



**Government of Nepal**  
**Ministry Physical Infrastructure and Transport**  
**Ministry of Industry, Commerce and Supply**  
**Ministry of Forests and Environment**

**Accelerating Transport and Trade Connectivity in Eastern South  
Asia - Nepal Phase 1**



**DRAFT RESETTLEMENT FRAMEWORK**

**April 29,2022**

## Acronyms and Abbreviations

ACCESS	Accelerating Transport and Trade Connectivity in Eastern South Asia
CBO	Community Based Organization
CBS	Central Bureau of Statistics
CDC	Compensation Determination Committee
CDO	Chief District Officer
CDR	Central Development Region
CSC	Construction Supervision Consultant
DAO	District Administration Office
DCC	District Coordination Committee
DCID	Development Cooperation Implementation Division
DIA	Direct Impact Area
DLRO	District Land Revenue Office
DoR	Department of Roads
ESCP	Environmental and Social Commitment Plan
E&S	Environmental and Social
ESF	Environmental and Social Framework
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
EIA	Environmental Impact Assessment
ESIA	Environmental and Social Impact Assessment
ESS	Environmental and Social Standard
GBV	Gender Based Violence
GRM	Grievance Redress Mechanism
LGBTI	Lesbian, Gay, Bisexual, Transsexual, Intersex
MoICS	Ministry of Industry Commerce and Supplies
MoPIT	Ministry of Physical Infrastructure and Transport
RPF	Resettlement Policy Framework
RAP	Resettlement Action Plan
WB	World Bank

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## Executive Summary

This Resettlement Framework (RPF) will support the phase-wise implementation of the Accelerating Transport and Trade Connectivity in Eastern South Asia (ACCESS) Multiphase Programmatic Approach (MPA) Regional Program in Nepal under World Bank financing. The program aims to invest in cost-efficient and resilient trade and transport interventions to support movement of goods and people within and across the borders of these countries. In Nepal, the project will focus on developing resilient infrastructure on the Western side of the country to facilitate access to India's western ports, namely Mundra Port in Gujarat and Jawaharlal Nehru Port in Mumbai. Amongst other activities, the program will support the upgrading of the 67km Butwal-Gorusinghe-Chanauta section of the East-West Highway from 2 to 4 lanes, the Construction of a Green and Resilient Urban Bridge, as well as explore and operationalize Green, Resilient Highway Concept and strategy. The trade component of the program aims to enhance efficiency of cross-border trade through the provision of digital and automated border management systems for cross-border goods clearance, upgrading of automated systems for customs data; (i.e., augment physical infrastructure, equipment, inspection, and construction or renovation of laboratory buildings, etc.) at key border crossing points such as land ports at critical locations. The Department of Roads (DoR) under the Ministry of Physical Infrastructure and Transport (MoPIT) is the implementing agency for road-related works while the Ministry of Industries, Commerce, and Supplies (MoICS) will be the implementing agency for the trade-related works. Similarly, the Ministry of Forests and Environment (MoFE) will implement activities related to the development and implementation of Green Resilient Highway concept and strategy. Three separate Project Coordinating Units (PCUs), led by a project manager, will be formed at the DoR, MoICS and MoFE respectively to implement the project. The PCUs will play a leadership role and provide day-to-day support to the project implementation. The sub-project site offices will provide technical guidance and support for implementation of project works.

The design and specific locations of some investments have been determined and completed; others remain unknown. For example, the design of the road section from Butwal to Gorusinghe (50km) is complete along with ESIA. RAP preparation for this section is underway and expected to be finalized before invitation for bids for that section. The designs of the Green Resilient Urban Bridge, road section from Gorusinghe to Chanauta along activities on the green resilient highway concept have not been determined yet. Whilst detailed designs (and locations) of these investments have not commenced and/or determined, it is expected that such works are likely to cause land acquisition and involuntary resettlement. Some works and activities may also restrict access to assets and common property resources and livelihood. In line with the Land Acquisition Act 1977 of Nepal and the World

Bank's Environmental and Social Standard (ESS) 5 on Land Acquisition, Restrictions on Land Use and Involuntary Resettlement, this RPF is prepared to set out the policies, processes, and procedures for addressing risks and impacts related to land acquisition and involuntary resettlement related to this project.

The Land Acquisition Act of 1977 enables the Government to acquire land for public purposes and provides for fair compensation to private landowners. The Act prescribes cash compensation at market rates for titled landholders in lieu of land and structures acquired for public purposes. The Act aligns with ESS 5 in some respects and differs on other aspects. A significant gap between the Act and ESS5 is that the preparation of a Resettlement Plan, consultations with the PAPs in the resettlement process, and compensation of non-formal/nontitle land users are not required under the Act. The act does not offer the option for replacement housing where affected persons lose homes or significant portions of their source of livelihood. Measures to bridge these gaps include the provision for all PAPs, both titled and non-titled holders, to receive appropriate compensation for loss of structures. The RPF also requires consultation of PAPs through census, asset enumeration and valuation, compensation payments and the need for grievance redress mechanism to address complaints from PAPs and other stakeholders.

A risk mitigation hierarchy will be adopted to avoid, minimize and/or compensate for residual risks related to land acquisition and involuntary resettlement in the project. The eligibility criteria for compensation and other resettlement benefits is included in the RPF and covers potential acquisition of private property and adverse impacts of sub-projects on various categories of Project-Affected Persons. Depending upon the land-based impacts, the RPF has categorized subprojects into five possible categories. Except cases where the subprojects do not result in economic or physical displacement, all other cases need RAP or Livelihood Restoration Plan (LRP). In addition, the RPF has identified categories of the PAPs and prescribed possible compensation options for each of these categories to guide the project during the subproject level land acquisition and resettlement planning process.

The RPF outlines the land acquisition and resettlement planning process, starting with E&S screening followed by social assessment (including census of project-affected persons, assets inventory, and socioeconomic studies) of the affected community, drafting the RAP or LRP principles, early consultations and negotiations with prospective PAPs, development of the RAP, the second round of consultation and finalization of the RAP/LRP and disclosure. The implementation of RAP/LRP will follow government's land acquisition process with the key steps explained in the RPF. No construction works will commence until the required lands have been formally acquired and fairly compensated for. Given that the government land acquisition process provides limited opportunities for the PAPs to file complaints on compensation process and/or appeal for exclusion in the land acquisition, the project will set up a functioning GRM to receive and resolve any grievances related to land acquisition, resettlement, and other related issues in the project. The project will designate E&S staff at the Project site offices under DoR and MoICS and divisional offices of MoFE to receive, record, evaluate and forward project-related grievances for the resolution to the appropriate body. Grievances that cannot be resolved at the subproject level will be elevated to the PCU level.

The PCUs established under MoPIT, MOICS, and MoFE are primarily responsible for planning and implementing land acquisition and resettlement activities under the project. With technical guidance from the PCU at the MoPIT&MoICS, each Project site office of both ministries will recruit E&S staff, who will also act as the facilitators for land acquisition activities at the local level. The PCU will organize seminars/training to provide technical assistance and support the capacity development of the E&S staff at both MoPIT/MoICS and its project site offices, covering environmental and social issues of the project, including the implementation of the RPF.

The RAPs/LRPs prepared and implemented as per this RPF will be monitored both internally and externally with the objective of providing feedback to management on implementation and to identify problems and successes as early as possible to facilitate timely adjustment of implementation arrangements. The cost of compensation and resettlement of PAPs will be part of the project cost and financed by the MoPIT, MoICS and MoFE with internal government resources and will be itemized and included in the overall project costs under the budget for 'Environmental and Social Management Costs'. The RPF will be updated periodically, as the MPA progresses from phase to phase to account for changing scope of project activities and implementation experiences.

## कार्यकारी सारांश

यस पुनर्वास रुपरेखा (आर.पी.एफ.) ले विश्व बैंकको ऋण सहयोगमा Accelerating Transport and Trade Connectivity in Eastern South Asia (ACCESS) को बहुचरणिय कार्यक्रममात्मक दृष्टिकोण क्षेत्रीय कार्यक्रम चरणगत रूपमा नेपालमा कार्यान्वयन गर्नका लागि सहयोग गर्नेछ । यस आयोजनाको मुख्य उद्देश्य भारतको पश्चिममा रहेको बन्दरगाहहरू सम्मको पहुँचको साथै देशको आर्थिक विकासमा समेत महत्वपूर्ण रहेको पूर्व-पश्चिम राजमार्गको पश्चिम भागमा लागत कुशल तथा भरपर्दो रूपमा देश भित्र तथा सीमा पार मानिस तथा परिवहन सेवालाई सहयोग गर्नु रहेकोछ । नेपालको पश्चिम सिमानातर्फ भरपर्दो पूर्वाधारहरूको बिकास तथा भारतका गुजरातको मुम्बाईको जवाहरलाल नेहरु जस्ता पश्चिम तटीय बन्दरगाहहरू सम्मको सहज पहुँच सुनिश्चित गर्नमा यस कार्यक्रम केन्द्रित रहनेछ । यसको अतिरिक्त यस कार्यक्रमले पूर्व-पश्चिम राजमार्ग अन्तर्गतको बुटवल-गोरूसिंघे-चनौटा खण्डलाई हालको २ लेनबाट ४ लेनमा स्तरोन्नति गर्नुको साथै हरित तथा भरपर्दो शहरी पुलको निर्माण र हरित भरपर्दो राजमार्ग निर्माण अवधारणा र रणनीतिको अन्वेषण र परिचालन गर्नेछ ।

कार्यक्रमको ब्यापार पारवाहन सहजीकरण भागको मुख्य उद्देश्य सीमापार ब्यापार क्षमताको अभिवृद्धि तथा ब्यापारलाई सहजीकरणको लागि भूमि बन्दरगाहहरू तथा प्रमुख सीमा पार गर्ने बिन्दुहरूमा जस्ता महत्वपूर्ण स्थानहरूमा सीमापार बस्तु व्यापार व्यवस्थापन, भन्सार तथ्याङ्कको लागि स्वचालित प्रणालीको स्तरोन्नति जस्तै भौतिक पूर्वाधार वृद्धि, उपकरण, निरीक्षण, र प्रयोगशाला भवनहरूको निर्माण वा स्तरोन्नति ईत्यादी गर्न सीमा व्यवस्थापनमा डिजिटल र स्वचालित प्रणालीहरूको प्रयोग बढाउनु रहेको छ ।

नेपाल सरकार भौतिक पूर्वाधार तथा यातायात मन्त्रालय अन्तर्गतको सडक विभाग सडक निर्माण सम्बन्धि कार्यको लागी योजना कार्यान्वयन गर्ने मुख्य निकायको रूपमा रहेने छ भने उद्योग, वाणिज्य तथा आपूर्ति मन्त्रालयले ब्यापार सम्बन्धी कार्यक्रमहरू कार्यान्वयन गर्नेछ । यसैगरी वन तथा वातावरण मन्त्रालयले हरित तथा भरपर्दो राजमार्ग सम्बन्धि अवधारणा र रणनीतिको विकास र कार्यान्वयनको कार्य गर्नेछ । कार्यक्रमको कार्यान्वयनको लागि विभाग सडक, उद्योग, वाणिज्य तथा आपूर्ति मन्त्रालय र वन तथा वातावरण मन्त्रालयमा परियोजना प्रबन्धको नेतृत्वमा तीन छुट्टाछुट्टै परियोजना समन्वय ईकाइहरू स्थापना गरिनेछ । यी ईकाइहरूले परियोजना कार्यान्वयनमा नेतृत्वदायि भूमिका खेल्नुको साथै र दैनिक कार्यसम्पादनमा सहयोग प्रदान गर्नेछ । उप-परियोजना कार्यालयहरूले परियोजना कार्यहरू कार्यान्वयन गर्न प्राविधिक मार्गदर्शन र सहयोग प्रदान गर्नेछन्।

आयोजनाको निश्चित क्षेत्रको डिजाइन तथा केहि लगानीको निक्क्योल भइसकेको छ भने अन्य क्षेत्रमा केहि काम हुन अझै बाकि छ । जस्तै: बुटवल देखि गोरूसिंगे सडक खण्ड सम्म करीब ५० कि. मी. को डिजाइन तथा वातावरणीय तथा सामाजिक प्रभाव मूल्यांकन भइसकेको छ । उक्त सडक खण्डको पुनर्वास कार्ययोजना तयारीको क्रममा छ र उक्त खण्डका निर्माण



