preserve, promote and use, and cause to be so, the archaeological objects, languages, religion, art and culture within the district development area.
13. Cottage industry	<ul style="list-style-type: none"> • To maintain records of cottage industries to be establish within the district development area. • To identify and develop an industrial zone in the district.
14. Health service	<ul style="list-style-type: none"> • To operate and manage, and cause to be operated and managed, the district level health posts, hospitals, Ayurvedic dispensaries, health centers, health offices etc. • To formulate and implement the programs such as family planning, mother child welfare, extensive vaccination, nutrition and population education and public health. • To give approval to open sub-health posts in the village development areas under the district development area and inspect and monitor them. • To make arrangements for the supply of such medicines and materials and equipment relating to treatment as required for the district development area, and inspect and monitor the quality standards thereof. • To prohibit or remove the public use of the things injurious to the public health in the district development area. • To prohibit the sale, distribution and consumption of such consumable goods as may cause adverse impacts on the public health.
15. Tourism	<ul style="list-style-type: none"> • To protect, promote, expand and utilize the natural, cultural, historical and touristic heritages in the district development area, and cause to be done so.
16. Miscellaneous	<ul style="list-style-type: none"> • To maintain data of the district development area. • To carry out necessary acts in respect of controlling natural calamities. • To protect the movable and immovable properties remained under the ownership and control of the District Development Committee. • To draft the bye-laws of the District Development Committee and submit it to the District Council. • To carry out such other functions as prescribed under the prevailing law.

**Attachment 2. Proposals requiring Initial Environmental Examination (IEE)
Schedule-1 (Pertaining to Rule 3 of EPR)**

A. List of Activities Requiring IEE²¹

Sector	List of Activities
1. Forest	<ul style="list-style-type: none"> • Plantation of indigenous plants of a single species on a single block of 50 to 500 hectares in the Tarai and 25 to 100 hectares in the hills. • Plantation of imported species of plants as are deemed suitable for that purpose following their test in the concerned place, on a single block of 10 to 1000 hectares in the Tarai and 10 to 50 hectares in the hills. • Handover of forests with an area ranging between 50 to 200 hectares in the Tarai and 10 to 50 hectares in the hills as leasehold forests. • Clear felling of forests with an area ranging between 15 to 30 hectares for the forest research to be conducted by government. • Establishment or expansion of national parks, wildlife sanctuaries and conservation areas, or environmental conservation zones. • Annual collection of 5 to 50 metric tons of forest products of each species for removal of roots from a single area or more at a time or from time to time from a district in case the quantity is not mentioned in the forest or and conservation areas management plans. • Formulation of watershed management plans. • Construction of new botanical gardens or zoos with area more than 10 hectares. • Resettlement of imported wild animals of different species. • Preparation of management plans for national parks, wild life sanctuaries, conservation areas, and their buffer zones including the wetlands and preparation of all kinds of district level forest management plans managed by the government. • Establishment of medicinal herbs centers for the commercial production of medicinal herbs and aromatic plants in common public shrub land area. • Annual collection of 5-50 metric tons of forest products of each species from a single forest area or more than one forest area or in a season or more than one season from a district as permitted by the established law for import after the extraction of necessary materials. • Construction of forest paths longer than 10 km, and of fire protection lines longer than 10 km. • Collection of sand, stone, gravel & soil from rivers and streams flowing within or through forests. • Mining of coal or other minerals from the forest area. • Hand over of forest more than 50 hectares managed by user groups below poverty line as leasehold forest. • Clear felling or removal of vegetation up to 5 hectares within the forest area for the implementation of proposals by any authority except the government authority related to forest. • Handover of forest areas ranging between 200 to 500 ha to a single community for management. • Annual collection of 10 to 100 metric tons of forest products of each species for bark removal from a single area or more area at a time or from time to time from a district in case the quantity is not mentioned in the forest or and conservation areas management plans. • Collection of 5-100 metric tons of forest products like <i>sal</i> seed, <i>rittha</i>, including other forest products mentioned above except wood from a forest area or more forest areas or in a season or in a more seasons not banned for collection from a district at a time or time to time as per existing rules and regulations. • Construction of resorts of capacity 10 to 50 beds, hotel and safari; and small scale educational institution, hospital or any construction activity in the forest area, national park, conservation area, buffer zone, wetlands and environment conservation areas and by any authority other than the forest related authority of government of Nepal. • Removal of roots and shoots of the felled trees from more than 5 hectares according to the approved operational plan. • Establishment, propagation, and research activities on species affected by genetically modified organisms and living modified organisms incl. introduction of alien/invasive wildlife and plants. • Annual collection of more than 5 metric tons of resin from a district.
2. Industry (1)	<ul style="list-style-type: none"> • Production of alcohol from blending process or establishment of distillery with facility of boiling and fermentation and of capacity not more than 5 lakh litre per day.

²¹ While every effort has been made to make the list comprehensive, LBs will need to refer to the EPR itself for complete specification of activities that will require an IEE.

	<ul style="list-style-type: none"> • Establishment of acid, base or primary chemical industry with the daily production capacity of 100 metric tons. • Processing of leather up to 10000 square feet daily. • Establishment of cooking, natural gas refilling, filling, production and distribution industry. • Establishment of stone crushing industry. • Establishment of paint industry except cosmetic industry. • Establishment of milk processing industry with daily capacity of more than 10000 litre. • Production of lubricants from blending, reprocessing and reclamation process. • Establishment of foam industry. • Establishment of dry or wet cell production industry. • Establishment of sugar industry with daily production capacity of 3000 metric tons. • Establishment of thread cloth coloring, printing or washing industry except traditional household industry. • Establishment of paper or pulp industry having daily capacity not more than 100 metric tons except traditional household industry. • Establishment of industry having annual capacity of 2 crore pieces of brick, tile, etc. • Establishment of cement industry based on limestone and clinker with production capacity of 50 metric tons per hour. • Establishment of lime industry with daily production capacity of 500 metric tons. • Establishment of drugs production industry and formulation of bulk drugs up to 50 mt daily. • Establishment of plastic industry (based on the waste of crude materials) with daily production capacity of 5 metric tons. • Establishment of water processing industry except pipeline, for commercial purpose of capacity more than 10 litre per second.
3. Industry (2)	<ul style="list-style-type: none"> • Establishment of industry with investments more than Rs 10 lakhs in machine, tools and equipment in the following cases: (i) processing and production of tyre, tubes and rubber, (ii) foundry, (iii) bitumin and bitumen emulsion, (iv) chemical processing of bone, horn and hoof with daily capacity up to 50 metric tons, (v) ayurvedic medicines, (vi) establishment of industry with investment up to 50 crore fixed capital investment (civil works and machinery) based on mine, (vii) production of metal by primary smelting of ferrous and non-ferrous (except re-rolling, remolting, fabrication), and (viii) establishment of sawmill of annual capacity 5000 to 50000 cubic feet timber.
4. Mining	<ul style="list-style-type: none"> • Excavation of mines through relocation & resettlement of permanent residence of 25-100 people. • Daily extraction of metal except radioactive metal, up to 400 metric tons (deep mining) and up to 200 metric tons (surface mining) • Daily extraction of non-metallic minerals except asbestos, up to 200 metric tons (deep mining) and 400 metric tons (surface mining). • Collection and production of decorative stones such as marble, granite, amphibolite/polished stone. • Excavation of construction oriented stone, sand, gravel, industrial soil and ordinary soil up to 300 cubic feet per day. • Excavation for the production of coal up to 200 metric tons (deep mining) and 400 metric tons (surface mining) • Daily production of 1 lakh cubic meter of biogenic natural gas.
5. Roads	<ul style="list-style-type: none"> • For the construction of following roads: (i) district roads, (ii) urban roads. • Construction of 1 to 5 kilometers long ropeways. • Construction of 1 to 5 kilometers long cable car. • Construction of major bridges. • Construction of tunnel for road purpose. • Improvement of standard, rehabilitation & reconstruction of national highways and feeder roads.
6. Residential, building, and urban development sector	<ul style="list-style-type: none"> • Construction of residential, commercial and or a mix of the two building with built up area or floor area 5000 to 10000 square meter. • Construction of cinema hall, theatre, community hall, stadium, concert hall, spot complex with the mobility capacity of 1000- to 2000 persons at a time. • Development of residence for 50 families or in an area ranging between 1 to 4 hectare. • Launching of land development project in an area ranging between 10 to 100 hectares. • Construction of hard surface pavement in an area more than 10 hectares. • Filling of soil above 20000 cubic meter or development of site after cut operation of soil. • Construction of buildings of 10 storey or more than 25 meter or 16 storey or within 50 meters.

7. Water resources and energy sector	<ul style="list-style-type: none"> • Construction of electric lines: (i) supply of electricity through the construction of more than 20 km long transmission lines of capacity 33 kv., (ii) construction of transmission lines more than 5 km long up to capacity 66 kv., (iii) construction of transmission lines not more than 3 kilometers of capacity not more than 132 kv., (iv) construction of new outdoor trapping sub-station from the existing 220 kv transmission line or more. • Production of electricity: (i) operation of electricity generation project of capacity 1 to 6 MW., (ii) operation of electricity generation project of capacity 1 to 5 MW from mineral oil or gas. • Under the new system of irrigation: (i) irrigation of area ranging between 200-2000 ha in Tarai and inner Tarai, (ii) irrigation of area ranging between 25-500 ha in hills valleys and tars, (iii) irrigation of area ranging between 25-200 ha in hills with steep gradient and mountain areas. • Under the rehabilitation system of irrigation: (i) construction of new headworks under the existing system in irrigation projects or any project rehabilitation activity to change the major irrigation canal, (ii) any water resources development activity which displaces not more than from 25 persons to 100 persons with permanent residence, (iii) control of river more than 10 km by the construction dam.
8. Tourism	<ul style="list-style-type: none"> • Establishment and operation of hotels with 50 to 100 beds. • Extension of the areas of the existing airports. • Operation of rafting activities equipped with machine or by burning fuel on any river with fish or other aquatic life. • Operation of house boat (floating boat) to be established in lake.
9. Drinking water	<ul style="list-style-type: none"> • Collection of rain-water in an area of not more than 200 hectares, and use of water sources (springs and wet-lands) located within the same area. • Surface water sources with not more than 1 cubic ft. safe yield, and supply of not more than 50 percent of the water during the dry season. • Treatment units with a capacity of 10 to 25 liters per second flow. • Recharging up to 50% of the total aquifer for the development of underground water sources. • Construction of tunnels for operation of drinking water project. • Displacement of 25-100 persons for operating a water supply scheme. • Settlement of up to 500 persons on the upper reaches of water sources. • Supply of drinking water to a population ranging between 5,000 and 50,000. • Supply of drinking water to population between 10,000-100,000, and connection of new sources. • River training and diversion activities over an area of more than one kilometer. • Operation of drinking water project with drainage system along with treatment.
10. Waste management	<ul style="list-style-type: none"> • For the wastes produced from the houses and residential areas, • Filling of land with 1000 to 5000 tons of waste a year. • Activities on transfer stations & resource recovery areas spread over not more than 5-10 ha. • Selecting, picking, disposing, and recycling waste through chemical, mechanical or biological techniques in an area of not more than 5-10 hectares. • Activities relating to compost plants in an area ranging between 5 and 10 hectares. • Operation of drainage development project exceeding the investment more than Rs 50 lakhs.
11. Agriculture	<ul style="list-style-type: none"> • Clearing of national forests covering not more than 1 hectare in the hills and 5 hectares in the Tarai, and using them for agricultural purposes. • Following activities relating to construction: (i) construction activities for farming more than 30,000 domestic fowls, (ii) construction activities for farming more than 1000 big cattle, (iii) construction activities for farming more than 5,000 small cattle (sheep and goats), (iv) establishment of agricultural wholesale markets in area more than one hectare in the metropolitan and sub-metropolitan area of Tarai region and more than 0.5 hectare in other region, (v) establishment of license holder slaughter house. • Storage and disposal of expired toxic substances (only those which are listed). • Production, formulation, repackaging, storage and disposal of chemical fertilizer (inorganic fertilizer) and chemical pesticides (inorganic pesticides). • Establishment for industry for the production of chemical fertilizer (blending) and chemical pesticides (blending).
12. Health	<ul style="list-style-type: none"> • Operation of hospital, nursing home or medical profession with capacity 25 to 100 beds (including study and teaching). • Operation of any development work and plan, project or program leading to physical activities or land use change with a cost of Rs. 50 millions to 250 millions which are not listed above and smaller in size than mentioned in Schedule-2.