ठेक्का आह्वान गर्नु भन्दा पहिला पुनर्वास कार्ययोजना टुङ्गयाउने अनुमान गरीएको छ । गोरुसिंगे देखि चनौटा सम्मको सडक खण्ड निर्माण हुने भरपर्दो तथा हरित शहरी पुलको साथै भरपर्दो तथा हरित राजमार्गको अवधारणा सम्बन्धि डिजाइन निक्योल भइसकेको छैन । विस्तृत निर्माण डिजाइन तथा स्थानहरूको पहिचान वा निक्योल हुन बाँकि भएता पनि कार्यक्रममा उल्लेख गरिएका क्रियाकलापहरूले जग्गा प्रप्ती तथा पुर्नस्थापना जस्ता कार्य गर्नुपर्ने अनुमान गरिएको छ । त्यस्तै गरेर कार्यक्रम सम्बन्धि केही क्रियाकलापहरूले सामुदायीक सम्पत्ति तथा सम्पदाको पहुचमा र जिवीकोर्पानज वाधा हुन सक्ने संभावनाको पनि अनुमान गरिएको छ । यस पुर्नवास रुपरेखाले बुटवल गोरुसिंगे सडक खण्ड अन्तगत जग्गा तथा घर अधिकरण गर्ने कार्यद्वारा प्रतिकुल प्रभावित हुने घरपरिवार, जिविकोपार्जन तथा व्यवसाय साथै आर्थिक श्रोतमा पर्ने प्रभावको पहिचान गर्ने, प्रतिकुलप्रभावहरू सकेसम्म छल्ने वा न्यूनीकरण गर्न तथा सो सम्भव नभए उचित क्षतिपूर्तिका लागि उपयुक्त संगठनात्मक व्यवस्थाहरू र डिजाइन मापदण्ड लागू गर्न र पुर्नवास योजना निर्माणाको लागि नीति, आवश्यक रणनीति, प्रक्रिया र कार्यविधीहरू प्रदान गर्दछ । यस पुनर्वास रुपरेखानेपाल सरकारको प्रचलित कानुन जग्गा प्राप्ती ऐन २०३४ र विश्व बैंकको वातावरणीय तथा समाजिक रुपरेखा ई.एस.एफ.को स्टयाण्डर्ड ई.एस.एस-५ (जग्गा अधिकरण भूमि उपयोगमा बन्देज र अस्वेच्छिक पुनर्वास) अनुसार तयार गरिएको छ ।

यस जग्गा प्राप्ती ऐन, २०३४ अनुसार नेपाल सरकारले सार्वजनिक कार्यको लागि राज्यले निजी जग्गा प्राप्त गर्ने र प्रचलित नियम अनुरूप जग्गा धनिहरूलाई मुवाब्जा प्रदान गर्न कानूनी आधार प्रदान गर्छ । यस ऐन अनुसार घर जग्गा अधिग्रहण गरे वापत प्रचलित मुल्यमा क्षतिपूर्ति स्वरुप नगद प्रदान गरिने छ । जग्गा अधिग्रहण ऐन,२०३४ तथा विश्व बैंकको वातावरणीय तथा समाजिक रुपरेखा (ई.एस.फ.) को स्टयाण्डर्ड ई.एस.एस-५ केहि हद सम्म मेल देखिएतापनि कुनै कुरामा फरक छ । जग्गा अधिग्रहण ऐन-२०३४ तथा विश्व बैंकको वातावरणीय तथा समाजिक रुपरेखा (ई.एस.फ.) को स्टयाण्डर्ड ई.एस.एस-५ विचकोपुर्नवास कार्ययोजनाको तयारी, आयोजना प्रभावित ब्यक्तिहरूसंगको पुर्नवासको प्रक्रियाको बारेमा छलफल, तथा जग्गाको आधिकारिक स्वामित्व नभएकाहरूलाई क्षतिपूर्तिको ब्यवस्था नगरीएको जस्ता महत्त्वपूर्ण अन्तर रहेकाछन् । त्यसैगरी प्रभावित व्यक्तिले वासास्थान गुमाएको अवस्थामा जग्गा प्राप्ती ऐन, २०३४ मा घरको सट्टा घर को व्यवस्था तथा जिविकोर्पानजको पुर्नस्थापनाको ब्यवस्था छैन । आधिकारिक स्वामित्व भएका वा नभएका प्रभावित व्यक्तिहरूलाई असर परेको सम्पत्तिको क्षतिपूर्तिको ब्यवस्था र असर परेको सम्पत्तिको उचित क्षतिपूर्ति जस्ता व्यवस्था मार्फत उल्लेखत अन्तरलाई समाधान गर्ने खोजिएको छ । यस पुर्नवास रुपरेखाले आयोजना प्रभावित ब्यक्तिहरू संगको छलफल, असर परेका निजि सम्पत्ति गणना तथा मूल्याङ्कनको साथै प्रभावित ब्यक्ति र अन्य सरोकारवालाहरूको गुनासाको सुनवाइको ब्यवस्था गरिएको छ।

आयोजनाको अनैच्छिक पुर्नवास कार्ययोजनामा जग्गा अधिग्रहण जस्ता प्रभावहरूको न्यूनीकरण पदानुक्रम (mitigation hierarchy) अनुसार असरलाई हुन नदिने, न्यूनीकरण तथा क्षतिपूर्तिको व्यवस्था समावेश गरिएको छ। यस पुर्नवास रूपरेखामा क्षतिपूर्ति सम्बन्धि योग्यता क्रम तथा पुर्नवास सहायता समावेश गरिनुको साथै आयोजना र उप आयोजना अन्तर्गतका प्रभावकारी निजि जग्गा अधिग्रहण, नकारात्मक असरहरू तथा विभिन्न किसिमका आयोजना प्रभावित व्यतिहरूलाई समेटेको छ । जग्गा सम्बन्धि क्षति अनुसार यस पुर्नवास रूपरेखाले संभावित पाँच विभिन्न उपआयोजनामा विभाजित गरेको छ । आर्थिक तथा भौतिक विस्थापन जस्ता प्रभाव भएको उपआयोजना बाहेक सबैमा पुर्नवास कार्ययोजना तथा जिविकोपार्जन पुर्नस्थापना योजनाको आवश्यकता रहन्छ । यसको साथसाथै यस पुर्नवास रूपरेखाले आयोजना+उपआयोजनाको लागि जग्गा प्राप्त गर्ने क्रममा प्रभावित व्यतिहरूको वर्गिकरणको साथै त्यी प्रत्येक वर्गिकरणको लागि सम्भावित क्षतिपूर्ति विकल्पहरू निर्धारित र उपआयोजनामा जग्गा अधिकरण तथा पुर्नवास कार्ययोजनालाई निर्देशन गरिको छ । यो पुर्नवास नीति रूपरेखाले वातावरणीय तथा सामाजिक जांच पछि गरिने र सबै आयोजना प्रभावित समुदायहरू, प्रभावित सम्पत्तिको लगत तथा सामाजिक-आर्थिक अध्ययन समेटिएको वातावरणीय प्रभाव मूल्यांकनको साथै पुर्नवास कार्ययोजनाको मस्यौदा वा सिद्धान्तहरू, सम्भावित प्रभावितहरूसंगको प्रारम्भिक परामर्श र वार्ता, पुर्नवास कार्ययोजनाको विकास, दोस्रो चरणको परामर्श र पुर्नवास कार्ययोजनाको+जिविकोपार्जनको पुर्नस्थापना योजनाको अन्तिम रूप र सार्वजनिकीकरणको प्रक्रियालाई निर्देशित गर्दछ । नेपाल सरकारको जग्गा अधिकरण प्रक्रिया लगायत यसको मुख्य चरणहरू, पुर्नवास कार्ययोजना तथा जिविकोपार्जनको पुर्नस्थापना योजना कार्यन्वयन गर्ने तरिका यस पुर्नवास रूपरेखामा राखिन्छ । क्षतिपूर्तिको वितरण र जग्गा प्राप्ति आधिकारीक रूपमा समाप्त नभएसम्म निर्माण कार्य गर्न नपाइने प्रवधान राखिने छ । सरकारी जग्गा प्राप्ति प्रक्रियाले प्रभावितहरूलाई क्षतिपूर्तिको प्रक्रियाको वा प्राप्ति प्रक्रियामा सामेल हुने नचाहेको सम्बन्धि गुनासो गर्ने सिमित अवसर प्रदान गर्ने भएकोले आयोजनाले जग्गा अधिग्रहण, पुर्नवास, र परियोजनामा अन्य सम्बन्धित समस्याहरू सम्बन्धी कुनै पनि गुनासोहरू प्राप्त गर्न र समाधान गर्न एक कार्यशील गुनासो व्यवस्थापन संयन्त्रको स्थापना गर्नेछ । आयोजनाले परियोजना सम्बन्धी गुनासोहरू प्राप्त गर्न, रेकर्ड गर्न, मूल्याङ्कन गर्न र उपयुक्त निकायमा समाधानको लागि पठाउनको लागि सडक विभाग र उद्योग, बाणिज्य तथा आपूर्ती मंत्रालयमा अन्तर्गत परियोजना साइट कार्यालयहरू र वन तथा वातावरण मन्त्रालयको डिभिजनल कार्यालयहरूमा वातावरण र सामाजिक कर्मचारीहरूलाई नियुक्त गर्नेछ । उप-परियोजना स्तरमा समाधान गर्न नसकिने गुनासोहरूलाई आयोजना समन्वय एकाई स्तरमा उठाइनेछ ।

भौतिक पूर्वाधार तथा यातायात मन्त्रालय, उद्योग, बाणिज्य तथा आपूर्ती मंत्रालयमा तथा वन तथा वातावरण मन्त्रालयको अन्तर्गत स्थापना भएको आयोजना समन्वय एकाई मुख्य रूपमा आयोजना अन्तर्गतको जग्गा प्राप्ति तथा पुर्नवास क्रियाकलापको लागि जिम्मेवार हुनेछ

। भौतिक पूर्वाधार तथा यातायात मन्त्रालय, उद्योग, बाणिज्य तथा आपूर्ती मन्त्रालयको प्राविधिक मार्गदर्शनको आधारमा दुबै मन्त्रालयको स्थानीय स्तरमा जग्गा अधिग्रहण गतिविधिहरूको लागि सहजकर्ताको रूपमा पनि काम गर्ने गरि प्रत्येक परियोजना साइट कार्यालयले सामाजिक तथा वातावरण सम्बन्धि कर्मचारीहरू नियुक्त गर्नेछ ।

आयोजना समन्वय एकाइले भौतिक पूर्वाधार तथा यातायात मन्त्रालय र उद्योग, बाणिज्य तथा आपूर्ती मन्त्रालय अन्तर्गतको सामाजिक तथा वातावरण सम्बन्धि कर्मचारीहरूको क्षमता विकासको लागि आयोजना साइट कार्यालयहरूमा वातावरणीय र सामाजिक मुद्दाहरूको साथै पुर्नवास योजना रूपरेखाको कार्यान्वयन सम्बन्धि सेमिनार-प्रशिक्षण आयोजना गर्नेछ । समस्या र सफलताहरूलाई चाँडो पहिचान गर्दै कार्यान्वयनमा व्यवस्थापनलाई दिशानिर्देशको साथै आयोजनालाई सहजीकरणमा सहयोग गर्न र पुर्नवास योजना रूपरेखाको आधारमा निर्माण तथा कार्यान्वयन गरिने पुर्नवास योजना तथा जिविकोपार्जन पुर्नस्थापना योजना कार्यान्वयन गर्न आन्तरिक तथा बाह्य दुवै रूपमा अनुगमन गरि प्राप्त सुझावहरूलाई कार्यान्वयनका दौरानमा समायोजन गरीने छ ।

पुर्नवास कार्य योजना लागत अन्तर्गत प्रभावित जग्गा तथा घरसंरचनाको मुआब्जा वा क्षतिपूर्ति, पुर्नवास तथा पुनस्थापना सहायता, जोखिमयुक्त समुदाय सहायता, विस्थापन सहायता, जीविकोपार्जन तालिम सञ्चालनको लागि खर्चहरू लगायत पुर्नवास कार्य योजना कार्यान्वयनका लागि लाग्ने अन्य खर्चहरू आयोजनाको कुलखर्च सामाजिक तथा वातावरणीय खर्च भित्र समावेश गरिएको छ । आयोजनाको कार्यक्रम चरणगत रूपमा कार्यान्वयन गर्ने क्रममा यस पुर्नवास रूपरेखालाई परियोजना गतिविधिहरू तथा दायराको परिवर्तनको साथै कार्यान्वयन अनुभवको आधारमा आवधिक रूपमा अद्यावधिक गरिनेछ ।