B. Terms of Reference of IEE (Schedule - 3 [Pertaining to Rule 5 of EPR])

1. Name and address of the individual or institution preparing the report
2. Description of proposal:
 - a. General introduction
 - b. Relevancy of the proposal
3. Procedure to be adopted while preparing the report
4. Policies, laws, rules and manuals to be taken into account while preparing the report
5. Preparation of the Report:
 - a. Time
 - b. Estimated budget
6. Specific impact of the implementation of the proposal on the environment:
 - a. Social and economic
 - b. Cultural and physical
 - c. Chemical
 - d. Biological
7. Alternatives for the implementation of the proposal:
 - a. Design
 - b. Project site
 - c. Technology, procedure of operation, time schedule, raw materials to be used
 - d. Other matters
8. Matters concerning the prevention of the impact of the implementation of the proposal on the environment
9. Matters to be monitored while implementing the proposal
10. Other necessary matters.

C. Recommended Table of Content for an IEE (GON)

Subject Matter Required in IEE Report	
1	Name and address of individual or institution preparing the report
2	<ul style="list-style-type: none"> • Summary of the proposal • Objectives of proposal • Impacts on land-use • Adverse impacts on the environment, impacts on human life, and population pressure • Damage to be suffered by local goods or objects • Other necessary matters
3	<p>The following matters must be explicitly mentioned in respect to the proposal:</p> <ul style="list-style-type: none"> • Type of proposal • If related to delivery, the nature and type of goods to be delivered • Proposal's installed capacity and number of hours to be operated • Materials to be used (quality and year to be mentioned) • Emissions resulting from the implementation of the proposal • Energy to be used • Manpower requirements • Resources required for the implementation of the proposals • Detailed particulars of the area where the project is to be implemented • Manufacturing processes • Details of the technology • Other necessary matters
4	Impacts of implementation of the proposal on the environment: (i) impacts on social, economic, and cultural domain, (ii) biological impacts, and (iii) physical impacts
5	Alternatives for implementation of the proposal
6	Measures to reduce or control the impact of implementation of the proposal on the environment
7	Matters to be monitored while implementing the proposal
8	Other necessary matters
9	Data, maps, photographs, tables, charts, graphs, etc. as required

(Ref.: EPR 1997, Schedule 5)

D. Recommended Format for IEEs (ADB)²²

The IEE report will be of the following recommended length and type:

Area	Subject Matters
Introduction	<p>This section includes the following:</p> <ul style="list-style-type: none"> (i) purpose of the report, including (a) identification of the sub-project and sub-project proponent; (b) brief description of the nature, size, and location of the sub-project and of its importance to the sub-project area; and (c) any other pertinent background information; and (ii) Extent of the IEE study: scope of study, magnitude of effort, person or agency performing the study, and acknowledgements.
Description of the Project	<p>Furnish sufficient details to give a brief but clear picture of the following (include only applicable items):</p> <ul style="list-style-type: none"> • type of project; • category of sub-project; • need for sub-project; • location (use maps showing general location, specific location, and sub-project site); • size or magnitude of operation; • proposed schedule for implementation; and • description of the sub-project, including drawings showing sub-project layout, and project components. <p>This information should be of the same type and extent as is included in feasibility reports for proposed sub-projects to give a clear picture of the sub-project and its operations.\</p>
Description of the Environment	<p>Furnish sufficient information to give a brief but clear picture of the existing environmental resources in the area affected by the sub-project, including the following (to the extent applicable):</p> <ul style="list-style-type: none"> • Physical Resources: e.g., atmosphere (air quality and climate), topography and soils, surface water, groundwater, geology/seismology • Ecological Resources: e.g., fisheries, aquatic biology, wildlife, forests, rare or endangered species, protected areas, coastal resources • Economic Development: e.g., industries, infrastructure facilities (such as water supply, sewerage, flood control), transportation (roads, harbors, airports, and navigation), land use (e.g., dedicated area uses), power sources and transmission agricultural development, mineral development, and tourism facilities • Social and Cultural Resources: e.g., population and communities (numbers, locations, composition, employment), health facilities, education facilities, socio-economic conditions (e.g., community structure, family structure, social well being), physical or cultural heritage, current use of lands and resources for traditional purposes by Indigenous Peoples (IP), structures or sites that are of historical, archaeological, paleontological, or architectural significance
Screening of Potential Environmental Impacts and Mitigation Measures	<p>Using the checklist of environmental parameters for different projects, this section will screen out “no significant impacts” from those with significant adverse impact by reviewing each relevant parameter according to the several factors or operational stages. Mitigation measures, where appropriate, will also be recommended for environmental problems due to sub-project location, and related to sub-project design, construction, and operations. Potential environmental enhancement measures and additional considerations will also be covered.</p>
Institutional Requirements and Environmental Monitoring Plan	<p>This section should state the impacts to be mitigated, and activities to implement the mitigation measures, including how, when, and where they will be implemented. Institutional arrangements for implementation should be described. The environmental monitoring plan will describe the impacts to be monitored, and when and where monitoring activities will be carried out, and who will carry them out. The environmental management and monitoring costs are also described.</p>
Public	<p>This section will:</p>

²² ADB, 2003. *Environmental Assessment Guidelines*. Manila.

<p>Consultation and Information Disclosure</p>	<ul style="list-style-type: none"> • describe the process undertaken to involve the public in project design and recommended measures for continuing public participation; • summarize major comments received from beneficiaries, local officials, community leaders, NGOs, and others, and describe how these comments were addressed; • list milestones in public involvement such as dates, attendance, and topics of public meetings; • list recipients of this document and other project related documents; • describe compliance with relevant regulatory requirements for public participation; and • summarize other related materials or activities, such as press releases and notifications. <p>This section will provide summary of information disclosed to date and procedures for future disclosure.</p>
<p>Findings and Recommendations</p>	<p>This section will include an evaluation of the screening process and recommendation will be provided whether significant environmental impacts exist needing further detailed study or EIA. If there is no need for further study, the IEE itself, which at times may need to be supplemented by a special study in view of limited but significant impacts, becomes the completed environmental assessment for the project and no follow-up EIA will be needed. If an EIA is needed, then this section will include a brief terms of reference (TOR) for the needed follow-up EIA, including approximate descriptions of work tasks, professional skills required, time required, and estimated costs.</p>
<p>Conclusions</p>	<p>This section will discuss the result of the IEE and justification, if any, of the need for additional study or EIA. If an IEE, or an IEE supplemented by a special study, is sufficient for the sub-project, then the IEE with the recommended institutional and monitoring program becomes the completed EIA.</p>

**Attachment 3. Proposals requiring Environmental Impact Assessment (EIA)
Schedule-2 (Pertaining to Rule 3 of EPR)**

A. List of Activities Requiring EIA²³

Sector	List of Activities
1. Forest	<ul style="list-style-type: none"> • Plantation of indigenous plants of a single species on a single block covering an area of more than 500 hectares in the Terai and 100 hectares in the hills. • Plantation of such imported species of plants as are deemed suitable for the purpose following their test in the concerned place, in an area of more than 100 hectares in the Terai and 50 hectares in the hills. • Handover of forests with an area of more than 200 hectares in the Terai and 50 hectares in the hills as leasehold forests. • Clear Felling of National forests for research purpose with an area of more than 30 hectares per year by the government. • Rosin and turpentine, rubber, plywood and veneer, brick and tile, Tobacco Kattha and timber-based matches, pulp and paper industries to be established within one kilometer inside the forest area that rely on forests for their raw materials and use processing techniques, and cardamom as well as medium and large tea industries together with lauth saalla and incense industry establishment that use bulky quantities of firewood. • Commercial as well as industrial processing of medicinal herbs and aromatic plants which emit garbage and pollution. • Establishment of resorts, hotels with more than 50 beds, safaris, medium and large educational institutions, hospitals and industries or other construction activities inside forest area, national parks, reserves, conservation areas, buffer zone area, wetland area and environment conservation zones. • In case Forest and Conservation Area's Management Plan does not mention output of forest products to be collected then per species for root extraction of annually more than 50 metric tons from one district from one forest area or from many forest areas once or more than once needs to be included. • In case Forest and Conservation Area's Management Plan does not mention output of forest products to be collected then per species for bark extraction of annually more than 100 metric tons from one district from one forest area or from many forest areas once or more than once needs to be included. • According to contemporary law that does not ban collection of roots and bark species, Shorea robusta (sal) seed, reetha and Emblica officinalis (Amala), Tendupaat, Bhoorla paat, Cinamomom tamala (Tej Paat) together with non timber forest product from one forest area or several areas in one or many season at one or several collection amounting annually to more than 100 tons per species from one district. • With respect to contemporary law which does not ban export of species that are processed and sartatwa extracted from one or several forest area or in one or many season annually more than 100 tons per species per district. • Implement felling of more than 5 hectares of forest land with the proposal of government faculties other than forest. • Handing over of more than 500 hectares of forest land to a single community for management.
2. Industry	<ul style="list-style-type: none"> • Establishment of breweries and wineries equipped with fermentation facilities with a production capacity of more than 500,000 liters per day. • Production of primary chemicals such as corrosive acid and alkali etc. (except citric, tartaric, acetic acid etc.) with a production capacity of more than 100 metric tons per day. • Processing of hides more than 10,000 sq.ft. per day. • Establishment of mineral based industries with a fixed investment (civil & machinery purpose) of more than Rs. 500 millions. • Production of petro chemicals and processing (diesel, kerosene, lubricants, plastics, synthetics rubbers etc.). • Daily production of more than 50 tons of ferrous and non ferrous metals (except rerolling, remelting and fabrication) by the process of primary smelting.

²³ While every effort has been made to make the list comprehensive, LBs will need to refer to the EPR itself for complete specification of activities that will require an EIE.

	<ul style="list-style-type: none"> • Establishment of industry producing more than 3000 metric tons of kahdsari or sugar per day. • Establishment of cement industries based on lime stone or clinker with a production capacity of more than 50 metric tons per hour. • Establishment of lime industries with a production capacity of more than 500 mt per day. • Production of asbestos. • Establishment of radio active emission (nuclear or atomic processing) industries. • Daily formulation of more than 50 metric tons of primary compounds (Bulk drugs) for medicines. • Production of extremely hazardous substances such as mercury compound etc. • Production or establishment of ammunitions and explosives including gunpowder other than by Nepali Army and Nepali Police. • Establishment of pulp or paper industries of with a production capacity of more than 100 metric tons per day. • Establishment of brick and tiles industries with a production capacity of more than 20 million pieces per year. • Chemical processing of bones, horns, and hoof of more than 50 metric tons per day. • Establishment of saw mill with an annual consumption of more than 50000 cubic feet of timber.
3. Mining	<ul style="list-style-type: none"> • Relocation or resettlement of permanent residence of a population of more than 100 for the purpose of mine excavation. • Mine excavation process for : • Excavation activities for production of all kinds of radioactive metals. • Production of other metals of more than 200 tons by underground excavation and more than 400 tons by surface mining on daily basis. • Production of non metallic minerals by underground excavation exceeding 200 tons per day and by surface excavation beyond 400 tons per day. • Extraction of common construction stone, decorative stone, sand, gravel and industrial soil at a rate of more than 300 cubic meters per day. • Production of coal and matti coal at the rate of more than 200 tons per day by underground excavation and more than 400 tons per day by surface excavation. • Production process of more than 100 thousand cubic meter per day of natural gas. • Process requiring excavation and processing of petroleum products. • Daily extraction of more than 250 meter cube of sand, gravel (girkha) soil from the surface of river and rivulets.
4. Roads	<ul style="list-style-type: none"> • Construction of the following roads: (i) national highways, (ii) main feeder roads. • Construction of more than 50 kilometers long ropeways. • Construction of more than 5 kilometers long cable car routes.
5. Residence, building, and urban development area	<ul style="list-style-type: none"> • Residential, Commercial and their combination buildings with a built-up or floor area of more than 10,000 meter square. • Construction of Cinema Hall, Theater, Community Hall, Stadium, Concert Hall, Spot Complex with an entry and exit of more than 2,000 at a time. • Development of Residence with a capacity of 50 members or in an area of more than 4 ha. • Operation of more than 100 hectares of land development program. • Construction of more than 16 floors or 50 meters of buildings.
6. Water resources and energy sector	<ul style="list-style-type: none"> • Construction and Supply through the installation of transmission lines with more than 3 km length and 66 kv. capacity. • Operation of Hydro Electric Production Program with the capacity of more than 10 MW. • Under the Electricity Production: (i) operation of Coal or Nuclear Energy production project with capacity of more than 1 MW., and (ii) operation of Oil or Gas based electricity production project with capacity of more than 5 MW. • Under the new systems of irrigation: • Projects irrigating more than 2000 hectares in the Terai or Inner Terai. • Projects irrigating more than 500 hectares in hills, valleys and Tar. • Projects irrigating more the 200 hectares in the hilly bhiral, pakha and mountain areas with a steep gradient. • Any water resources development activity which displaces population of more than 100 people. • Construction of multipurpose reservoirs. • Inter-basin water transfer and use.
7. Tourism	<ul style="list-style-type: none"> • Construction, establishment and operation of hotels with more than 100 beds.