# 1. Introduction

## 1.1 Program Background and Description

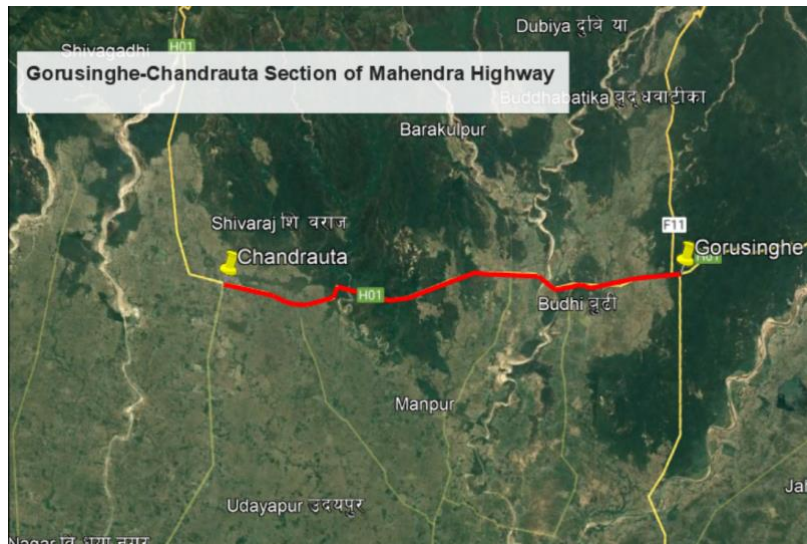
The Accelerating Transport and Trade Connectivity in Eastern South Asia (ACCESS) Program - Phase 1 (Bangladesh and Nepal) is a ten-year IDA/IBRD-funded project under the Multiphase Programmatic Approach (MPA) comprising 4 phases and designed to improve the conditions for trade in Bangladesh and Nepal by augmenting infrastructure, technology and processes for regional transport and trade facilitation. It is expected that the project will help to achieve a broader aim of reducing trade and transport cost in the sub-region by developing efficient and resilient regional trade and transport in the ACCESS countries. The Government of Nepal is preparing the ACCESS MPA Regional Program - Phase 1 (ACCESS 1) for World Bank financing. The first phase of the program comprises four components. Component 2 activities include transport and trade investments to support resilient infrastructure development along regional corridors and associated border points. Under this component, the project will focus on developing resilient infrastructure on the Western side of the country to facilitate the development of a new transit route to gain access to India's western ports, namely Mundra Port, India's largest private port in Gujarat, and Jawaharlal Nehru Port in Mumbai, which offer the shortest transit route from western Nepal, thereby facilitating Nepal's international trade. The proposed activities under this component comprises three sub-components as follows:

- Sub-component 2A: Upgrading of the 67km Butwal-Gorusinghe-Chanauta section of East-West Highway from 2 to 4 lane
- Sub-component 2B: Design and Construction of a Green resilient urban bridge
- Sub-component 2C: Support for development and implementation of green resilient highway concept and strategy by integrating transportation functionality and ecological sustainability and upgrading trade facilities, such as land ports at critical locations

These investments are expected to occasion land acquisition and displacement for which compensation and other resettlement measures may be necessary. The Butwal-Gurisinghe section of the East-West Highway has been designed and RAP is being prepared. However, the design of the remaining section and activities under sub-component 2B and 2C and location of such investments are undetermined. As such, this RPF is prepared with procedures and principles for preparing RAP for such activities when designs and locations are known. The RPF has been disclosed on the website of the DoR and MoFE, requesting stakeholders to submit their comments and concerns about the project and the framework. Consultation sessions with a cross section of relevant stakeholders including local communities and District Compensation Committees – will be held to explain the RPF to them. Comments from the disclosure and consultation sessions will be incorporated in the RPF to finalize it.

## 1.2 Project Locations

The Butwal-Gorusinghe- Chanauta is part of the western section of Nepal's East West Highway. This road will also be upgraded from 2 lanes to 4 lanes. The feasibility study, design, ESIA for Butwal-Gorusinghe has been completed, whilst the feasibility for the Gorusinghe-Chanauta section is yet to be carried out. A location map showing the Gorusingeto Chanauta section is given below.



A green resilient urban bridge will be constructed on a river crossing the East-West Highway. The location of a signature bridge will be selected based on the feasibility studies. The objective of the bridge, with additional architectural and cultural value, is to help improve connectivity while enhancing the urban quality with a safer and greener environment and the economic activity in the bridge area. The specific locations and feasibility studies for project investments under trade component are unknown, and the scale and scope of project intervention and activities for trade component have not been finalized yet. Thus, in the absence of the detailed design of the works, the full scope and magnitude of potential involuntary resettlement impacts of the proposed project has not been assessed yet. However, given the activities envisaged in these activities, there are possibilities that there may be the need to acquire private land for new construction or to rehabilitate existing infrastructure.

## 1.3 Purpose of the RPF

This RPF is designed to guide the processes for land acquisition and resettlement related to the following proposed activities for which land acquisition and resettlement impacts cannot be determined at this time of the project:

- Design and construction of Gorusinghe-Chanauta section of the East-West Highway
- Design and construction of Green Resilient Urban Bridge (sub-component 2B)
- Design and piloting of green resilient highway concept and strategies which may include designated areas for green zones along the East-West transport corridor.

#### **1.4 Scope of the RPF**

The objective of this RPF is to provide resettlement principles, process for preparation of RAPs, and organizational arrangement, to be applied to the subprojects outlined under section 1.3 above. The RPF has been prepared to help manage adverse impacts of physical or economic displacement which may arise as a result of design and implementation of sub-projects. This RPF provides processes and procedures, organizational arrangements to be applied to meet the needs of the local communities and people who may be affected by the project activities resulting from land acquisition, loss of shelter, assets or livelihoods, business and/or loss of access to economic resources. This RPF has outlined the steps and strategies to comply with relevant Government of Nepal (GON) laws, policies, and regulations and World Bank's Environmental and Social Framework and specific objectives of WB ESS-5. Project activities that cause physical and/or economic displacement will not commence until specific RAPs have been reviewed by the Bank and finalized and approved by GoN and implemented by MoPIT, MoICS and MoFE.

#### **1.5 Potential Resettlement Impacts and Issues**

Feasibility studies of some project activities will commence soon and will be followed by detailed design of works. Thus, the full scope and magnitude of potential involuntary resettlement impacts of some activities have not been assessed. However, considering the typology of works and previous experience with such road project, the potential resettlement impacts may include.

- Physical and/or economic displacement of landowners and informal settlers and land users
- Temporary restriction and disruption of access to private land, residences, common property resources and businesses
- Construction-induced impacts such as loss of structures and crops.

In addition, contractors may acquire land temporarily in order establish accommodation for workers, stockpile construction materials and to service machinery. Such contractor-led acquisitions are outside the scope of this RPF, and the contractors may acquire land based on land lease agreement reached between the between contractors and landowners as per the application laws of the country.

## **2. Legal Framework**

This section provides a summary of legislative and policy instruments that provide guidance for land acquisition and resettlement in Nepal under eminent domain. These instruments, combined with relevant WB Environmental and Social Standards, have been used to inform this RPF.

### **2.1 Relevant National Laws and Regulations**

#### **2.1.1 Land Acquisition Act 1977**

The Land Acquisition Act, 1977 is the main legal instrument of the state to acquire private land and other physical asset acquisition for public purposes. The Act allows the government to acquire land at any place in any quantity by providing compensation. The following are the main legal provisions outlined in the Act

- The acquisition and compensation of privately-owned assets will be undertaken according to a formal procedure, consisting of the initial procedure, a preliminary investigation process, acquisition notification, compensation notification, and appeal procedures.
- Compensation Determination Committee (CDC) will be established at the concerned district to ascertain compensation rates for the land and other assets.
- CDC ascertain compensation rates must be notified to the government or Provincial Government by Chief District Administration Officer.
- Compensation must be paid (a) for damage caused by investigations during the project (including sanding crops, trees, and houses)
- Compensation must be in cash, although titleholders who have lost all their landholdings can be provided land for resettlement, if available.
- Compensation against all types of loss will be paid to the affected person who has the right to claim compensation.
- Titleholders are required to submit compensation claims or complaints within a specified period after the issuance of a land acquisition notice.
- Compensation for land will be after the valuation of the rate by the compensation determination committee.
- In determining the compensation amount, the committees have to consider relevant periodic guidelines of the government and the loss suffered by persons due to acquisition of land, the shift of residence, or place of business to another place.
- If the land must be acquired, the CDC must consider the following in determining the compensation amount: the price of the land prevailing at the time of notification of land acquisition, price of standing crops, and structures, and damage incurred by persons being compelled to shift their residence or place of business due to the land acquisition.
- The law also allows land acquisition through direct negotiations.

#### **2.1.2 Land Acquisition, Rehabilitation and Resettlement Policy 2015**

The policy aims at facilitating land acquisition process for infrastructure projects. The policy outlines the need to conduct an economic and Social Impact Assessment (SIA) of the development project, which was not a requirement under the Land Acquisition Act 1977. Based on the assessment

envisaged by the policy, projects will be categorized as high, medium, and low risk based on the number of households that the project displaces. Projects displacing 50 or more households in the mountainous region are deemed as high-risk projects. Similarly, projects displacing 75 or more households in the hilly region, and 100 or more households in the Tarai. Medium-risk projects, on the other hand, are those that will result in relocation of fewer than 50 households in the mountainous region, less than 75 households in the hilly region, and less than 100 households in the Tarai. Low-risk projects refer to those, which cause productive property to shrink by up to 10 percent.

### **2.1.3 Environment Policy, 2019**

The environmental policy ensures the rights of people to live in a clean and healthy environment by controlling and preventing all types of environmental pollutions, managing household, and industrial wastes, expanding parks and greenery in the urban area, and ensuring environmental justice to the pollution affected population. The policy aims to protect human health and the environment from hazardous waste by regulating and controlling chemicals in products. Similarly, the policy calls for establishing a national environment council, which will be responsible for policy coordination among all the stakeholders on all types of environment-related activities. On the distribution of authority among the three tiers of government, the policy has made the federal government responsible for looking after national policy, law, and standards required for the protection and management of the environment. Similarly, the provincial government has been made responsible for formulating state-level policy, plans, rules and regulations, and standards to control and pollution. Similarly, the local level has been made responsible for implementing national environmental policy at the local level and coordinating with different stakeholders to engage in environment-related activities for creating and undertaking environment awareness activities at the local level.

### **2.1.4 Land Use Policy, 2015:**

The policy aims to maintain a balance between the use of land and development. Under the policy, land use in Nepal is categorized into the following land use zones. (i) Agricultural Zone, (ii) Residential Zone, (iii) Commercial Zone, (iv) Industrial Zone, (v) Main and Minerals Zone, (vi) Cultural and Archaeological Zone, (vii) River and Lake Reservoir Zone, (viii) Forest Zone, (ix) Public Use and Open Space Zone, (x) Building Material Excavation Zone, and (xi) Other Zone as specified and necessary. The policy discourages the use of arable land in non-agricultural use and fragmentation and stresses the conservation and optimum use of forests. The policy also discourages non-use, under-use, and excessive use of land, suggesting that decisions about land use should be carefully considered with the view to minimizing land-take.

### **2.1.5 Guthi Land Act, 1976**

*Guthi* is another concept of preserving ritual and cultural value by organizing and celebrating various festivals. *Guthi* Corporation, a government agency under the ministry of and is entrusted to manage, conduct, and coordinate the *Guthi* throughout the country. The *Guthi* Corporation, which functions under the *Guthi* Corporation Act, 1976 owns a huge quantity of land throughout the country, uses the land denoted by Kings, landlords, and rulers to generate perpetual sources of revenue to maintain age-old rich cultures. The acquisition of land under the ownership of *Guthi* Corporation is mandated by the *Guthi* Corporation Act, 1976 and it is the only act applicable if the land required for the project



belongs to *Guthi* Corporation or some other *Guthi*. As per section 42 of the act, the government can provide replacement land when it acquires *Guthi* land instead of the compensation amount. Similarly, section 42 (a) says that the government can acquire land belonging to *Guthi* Corporation for social welfare and community interest activities at a reasonable/discounted price. However, the act remains unclear about the procedures of allowing infrastructure development in the land owned by the *Guthi* Corporation.

### **2.1. 6 The National Civil (Code) Act, 2017**

Clause 407 of the code defines the procedures by which individuals can donate land at free of cost to another person for religious, social, public, or community purposes. Clause 407 notes that individuals can donate a certain amount or property for any specific purpose by making an announcement in writing or in a public function organized for that purpose and adds that no lawsuit can be filed if the person fails to transfer the property as per the announcement. Similarly, clause 208 notes that **any** donation made as per the law will be void if the person entitled to donation rejects the offer or if the person entitled to donation or gift dies or if the donated property is destroyed before the testamentary made for donation or gift becomes effective. In addition, clause 409 provisions a deed of the donation will be voided if a person donates or gifts a property that has right and ownership of another person, if a person donates or gifts a property without obtaining the consent of another person where such consent is needed pursuant to law, if the person offering such donation or gift is an incompetent or partially competent person, and if the donation or gift is made without fulfilling the legal requirements. Land for project investments will be acquired and compensated for as per the Land Acquisition Act, 1977. However, where land donation is accepted under the project, the specific provisions of this Act will apply.

### **2.2 World Bank Standards on Land Acquisition and Resettlement**

The World Bank's Environmental Social Standard (ESS) 5 - Land Acquisition, Restrictions on Land Use, and Involuntary Resettlement provides guidance for Bank-funded operations to conduct land acquisition and resettlement. The objectives of ESS5 include:

- To avoid involuntary resettlement or, when unavoidable, minimize involuntary resettlement by exploring project design alternatives
- To avoid forced eviction
- To mitigate unavoidable adverse social and economic impacts from the land acquisition or restrictions on land use by (a) providing timely compensation for loss of assets at replacement cost and (b) assisting displaced persons in their efforts to improve, or at least restore, their livelihoods and living standards, in real terms, to pre-displacement levels or to levels prevailing before the beginning of project implementation, whichever is higher.

### **Voluntary land donation**

In some circumstances, it may be proposed that part or all the land to be used by the project is donated on a voluntary basis without payment of full compensation. In such event, the project will inform and discuss with the Bank on the principles and procedures of voluntary land donation consistent with ESS5 provisions.

### 2.3 Gaps between the country system and WB Policies

A comparative analysis of the Government and World Bank policies on involuntary resettlement/land acquisition presents some common principles, as well as gaps, across the policies. Recommendations to bridge the identified gaps are detailed further below

#### ***Common Principles***

Generally, the Government and World Bank policy align along the following basic principles:

- i. Involuntary resettlement shall be avoided or minimized to the extent possible, through the incorporation of social consideration into design options and alignment selections.
- ii. Where displacement is unavoidable, people losing shelter and livelihood will be assisted in improving or at a minimum regaining their former status of living at no cost to themselves.

However, there are some aspects, where additional measures or further specifications for the entitlements under national laws are necessary to meet the standards of the World Bank. These additional measures are essential for ensuring that the principles mentioned above will be achieved. In addition, a specific entitlement framework will help avoid and potential delays caused by lack of clarity of the resettlement process. Key gaps between the country regulations and WB ESF related to resettlement planning, mode of acquisition, entitlement to compensation, attention to vulnerable project-affected persons and others have been highlighted in the table below.

**Table 2.1: Key Gaps between Nepal Land Acquisition System and WB's ESS 5**

Key Element of ESS5	WB ESS5	Nepal System	Gap filling measures
Planning	<ul style="list-style-type: none"> <li>• Social assessment</li> <li>• Preparation of Resettlement Action Plan (RAP) through participatory process and/or consultation</li> </ul>	<ul style="list-style-type: none"> <li>• No requirement for social assessment for land acquisition process</li> <li>• No need of RAP and no provision for consultation</li> </ul>	<ul style="list-style-type: none"> <li>• RAP is required; and the RAP preparation process will include social assessment to determine the nature and scope of involuntary resettlements and impacts on vulnerable groups.</li> </ul>
Entitlement of land compensation	Compensation to those who have legal rights to land or those who have recognizable claim to the land under national law	Compensation to those who have legal rights to land or assets	<ul style="list-style-type: none"> <li>• RAP includes measures to compensate squatters and non-title holders for project impacts on structures.</li> </ul>
Mode of acquisition	<ul style="list-style-type: none"> <li>• Negotiated purchase</li> <li>• Donation</li> <li>• Expropriation</li> </ul>	<ul style="list-style-type: none"> <li>• Negotiated purchase</li> <li>• Donation</li> <li>• Expropriation</li> </ul>	
Impacts considered	<ul style="list-style-type: none"> <li>• Loss of assets</li> <li>• Disturbance costs and associated expenses</li> <li>• Loss of access to resources</li> <li>• Broader social and economic consequences (physical and economic displacements)</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of assets</li> <li>• Loss of business income</li> </ul>	<ul style="list-style-type: none"> <li>• RAP incorporates additional provisions to assess the impacts related to loss of access to natural resources and broader social and economic consequences.</li> </ul>
Compensation	<ul style="list-style-type: none"> <li>• Options developed with PAPs through consultations:</li> <li>• Cash or in-kind such as: Replacement lands</li> </ul>	<ul style="list-style-type: none"> <li>• Cash (minimum market price)</li> <li>• Replacement Land option is available only for those who lose entire land</li> </ul>	<ul style="list-style-type: none"> <li>• RAP incorporates provisions to develop options for compensation in consultation with the PAPs</li> </ul>

	<p>Replacement homes Rehabilitation program Community/Livelihood development program</p> <ul style="list-style-type: none"> <li>• Other form of assistance</li> </ul>		
Delays in accessing compensation	<ul style="list-style-type: none"> <li>• Requires that on an exceptional basis, with prior agreement of the Bank, the Borrower may deposit compensation funds as required by the plan into an interest-bearing escrow or other deposit account and proceed with the relevant project activities.</li> <li>• Compensation placed in escrow will be made available to eligible persons in a timely manner as issues are resolved</li> </ul>	<ul style="list-style-type: none"> <li>• Time limit to take up compensation as per Land Acquisition Act 1977</li> </ul>	<ul style="list-style-type: none"> <li>• RAP prescribes systematic approach to ensure that the all the RAPs who have lost assets receive the compensation without any hinders within the reasonable timeframe.</li> </ul>
Vulnerable PAPs	<ul style="list-style-type: none"> <li>• Differentiated treatment of vulnerable groups; provision of assistance depending on needs</li> </ul>	<ul style="list-style-type: none"> <li>• No special provisions and additional supports for vulnerable PAPs</li> </ul>	<ul style="list-style-type: none"> <li>• RAP incorporates provisions of strategic communication with vulnerable PAPs and also offers resettlement assistance along with compensation to help restore their livelihoods</li> </ul>
Engagement with the indigenous people	<ul style="list-style-type: none"> <li>• Differentiated treatment to the IP groups in culturally appropriate</li> </ul>	<ul style="list-style-type: none"> <li>• No such provisions</li> </ul>	<ul style="list-style-type: none"> <li>• The project has a standalone IPP to guide constructive engagement with the IPs,</li> </ul>

	manner and need of an Indigenous People's Plan (IPP)		and where relevant, prepare and implement IPPs.
Eligibility for Compensation	<ul style="list-style-type: none"> <li>All legal claimants and informal occupants on structures and land</li> </ul>	<ul style="list-style-type: none"> <li>Legal claimants having only titled landholder including registered agricultural tenants</li> </ul>	<ul style="list-style-type: none"> <li>Legal claimants will receive compensation for all assets, but the informal occupants will receive compensation for all lost assets except land</li> </ul>
Risks and impacts to cultural heritage	<ul style="list-style-type: none"> <li>Need of a robust system put in place, including a Chance Finding Procedures, in consultations with the stakeholder</li> </ul>	<ul style="list-style-type: none"> <li>Chance Finding Procedure have been spelled out in the laws but not as robust as the ESF requirements</li> </ul>	<ul style="list-style-type: none"> <li>The Chance Find Procedure has been articulated in the ESMF and ESIA</li> </ul>
Labor Grievance Redress Mechanism (GRM)	<ul style="list-style-type: none"> <li>Need of a separate labor GRM to understand and resolve grievances related to the workers associated with the project</li> </ul>	<ul style="list-style-type: none"> <li>No such mechanism or requirements exists</li> </ul>	<ul style="list-style-type: none"> <li>The project has a standalone LMP to manage a functional Labor Grievance Redress Mechanism,</li> </ul>
Grievance Redress Mechanism (GRM)	<ul style="list-style-type: none"> <li>Required without restriction as to the nature of complaint and period</li> <li>A project is required to maintain a GRM throughout the project lifecycle</li> </ul>	<ul style="list-style-type: none"> <li>Allowed but restricted to a few key decisions only and limited within a fixed period during land acquisition</li> <li>Project is not required to have a formal GRM system</li> </ul>	<ul style="list-style-type: none"> <li>The RAP incorporates a systematic and functional project GRM to allow the PAPs to file concerns and complaints on risks and impacts of the project activities, including land acquisition, throughout the project lifecycle.</li> </ul>
Stakeholder engagement and information disclosure	<ul style="list-style-type: none"> <li>Required to identify and categorize project stakeholders and prepare engagement strategy, particularly for vulnerable and IPs</li> </ul>	<ul style="list-style-type: none"> <li>No systematic engagement but limited engagement and consultations with the landowners during land acquisition</li> </ul>	<ul style="list-style-type: none"> <li>The project has a standalone SEP to guide to identify and categorize project stakeholders and prepare engagement strategy, particularly for vulnerable and IPs.</li> </ul>

Monitoring and Evaluation	<ul style="list-style-type: none"> <li>• M&amp;E system is required as part of the RAP; Status of the PAPs monitored and evaluated</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• The RAP incorporates monitoring and evaluation processes of the project activities, including the land acquisition</li> </ul>
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### **2.3.1 Measures to Bridge the Gaps**

The results of this policy review of both the World Bank and the government are taken into due account in the development of this RPF, including a policy matrix for entitlements to compensate losses from project interventions. Policy measures to close the identified gaps and limitations are:

- i. A project-affected person will be defined in the RAP as a person or household whose livelihood or living standard is adversely affected through loss of land, housing and other assets, income, or access to services because of the implementation of the project, causing a change in land use.
- ii. Entitlements will be established for each category of loss.
- iii. Special attention will be dedicated to addressing and protecting the interest of IPs and vulnerable groups
- iv. Once the notification date as the cut-off date is announced, no opportunistic encroachments after this date will be considered eligible for entitlements of compensation.
- v. The landless farmers/ informal settlers who have been occupying public land before the cut-off date, but without legal title, which has not been claimed by others, will be entitled to compensation for the loss of structure and livelihood investments.
- vi. Non-land assets will be compensated without delay at replacement value and their relocation and transportation must be assisted. Support for IPs and vulnerable groups should be provided to improve their livelihood
- vii. Practical provisions will be made for the compensation for all lost assets to be made at replacement cost without depreciation or reductions for salvage materials.
- viii. Efforts will be made to assess the real replacement costs of land/structure which will also include the transaction costs.

### 3. Social Assessment

Though the potential involuntary resettlement risk and impacts of the Sub-Project of ACCESS1-resilient regional transport and trade component have been assessed, given that the feasibility study of project investments under trade component and remaining transport infrastructure (i.e., Gorusinghe-Chanauta road, Signature bridge, etc) are yet to commence and will be followed by detailed design of works. As such, the full scope and magnitude of potential involuntary resettlement impacts of these activities have not been assessed yet. However, since the trade component of the project as envisaged in the Component 1 aims to support the augmentation of physical infrastructure, equipment, inspection and related border transit management systems, there are possibilities that there may be the need to acquire private land for new construction or to rehabilitate and improve the trade facility infrastructure. While it is sometimes possible to negotiate a price for voluntary sale of a property, governments often have to use eminent domain to acquire properties for public projects. By its nature, expropriation may cause both physical and economic displacements, restriction in accessing to common property, homes and businesses, economic losses and social and psychological disruption for the affected individuals and their families.