	<ul style="list-style-type: none"> • Establishment and development of new airports.
8. Drinking water	<ul style="list-style-type: none"> • Collection of rain-water in an area of more than 200 hectares and use of water sources located within the same area. • Water supply projects with surface water sources with more than 1 cubic sec. safe yield, and the use of its entire part during the dry season. • Recharging of more than 50 percent of the total aquifer for the development of underground water sources. • Displacement of more than 100 persons for the operation of water supply schemes. • Settlement of more than 500 persons on the upper reaches of water sources. • Supply of drinking water to a population of more than 50,000. • Supply of drinking water to a population of more than 100,000, and connection of new sources. • Over mining of biologically or chemically polluted point and non-point sources or underground water sources that may be affected by them. • Operation of multi-purpose projects relating to sources of drinking water using water sources at the rate of more than 25 liters per second.
9. Waste management	<ul style="list-style-type: none"> • Waste management activities with the objective of providing services to a population more than 10,000. • Following activities relating to waste emitted from houses and residential areas : • Filling of land with more than 5000 tons of waste per year. • Activities relating to transfer stations and resource recovery areas spread over an area of more than 10 hectares. • Selecting, picking, disposing and recycling waste through chemical, mechanical or biological techniques in an area spread over more than 10 hectares. • Activities relating to compost plants spread over an area of more than 10 hectares. • Burying of waste emitted from an urban area with a population of at least 10,000. • Following construction activities relating to hazardous waste of the following nature in any scale: (i) construction of a waste plant, (ii) construction of a waste recovery plant, (iii) construction of a site for filling, accumulating or burying waste, (iv) construction of a site for storing waste, (v) construction of a waste treatment facility. • Following activities relating to lethal waste: (i) emission and management of any radio-active substance with a half age exceeding 25 years, (ii) emission and management of any radio active materials with 30 lethal dose, (iii) final disposal management of biological lethal substances emitted from health centers, hospitals or nursing homes with at least 25 beds, and (iv) any activity relating to one hectare or more of land and energy for the purpose of incinerating or recycling any lethal substance.
10. Agriculture	<ul style="list-style-type: none"> • Clearing of Government Forests covering more than 1 hectare in the hills and 5 hectares in the Tarai and using them for agricultural purposes. • Urbanization plan in cultivable lands. • Establishment of pesticides plants (for listed pesticides only).
11. Health	<ul style="list-style-type: none"> • Operation of hospitals or nursing homes with more than 100 beds, or medical profession (study and teaching also).
12. Miscellaneous	<ul style="list-style-type: none"> • If any proposal is to be implemented in the following areas: (i) historical, cultural and archeological sites, (ii) national parks, wild life reserve, wetland and conservation areas, (iii) areas with main sources of public water supply. • Any proposals, other than listed above, smaller than them, listed in schedule 1 and smaller than them, leading to operation of any development work and plan, project or program leading to physical activities or land use change with a cost of more than 250 millions.

B. Terms of Reference of EIA (Schedule – 4 [Pertaining to Rule 5])

1. Name and address of the individual or institution preparing the report
2. General introduction of the proposal
3. Data needed for the preparation of the report, and procedure of collecting them
4. Policies, laws, rules and manuals to be taken into account while preparing the report
5. Preparation of the Report:
 - a. Time
 - b. Estimated budget
 - c. Necessary Experts
6. Scope determined for the preparation of the report
7. Impact on the environment of the implementation of the report:
 - a. Social and economic
 - b. Cultural and physical
 - c. Chemical
 - d. Biological
8. Other alternatives for the implementation of the proposal:
 - a. Design
 - b. Project site
 - c. Technology, procedure of operation, time-schedule and raw materials to be used.
 - d. Environment management system
 - e. Whether or not the risks resulting from the implementation of the proposal can be accepted
 - f. Other matters
9. Measures to remove any negative impact that may be noticed while implementing the proposal
10. Particulars of the cost and returns of the proposal
11. Matters to be monitored while implementing the proposal: relevant information, reference lists, annexes, maps, photographs, tables and charts, graphs and questionnaires to be mentioned at the time of preparing the report.

C. EIA Report Format (Schedule – 6 [Pertaining to Rule 7 of EPR])

Report component	Areas to cover
Name and address of the individual or institution preparing the report	
Summary of the Proposal	In regard to the possible impact of the implementation of the proposal on the environment): (i) objectives of the proposal, (ii) impact on land-use, (iii) adverse impact on the environment, impact on human life, and population pressure, (iv) damage to be suffered by local goods or objects; and (v) other necessary matters.
Summary of the Report	Brief particulars of the matters mentioned in the report relating to the environmental impact assessment
Particulars of the Proposal	To specify the technical, geographical, environmental economic, social, cultural and physical aspects of the proposal. To specify the objectives, working policies and work-schedules of the activities to be undertaken during each phase of the implementation of the proposal.
Basic Information Relating to the Proposal	To mention basic information about the geo-physical, cultural, biological, and social and economic conditions of the area to be assessed, as well any possible change that may occur there before the implementation of the proposal, according to the nature of the proposal. In case there are any data which are not available or any subject which cannot be covered by the study, they too should be mentioned.
Identification of Environmental Impact :	To mention the possible positive and negative impact on the following spheres of the environment while implementing the proposal, and estimate and specify the volume of possible impact according to time and work schedules as far as possible: (i) geographical area likely to have positive or negative impact of the implementation of the protect, and their time-schedule, (ii) impact of waste and pollution to be emitted through the implementation of the proposal, (iii) direct, indirect and cumulative impact of the implementation of the proposal on the environment.
Analysis of the alternatives for the proposal	The following matters are to be analyzed: (i) matters concerning the design of the proposal, project site, technology, operation procedure, time-schedule and raw materials to be used; (ii) comparison is to be made on the basis of the fixed and working capital, local suitability, institutional training and supervision needed for the implementation of the proposal, and the environmental cost and returns and economic significance of each alternative measures are to be analyzed as far as possible; (iii) short, medium and long-term adverse impact of the implementation of the proposal; (iv) sources of energy to be used for the implementation of the proposal, and measures to be adopted for saving such energy; (v) analysis of the consequences of the non-implementation of the proposal.
Measures to reduce environmental impact :	To mention practical preventive measures to be adopted for all activities which could have a negative impact on the environment. In case the environmental impact cannot be fully avoided through preventive measures, arrangements made for payments of compensation shall be mentioned. The effectiveness of the preventive measures shall be analyzed from the viewpoint of their cost on the basis of a comparison with other possible alternatives. The effectiveness of the preventive measures shall be analyzed from the viewpoint of their cost on the basis of a comparison with other possible alternatives.
To mention matters concerning environmental management plans	
Review of Policy and Legal Provisions	To review the related policies, laws, and rules on the basis of the nature and scale of the proposal. If any policy or legal provision needs to be reformed, to specify the same.
Monitoring of the Proposal	To mention the procedure of monitoring the impact of the implementation of the proposal on the environment, as well as the monitoring agency, time-schedule, monitoring and evaluation indicators, etc.

To mention the format and relevancy of environmental examinations.	
Reference materials	To make a list of publications quoted as references while preparing the report in the following manner: (i) author, (ii) date of publication, (iii) title of the material quoted, (iv) name of publication or journal which is quoted, (v) year, volume, number, etc. (if any), and (vi) page number.
To include the following particulars in the Annexes	<ul style="list-style-type: none"> • Maps relating to the composition of land, geographical location, lands-use and land-capacity, and other maps related to the study, • Aerial photographs, as far as possible, of the proposal implementation site and the surrounding areas, • Questionnaires or lists of subject matters used for field research, • Such matters connected with the evaluation of the environmental impact as charts and photographs, • Hydrological and climatic data (by arranging them serially according to the period), • Data relating to flora and fauna of the proposal implementation site, • Geological and risk evaluation data (if available), • Information relating to the quality of air and water and the noise level before and after the operation of the project, if available), • Matrix or serial graphs relevant to the environmental impact assessment, • Such audio-visual supports as maps, slides, records and video films, • Cropping techniques, and data relating to livestock farming, soil features, and quantity of chemical fertilizers used, • List of written reference materials used at the time of preparing the study report, • List of invitees and participants, and records of discussions, meetings and gatherings among the concerned agencies, and brief particulars of monitoring operations, • List of names of individuals and institutions comprising the study team involved in the preparation of the environmental impact assessment report. • Names, address and telephone numbers of individuals and institutions contacted in the course of the study.

III. INDIGENOUS PEOPLES FRAMEWORK

A. Context

1. This Indigenous Peoples Framework (IPF) provides policy and procedures to screen sub-project impacts on IPs and prepare planning documents in full compliance with ADB's Indigenous Peoples Policy for sub-projects during implementation.

B. Indigenous Peoples in Nepal

2. Nepal's complex social structure makes it challenging to define IPs. The 2001 census has identified 100 different social groups in the country with over 92 languages and a mix of Hindu, Buddhist, Animism and Muslim religions. Nevertheless, the 2001 Census reports 8.4 million population of 43 ethnic nationalities (37.2% of Nepal's population). Further, the National Foundation of Indigenous Nationalities (NFIN) has declared 59 groups as ethnic nationalities. NFIN-affiliated NGO—the National Federation of Indigenous Nationalities (NaFIN)—has classified these groups into five categories based on their population size and other socio-economic variables such as literacy, housing, land holdings, occupation, language, and area of residence. While a majority of these groups are integrated into the mainstream society/culture, several of them (recognized by NFIN as highly marginalized/endangered) are not; these include:²⁴

- a. *Mountain Districts*, including Lhomi-Singsa, Siyar, and Thudam, etc.,
- b. *Hill Districts*, including Bankariya, Baramu, Chepang, Hayu, Kusunda, Lepcha, etc.,
- c. *Inner Terai Districts*, including Bote, Danuar, Majhi, etc., and
- d. *Terai Districts*: Dhanuk, Jangad/Dhangad/Urau, Khadiya, etc.

3. Most of the sub-projects that are to be implemented under the national program are not expected to have any adverse consequences on the socio-economic condition of IPs, or to have any disruption in their community life or culture. In fact, some of them (such as any investment decision on improved road network) would even augment access to services for these communities along with other sections of the sub-project population, including increased access to health, education and market opportunities. Nevertheless, inclusive measures have to be included in the sub-project design to maximize benefits and opportunities to indigenous/ethnic groups.

C. Relevant Policies on Indigenous Peoples

4. The Interim Constitution of Nepal commits the government for the protection and development of IPs. For the welfare of *adivasi/janajati*, the government set up a National Committee for Development of Nationalities in 1997. The parliament passed a bill in 2002 for the formation of 'National Foundation for the Development of Indigenous Nationalities,' which came into existence in 2003 replacing the previous committee. This Foundation has been working for the preservation of the languages, cultures, and empowerment of the marginalized ethnic nationalities.

²⁴ This determination is based on the exercise conducted by ADB and the Government for NEP 40554-01: Rural Reconstruction and Rehabilitation Sector Development Project (RRRSDP), which has a similar scope in terms of program focus and activities.

5. The Three Year Interim Plan (TYIP) (2007-2010) includes the following policies for inclusive development of *adivasi/janajatis* and other disadvantaged groups: (i) creating an environment for social inclusion; (ii) participation of disadvantaged groups in policy and decision making; (iii) developing special programs for disadvantaged groups; (iv) positive discrimination or reservation in education, employment, etc.; (v) protection of their culture, language, and knowledge; (vi) proportional representation in development; and (vii) making the country's entire economic framework socially inclusive.

6. The following Acts and other legislative measures and policies have emphasized protection and promotion of indigenous peoples' knowledge and cultural heritage: NFIN Act 2002, National Human Rights Action Plan 2005, Environmental Act 1997, and Forest Act 1993. In 1999, the Local Self-Governance Act was amended to give more power to the local political bodies, including authority to promote, preserve, and protect the IP's language, religion, culture, and their welfare.

7. ADB's Indigenous People's Policy (1998) defines IPs as "*groups with social or cultural identities distinct from the dominant or mainstream society. IPs is a generic concept that includes cultural minorities, ethnic minorities, indigenous cultural communities, tribal people, scheduled tribes, natives, and aboriginals.*" It recognizes the potential vulnerability of IPs in the development process and requires that development interventions should ensure that IPs have opportunities to participate in, and benefit equitably from, the interventions. The interventions affecting IPs should (i) be consistent with the needs and aspirations of affected indigenous peoples; (ii) be compatible in substance and structure with affected indigenous peoples' cultures and social and economic institutions; (iii) be conceived, planned, and implemented with the informed participation of affected communities; (iv) be equitable in terms of development efforts and impacts; and (v) not impose the negative effects of development on indigenous peoples, but, if such effects are unavoidable, appropriate and acceptable compensation must be ensured.