Considering the above discussion on project activities and preliminary review and assessment of likely impacts and previous experience with such investments, the potential resettlement impacts may include.

- Minimal physical and/or economic displacement of landowners, squatters, encroachers including informal settlers and land users, and street vendors. Such displacements are only considered where unavoidable and in support of project construction.
- Temporary restriction and disruption of access to private land, residences, common property resources and businesses.
- Construction Induce Impact (loss of structures and crops) may occur during construction phase

In addition, contractors may acquire land temporarily in order establish accommodation for workers, stockpile construction materials and to service machinery. Such contractor-led acquisitions are outside the scope of this RPF and will be conducted on the principle of “willing-buy; willing seller” arrangement between contractors and landowners.

#### 3.1 Land Classification

The Land (Survey and Measurement) Act, 1963 categorizes land tenure in Nepal into private land, government land, public land, community land and, Guthi land. Private lands represent about 28% of land in Nepal. Nepal recognizes two private land tenure types: ownership and leasehold. Landowners have rights to exclusivity and use of their land and can freely transfer their land and pass the land by inheritance. The Land Reform Act 1964 as amended by the Land Ordinance Act (2005) imposes ceilings on land ownership, subject to various factors such as geo-ecological variations, soil types, average precipitation, other climatic conditions as well as land use types such as irrigated land, rain fed land, grazing land and average family size. These ceilings are currently at 3.75 hectares in the hills, 1.5 hectares in Kathmandu Valley and 7.43 hectares in Terai and Inner Terai.



State lands include public land (defined to include wells, ponds, pathways, grazing land, cemeteries, market areas, etc.) and government land (defined to include roads, government offices, and land under government control, such as forests, lakes, rivers, canals, and barren land, etc.) It is estimated that about 72 percent of land in Nepal is state land. *Guthi* land is land held by religious bodies for religious or philanthropic purposes and is not subject to taxation. *Guthi* land includes temples, monasteries, schools, hospitals, and farmland managed by religious institutions and individuals. About 0.03 percent of land in Nepal falls into this category.

### 3.2 Landholdings and Tenurial System in Nepal

Out of the total 147,641.28 square kilometers land area of Nepal, agricultural land is 28% of which 21 percent is cultivated and 7 percent uncultivated, forest area is about 44 percent, and the pasture covers 12 percent. After forest, other land occupies 28.68 percent of total area. Settlement and wetland, on the other hand, cover 1.15 percent and 1.22 percent of the total area, respectively. Nepal has varying topography ranging from Terai, Hills, and Mountains that covers 23, 42, and 35 percent of land area, respectively. Nepal has an estimated 2.7 million hectares of agricultural land or about 18.3% of the total land area, while about 44.7 percent land of Nepal is classified as forestland, and nationally protected areas make up 17.32 percent of the total land. A majority of the agricultural households depend on small farm size for cultivation. Of the total farmers about 53 percent are “small” farmers (operating less than 0.5 ha of land) and other 4 percent are “large” farmers (operating 2 ha and more land)

*Land distribution.* There is a significant imbalance in land distribution in Nepal. The top 7% of the of the households for example occupy 31% of the agricultural land while the bottom 20% own only about 3%. About forty-six percent (45.7%) of agricultural households own between half a hectare and three hectares of land and occupy 69.3 percent of total cultivable land. About fifty-three percent (52.7%) of those households own half a hectare or less and occupy 18.5 percent of cultivable area. The average size of agricultural landholding is 0.7 hectares in rural areas and 0.5 percent in urban areas. It is estimated that about five percent households do not own any land but work other people’s land on a contractual basis. Terai occupies 23 percent of total land, popularly known as grain basket of Nepal. Hill, occupies 42 percent of total land, has absentee landlordism problem (CBS, 2013). Eighty-four percent of farms in Nepal are owner operated. About 10 percent of land is held under some form of registered tenancy. However, the actual incidence of tenancy is probably higher due to the presence of informal unregistered tenants. It is estimated that 31% of the farmers are tenants (i.e., leasing lands). Most tenants are not entirely landless but are just taking in additional land to till. The purely landless farmers are estimated to occupy only about 2 percent of total farm holdings in the country. Sharecropping is the most common form of tenancy. The most common form of sharecropping arrangements is the short-term rental known as *adhiya*. Under *adhiya*, the tenant provides the labor and landowners supply some percentage of inputs. In principle, the tenant and landowner receive equal shares of the production, but the tenant rarely receives a half-share, either because he or she is in debt to the landowner, or the landowner has supplied all the inputs.

### 3.3 Internally Displaced Population

More than 70,000 people were displaced during the 10-year civil conflict (1996–2006). Thousands of Internally Displaced Persons (IDPs) returned to their homes following the signing of the peace accord in 2008, often finding that their land had been confiscated or claimed by others during their absence, and they lacked the documentation necessary to qualify for state support for IDPs. Displaced single women are particularly vulnerable because many are unable to recover compensation for property that has been expropriated and they lack the capacity and social standing to pursue new livelihood options. Internally displaced children and women are particularly vulnerable to trafficking, sexual exploitation, and child labor (IDMC 2010). As most of the men in the community are engaged in foreign employment, the women at home are left behind due to lack of proper information and counseling. Similarly, about twenty-six thousand people were displaced because of the 2015 earthquake. Because of lack of formal land documentation many have been excluded from reconstruction and rebuilding efforts. This forces people to continue living in the risky areas or move to public lands as informal dwellers, where they are always at risk of eviction.

### 4. Land Acquisition and Resettlement Policy of the Project

The fundamental policy of the project on land acquisition and resettlement is based on the country system, filling in the critical gaps with respect to the World Bank's Environmental and Social Standard 5 (ESS5), particularly focusing on

- the provision to avoid or minimize involuntary resettlement impacts
- the preparation of Resettlement Action Plan (RAP) in meaningful consultations with the PAPs on various compensation and resettlement options.
- the support to be provided to displace PAPs, IPs, and vulnerable groups to help them restore livelihoods.

#### 4.1 Principles of Land Acquisition and Resettlement Policy

The project will adopt the following principles to each subproject that are deemed to have involuntary resettlement impacts as informed by the E&S Screening.

##### 1. Preferred mode of acquisition of land

To protect smallholder and vulnerable communities, including the Dalits from undue pressure and influence of local officials and peers in the project communities, the preferred mode of private land acquisition would be negotiated sale – willing buying, willing seller approach – in an environment free of intimidation and coercion.

As the project is a public-purpose investment, DoR and MoFE may acquire land for project investments through the exercise of eminent domain and being guided by the Land Acquisition Act, 1977 and the World Bank ESS5.

In certain circumstances, individuals may donate land voluntarily for project activities. Such donations may be accepted to the extent that they are consistent with general principles for voluntary land donation provided under World Bank ESS5. Such donations will be subject to prior Bank approval and that the Borrower demonstrates that:

- a) the potential donor or donors have been appropriately informed and consulted about the project and the choices available to them;
- (b) potential donors are aware that refusal is an option, and have confirmed in writing their willingness to proceed with the donation;
- (c) the amount of land being donated is minor and will not reduce the donor's remaining land area below that required to maintain the donor's livelihood at current levels;
- (d) no household relocation is involved;
- (e) the donor is expected to benefit directly from the project; and
- (f) for community or collective land, donation can only occur with the consent of individuals using or occupying the land.

## **2. Avoidance and minimization of involuntary resettlement impacts**

During the E&S screening of the location identified for subprojects, the project will first put efforts to avoid and minimize involuntary resettlement impacts, particularly physical displacement, defined here as loss of homes requiring the occupants to relocate and reestablish residence elsewhere; and economic displacements, defined here as loss of the household's productive assets, or access to assets, or income earning capacities. Where displacements are unavoidable, people losing assets, livelihoods, and access to resources, will be minimized and/or compensated, and appropriate assistance will be provided to improve, or at a minimum regaining their pre-displacement livelihood and living standard at no cost to themselves.

## **3. The affected person's legal status on the land shall not preclude him from receiving compensation/assistance for other lost assets and restriction of access to resources**

Project-affected persons irrespective of their legal status will be entitled to compensation and assisted in regaining their standard of living. The PAPs who do not have recognized legal claim to the land will receive compensation for lost assets other than land (such as crops, structures, irrigation canals, ripraps, and other improvements made to the land) at replacement cost and the compensation will be available prior to the taking over of assets. Tenants and leaseholders will be compensated for the remaining or unserved period of the rent/lease and for the disturbance caused by the untimely termination of contracts. For leased land plots, compensation of land will be paid to renters for their actual losses and assistance will be provided to the lessee to allow him/her access to some other land to continue agricultural activities. Owners of crops and trees who cannot show the legally recognizable title to land will be compensated for crop or tree losses.

## **4. Differentiated approach and compensation/benefits to the IPs and other vulnerable project affected persons/families**

The E&S screening of the subproject site together with the Environmental and Social Assessments (EIA/IEE/BES) as required by the country law will provide inputs about the prevalence of IPs and vulnerable populations, such as Dalits. The information will be used to initially identify approaches and measures, regarding IPs and vulnerable people while drafting the subproject specific draft RAP. The socio-economic census survey of the project affected people that is conducted during the preparation of RAP will formally identify the IPs and vulnerable groups, and other individuals along

with their socio-economic status and special needs. (See PAP Census Questionnaire in Annex 2). In the process, the members of the IPs will be consulted. Moreover, other vulnerable groups and people will also be consulted to understand appropriate assistance based on their needs and socio-economic conditions.

#### **5. Information disclosure and participatory approach**

Once the RAP identifies the PAPs to be impacted in terms of economic as well as physical displacement, the subprojects will start disseminating information related to resettlement preparation and implementation to all concerned PAPs through appropriate and effective means as envisaged by the project SEP. In addition, the subproject will conduct periodic consultations with the subproject stakeholders, particularly with the PAPs, to understand their perception of the RAP approach and address their appropriate concerns in the early stage of RAP preparation. As envisaged by the project SEP and the ESS 5, the sub-project will deploy a special communication strategy to reach out to the IPs and vulnerable groups to ensure their participation in planning and implementing the RAP in a culturally appropriate manner.

#### **6. Gender considerations**

The ESS 5 recognizes the fact that women have an important role in household management as they usually engaged in a wide range of income-generating activities in the agricultural and other sectors. So, the ESS 5 stresses the need to ensure meaningful consultations with the women in preparation and implementation of the RAP and address their appropriate concerns in the RAP. Thus, the project will pay due attention to ensure that women are involved the entire process of RAP Preparation and implementation, and clearly listed as beneficiaries of compensation and resettlement assistance. In addition, the project will adopt the following measure as part of gender considerations to achieve the larger goal of equitable participation of women in the preparation and implementation of RAP.

- Conducting a survey of project affected families to understand the overall socio-economic and gender situation of the affected families to inform appropriate measures to support the families in restoring their livelihood to at least pre-project level
- Including women as enumerators in the survey team or facilitators in focused group discussions
- Establishing a pre-project condition of women in the project area while preparing profiles of affected people and households
- Identifying heads of households by gender
- Including women in the team that carry out consultation processes to determine compensation entitlements
- Conducting women-only focus group discussions or individual outreach to engage women in the RAP process
- Depositing compensation in a bank account held by both wife and husband even if the title of the land/assets is held only by the husband
- Considering the disproportionate impact that resettlement has on women and accounting for that in developing compensation packages

- Ensuring that monitoring of resettlement is attentive to women’s issues, and
- Developing mechanism for prompt corrective actions whenever additional measures are required to ensure the objectives of the program are met for affected women.
- Ensuring active participation of women in project related meetings.

#### 4.4 Eligibility

The Involuntary Resettlement policy requires compensation for the lost assets to be computed and provided at replacement costs to both titled and non-title holders, such as Informal settlers or informal occupiers, and tenants. In addition to compensation, resettlement assistance for lost income and livelihoods will also be provided. As per the ESS5, individuals and households that either hold formal titles or not will receive the appropriate compensation and resettlement assistance, and rehabilitation. However, those who do not hold legally recognizable land ownership are not entitled to land compensation. Further, the principles adopted herein contain special measures and assistance for any vulnerable PAPs. Vulnerable persons are those who, because of their circumstances, may be disadvantaged or vulnerable.