D. Objectives of the Indigenous Peoples Framework (IPF)

8. An IPF is prepared to guide the preparation of sub-projects under the program to ensure better distribution of the benefits and promote development of the *adivasi/janajatis* along with other disadvantaged social groups in all sub-project areas of influence. The IPF is developed based on the national policies/strategies as well as ADB's Indigenous Peoples Policy. The principal objectives of the IPF are to:

- a. ensure the participation of the affected IPs in the entire process of preparation, implementation, and monitoring of sub-project activities,
- b. ensure that sub-project benefits will accrue to IPs, and mitigate any adverse impact,
- c. define the institutional arrangements for screening, planning, and implementation of IP plans for sub-projects, and
- d. outline the monitoring and evaluation process.

E. Procedures for Sub-project Planning and Participation of IPs

9. This section provides detailed procedures to be followed by LBs in screening for: (i) impacts on IPs, (ii) conducting relevant Social Impact Assessment related to IPs, and (iii) preparing IP plans, including consulting, participation, and disclosure procedures. The LBs will ensure that indigenous people are informed, consulted, and given opportunity to participate in the entire sub-project cycle.

1. Screening and Categorization of Impacts on IPs

10. Initial screening of sub-project impacts on IPs will be conducted as early as possible in the sub-project cycle to categorize the impacts and identify subsequent approaches and resource requirements to address IP issues. A thorough screening will be conducted during the Initial Poverty and Social Assessment (IPSA)²⁵ as part of sub-project (pre)feasibility study. Relevant staff in LBs will be required to identify IP community(ies) belonging to the area of the sub-project, their population (number and ratio), and their characteristics as compared to the main population in the sub-project influence zone through primary and secondary data information collection. The *Janajati* Empowerment Project Report, District Development Profile, as well as VDC and Ward level information will be consulted and meetings with leaders and NGOs/CBOs representing causes of IPs will be held to assess the population size of IPs, the sub-category within them, and the likely impact of the sub-project on each sub-groups.

11. Sub-projects will be categorized according to the level of impacts on IPs. These will be determined by the type, location, scale, nature, and presumed magnitude of potential impacts on IPs. Based on this, the sub-projects will be categorized as such (see Table 1):

Table 1. Categorization of IP Impact

Category	Determination of the type of Environmental Assessment Needed
Category A	Sub-projects expected to have significant impacts that require an Indigenous People (IP) Development Program
Category B	Sub-projects expected to have limited impacts that require specific action for IP in resettlement plans and/or social action plans
Category C	Sub-projects not expected to have impacts on IPs and, therefore, do not require special provision for IPs

12. **Category A sub-project ('significant impact')**. The impacts on IPs will be considered significant if the sub-project positively or negatively:

- a. affects their customary rights of use and access to land and natural resources,
- b. changes their socio-economic status,
- c. affects their cultural and communal integrity,
- d. affects their health, education, livelihood, and social security status, and/or
- e. alters or undermines the recognition of indigenous knowledge.

13. **Category B sub-project ('limited impact')**. Such sub-projects are expected to have limited impacts. Specific action for indigenous peoples is required to address the limited impacts.

14. **Category C sub-project ('no impact')**. Such sub-projects are not expected to have impacts on IPs and, therefore, do not require special provisions for them.

15. The screening and categorization will be initiated by the LBs (either VDC, DDC, or Municipality) (either by the relevant staff or, if there are no such skills, then on contract with an external party). Relevant review will be done by: (i) the Secretary at the VDC level, (ii) the Vice Chairman of the Indigenous National Coordination Committee at the DDC level, and (iii) the Department/Section Head at the Municipality level. Endorsement is provided either by the

²⁵ This will be done in accordance with ADB's Handbook on Poverty and Social Assessment, particularly on Indigenous Peoples (http://www.adb.org/Documents/Handbooks/Poverty_Social/appendix7.pdf). While it is not expected that all LBs will prepare very detailed IPSAs for all sub-projects in one particular format, it is expected that all relevant information will be gathered during the (pre) feasibility stage.

Chairman of the VDC, or Planning Officer or Social Development Officer at the DDC, or Executive Officer at the Municipality. Final approval of the same is provided by the Chairperson of the VDC or DDC Board respectively at their levels, and by the mayor at the municipality level. LBs could seek support from the District Technical Office (DTO), if essential, and also the Environmental Management Section (MLD). Once finalized, the IPSA report and categorization form will be included in sub-project feasibility/design report to be submitted to ADB. The sub-project Impact Categorization Form is in **Attachment 1**.

2. Social Impact Assessment (SIA) and Preparation of IP Plans

16. The DTO, assisted by the local level Planning/Social Development Officer, will undertake an SIA as part of the detailed feasibility/design of the sub-project. The SIA will gather relevant information on demographic data; social, cultural and economic situation; and social, cultural and economic impacts. The information will be gathered through separate group meetings within the IP community, including their leaders, NGOs, CBOs, and affected persons. Discussions will focus on potential positive and negative impacts of the sub-project; measures to enhancing positive impacts; and strategies/options to minimize and/or mitigate negative impacts. The indicative TOR for the SIA are in **Attachment 2**.

17. Based on the SIA, the sub-project will develop appropriate mitigation measures and livelihood enhancement activities for IPs. In case of limited impacts, specific actions for IPs will be spelled out in the resettlement plan and/or social development plan for the sub-project. If the SIA determines that the sub-project will have significant differential impact on IPs compared to the mainstream population, an IPDP will be prepared to enhance distribution of sub-project benefits and promote the development of IPs.

18. The LB (or the contracted party) will prepare either a short or a full IPDP depending on the magnitude and complexity of sub-project impacts as determined by the social safeguards screening process described above. An acceptable IPDP addresses the:

- a. aspirations, needs, and preferred options of the IPs;
- b. local social organization, cultural beliefs, ancestral territory, and resource use patterns among the IPs;
- c. results and framework of a process of free, prior, and informed consultations; (iv) potential positive and negative impacts on IPs;
- d. measures to avoid, mitigate, or compensate for the adverse sub-project effects;
- e. measures to ensure sub-project benefits will accrue to IPs;
- f. an action plan of measures to ensure that IPs receive social and economic benefits that are culturally appropriate;
- g. accessible procedures for grievance redress;
- h. benchmarks for evaluating the outcomes of the IPDP;
- i. measures to strengthen social, legal, and technical capabilities of government institutions to address IP issues;
- j. the possibility of involving local organizations and non-governmental organizations (NGOs) with expertise in IP issues; and
- k. budget allocation and monitoring.

19. The Implementing Agency will submit the IPDP to ADB (via MLD) for review and approval prior to award of civil works contracts for subprojects falling in categories A and B. In case of category C, the IPDP will be approved by LBs (i.e., implementing agencies) within the framework prescribed by MLD.

20. The IPDP will consist of a number of activities and include mitigation measures of the potential negative impacts through modification of sub-project design and development assistance to enhance distribution of sub-project benefits. Where there is land acquisition or structural losses in the ethnic/indigenous communities, the program will ensure that their rights will not be violated and that they will be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation measures will follow the Resettlement Framework (detailed later).

21. Details on the IP impact framework, including stipulations of the IPDP are included in the report submitted to the Government, and that will, once approved, be incorporated in the Program Administration Manual. The details contained in the framework document include information on, among others: consultation, participation, and disclosure; institutional arrangements; and monitoring and evaluation.

F. Consultation, Participation and Disclosure

22. Consultations with, and participation of, IPs will be ensured in formulation of the sub-project to ensure that it adequately deals with their needs, priorities, and preferences. The IPs will be provided relevant project information in language(s) and manner suitable to them. A separate focus group discussion will be held with IPs to assess sub-project impacts and benefits to these groups. Accordingly, sub-project plans, including IP plans, will be prepared in consultation with IPs. The outcomes of social assessments and programs/measures for IPs will be presented in community workshops/meetings.

23. The LBs or DTO shall make available the following documents to the sub-project-affected IPs and disclose to the public: (i) a draft IPDP, before sub-project appraisal; (ii) a final IPDP, after completion of such an IPDP; and (iii) the revised IPDP, following the detailed technical design or change in scope in the sub-project. Information from these documents will be made available to affected persons as leaflets in local languages. LBs shall also post these documents on their website. During implementation, they will prepare social monitoring reports, make them available to affected IPs, post them on their website, and submit these to ADB for review.

24. Social mobilizers will be placed in all participating LBs to support IPDP activities. Central level support for the same will be provided by the EMS while at the local level the DDC (through the Social Development Officer) will do the same.

G. Monitoring and Evaluation

25. The EA will establish a quarterly monitoring system to monitor the implementation of the IPDP. A set of monitoring indicators will be determined during IPDP preparation. A survey of existing socio-economic status and cultural practices of IPs, which will be carried out during sub-project feasibility study/design, will be the basis for establishing the baseline data to monitor the sub-project impacts on IPs. The IPDP will also specify the system to collect data and monitor the changes and will include terms of reference for any monitoring agency/consultant. The EA will prepare quarterly monitoring reports, post them on its website, and submit to ADB for its review.

H. Budget

26. All the costs required to implement the IP plans will be incorporated in the program. The IPDP will include detailed cost estimates and indicate sources of funds for required activities. While the administrative costs for survey, social assessment, and preparation of IPDP will be financed through central grants, the program costs will be financed out of the district development budget.

I. Capacity Building for Review Procedures

27. As with the skills set needed for environmental impact assessment, LBs also do not have sufficient staff or skills with strong backgrounds or expertise in dealing with matters related to indigenous peoples. As such, the national program will have to make provisions for capacity building at the local level. Assistance will also need to be provided by MLD to the LBs, in the short term, to help conduct the necessary determination assessments (for example, using the checklists to determine whether or not an IP development plan is triggered). Because this issue of indigenous peoples has gained such widespread currency in Nepal at the moment, LBs have little luxury to not pay much attention to it. Given this, MLD will need to put in place capacity building mechanisms in place at several levels:

- a. At the local levels, increase the skills sets of the VDC/DDC/municipality staff members to conduct the necessary assessments in a rigorous manner;
- b. Focus on the capability of the Indigenous National Coordination Committee to not only review the assessments done by the local body staff but also help prepare the IPDP as well as monitor its implementation;
- c. Enhance the capacity of staff within relevant sections of the MLD that can ensure that IPDPs are done properly, that issues related to indigenous peoples are better mainstreamed across the sectoral agencies, and that can monitor and guide local bodies in all matters related to indigenous peoples.

28. The national program makes financial provision to assist in such capacity building exercise. Dedicated funds have been earmarked for the following:

- a. finance the costs of conducting assessments related to indigenous peoples by local consultants on contract (in the absence of skills sets among local body staff); however, this is only for the short-term;
- b. finance costs of monitoring, including logistics and support costs; and
- c. make some funds available to train relevant staff members both at the local and MLD levels so that long-term capability to deal with issues of IPs are mainstreamed in sub-project planning. Depending upon the nature of the work to be done, it is also possible that the private sector will be encouraged to fill capacity gaps in this area.

29. *Central Support.* At the central level, the existing EMS will be bolstered by the addition of one more specialist on IP matters and who will be deputed from elsewhere (given the absence of that skills set at the moment within the Section). Just as with the environmental assessments, the EMS will play a vital coordination role both during (i) sub-project preparations and implementation, and (ii) communications within MLD, with DDCs, and other sub-project stakeholders. EMS will coordinate and facilitate the overall responsibility for ensuring proper assessments of IP impacts throughout sub-project feasibility study, preparation and implementation stages, and management of the program itself.

Attachment 1. Indigenous Peoples Impact Categorization Form

A. Project Data

District/ Sub-project
Title:

B. Identification of indigenous peoples in sub-project area

Impact on indigenous peoples (IPs)	Not known	Yes	No	Remarks or identified problems, if any
Are there IPs present in project locations?				
Do they maintain distinctive customs or economic activities that may make them vulnerable to hardship?				
Will the project restrict their economic and social activity and make them particularly vulnerable in the context of project?				
Will the project change their socioeconomic and cultural integrity?				
Will the project disrupt their community life?				
Will the project positively affect their health, education, livelihood or social security status?				
Will the project negatively affect their health, education, livelihood or social security status?				
Will the project alter or undermine the recognition of their knowledge, preclude customary behaviors or undermine customary institutions?				
In case no disruption of indigenous community life as a whole, will there be loss of housing, strip of land, crops, trees and other fixed assets owned or controlled by individual indigenous households?				

C. Anticipated project impacts on indigenous peoples

Project activity and output	Anticipated positive effect	Anticipated negative effect
1.		
2.		
3.		
4.		
5.		

D. Decision on Categorization

After reviewing the above, it is determined that the sub-project is:

Categorized as an A project, an Indigenous Peoples Development Plan (IPDP) is required

Categorized as a B project, a specific action favorable to indigenous peoples is required and addressed through a specific provision in related plans such as a Resettlement Plan, or a general Social Action Plan

Categorized as a C project, no IPDP or specific action required

Prepared by:**Reviewed by:**

LB staff/Contracted party (VDC, DDC, Municipality)

Date:

Secretary, VDC
 Vice Chairman, Indigenous National Coordination Committee, DDC²⁶
 Department/Section Head, Municipality
 Date:

Endorsed by:**Approved by:**

Chairman, VDC
 Planning/Social Development Officer/DDC
 Executive Officer, Municipality
 Date:

Chairperson, VDC/DDC Board
 Mayor, Municipality
 Date:

²⁶ Vice Chairman, Dalit Coordination Committee, in the case of the Dalit Committee.

Attachment 2. TOR for Social Impact Assessment and Preparation of IPDP

LBs, with the help of social mobilizers recruited under Component 1 of the national program (LGCDP) and with relevant qualifications on issues related to IPs, will carry out an assessment of impacts on IPs and prepare necessary plans in accordance to the ADB's Policy on Indigenous Peoples. The tasks in the terms of reference to prepare the IPDP will include, but not be limited to, the following:

1. Providing an overview of the characteristics of the ethnic population in the sub-project area:
 - a. the dominant ethnic group(s) – relations of the dominant ethnic group(s) to the land in the sub-project area, main socio-cultural characteristics of the dominant ethnic group(s), and the socio-cultural influence of the dominant ethnic group(s) on the ethnic minorities in the sub-project area; and
 - b. the minority ethnic group(s) – relations of the minority ethnic group(s) to the land in the sub-project area, main socio-cultural characteristics of the minority ethnic group(s), and degree of acculturation to the dominant culture (language, religion, customs, etc).
2. Providing a profile of the dominant and minority ethnic groups in the sub-project area: (i) prepare a socioeconomic profile of the ethnic groups, (ii) describe main activities of the ethnic groups, (iii) describe the local resources utilized by each ethnic group, and (iv) describe actual rights to land and natural resources for each group.
3. Identification of existing problems perceived by IPs in the sub-project area: (i) describe problems that restrict IPs' main economic activities, (ii) describe problems with availability of local resources utilized by IPs, and (iii) describe problems with the continuation of IPs' rights to land and natural resources.
4. Identification of the IPs' demands: (i) examine the variations in existing knowledge and skills, including any socio-cultural norms that may reduce demand for the sub-project and/or influence the way services are provided, (ii) assess the ability and willingness of the IPs to pay for sub-project inputs and/or provide labor to improve their production systems, (iii) identify and examine efforts which have already been made by members of the IP communities and examine the experiences of those involved and their perceptions of whether these efforts have been successful, and (iv) assess the demand of the IP communities in areas which will be affected by sub-project activities and determine the preferred methods for the delivery of services under the sub-project activities.
5. Description of the differing culturally defined roles of males and females and assessment of the cultural importance of these differences in the likelihood that certain practices will be adopted and retained under the sub-project. Assess the culturally defined access to land and resources and identify the potential cultural constraints for men and women in obtaining access to resources, services and facilities that may be provided under the sub-project.
6. Identification of the: (i) anticipated sub-project impacts and communicate as much information about the sub-project to the IP communities, and (ii) national and local government policies in relation to IPs (legal status, citizenship, health, education, access to natural resources).
7. Assessment of local institutional, personnel, and financial capacity of the relevant agencies and organizations and institutions working with and for IPs and identify a strategy for their participation. Also, if needed, preparation of an indigenous peoples development plan (IPDP) in accordance with ADB's policy, ensuring meaningful participation of the IPs and facilitate the involvement of NGOs where appropriate.
8. Identification of PPMS indicators of the IP-specific achievement of the sub-project outputs, purposes and goals.

IV. INVOLUNTARY RESETTLEMENT FRAMEWORK

A. Context

1. This Resettlement Framework (RF) is prepared to provide the policy and procedures to screen, assess, and plan land acquisition and resettlement aspects of sub-projects that are prepared and approved during implementation of the national program in full compliance with ADB's Involuntary Resettlement Policy as well as applicable national laws. The RF includes: (i) likely scope of land acquisition and resettlement, (ii) review of applicable policy and legal framework, (iii) screening procedures for sub-projects, (iv) resettlement policies, eligibility criteria, and entitlements consistent with ADB Policy, (v) procedures for sub-project planning and preparation of resettlement plans (RPs), (vi) information, consultation, participation, and disclosure arrangement, and (vii) implementation, budgeting, and monitoring of resettlement plan, including capacity building of relevant agencies (including the EA) and sub-project implementing agencies.

B. Likely Scope of Land Acquisition, Resettlement and Screening of Sub-Projects

2. The rehabilitation of existing infrastructure is not expected to involve any land acquisition and resettlement. However, sub-projects with new civil works may require additional land for their right of way. Mostly, road projects will need additional land and thus may trigger ADB's Involuntary Resettlement Policy. Based on a typical cross-section of a sub-project road, a 10 meter wide right-of-way is envisaged for most road sections, except for those which require additional structures (e.g., retaining walls). In this way, new road construction and rehabilitation of roads may require about 1 ha/km and 0.5 ha/km, respectively, of which, half is expected to involve privately owned land and the remaining public land. While the private land may also involve private trees and structures, the extent of population displacement or relocation of houses is expected to be low in rural roads. Other sub-sectors are not expected to involve land acquisition and resettlement, as their selection criteria exclude any sub-projects that require additional private land and/or involve any involuntary resettlement impacts.

3. Based on the analysis done for the RRRSDP, the program will adopt the following criteria, among others, while selecting sub-projects during implementation:

- a. The priority in selection of sub-project will be given to those which do not require additional land (such as rehabilitation of existing infrastructure).
- b. The selection criteria for supplementary infrastructure will exclude any sub-project that may involve land acquisition and resettlement. They will be implemented only if land is already available or do not require additional land.
- c. Road projects may require additional land to improve the road standards and safety and, therefore, this might not be fully avoided. However, in order to minimize land acquisition and involuntary resettlement impacts, the following criteria will be followed in selection of road sub-projects:
 - i. priority will be given to road rehabilitation or road upgrading where track is already open;
 - ii. total length of the road will not exceed 40 km;
 - iii. additional requirement of land (private) should not exceed 15 ha;

- iv. it should not physically displace families (if the affected people [APs] have alternate housing and/or in exceptional cases (e.g., in districts not yet connected by roads), it should limit to 20 houses); and
- v. for use of existing right of way for road improvement/upgrading, it should have been used for road traffic for past 3 years.

C. Applicable Legal and Policy Framework

4. The **Interim Constitution of Nepal (2007)** guarantees the fundamental rights of a citizen. Article 19(1) establishes the right to property for every citizen of Nepal, whereby every citizen is entitled to earn, use, sell, and exercise their right to property under existing laws. Article 19(2) states that except for social welfare, the State will not acquire or exercise authority over individual property. Article 19(3) states that when the State acquires or establishes its right over private property, the State will compensate for loss of property and the basis and procedure for such compensation will be specified under relevant laws.

5. The **Land Acquisition Act (1977)**, and its subsequent amendment in 1993, specify procedures of land acquisition and compensation. The Act empowers the Government to acquire any land, on the payment of compensation, for public purposes or for the operation of any development project initiated by government institutions. There is a provision of Compensation Determination Committee (CDC) chaired by Chief District Officer to determine compensation rates for affected properties. The Act also includes a provision for acquisition of land through negotiations. It states in Clause 27 "notwithstanding anything contained elsewhere in this Act, the Government may acquire any land for any purpose through negotiations with the concerned land owner. It shall not be necessary to comply with the procedure laid down in this Act when acquiring land through negotiations".

6. The **Land Reform Act (1964)** is also relevant. As per the Act, a landowner may not be compensated for more land than he is entitled to under the law. This Act also establishes the tiller's right on the land which he is tilling. The Land Reform Act additionally specifies the compensation entitlements of registered tenants on land sold by the owner or acquired for development purposes. The Act, amended most recently in 2001, has established a rule that when the State acquires land under tenancy, the tenant and the landlord will each be entitled to 50 percent of the total compensation amount.

7. The **Land Revenue Act (1977)** is also applicable, as land acquisition involves change of ownership. Article 8 of the Act states that registration, change in ownership, termination of ownership right, and maintenance of land records are done by the Land Revenue Office. Similarly, Article 16 says that if land revenue is not paid by the concerned owner for long periods of time, the revenue can be collected through auction of the parcel of the land for which revenue has been due.

8. The **Public Roads Act, 2031 (1974)** empowers the State to acquire any land on a temporary basis for storage facilities, construction camps, etc., during construction and upgrading of roads. Any buildings and other structures (such as houses, sheds, schools, and temples) are to be avoided, wherever possible. The State is required to pay compensation for any damages caused to buildings, standing crops, and trees. Compensation rates are negotiated between the Government and the landowners.

9. Land acquisition must also comply with the provisions set out in the Guthi Corporation Act 1976. Section 42 of the Act states that Guthi (religious/trust) land acquired for development purposes must be replaced with other land.

10. The Government has drafted, with ADB's technical assistance, a **National Policy on Land Acquisition, Compensation, and Resettlement Development Projects**. The policy provides clear guidelines to screen, assess, and plan land acquisition and resettlement aspects in development projects. The draft Policy highlights the need to handle resettlement issues with utmost care and forethought particularly in case of vulnerable groups. There are provisions of voluntary land donation by non-poor and providing assistance to poor families.

11. **ADB's Policy on Involuntary Resettlement** states that involuntary resettlement should be avoided where feasible. Where population displacement is unavoidable, it should be minimized by exploring all viable options. People unavoidably displaced should be compensated and assisted, so that their economic and social future would be generally as favorable with the project as it would have been in the absence of the project. People affected should be informed fully and consulted on resettlement and compensation options. Existing social and cultural institutions of resettlers, and their hosts, should be supported and used to the greatest extent possible, and resettlers should be integrated economically and socially into host communities. The absence of formal legal title to land by some affected groups should not be a bar to compensation; particular attention should be paid to households headed by women and other vulnerable groups (such as indigenous peoples and ethnic minorities), and appropriate assistance provided to help them improve their status. As far as possible, involuntary resettlement should be conceived in the presentation of project costs and benefits. The Policy addresses losses of land, resources, and means of livelihood or social support systems, which people suffer as a result of an ADB project.

12. **ADB's Operational Manual Section F2/OP** states that where projects provide direct benefits to communities, and are amenable to a local decision-making process, arrangements to deal with losses on a transparent, voluntary basis may be included in resettlement plans, with appropriate safeguards. Such safeguards include:

- a. full consultation with landowners and any non-titled affected people on site selection;
- b. ensuring that voluntary donations do not severely affect the living standards of affected people, and are linked directly to benefits for them, with community sanctioned measures to replace any losses that are agreed to through verbal and written record by affected people;
- c. any voluntary "donation" will be confirmed through verbal and written record and verified by an independent third party such as a designated NGO or legal authority; and
- d. having adequate grievance redress mechanisms in place.

D. Definition, Objectives and Principles

13. **Definitions.** For relevant and applicable definitions, see pages 6-8.

14. **Objectives and principles.** The objectives of the RF are to (i) avoid land acquisition and involuntary resettlement wherever feasible; (ii) minimize it where it is unavoidable; and (iii) ensure that Affected Peoples (APs) receive assistance, so that they would be at least as well off

as they would have been in the absence of the sub-project. The key resettlement principles for the sub-projects are as follows:

- a. Involuntary land acquisition and resettlement impact will be avoided or minimized through careful planning and design of the sub-project;
- b. For any unavoidable involuntary land acquisition and resettlement, APs will be provided compensation at replacement cost and/or assistance so that they will be as well-off as without the sub-project;
- c. APs will not be forced to donate their land (and the eminent domain clause will not be invoked); and there will also be adequate safeguards for voluntary land donation;
- d. APs will be fully informed and consulted during sub-project design and implementation, particularly on land acquisition and compensation options;
- e. An absence of formal legal title to land will not be a bar to compensation for house, structures, and trees/crops, and attention will be paid to vulnerable groups and appropriate assistance provided to help them improve their status;
- f. Land compensation and resettlement assistance will be completed before award of civil works contracts, while other rehabilitation activities will continue during sub-project construction; and
- g. Land acquisition and resettlement will be considered part of the sub-project and costs related to resettlement will be included in, and financed out of, the sub-project cost.

15. In the case of roads (where resettlement issues are most likely to emerge), while selecting the sub-project, the EA will define the category/type of road to be constructed and declare the Right of Way (RoW) to a minimum possible width. Normally, 8 m width of road corridor will be maintained, except in few sections which require additional support structures. Alignment designers will select the least agriculturally productive land and will avoid settlement areas while selecting the road alignment.