Persons affected by land acquisition, and relocation and/or rehabilitation of structures/assets (businesses, houses, etc.) are entitled to a combination of compensation measures and resettlement assistance, depending on the nature of ownership rights of lost assets and scope of the impact, including the social and economic vulnerability of the affected persons. Thus, the affected persons in the project will be entitled to various types of compensation and resettlement assistance that will help in the restoration of their livelihoods, at least, to the pre-project standards. However, in the case of land acquisition through the Eminent Domain, only the structures/assets build or acquired before the publication of public notice that the chief of Compensation Determination Committee issues as per Clause 9 of Land Acquisition Act, 1977 will be eligible for consideration under the Entitlement Matrix. To minimize issues and ensure compliance with ESS5, all land acquisition for the subproject will be subject to the following restrictions:

1. Land acquisition causing the displacement of significant number of people
2. Private land/property without sufficient tenure security during the economic life of the facility
3. Land subject to any kind of disputes/conflicts will be used for the subprojects.
4. No land under protected forests/national parks will be used, except if the subproject is allowed within the proposed site as part of the protected area/park management strategy, and the subproject is approved by the protected area management body.
5. No private land donated by the owners will be accepted and used without complying with the following proof of voluntary donation:
6. A deed of donation stating the voluntary nature of donation, signed by the donor in favor of the project and is formally registered in the relevant land records to avoid conflicts and confusion in the future; and,
7. Minutes of consultation meetings with the affected communities, indicating that the affected communities where the donor resides are informed of their right to just compensation of their properties.

#### **4.5 Entitlement Framework**

The general entitlements of PAPs by tenure/ownership status and type of asset affected are summarized in Table 2 below and the matrix has been prepared based on the provision of laws of Nepal and the ESS5 and adopted for the project.

**Table 5.2: Entitlement Matrix for Involuntary Resettlement Impacts of the projects**

Type of Loss	Application	Definition of PAPs	Compensation Entitlements
<b>Land</b>			
Permanent loss of agricultural and nonagricultural land	<ul style="list-style-type: none"> <li>PAPs permanently losing private land, both agricultural or residential/ non-agricultural and regardless of impact severity</li> </ul>	<ul style="list-style-type: none"> <li>Titleholder/ Registered owners</li> </ul>	<ul style="list-style-type: none"> <li>Compensation at full replacement cost (current market rate plus associated transaction costs) as provisioned by the Land Acquisition Act, 1977 and World Bank ESS5.<sup>1</sup></li> <li>Land for Land may be offered in limited circumstances where alternative lands of comparable value and locational advantage are available</li> <li>In the case of farmland, the PAP will be entitled to the cultivation disruption allowance equal to one-crop-cycle production.</li> </ul>
		<ul style="list-style-type: none"> <li>Informal occupiers and users of public land</li> </ul>	<ul style="list-style-type: none"> <li>Informal settlers or informal occupiers cultivating the public land and identified during the census survey will be given access to other public lands if <i>Ailani</i> or other government land is available and belongs to DoR.</li> </ul>
		<ul style="list-style-type: none"> <li>Landlord and Tenant by a written agreement</li> </ul>	<ul style="list-style-type: none"> <li>Both the landlord &amp; the tenant will be entitled for 50 percent of land compensation amount each (As per 2058 B.S. amendment in Land Act).</li> </ul>
		<ul style="list-style-type: none"> <li>Renters/Lease holders</li> </ul>	<ul style="list-style-type: none"> <li>Non eligible for land compensation; only for other losses indicated in the Entitlement Matrix.</li> </ul>
		<ul style="list-style-type: none"> <li>IPs and Vulnerable groups</li> </ul>	<ul style="list-style-type: none"> <li>Preference should be to replace land for land to IPs or vulnerable groups if available nearby or if not available, provide cash</li> </ul>

<sup>1</sup>The replacement cost for land and various allowances in the above Entitlement matrix will be defined in RAPs based on provisions made in the ESS5 required surveys and consultations during the preparation of RAPs

			<p>compensation at full replacement cost with additional supporting assistance as agreed in meaningful consultation</p> <ul style="list-style-type: none"> <li>• Resettlement assistance in lieu of compensation for land occupied (land, other assets, employment) at least restore their livelihoods and standards of living to pre-displacement levels.</li> </ul>
Loss of <i>Guthi</i> (Trust Land)	Land owned by Guthi Corporation as per the <i>Guthi</i> Corporation Act 2033.	Entitled Person/ institutions and tenant in accordance with the <i>Guthi</i> Corporation Act 2033.	<ul style="list-style-type: none"> <li>• As per the Clause 42 of the <i>Guthi</i> Corporation Act, 2033 the government is required to replace land if the Government acquires any Guthi land.</li> </ul>
Temporary loss of private land or restrictions on land use	PAP not losing their land, but unable to cultivate the land due to either temporary occupation of land by project activities or restrictions in the use of that land triggered by construction-related activities	<ul style="list-style-type: none"> <li>• Titleholder/ Registered owners</li> <li>• Tenants and landlord both being the owner of equal.</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation for lost crop production and other property losses for the duration of temporary occupation.</li> <li>• Compensation for other disturbances &amp; damages caused to property.</li> <li>• Project to ensure that real user/s of land affected because of temporary acquisition rather than the owner are compensated for the temporary period.</li> <li>• Land to be returned to the owner at the end of the temporary acquisition period by restoring its original condition or improved as agreed with the owner.</li> </ul>
<b>Buildings and Structures</b>			
Loss of privately-owned residential buildings/structures	The private land to be acquired for project related to construction	All titleholder/PAPs regardless of legal status, including informal occupiers and users of public land, renters/Lease holders, and Tenants and landlord both being the owner of equal	<ul style="list-style-type: none"> <li>• Compensation for full or partial loss of house and other structures at the full replacement cost of materials and labor according to house/structure type, with no deduction for depreciation.</li> <li>• All titleholder/PAPs regardless of legal status are free to take and use the salvaged materials extracted after demolition of the building or structure as per their wish</li> </ul>



Loss of privately-owned non-residential buildings/structures animal sheds, storage facilities, fences, etc.	The private land to be acquired for project related to construction	All Titleholder/PAPs regardless of legal status, including Informal occupiers and users of public land, renters/Lease holders, and Tenants and landlord both being the owner of equal	<ul style="list-style-type: none"> <li>• Compensation at full replacement cost for lost structures, in addition of compensation for loss of land.</li> <li>• All titleholder/PAPs regardless of legal status are free to take and use the salvaged materials extracted after demolition of the building or structure as per their wish</li> <li>• Eligible for compensation at full replacement cost of all structures built by the informal occupiers and users of public land</li> </ul>
<b>Loss of Community Infrastructure/Common Property Resources</b>			
Loss of community buildings/ structures, cultural assets, or loss of access to such assets	Community/Public Assets	Community/Local Government/Provincial government/federal government and User's group	<ul style="list-style-type: none"> <li>• Replacement of the affected community assets or cash compensation at replacement cost as determined by the CDC. The compensation determination process also includes extensive consultations with the community members/users and the local municipality.</li> </ul>
Loss of public land or access to such assets	Community/Public Assets	Local municipality or community/ User's group	<ul style="list-style-type: none"> <li>• Compensation to replace the land of equal quality in the surrounding area</li> <li>• The replacement land to be identified in consultation with affected communities and relevant authorities and the local municipality.</li> <li>• Restoration of access to the replaced land.</li> </ul>
Loss of community forests and other natural resources due to construction	Community forest	District forest office/ Forest user's group/Other Groups Concerned	<ul style="list-style-type: none"> <li>• Mitigation measures to be initiated to control erosion caused by tree cutting and to stabilize and rehabilitate the slopes with suitable bioengineering works and vegetation.</li> <li>• Community forestland lost due to project activities to be replaced and reforested according to government regulatory requirements, including others concerned.</li> </ul>

			<ul style="list-style-type: none"> <li>• Advance notice to harvest resources from affected community forest areas.</li> <li>• Compensation for trees to the government as per the existing laws</li> </ul>
<b>Loss of Income and Livelihood</b>			
Loss of Non-perennial crops	Standing crops affected or loss of planned crop incomes	<ul style="list-style-type: none"> <li>• All Titleholder/PAPs regardless of legal status</li> </ul>	<ul style="list-style-type: none"> <li>• Advance notice to harvest crops</li> <li>• The loss of non-perennial crops (standing seasonal crops) will be paid in accordance with the output value</li> <li>• The net value of existing crops as determined by the Compensation Determination Committee (CDC), which as per the Clause 16 (2) of the Land Acquisition Act, 1977 is required to consider prevailing market rate while determining compensation for crops.</li> </ul>
Loss of Trees & Perennial Crops	Perennial Crops or Trees affected	<ul style="list-style-type: none"> <li>• All PAPs, both titled and non-titled</li> </ul>	<ul style="list-style-type: none"> <li>• The loss of the privately-owned timber trees will be compensated at replacement cost, or the cost agreed by both the owner and the project. In case of the land acquisition through appropriation, such trees will be compensated at the rate fixed by the Compensation Determination Committee, (CDC), which is required to consider prevailing market rate while determining compensation for trees.</li> <li>• The loss of the fruit-bearing trees will be compensated based on the loss of annual income for 5 years. The compensation will also consider the planting and raising costs.</li> <li>• The loss of fodder trees and fuelwood trees will be compensated based on the value of 3 years annual net production or as determined by the CDC.</li> </ul>
Construction-induced impacts and losses (during works)	Perennial/ nonperennial Crops or Trees affected	<ul style="list-style-type: none"> <li>• All PAPs, both titled and non-titled</li> </ul>	<ul style="list-style-type: none"> <li>• Extreme care to be taken by contractors to avoid damaging crops and trees</li> <li>• Where damages occur because of construction works, the affected parties will be compensated immediately for damages to crops and trees</li> </ul>

Loss of business or employment	Business/employment loss	Business owner	<ul style="list-style-type: none"> <li>• Every displaced household with business affected will be entitled to receive a one-time lump sum grant for reestablishing lost business; a minimum three month's income based on the nature of business, one-time cash assistance equivalent to one month rent for temporarily moving business to alternative premises and the type of losses assessed on a case-to-case basis</li> <li>• The household will be entitled to a rental stipend for loss of rented accommodation</li> <li>• Cash compensation for damages to structures resulting from the temporary occupation of land at replacement cost.</li> </ul>
		Workers/employees	<ul style="list-style-type: none"> <li>• Indemnity for lost wages equal to 3 months of minimum subsistence income and job trainings.</li> </ul>
<b>Allowances</b>			
Transportation for physical relocation of houses	Transport/transition costs	<ul style="list-style-type: none"> <li>• All PAPs regardless of legal status</li> </ul>	<ul style="list-style-type: none"> <li>• All displaced household will receive a fixed transportation allowance as spelt out in the RAP.</li> <li>• Every physically displaced household is entitled to a <del>housing</del> displacement allowance, rental cost for three months and an option of replacement housing.</li> </ul>
Transitional hardships affecting vulnerable households	Hardship allowance paid to vulnerable PAPs	PAPs with income below the poverty line, landlessness, female-headed with orphans, low caste (Dalits) with evidence of exclusion, households with chronically ill household heads among others. Allowance aimed at	<ul style="list-style-type: none"> <li>• Vulnerable PAPs will be given hardship allowance as determined by the project in consultation with the CDC and affected PAPs.</li> </ul>

		preventing further vulnerability due to displacement	
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#### 4.6 Temporary Acquisition

Temporary easements are requirements for space (easements) during construction, such as alternative routes or detours, access roads, spoil disposal areas, worker's camps, and equipment and supply yards, among others. It is expected that the contractors will manage such land through negotiations with the landowner on terms that are mutually agreed upon by two parties. However, if the project or the local government themselves secure this temporary land for the contractors, the compensation should be market rental for the land, and compensation to structures, trees, and crops that may be removed or damaged during the lease period will be provided as prescribed in the Entitlement Matrix (Table 5.2 above).

#### 4.7 Unanticipated Damages/Changes in the Required Area

Unanticipated land needs such as additional area or right of way shall be subject to the Entitlement Matrix above and negotiations with owners. However, if the damages are caused by the contractor, these shall be settled by the contractor with their owners and claimants.