16. Sub-project selection and implementation will follow a community-driven approach, which gives communities control over planning and sub-project implementation. Given that most local people are willing to voluntarily donate part of their land in building community/rural roads and small-scale rural infrastructure that provide direct benefit to community, the sub-project will also continue, to some extent, Nepal's tradition of land donation. However, adequate process and safeguards will be built in the resettlement plan to ensure that the voluntary land donation is unforced and it does not lead to impoverishment of affected people; these safeguards include:

- a. Full consultation with affected persons and communities on selection of sites and appropriate design to avoid/minimize additional land take and resettlement effects;
- b. As a first principle, APs will be informed of their right to entitle compensation for any loss of their property (house, land, and trees) that might be caused by the sub-project construction, and the land donation might be accepted only as a last option;
- c. No one will be forced to donate their land, and APs will have the right to refuse a land donation proposal from the EA;
- d. In case APs are directly linked to sub-project benefits and thus are willing to voluntarily donate their land after they are fully informed about their entitlement, the sub-project will assess their socio-economic status and potential impact of

land donation and accept land donation only from those APs who do not fall below the poverty line after the land donation;

- e. Any voluntary land donation (after the process cited above) will be confirmed through a written record, including a "no coercion" clause verified by an independent third party (format is in **Attachment 1**);
- f. The donation will be limited to only land and minor assets (houses and major assets will be excluded from donation); and
- g. A grievance redress committee (GRC) will be set up in every road section (chaired by local leader, and including representatives of APs), and APs who are not satisfied with the land donation can file their complaint with GRC. If GRC finds that the above provisions were not complied with, APs will be excluded from the land donation.

E. Screening and Categorization of Impacts on IR

17. Prior to submitting the sub-project for financing, the LBs will screen the proposed sub-project for assessing its potential IR impacts. A sample of the IR screening checklist has been annexed as **Attachment 2**. Based on these checklists, the LB will assess the magnitude of impacts and classify the sub-project depending on the significance of impacts for involuntary resettlement.

18. As per the IR Screening checklist, the Involuntary Resettlement categorization of sub-projects shall be as follows:

- a. **Category A: Significant** – Such a sub-project shall comprise of those in which 200 or more people will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating). Such sub-projects will require preparation of a Full Resettlement Plan (RP).
- b. **Category B: Not significant** – such sub-projects shall include those in which less than 200 persons experience impacts. Such sub-projects require preparation of a Short Resettlement Plan.²⁷
- c. **Category C: No Impact** – Category C sub-projects shall include those in which no involuntary resettlement effects are foreseen thereby requiring no resettlement action.

19. The screening and categorization of impact on involuntary resettlement will be initiated by LBs (VDC, DDC, or Municipality) (either by the relevant staff or, if there are no such skills, then on contract with an external party). Relevant review will be done by: (i) the Secretary at the VDC level, (ii) the Social Development Officer or the Planning Officer at the DDC level, and (iii) the Department/Section Head at the Municipality level. Endorsement is provided either by the Chairman of the VDC, or Local Development Officer at the DDC, or Executive Officer at the Municipality. Final approval of the same is provided by the Chairperson of the VDC or DDC Board respectively at their levels, and by the mayor at the municipality level. LBs could seek support from the District Technical Office (DTO), if essential, and also the Environmental Management Section (MLD). The sub-project Impact Categorization Form for Involuntary Resettlements is in **Attachment 2**.

²⁷ A Short RP is required for insignificant resettlement. A short RP must (i) summarize the impacts and extent of losses; (ii) the policies and legal framework applicable; (iii) arrangements made for asset valuation, payments of compensation and relocation; (iv) responsibilities of delivering entitlement, consultation with APs, grievance resolution; (v) cost estimates; and (vi) monitoring.

F. Preparation of a Resettlement Plan

20. After the screening and categorization of the sub-project, the LB will prepare appropriate social safeguard planning documents for IR for sub-projects falling in Category 'A' and 'B.' For these sub-projects, the planning documents shall be as per the principles laid down in this SESF and will require ADB approval prior to the award of civil works contracts.

21. The LB (or a party contracted by the LB) will prepare either a short or a full RP, depending on the categorization of IR impact as determined by the social safeguards screening process described above. If there is no impact of a sub-project, a due diligence report will be submitted confirming the same and also stating reasons for the same.

22. The RP (full or short) shall be prepared based on social impact assessment surveys including 100% census survey of the affected people, an asset inventory, landownership, usage and productivity assessments, and data on the existing economic and social condition of the affected people including a poverty assessment and a survey of at least 10% of the APs and 20% of the seriously affected people, together with local-level impact data, for the sub-project based on final technical designs.

23. A **full resettlement plan** shall include a statement of involuntary resettlement objectives and strategy, with:

- a. organizational responsibilities;
- b. community participation and disclosure arrangements;
- c. findings of the socioeconomic survey and social and gender analysis;
- d. legal framework, including eligibility criteria and an entitlement matrix;
- e. mechanisms for resolution of conflicts and appeals procedures;
- f. identification of alternative sites and selection;
- g. inventory, valuation of, and compensation for, lost assets;
- h. landownership, tenure, acquisition, and transfer;
- i. access to training, employment, and credit;
- j. shelter, infrastructure, and social services;
- k. environmental protection and management;
- l. monitoring and evaluation;
- m. a detailed cost estimate with budget provisions; and
- n. an implementation schedule, showing how activities will be scheduled with time-bound actions in coordination with the civil works.

24. A **short resettlement plan** will cover the same issues as that of a full resettlement plan, as relevant, but in less detail. However, the short resettlement plan shall ensure that adequate compensation, rehabilitation, and relocation arrangements are planned and budgeted.

25. The scope and outline of short and full resettlement plans is in **Attachments 3 and 4**.

G. Entitlement for Various Losses

26. An Entitlement Matrix (EM) below (see Table 3) has been developed as per this framework and outlines various types of losses that could result from a sub-project and provides for compensation. The matrix lists various types of losses, application parameters, entitled persons, and entitlements. The matrix will apply to all sub-projects entailing IR impacts. If during

further processing of a sub-project and implementation additional resettlement impacts are identified, the entitlement matrix will be updated by including provision of compensation and assistance for the additional impacts by mutual consent between the LB and MLD.

Table 3. Entitlement Policy/Matrix

Type of Loss	Application	Entitled Persons	Policy/Entitlement
1. Acquisition of private, tenancy, or Guthi land	Entire or part of land to be acquired from owner of the land as recorded at cut-off date	<ul style="list-style-type: none"> Titleholder Tenants 	<ul style="list-style-type: none"> Land with equivalent size and category, or cash compensation at replacement cost, In case of vulnerable group, preference will be in replacing land for land, Any transfer costs, registration fees or charges, Tenant will receive 50% value of the land, Land registration in the name of both land owner and spouse (in case of land for land compensation), If remaining land becomes unviable as a result of land acquisition, APs have an option to relinquish unviable remaining portion of land and receive similar benefits to those losing all their land parcel(s), Non-titled persons will receive compensation for crops and subsistence allowance for one year's crop, and provided with replacement land if <i>ailani</i> (or government) land is available; any up-front costs for the tenancy agreement will be reimbursed either through an agreement with the landlord or by the EA
2. Temporary loss of land	Temporary land taken by the sub-project	<ul style="list-style-type: none"> Titleholder Tenants 	<ul style="list-style-type: none"> Compensation at replacement cost for the net loss of income, damaged assets, crops and trees etc. Agreement between contractors and APs before entering site
3. Loss of residential, commercial, and other structure	Structures, buildings including cattle shed, walls, toilets etc. affected by the sub-project	<ul style="list-style-type: none"> Owner Tenants Non-titled (encroachers and squatters) 	<ul style="list-style-type: none"> Compensation for full or partial loss at replacement cost of the affected structure(s) without depreciation or deduction for salvaged material, Displacement and transportation allowance for residential and commercial structures to cover actual transaction cost as estimated in the resettlement plan, Rental stipend equivalent of three months rent for tenants who have to relocate from tented building
4. Loss of community structures and/or resources	Community facilities (e.g. irrigation, water, etc.) affected by the sub-project	The users of the facility or community or group	<ul style="list-style-type: none"> Reconstruction by the sub-project leaving such facilities in a better condition than they were before, or Cash compensation at full replacement cost without depreciation of deduction for salvaged material
5. Loss of trees and crops	Affected fruit/nut trees	Owner of the affected fruit/nut trees	<ul style="list-style-type: none"> Cash compensation based on annual value of the produce and calculated according to Department of Agriculture (DOA) norms, RP's to confirm that the DOA norms and techniques are sufficient and are updated regularly
	Affected timber and fodder trees	Owner of the affected timber and fodder trees	Cash compensation based on calculation of the production and calculated according to the district norms as decided by the Department of Forestry
	Affected crops	Owners and sharecroppers of affected crops	<ul style="list-style-type: none"> Cash compensation based on local market prices for the produce of one year and calculated as per the norms of District Agriculture Development Office, 50% cash compensation of the lost crop for the sharecropper
6. Loss of economic opportunity	Economic opportunity lost as result of loss of livelihood base	Persons in the road vicinity who may be adversely affected, although they do not lose assets as such	<ul style="list-style-type: none"> Preferential involvement in project construction works, Skills training support for economic restoration, Priority in poverty reduction/social development program
7. Loss of time and travel expenses	Expenses incurred in traveling to fill application and making claims and time lost	All sub-project affected persons eligible for compensation	<ul style="list-style-type: none"> Program facilitates transportation in official process, Payment on the same day as other compensation.
8. Land donations	Loss of land and other assets by	Voluntary donation is accepted only if	<ul style="list-style-type: none"> No compensation for the donated land, but entitled for compensation of other assets such as house, structures,

	means of voluntary donation	AP: (i) is sub-project beneficiary and is fully consulted and informed about rights; (ii) doesn't fall below poverty line after land donation; (iii) donating up to 20% land holding; and (iv) freely willing to donate (with an agreement, including a "no coercion" verified by a third party)	allowances, etc. <ul style="list-style-type: none"> • Transfer of land ownership by negotiation (DDC and the owner). • Free/escape of any transfer costs, registration fees, or charges. • Preferential employment in sub-project construction work
9. Additional Assistance			
	9.1 Preferential treatment in employment in project activities	All APs	<ul style="list-style-type: none"> • Construction contracts include provision that APs will have priority in wage labor/employment on sub-project construction during implementation, • APs shall be given priority after construction for work as maintenance workers, mandated in local body agreement
	9.2 Skill training and income generation support	One member of each project-affected family belonging to vulnerable group/below poverty line	<ul style="list-style-type: none"> • Skills training and income generation support financed by sub-project • Resettlement Plan to include a need assessment and skills training program for APs.
	9.3 Priority in poverty reduction/social development programs	All APs	<ul style="list-style-type: none"> • Participation of APs with priority in saving credit scheme facilitated by the sub-project, • Participation of APs with priority in life skills, income generation, and other entrepreneurship opportunities

27. All involuntary land acquisition (other than exceptional voluntary land donation) will be compensated at replacement cost and APs assisted so that their economic and social future would generally be as favorable as it would have been in the absence of the sub-project. The absence to formal title to land will not be a bar to compensation assistance for loss of assets and special attention will be paid to ensuring that households headed by women and other vulnerable groups receive appropriate assistance to help them improve their status. The date of the census will be the "cut-off-date" for the entitlement, and owners (including those non-titled) of affected assets till such a date will be eligible to be categorized as APs.

H. Specific Procedures for Sub-project Planning and Participation of APs

28. This section provides detailed procedures to be followed in screening, preparing social assessment, and preparation of resettlement plans for sub-projects. It will be ensured that APs are informed, consulted, and be given an opportunity to participate in the entire sub-project cycle. (See Table 4).

Table 4: Resettlement Assessment and Planning in Sub-project Cycle

Project stage	Task	Responsible agencies	Time Frame
Sub-project selection stage	Dissemination of sub-project information	LBs	Since sub-project beginning
	Selection of sub-project	LB	

Project planning and design stage	Resettlement Plan preparation stage	Dissemination of sub-project information to affected communities and meetings at community level	LB/ Design Consultant (DC)	After approval of sub-project
		Finalization of alignment and/or ROW (preliminary assessment/ walk thru survey); IPISA, and sub-project categorization	LBs/DTO	First two weeks of design stage
		Loss assessment survey: cadastral mapping, household listing, etc., as part of SIA	LBs/DTO	Second two weeks
		Census and socio-economic survey for RP	LBs/DTO	Fifth and sixth weeks
		Consultation with APs, identification of severely affected, and vulnerable APs	LBs/DTO	Seventh week
		Prepare Draft RP, including summary in Nepali	LBs/DTO	Eighth & ninth weeks
		Verification of APs, entitlement, and any voluntary donation criteria and procedures	LBs/DTO	10 th and 11 th weeks
		Preparation of agreement with APs for any voluntary donation	LBs/DTO	12 th week of design stage
Planning and Design stage	Resettlement Plan preparation stage	Community workshop(s) to finalize RP	LBs/DTO	13 th week
		Submission of RP for various approvals at VDC, DDC, and municipality levels	LBs	14 th week
Construction stage	RP Implementation; post RP Implementation	Distribution of assistance/compensation	LB	1st month of implementation
		Resettlement activities verifications	EMS	Before contract award
		Enrolment into livelihood restoration scheme(s)	LB	2 nd month
		Ownership transfer of acquired land	LB	2 nd month
		Monitoring APs employment and income generation	LB	During construction
Post Construction	RP Implementation; post RP Implementation	Redress of grievances	LB/Grievance Redress Committee	Throughout sub-project cycle
		Monitoring progress	Internal: LB External: Consultant /NGO	Continuous

I. Capacity Building

29. As most of the LBs do not have sufficient staff with strong technical skills in assessment of the various safeguard frameworks, the national program will make provisions for capacity building at the local level (as well as, to the extent possible, support to be provided by MLD to the LBs, including through District Technical Offices) to assist in the IR impact assessment processes. The national program also recognizes that extensive capacity building in this area will need to be carried out throughout the program period. Various training sessions will have to be carried out for communities, VDCs, DDCs, contractors, and other relevant program staff members at the local level.

30. Such support is planned in the national program in two specific ways:

- a. Use of program resources (which have been ring-fenced) to support assessment work to be carried out at the LB level (either by the LB itself, or one of its agencies) meant as a stop-gap measure to meet the requirements in the short-term; and
- b. Use of program resources to build the capacity of specific agencies/individuals to provide the necessary training and skills, primarily at the district and VDC level, meant as a long-term solution to the skills gaps.

31. Other areas of support in the national program will be to cover costs, among others, of environmental monitoring (including logistics and support costs), relevant work of the Output Managers (along with the professional staff members that will be backstopping them) in the PCU within the MLD, of capacity building and awareness-raising activities that will also demonstrate how the private sector can be used to fill capacity gaps, etc. All necessary financial provisions have been made in the program, and necessary program assurance and budgeting provisions have been made in the program document towards this end.

J. Complaints and Grievance Procedures

32. The RP will outline procedures to handle grievances. Grievance redress mechanisms for affected people will be developed in close consultation with community leaders and local officials. The grievances will be redressed by the LBs at the local level in a consultative manner and with full participation of the affected households, or their representatives, along with sub-project officials and local body representatives. All complaints received shall be duly documented. A Grievance Redress Committee (GRC)²⁸ will be established for each sub-project for hearing the complaints of APs and for their appropriate resolution.²⁹ Other than disputes relating to legal rights, it will review all grievances relating to land acquisition. Grievances will be redressed within two to four weeks from the date of lodging the complaints.

33. For a discussion of the grievance procedures in the assessment of involuntary resettlement impact, see Box 1.

Box 1: Steps for Grievance Resolution for Sub-projects under the Program

Step 1: APs shall first file their complaints at VDC level GR sub-committee. The complaints will be discussed among concerned parties to settle the issue locally (within 15 days). The Social Mobilizer group and NGOs working in the VDC will facilitate the consultation and deliberation in this regard.

Step 2: If no amicable solution is reached at VDC level (within 15 days), APs can appeal to the District level GRC.

Step 3: If APs are not satisfied with the decision of GRCs, or in absence of any response from them, the APs may resort to the legal remedies available under the Land Acquisition Act.

K. Information Dissemination, Consultation, Participation, and Disclosure

34. The RPs to be developed in each sub-project will identify primary and secondary stakeholders and include specific measures for consultation, participation, and information disclosure in full compliance with relevant ADB's policy on Involuntary Resettlement and Public Communication.³⁰ Primary stakeholders include APs, beneficiaries, and stakeholders directly involved in the resettlement planning and implementation. Secondary stakeholder include other

²⁸ The Committee will comprise of: Head of DDC/local leader (Chairperson); representatives of the LBs, the APs (including vulnerable group member), civil society organizations, and of the program; and social mobilizers/NGO to attend as observers and to give support to APs.

²⁹ The complaints that are likely to arise include: (i) APs not enlisted; (ii) losses not identified correctly; (iii) problems related to land donation; (iv) inadequate compensation/assistance; (v) dispute about ownership; and (vi) problems/delays in disbursement of compensation/assistance.

³⁰ Best practices and guidelines on participation are in ADB's *Handbook on Involuntary Resettlement*. For cases where there is a gap between ADB policy on Government legislation, see Attachment 5 on measures to bridge the gap.

individuals or groups with interest in the sub-project, such as local or national government, policy makers, advocacy groups, elected officials, and NGOs.

35. Information dissemination and consultation with the affected people will be the starting point for all activities concerning resettlement. Participation of APs as well as other stakeholders will be facilitated throughout the sub-project cycle. NGOs and CBOs will also be used to facilitate this process. Various mechanisms of participation will be adopted in the process, including: information dissemination/campaign through NGOs/consultants/VDCs, public meetings and focus group discussions, formation of consultative groups at VDC level, interviews/survey and frequent interaction with APs, and inclusion of two AP representatives in Compensation Determination Committees.

36. Public consultation and information dissemination/campaign will be carried out in each VDC to disseminate information about the sub-project to APs and local communities. The APs will be provided with relevant information and consulted during IPSA, SIA, and preparation of resettlement plans. Further, the following information will be provided to the community concerned prior to the SIA and preparation of RP (including, agreements for any voluntary land donation: sub-project details, agencies involved in sub-project implementation and their responsibilities, sub-project drawings and list of potential APs, summary of Resettlement Framework in Nepali language, eligibility criteria and entitlement for involuntary land acquisition as well as for voluntary land donation, list of vulnerable APs and support/assistance to them, likely construction schedule, and grievance redress mechanism).

37. Information dissemination for RPs will be through posters and pamphlets, public consultation meetings, and direct discussion with the affected families and institutions. Participation of people that are affected by the sub-projects should also be ensured during all the stages (planning, implementation, and monitoring). Details of all public meetings with dates, names of the participants, location, and information provided, place of announcement, major issues raised and how these have been addressed will be documented in the sub-project RPs.

38. A Village Infrastructure User's Committee (VIUC) will be established in each participating VDC which will work as a local consultative forum. The VIUC will ensure APs' participation in decision-making in all phases of the sub-project cycle, including RP planning and implementation. During the process of preparing RPs, discussions will be held with the affected families, institutions, and the representatives of the directly affected VDCs. The LBs shall make available the following documents to APs and disclose to the public: (i) a draft RP, before sub-project appraisal; (ii) a final RP, after completion of such RP; and (iii) the revised RP, following the detailed technical design or change in scope in the sub-project.

39. Copies of the RPs will be placed at VDC offices accessible to the public. A summary of relevant information from the documents specified above (losses, valuations, entitlements, assistance, grievance procedures, timing of payments, displacement schedule, etc.) will be made available to APs as leaflets in local languages. LB shall also post the above documents on their own, as well as the EA's, website, where it is possible. During implementation, LBs will prepare monitoring reports on resettlement and impacts on APs, make them available to affected APs, and also post them on relevant website(s), and submit them to ADB for review.

L. Institutional Responsibilities and Implementation Schedule

40. The LBs will have the primary responsibility of planning, coordination and financing of the sub-project RPs. They will hire experienced NGOs for assisting in implementation of the

RPs (these could be the same organizations that the Government in the national program will be contracting out as social mobilizers).

41. MLD (or its field-based entity) will have overall responsibility to ensure that LBs are in compliance with framework and follow all policy principles and procedures to address IR issues as laid down in the framework.

42. An indicative schedule will be prepared for RP preparation and implementation activities in relation to technical works. It will show the time schedule of all land acquisition and resettlement activities including commencement and finish dates before acquisition/demolition and procedures for implementing the key elements. MLD (or its office at the local level, such as the DTO) will ensure that all IR aspects are fully addressed before commencement of civil work by the LBs.

M. Budget and Financing

43. MLD and LBs are committed to safeguarding the social effects of the various sub-projects upon the lives and livelihoods of affected peoples. Adequate provision for financing the RP from the sub-project annual budget will be made.³¹ The budget includes costs of compensation, relocation and rehabilitation, social preparation, benefits-sharing, and livelihood programs, as well as costs for planning, management, supervision, monitoring, and evaluation, land taxes, and physical and price contingencies.

N. Monitoring and Evaluation

44. Monitoring and evaluation requirements will be defined as part of each RP. At the first stage, MLD (or its field-based entity) will undertake the due diligence of the sub-projects prepared and submitted by the LBs in order to ascertain the status and nature of social safeguard issues in the same. Based on this, due diligence report will be compiled by MLD for each of these sub-projects. As part of the due diligence, a certificate confirming the following shall be provided by the LB for the particular sub-project:

- a. Consultations undertaken with regard to the sub-project;
- a. Status of land acquisition detailing total land to be acquired, nature and type of this land and how much of the total land has been acquired;
- b. Status of payment of compensation; and
- c. Report on any conflict or litigation ongoing in the sub-project.

45. MLD will engage an independent monitoring agency (such as the social mobilization group involved in that LB area) to undertake external monitoring of the plan(s). Reporting and monitoring formats will be prepared for both internal and external monitoring. Annual external monitoring and evaluation reports will be submitted to ADB (and once the Joint Financing Arrangement for the national program is in place, then to all participating development partners as well).

46. One key function of the external monitoring would be to ascertain whether any unanticipated resettlement effects become apparent during sub-project implementation. In such

³¹ It is important to note that the budget to be provided under the earmarked funds for social and environmental safeguards does not cover expenses for compensation, mitigation, etc. LBs will have to set aside some funds from the annual block grants to meet costs for those items. If $C > B$ (where C =costs, and B =benefits) of the potential investment decision, then the LBs are not expected to proceed with that particular sub-project.

cases, the external monitor would assist the LB to assess the significance of the impacts and identify measures to mitigate any adverse impacts and ensure that benefits accrue to the affected peoples. MLD will be informed of any such review measures and their implementation. The external monitor would also certify compliance with the requirements of the RP.

47. **Types of Monitoring:** Monitoring activities in the program (but also for the investment sub-projects) will be of three types:

- a. *Pre-Construction and Baseline Monitoring* – In pre-construction monitoring, it will be necessary to confirm that all procedures regarding land acquisition and compensation have been properly set out and followed, and that the construction mitigation plan is in place. On the other hand, in baseline monitoring, the primary concern is to collect field data needed to enhance the knowledge of baseline conditions in order to assist in designing and estimating the cost of mitigation measures. Priorities in regard to baseline monitoring include: mapping of sensitive areas (such as protected areas), and survey and documentation of existing agriculture practices.
- b. *Construction Phase Monitoring* – more comprehensive and multi-faceted. This has two types: (a) compliance monitoring will be done by the DDC or a committee formed by the DDC at the local level and by EMS at the central level to ensure that EMP recommendations are being complied with; and (b) impact monitoring will focus on key indicators to assess whether the impacts have been accurately predicted, and whether the mitigation measures are sufficient and effective.
- c. *Operational Phase Monitoring* – which covers compliance monitoring, and impact monitoring. Same as with the construction phase monitoring, there will be compliance monitoring and impact monitoring. Compliance monitoring will focus on determining that the prescribed mitigation and enhancement measures are being carried out, while impact monitoring will again focus on key indicators to assess whether the impacts have been accurately predicted and whether the mitigation measures are sufficient and effective.

O. Conditionality and Covenants

48. Application of the safeguard framework as specified here will be incorporated as a covenant in the grant agreement between ADB and the Government.

49. Also to be covenanted are the remedial procedures to be followed to bring the plan(s) into compliance if monitoring discloses that RP is not in compliance with the safeguards in the approved framework.

P. Reporting

50. MLD will prepare an annual report to ADB (and, once the JFA is in place, to participating development partners) summarizing:

- (i) Progress reports based on each LB's operations which have IR impacts, and
- (ii) If known, list of investments with likely IR impacts for the forthcoming year.

**Attachment 1. Voluntary Contribution Consent Form
Government of Nepal**

[INSERT NAME] District

[INSERT NAME] Village

CERTIFICATE OF LAND TRANSFER

I, [INSERT NAME, AGE, OCCUPATION], with residence located in [INSERT NAME] village, [INSERT NAME] district

Certify that I have been previously informed by the local authority of my right to entitle compensation for any loss of property (house, land and trees) that might be caused by the construction of ([INSERT NAME]) financed under the Local Governance and Community Development Program in [INSERT NAME] district. I confirm that I voluntarily donate the land of [INSERT AMOUNT LOSS] square meters located in [INSERT NAME] village ([INSERT NAME] district) to the sub-project construction. I also confirm that I do not request any compensation of loss of [INSERT OTHER LOSSES SUCH AS TREES] and would request the local authority to consider this as my contribution to the sub-project.

Type of Loss	Area (sq m)	Number of Trees	Unit Rates	Total	Comment
Land					
Total					

Therefore, I prepare and sign this Certificate for proof of my decision. Further, I certify that I have given my consent without any force/coercion from anybody, including sub-project and program authorities.