#### 4.8 Cut-off date

As per ESS 5, the cut-off date will be the date by which the affected property has been surveyed/measured as part of the census to document an inventory of the affected assets. All households, individuals and groups identified in the census survey will be eligible for compensation and support. However, there are complications in determining cut-off date based on the completion of the survey in Nepal. Some of the complications include official confirmation of such date, lack of a regulatory framework to legally establish the date and the survey completion date may differ from one affected property to another depending on when the survey was completed. Given these complications, the prevailing practice is that the cut-off date is the date that the chief of Compensation Determination Committee (CDC) publishes a public notice of Land Acquisition as per Clause 9 of the Land Acquisition Act, 1977, which effectively freezes land transactions and assets documented in the assets inventory survey. Given the established practice, the project will take the date of the publication of the Land Acquisition notice as the cut-off date for the titleholders. The publication of the Land Acquisition notice will be communicated to the concerned PAPs through public notices at community level and at stakeholder consultation sessions. Records of such communications will be maintained. However, for non-titleholders, the date of the census survey will be established as the cut-off date and the date will be properly informed to the impacted non-titleholder PAPs and records of such communications will be maintained. It will also be communicated to the PAP and local community that anyone moving in after the establishment of the cut-off date will not be considered for compensation.

#### 4.9 Vulnerable Groups

Based on the socioeconomic conditions of the country, the vulnerable and disadvantaged groups to be encountered in the project area may include (i) Dalits; (ii) IPs; (iii) single women-headed households; (iv) elderly household heads; (v) household living below the poverty threshold; (vi)

households with undernourished young children; (vii) landless farmers/laborers; and (viii) persons with disabilities. The PAPs belonging to these groups will be identified and their conditions carefully considered and assessed in the consultation approach and in the type of assistance to be extended. The subproject-specific RAP/LRP will identify and document the presence of the vulnerable people and recommend options for approaches and assistance. The types and nature of assistance will be determined during consultations and/or individual negotiations with the concerned PAPs or their groups.

**Table 5.3: Possible additional assistance to be provided to vulnerable PAPs.**

<b>Vulnerable PAP</b>	<b>Approach/Assistance that maybe extended</b>
Dalits	<ul style="list-style-type: none"> <li>• Consultations and FGDs</li> <li>• Exploring possibilities of employment in the subproject</li> <li>• Provision of livelihood support, including skill training</li> </ul>
Household below poverty threshold	<ul style="list-style-type: none"> <li>• Exploring possibilities of employment in the subproject</li> <li>• Livelihood assistance such as skill trainings</li> </ul>
Single women-headed households	<ul style="list-style-type: none"> <li>• Livelihood assistance such as skill trainings</li> <li>• Assistance in demolition, transport of belongings and materials, and in reconstruction of abodes</li> </ul>
Elderly headed households	<ul style="list-style-type: none"> <li>• Assistance in harvesting of affected crops/trees before construction</li> <li>• Assistance in demolition, transport of belongings and materials and in reconstruction of abodes.</li> </ul>
Landless farmers/laborers	<ul style="list-style-type: none"> <li>• Employment in the subproject</li> <li>• Livelihood assistance such as skill trainings</li> </ul>
Households with disabled persons, elderly, and small children	<ul style="list-style-type: none"> <li>• Transportation during transfer</li> <li>• Assistance in finding a place to move to</li> <li>• Special care and food allowance during transfer</li> </ul>

Where relevant, these additional measures will be included in specific sub-project RAPs. The RAPs will be adopted prior to invitation for bids and implemented fully prior to commencement of works.

## **5. Preparation and Implementation of Resettlement Action Plans**

Below is a process for completing and adopting RAPs prior to invitation of bids for contracts; and to implement RAPs before works commence. In general, sites for sub-projects will be screened for potential resettlement impacts as first step. Thereafter and depending on nature of impacts, RAPs will be prepared, consulted upon with PAPs, and adopted before invitation for bids. For all sub-projects where RAP is prepared, the RAP will be implemented fully before construction works can commence at such sites.

### The Resettlement Planning Process

The project will implement the following steps for the preparation and implementation of the subproject level RAPs and LRP as required.

### **5.1 E&S Screening**

Every proposed work package or contract will be subjected to an E&S screening process before it is selected for inclusion in the project. The E&S Screening Form provided in Annex 1.3 of the ACCESS 1 ESMF (2022) contains checklists on social aspects of the subproject and Annex 1.4 of the same document provided indicative structure of E&S Screening report. The screening process will determine, among others, the eligibility of subprojects for funding under the Program. The information gathered through the process will be reviewed and validated by the E&S specialists of PCU under MoICS as part of the process of subproject evaluation. The E&S screening will be carried out in close consultation with various stakeholders, including the beneficiaries, PAPs, women, IPs, and vulnerable such as Dalits, and other local key informants. The outcome of the screening exercise is whether the proposed subprojects result land acquisition and displacement and resettlement impact and required preparation of RAP/ or LRP along with requirement of detailed ESIA or ESMPs for the World Bank clearance and Environmental Impact Assessments (EIAs) or Initial Environmental Examinations (IEEs) for the government clearance.

### **5.2 Social Assessment of the Affected Community**

The social assessment of the affected communities is one of the components of the subproject level E&S assessment. It is usually conducted while conducting ESIA, EIA/IEE, or ESMP. The main scope of the social assessment is to collate information sufficient to determine land requirements for the subproject, precise location of land acquisition and probable social and resettlement impacts that may be triggered by the land acquisition. This action will be completed prior to invitation of bids for corresponding activities.

### **5.3 Census Survey of PAPs**

Each subproject is required to conduct a census survey of all the PAPs, who would be impacted by the project in terms of either physical or economic displacement. The census will provide baseline socioeconomic data of the PAPs and their households, informing the project about the scale of the risks and impacts. Specific information about the PAPs and their households will also be used in identifying vulnerabilities and determining the appropriate assistance to be extended and approaches to be employed during the land acquisition and resettlement process. An indicative guide questionnaire has been provided in Annex 2 of this RPF. This action will be completed to inform RAP preparation

### **5.4 Valuation of Affected Assets**

All assets that will be affected, as identified by the census survey teams, will be properly recorded and verified in the presence of the concerned persons or owner of the impacted assets. During this process, the assets to be impacted will be carefully accessed by technical experts, probably by a group of engineers and measurement of such assets will be taken in consent with the assets owner to ensure scientific methodology and preciseness in computing the compensation amount. The detailed survey asset information will be electronically recorded. The valuation of affected assets will be undertaken in coordination with the District-level Compensation Determination Committees (CDCs). The project will make affords to record the geo-references of the said assets (land, structures) by using a Global Positioning System (GPS) to ensure proper electronic recording of each asset to be affected.

### **5.5 Preparation of draft Resettlement and/ or Livelihood Restoration Scheme**

The document will mainly contain the principles and policies of RAP designed/proposed for a specific subproject based on the socio-economic conditions of the affected communities. It will layout anticipated scale and types of losses to be incurred by the PAPs and the methods that will be applied to determine the valuation of the impacted assets and options of resettlement supports. In addition, the document will contain the feasible options for compensations based on the local conditions, including proposed assistance to vulnerable PAPs.. This action will be completed prior to invitation of bids for corresponding activities.

#### **4.6 Consultations with Prospective PAPs**

The subproject will organize the first-round consultations with the prospective PAPs and present the draft RAP that includes the principles, policies, compensation determination methods, resettlement assistance and additional support to IPs and vulnerable people along with the options available to the PAPs. The consultations will result in the selection of feasible options, among others. The consultations, including all the comments/concerns/suggestions made by the participating PAPs, will be well documented. At the end of the meeting, the assigned E&S staff of the subproject will read out the broad outcomes of the meeting to verify them from the participants. All the meeting notes and minutes will also be communicated to both the PAPs and other concerned agencies through the information dissemination channels prescribed by the SEP. The minutes of the meeting will be attached to the RAP/LRP document. This action will part of RAP preparation.

#### **5.7 Development of the RAP/LRP**

The subproject will develop a revised draft of the RAP/LRP by using the agreed principles and policies of RAP, compensation determination methods, resettlement assistance, and additional support to IPs and vulnerable people and incorporating the results of the first round of consultations. Livelihood support schemes will be designed in consultation with PAPs in commensurate with level of impact on income sources and livelihood strategy. The livelihood restoration support might be in the form of preferential employment opportunities (project construction works) to members of the affected family who would like to work. Similarly, as a part of income restoration program for rehabilitation of the physically/economically displaced and vulnerable households, livelihood support training will be conducted based on need assessment<sup>2</sup> during project implementation. The E&S specialists/staff of PCU under DoR/MoICS will take a lead role in developing the draft RAP/LRP. The revised draft RAP/LRP will be shared with World Bank for review and feedback. Project directors at various PCUs will be responsible for securing ministerial approval of RAPs and ensure that appropriate budgets are allocated for full implementation of the RAPs.

#### **5.8 Disclosure of revised draft RAP/LRP**

The revised draft of the RAP/LRP will be presented to the PAPs for confirmation of the changes, the timeline, the whole process of acquisition, including determination of compensation, resettlement

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<sup>2</sup> Before the designing of livelihood support training program, training need assessment will be carried out and finalization the training along with training modules, time frame and place. The training program will be conducted close coordination with district level training providing institutions by the project at the 1st year of project implementation. Training allowances will be provided to all trainees from vulnerable category to ensure that the training provided is useful to generate their daily income that could have been lost while attending the training.



assistance and additional supports to IPs and vulnerable people and the mode of compensation payment. All the comments/concerns/suggestions/feedback expressed in the consultation meeting will be documented, and the results of the meeting will be communicated to the PAPs and project stakeholders through the information dissemination channels prescribed by the SEP. The minutes of the meeting will be attached to the RAP/LRP document. The draft RAP/LRP will also be disclosed through respective website of DoR/MoICS and World Bank.

#### **5.9 Finalization of RAP/Land Acquisition Documents and Disclosure**

The RAP/LRP will be finalized based on the results of the Second Round of Consultation and the final version of the RAP/LRP will be disclosed to the PAPs through the information dissemination channels prescribed by the SEP developed for this project. The Final RAP will also be made available in the communities. Once finalized and approved by the PCU, the copies of the final RAP/LRP will be shared with WB for review. The approved RAP/LRP will be posted on the websites of PCU/MoICS and WB. The finalization, approval and disclosure of RAPs will be completed prior to invitation of bids for corresponding sub-project/activities. Based on RAPs, all compensation will be paid prior to commencement of civil works.

## **6. Public Participation, Consultation and Grievance Mechanism**

As envisaged by the Stakeholder Engagement Plan (SEP) prepared for the project, the project will conduct meaningful consultations with all the project identified stakeholders, including project-affected people, other interested parties and IPs, and vulnerable people for arranging for proper resettlement and compensation mechanisms. Public consultation includes comprehensive and timely dissemination of RAP related information to the project-affected people, while involving at the same time all agencies who will implement and monitor the process. Care will be taken to maintain transparency of the Project, reduce potential conflicts, minimize the risk of project delays, and enable the Project to design the resettlement and the rehabilitation program as a comprehensive development program to suit the needs and priorities of the PAPs. Given the relevance of consultation to the project, the RPF has been publicized on the website of the DoR and MoFE for public information and consultation. Consultation sessions with relevant stakeholders including local communities and District Compensation Committees – will be held to explain the RPF to them. Comments from the disclosure and consultation sessions will be incorporated in the RPF to finalize it.

### **6.1 Stakeholder Engagement Planning**

A specific stakeholder engagement plan has been prepared to guide meaningful consultations with stakeholders, including the PAPs during project design and implementation, throughout the project lifecycle, and to ensure that they have equal opportunities to participate in and benefit from the project.

During detailed design, all project stakeholders will be identified for the project. Project stakeholders included:

- Project-affected parties are those Directly affected people who are physically or economically displaced due to project-related land acquisition and other construction activities or the restrictions created by the project activities in accessing to the land and common property
- Other interested parties such as government departments, non-government organizations, and media groups.
- Vulnerable groups including Dalit, indigenous groups, women, children, youth and the elderly, peoples with disabilities, LGBTI (lesbian, gay, bisexual, transsexual, intersex), minority groups, and households in extreme poverty.

### **6.2 Mechanisms of Consultation and Participation of PAPs**

Public consultation will include both local governments, local communities, project affected families, IPs and vulnerable groups, women groups, differently able groups, media, politicians, water user groups, and civil society throughout the project lifecycle. In the consultations, the PAPs would be regularly provided with information on the project and the resettlement process prior to and during the preparation for resettlement actions. Mechanisms of consultation and participation will include:

- Public meetings in the subproject area
- Information/ awareness campaigns through engaged NGO
- Interviews/surveys in project-affected households

- Information about the restriction in access to common resources
- Focus group discussions (separate focus group discussion if required),
- Formation of committees and/or groups including stakeholders during project preparation and implementation.
- Development of grievance redresses mechanism in line with the SEP of the Project.