[INSERT NAME] district

[INSERT DATE]

The owner of the land

[INSERT NAME AND SIGN]

Witnesses:

1. [INSERT NAME]
2. [INSERT NAME]
3. [INSERT NAME]

Certified by the [INSERT NAME OF INDEPENDENT THIRD PARTY], [NAME AND SIGN]

Attachment 2. Involuntary Resettlement Categorization Form

A. Project Data

District/ Sub-project
Title:

B. Screening Questions for Resettlement Categorization

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Possible	Remarks
Will the sub-project include any physical construction work?					
Does the sub-project include upgrading or rehabilitation of existing physical facilities?					
Are any sub-project effects likely lead to loss of housing, other assets, resource use, or incomes/livelihoods?					
Is land acquisition likely to be necessary?					
Is the site for land acquisition known?					
Is the ownership status and current usage of the land known?					
Will easements be utilized within an existing Right of Way?					
Are there any non-titled people who live or earn their livelihood at the site or within the Right of Way?					
Will there be loss of housing?					
Will there be loss of agricultural plots?					
Will there be losses of crops, trees, and fixed assets?					
Will there be loss of businesses or enterprises?					
Will there be loss of incomes and livelihoods?					
Will people lose access to facilities, services, or natural resources?					
Will any social or economic activities be affected by land use-related changes?					
If involuntary resettlement impacts are expected:					
<ul style="list-style-type: none"> • Are local laws and regulations compatible with ADB's Involuntary Resettlement policy? 					
<ul style="list-style-type: none"> • Will coordination between government agencies be required to deal with land acquisition? 					
<ul style="list-style-type: none"> • Are there sufficient skilled staff in the Implementing Agency for resettlement planning and implementation? 					
<ul style="list-style-type: none"> • Are training and capacity-building interventions required prior to resettlement planning and implementation? 					

Information on Affected Persons:

Any estimate of the likely number of households that will be affected by the sub-project?

No Yes If yes, approximately how many? _____ (losing <10% _____ 10% or more _____)

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

No Yes If yes, please briefly describe their situation

Are any APs from indigenous or ethnic minority groups? If yes, please explain?

C. Decision on Categorization

After reviewing the answers above, it is determined that the sub-project is:

Categorized as an A project, a full Resettlement Plan is required

Categorized as a B project, a short Resettlement Plan is required

Categorized as a C project, no RP is required

Prepared by:

Reviewed by:

LB staff/Contracted party (VDC, DDC,
Municipality)

Date:

Secretary, VDC
Planning Officer/Social Development Officer,
DDC

Department/Section Head, Municipality

Date:

Endorsed by:

Approved by:

Chairman, VDC
LDO, DDC
Executive Officer, Municipality
Date:

Chairperson, VDC/DDC Board
Mayor, Municipality

Date:

Attachment 3. Scope of Short Resettlement Plan

Topic	Contents
Executive Summary	
Scope of land acquisition and resettlement	<ul style="list-style-type: none"> • Alternative options, if any, considered to minimize land acquisition and its effects, and why the remaining effects are unavoidable • Summary of key effects in terms of land acquired, assets lost, number of people affected, and socio-economic data
Objectives, policy framework, and entitlements	<ul style="list-style-type: none"> • Policy and legal framework for resettlement, with any gaps in this framework as compared to SESF • Measures proposed to bridge the gap between lenders' and policies and the SSF and national/provincial laws and regulations • Eligibility policy and entitlement matrix for all categories of loss, including compensation rates at replacement costs
Gender impact and mitigative measures	<ul style="list-style-type: none"> • Identify socio-economic condition, needs, and priorities of women • Include measures to ensure that process of land acquisition and resettlement does not disadvantage women and that land/house titles should be in the name of both spouses
Information dissemination, consultation, participatory approaches, and disclosure requirements	<ul style="list-style-type: none"> • Identification of project stakeholders • Disclosure of project information • Consultations for determining principles • Mechanisms for stakeholder participation in planning, management, monitoring, and evaluation • Disclosure of RP to people affected • Local institutions or organizations to support people affected potential role of non-government organizations (NGOs), women's groups, and community-based organizations (CBOs)
Grievance redress mechanisms	<ul style="list-style-type: none"> • Mechanisms for resolution of conflicts and appeals procedures
Compensation, relocation, and income restoration	<ul style="list-style-type: none"> • Arrangements for valuing and disbursing compensation • Arrangements for housing relocation, including transfer, re-establishment, and integration with host populations • Income restoration measures • Environmental risks identification and arrangements for environmental management and monitoring
Institutional framework	<ul style="list-style-type: none"> • Main tasks and responsibilities in planning, managing, and monitoring land acquisition, and resettlement. • Ensure that (i) women's groups are involved in resettlement planning, management and operations, job creation and income generation; and (ii) female staff should be hired by the resettlement agency to work with and assist women in all aspects of resettlement activities.
Resettlement budget and financing	<ul style="list-style-type: none"> • Land acquisition and resettlement costs and funding sources including arrangements for timely disbursement to APs
Implementation schedule	<ul style="list-style-type: none"> • Time bound actions for projected activities to ensure that people affected are compensated and assisted before award of civil works contracts
Monitoring and evaluation	<ul style="list-style-type: none"> • Arrangements for M&E • Impact on women monitored and evaluated separately

Attachment 4. Scope of Full Resettlement Plan

Topic	Contents
Executive Summary	
Scope of land acquisition and resettlement	<ul style="list-style-type: none"> • Scope of and rationale for land acquisition • Alternative options, if any, considered to minimize land acquisition and its effects, and justification for remaining effects • Key effects in terms of land acquired, assets lost, and number of people affected • Primary responsibilities for land acquisition and resettlement
Socio-economic information	<ul style="list-style-type: none"> • Population record of people affected • Data on existing economic and social conditions of affected people, including socio-economic survey. Gender disaggregated socio-economic data is necessary. • Asset inventory, land assessment, and assessment of other losses resulting from land acquisition, taking into account social, cultural, and economic impact on people affected • Details on common property resources, if any • Project impact on the poor, tribal people, ethnic minorities, and other vulnerable groups (including women) • Special measures needed to enhance economic and social base of vulnerable groups
Objectives, policy framework, and entitlements	<ul style="list-style-type: none"> • Purpose and objectives of land acquisition and resettlement • Policy and legal framework for resettlement, with any gaps in this framework as compared to lenders' policies and the SSF • Measures proposed to bridge the gap between lenders' and policies and the SSF and national/provincial laws and regulations • Principles, legal, and policy commitments from executing agency for different categories of project impacts • Eligibility policy and entitlement matrix for all categories of loss, including compensation rates at replacement costs • Principles for determining valuation and compensation for assets, incomes, and livelihoods
Gender impact and mitigative measures	<ul style="list-style-type: none"> • Identification of socio-economic condition, needs, and priorities of women • Measures to ensure that process of land acquisition and resettlement does not disadvantage women • New land/house titles should be in the name of both spouses. For land/house given as replacement property, titles should be in the name of the person who brought in the original property.
Information dissemination, consultation, participatory approaches, and disclosure requirements	<ul style="list-style-type: none"> • Identification of project stakeholders • Disclosure of project information • Consultations for determining principles • Mechanisms for stakeholder participation in planning, management, monitoring, and evaluation • Disclosure of RP to people affected • Local institutions or organizations to support people affected. Potential role of non-government organizations (NGOs), women's groups, and community-based organizations (CBOs)
Grievance redress mechanisms	<ul style="list-style-type: none"> • Mechanisms for resolution of conflicts and appeals procedures
Relocation of housing and settlements	<ul style="list-style-type: none"> • Options for relocation of housing and other structures, including replacement housing, replacement cash compensation, and/or self selection • Measures to assist with transfer and establishment at new sites • Options for developing relocation sites, if required, in terms of location, quality of site, and development needs • Plan for layout, design, and social infrastructure and services for each site • Measures for planned integration with host communities • Special measures for addressing gender issues and those related to vulnerable groups • Environmental risks identification and arrangements for environmental management and monitoring

Topic	Contents
Income restoration strategy	<ul style="list-style-type: none"> • Identification of livelihoods at risk • Income restoration strategy with options to restore all types of livelihoods • Job creation plan, including provisions for income substitution, retraining, self-employment, and pensions, where required • Business relocation and restoration plan, including income substitution, where required • Environmental risks identification and arrangements for environmental management and monitoring
Institutional framework	<ul style="list-style-type: none"> • Main tasks and responsibilities in planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement • Review of mandate of the land acquisition and resettlement agencies and their capacity to plan and manage these tasks • Provision for capacity-building, including technical assistance, if required • Role of NGOs, if involved, and organizations of affected persons in resettlement planning, and management • Involvement of women's groups in resettlement planning, management, and operations, job creation, and income generation • Female staff should be hired by the resettlement agency to work with and assist women in all aspects of resettlement activities, including planning and implementation of income restoration programs
Resettlement budget and financing	<ul style="list-style-type: none"> • Cost estimates, budgets, and cash flows for meeting the objectives of the RP according to established schedules • Land acquisition and resettlement costs • Annual budget and timing for release of funds • Sources of funding for all land acquisition and resettlement activities
Implementation schedule	<ul style="list-style-type: none"> • Time schedule showing start and finish dates for major resettlement tasks • Time bound actions for projected activities to ensure that people affected are compensated and assisted before award of civil works contracts or similar milestone, ensuring as a minimum that affected people will be provided with entitlements, such as land and asset compensation and transfer allowances, prior to their displacement
Monitoring and evaluation	<ul style="list-style-type: none"> • Plan for internal monitoring of resettlement targets, specifying key indicators of progress, mechanisms for reporting, resource requirements, and database maintenance • Plan for external and independent M&E • Participation of affected people in M&E • Impacts on women

Attachment 5. Measures to Bridge the Gap between ADB Policy and Government Legislation

Issue	Existing provisions in government legislation	Additional measures in resettlement framework to achieve adb policy requirements
A. Social assessment and identification of affected persons (APs)		
1. Land and other assets on the acquired land	The government officer conducts preliminary survey of land/assets, and identifies their owners. Consultation with APs is not mandatory.	In addition to the survey of land and assets, a census survey of affected households and socioeconomic surveys covering 10% of aps and 20% of seriously affected people to assess the losses and impact on their livelihoods with the help of resettlement survey team. APs will be consulted during the surveys.
2. Livelihood and income opportunities	Do not count loss of income and employment.	Recognizes the loss of income and employment through census and socioeconomic survey
3. Squatters and illegal occupants	Do not consider squatters or illegal occupants as APs.	Recognizes squatters' entitlement to their structures/houses. Census and socioeconomic survey, which will serve as cut-off date for entitlement, will include non-titleholders as APs for their asset loss.
B. Valuation of affected land and assets		
5. Land	Compensation rates fixed by Compensation Determination Committee (CDC), consisting of (i) chief district officer, (ii) representative from DDC, (iii) chief of land revenue office, and (iv) relevant project manager.	Current market rate is assessed by resettlement survey team during census survey. APs are consulted in assessing current price of land. Cdc will make final decision on rates in the presence of representatives of APs and civil society, who will attend CDC meeting as observers.
6. Trees and crops	Rates from the district forest office and agriculture development office are used to evaluate the cost of affected trees and standing crops.	The resettlement survey team will recommend the replacement cost of trees and crops in consultation with local people and district offices. CDC will make final decision on the rates in the presence of representatives of affected person and civil society.
7. Houses and other structure	CDC determines compensation rates based on their current value minus the depreciation or deduction of salvaged material.	The resettlement survey team in consultation with local people and district offices recommends compensation rates at replacement cost without depreciation or deduction for salvaged building material. CDC will make final decision on rates in the presence of representatives of APs and civil society as observer.
C. Delivery of compensation/entitlements		
8. Loss of land, structures; trees, crops, and perennials	(1) cash compensation determined by the CDC to the legal owners; (2) if somebody loses 100 % of land, then land for land compensation.	Compensation at replacement cost; registration cost is reimbursed for deed transfer; movement, business, transportation allowances and rental stipend; allowed to take salvaged materials free of cost; additional allowances for vulnerable people.
9. Livelihood	No provision for loss of	Preferential employment in labor groups; life skill training and

and income opportunities	income or employment.	saving credit program; cash assistance for income restoration.
10. Non-title holder (squatters and encroachers)	No provision for loss of assets of non-titleholder.	Compensation for the lost assets (other than land) at replacement cost; movement, transportation allowances and rental stipend; allowed to take salvaged materials free of cost; identification of alternate resettlement site (if government land is available near to project site).
11. Social dislocation	No assessment.	Options for relocation of APs are considered for resettlement; renovation and extension of community facilities in host areas are provided; assistance is provided to vulnerable groups.
<i>D. Voluntary land donation</i>		
12. Loss of land	Lack of safeguards against forced donation and impact of livelihoods of APs.	Voluntary donation is accepted only if AP: (i) is sub-project beneficiary and is fully consulted and informed about his/her rights; (ii) doesn't fall below poverty line after land donation; (iii) donating up to 20% land holding; (iv) unforced or freely willing to donate (with an agreement, including a "no coercion" verified by third party)