### **6.3 Consultations with IPs and Vulnerable Individuals and Groups**

The project and the subprojects will deploy special measures to mitigate any adverse impacts on vulnerable project-affected persons. The IPs include the 60 ethnic groups categorized as indigenous peoples by the government. The vulnerable groups may include the Dalits, women (including women of single-headed households, women of low-income households, and landless women), children, youth and elderly, peoples with disabilities, those who identify as LGBTI, minority religious groups, and households living in extreme poverty. SEP outlines the specific measures proposed for engagement with the IPs and the vulnerable groups throughout the project lifecycle. The time and location of consultations will be determined as appropriate to the needs of IPs and vulnerable people.

### **6.4 Disclosure and Dissemination Strategies**

Project-related information will be publicly disclosed throughout the project lifecycle using a range of channels, including the following:

- Periodic stakeholder consultations, such as public hearings
- Project-related information will be posted on the notice boards at the public offices
- Information dissemination through social media such as Facebook, Messenger or WhatsApp and local communality radio, among others.
- Digital boards will also be placed on selected worksites to display up-to-date information regarding the project, ensuring that local people understand the information well.
- Development and distribution of project factsheet, information on the GRM, and FAQ in Nepali.

In addition, the draft and final version of the RPF will be disclosed to the stakeholders, including the PAPs through appropriate channel, and consulted with them to get their comments, concerns, and feedback on the draft RPF. The RPF will be finalized incorporating the relevant suggestions and feedback received from the stakeholders, including the PAPs. The final RAP will be disclosed once approved by PCU/MoICS and World Bank.

Executive Summaries (ES) of RPF will be translated into the Nepali language and paper copies will be made available to the PAPs of the project area through the concerned offices of local governments and offices of government line agencies. As per Clauses 3, 7 and 8 of Right to Information Act, 2064 (2007), copies of RPF and other project documents will be provided to any requester. Besides key highlight of final RPF will also be disseminated through appropriate means of communication like Social Media, FM radio broadcasts through local radio stations, community meetings, focus group discussions, participatory appraisal techniques, household interviews and social mobilization techniques.

All the plans prepared under this framework will be disclosed and disseminated following above-mentioned strategies.

### **6.5 Establishment of Grievance Redress Mechanisms**

As explained in detail in the project SEP prepared as per the ESS 10, the project (ACCESS1-Trade Facilitation Component) will establish a Grievance Redress Mechanism to allow affected persons and other related stakeholders to appeal any disagreeable decisions, practices, and activities that may arise during preparation and implementation of the RAP. The PAPs will be made fully aware of their rights and the procedures for filing the complaints and grievances verbally and in writing during the consultation, survey, and time of compensation. The project's GRM is at no cost to complainants and guarantees that there will be no retribution for people who lodge complaints on project activities. Furthermore, the grievance mechanism will not impede access to judicial and administrative remedies. The Land Acquisition Act, 1977 has provision by which any person unsatisfied with the decision of acquiring their land can appeal to Ministry of Home Affairs within 7 days of publication of land acquisition notice. The act also allows that unsatisfied land loser to appeal to the district court within 35 days of decision date of land acquisition.

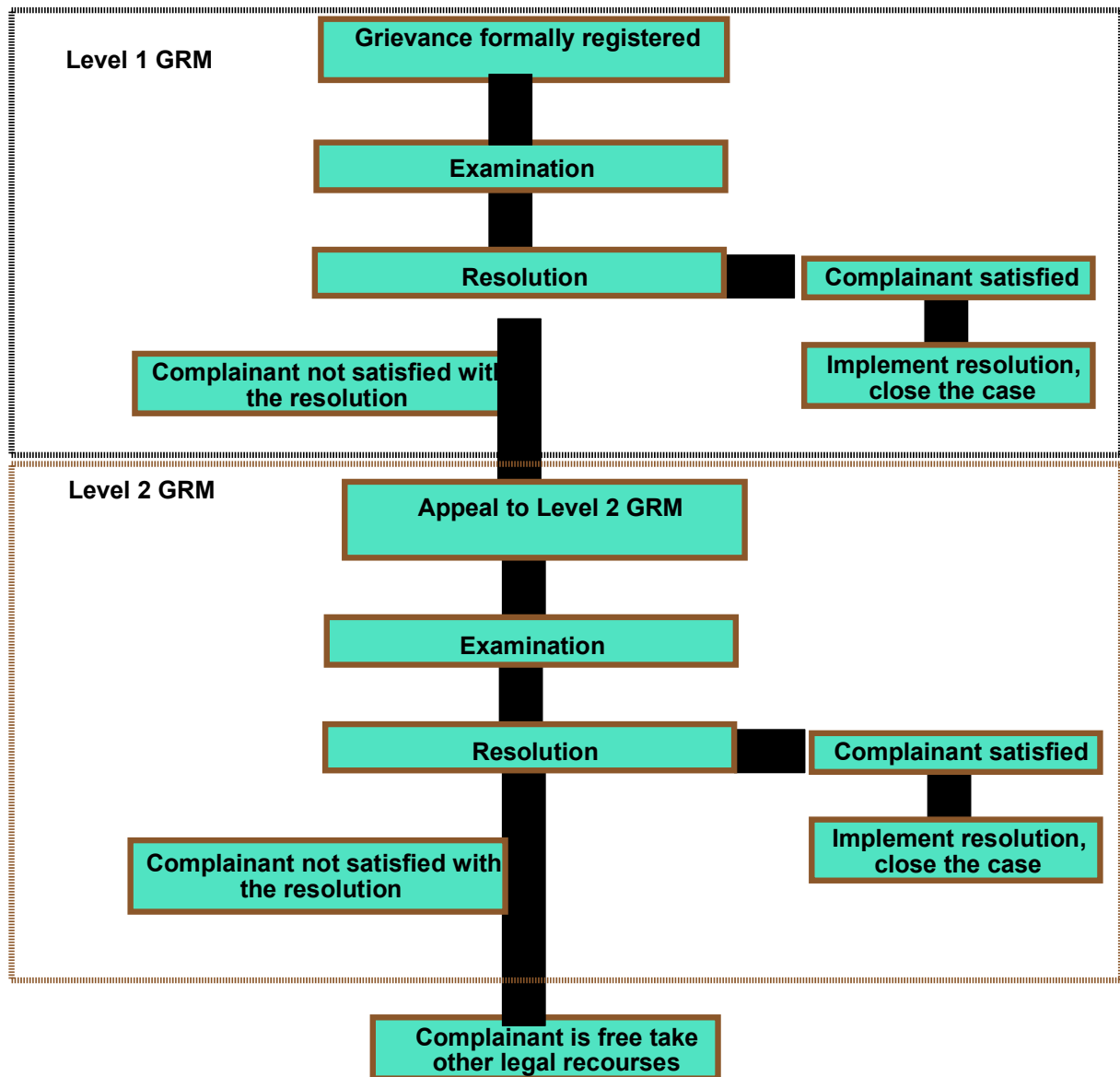
To ensure a functioning GRM, the project has envisaged a two-tier project GRM system.

**Level 1:** This is based at the project office at the project site and will serve as entry points for all complaints related to the project. Once the grievance is registered, it would come into the Level 1 of the GRM system. The Level 1 GRM committee will be led by the Chief of the project site office and supported by E&S Specialist, representative/s of construction contractor and a technical engineer of the project office. Together, these officials constitute the members of the four-member local level GRM committee. If required, the Level 1 GRM committee may seek support from the Judicial Committee<sup>3</sup> at the local government level.

**Level 2:** If the complainant rejects the resolution made by the Level 1 or the GRM Committee remains unable to make any resolution within the stipulated time, the grievance will be scaled up to level 2 of the GRM system. The Level 2 GRM committee, which will be based in the PCU under MoICS, will be headed by the chief of the PCU, and supported by the Social Specialist or Staff at the PCU and another person assigned by the PCU head. The three-member committee can seek supports from other experts or institutions in course of investigating and resolving complaints. If complainants remain unsatisfied or reject the resolution provided by the Level 2 GRM, they will be advised to seek recourse through the courts or any formal system available.

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<sup>3</sup>Article 117 of the Constitution of Nepal, promulgated in 2015, prescribed a three-member Judicial Committee at the local level coordinated by its Vice-Chairperson in the case of a Rural Municipality and by its Deputy Mayor in the case of a Municipality, to settle disputes under their respective jurisdictions in accordance with the law



**Figure 2 GRM System ACCESS1-Transport & Trade Component**

The project will ensure the availability of a variety of methods for stakeholders to lodge grievances. Affected people and other stakeholders can lodge a grievance at Level 1 by:

- Filling out and submit complaint forms at the project site office. The E&S Specialist at the Project Site Office will assist in filling out the complaint form for complainants who are unable to read or write and/or are unfamiliar with the grievance process. In such case, the Social Safeguard Specialist or any other person assigned for the task will formally register the grievance by filling out the complaint form made available for the project
- Sending emails or by calling in the assigned number/s of the project office
- Using the project social media handles such as Facebook
- Sending grievances through postal service to project offices at Federal and local levels.

Details of the project-level GRM, which will be used for addressing and resolving resettlement-related grievances, are outlined in the SEP for ACCESS 1. The proposed structure for the GRM is outlined below. A draft grievance recording, registration and closing forms have been provided at Annex 1 of the ACCESS 1 project SEP.

In addition to the project GRM, the PAPs will also have access to the government grievances mechanisms set up at the concerned District Administration Office and the Ministry of Home Affairs as per the Land Acquisition Act, 1977. The act has specifically provided the PAPs a window to file a complaint to the Ministry of Home Affairs (MoHA) through the Chief District Officer (CDO) regarding the amount of compensation offered to him/her. Similarly, the act also allows the PAPs to appeal to exclude him/her from the list of landowners whose land would acquire for the project once such list of land acquisition had been published.

## 7. Monitoring and Evaluation

The implementation of the RAP/LRP will be monitored both internally and externally with the objective of identifying problems and successes and providing feedback to management as early as possible so that timely corrective actions and adjustments are made in the implementation arrangements.

### 7.1 Monitoring Social Aspects Pertaining to RAP

The objectives of the monitoring activities are:

- to ensure that the standard of living of APs are restored or improved;
- to ensure that the timelines for resettlement and compensation are met;
- to assess if compensation, rehabilitation measures and social development support program are sufficient;
- to identify problems or potential social conflicts; and
- to identify methods of responding immediately to mitigate problems.

The monitoring and evaluation of RAP/LRP implementation with a focus on social implications will be conducted at two stages: the first will be conducted within 2 months after the completion of the land acquisition and the second will be undertaken a year before the project completion. The first evaluation will focus more on the implementation of the RAP in terms of distribution of the compensation and resettlement assistance, including the job opportunities provided to the PAPs. The Annex 4 provides an indicative RAP monitoring report template. The first evaluation will also support the preparation of the Land Acquisition Completion Report. It will also assess the type of adjustments/adaptations being made during implementation because of the monitoring. The second monitoring and evaluation will confirm the implementation of RAP/LRP with its expected outcomes. The reports of monitoring activities will be published on the websites of MoFE and DoR. Where relevant and appropriate, the results of the monitoring activities may be published and promoted in local media and used to inform subsequent review of project resettlement activities.

### 7.2 Types of Monitoring Applied

For sub-projects where resettlement and land acquisition will be required, specific monitoring and evaluation program will be implemented to (i) record and assess project inputs and the number of persons affected and compensated, and (ii) confirm that former subsistence levels and living standards are being re-established. The range of activities and issues that would therefore have to be recorded and checked, include:

- land acquisition and transfer procedures;
- compensation payments;
- construction of replacement houses by displaced households;
- re-establishment of displaced households and business enterprise
- reaction of severely affected households, in particular, to resettlement and compensation packages; and
- re-establishment of income levels.

Two main monitoring mechanisms will be applied:

**Internal Monitoring**

This type of monitoring studies the ongoing process and the respective outputs, compared against established social indicators. The projects will be responsible for internal monitoring of RAP implementation. The PCU will supervise the land acquisition components of the RAP. The Social specialists in PCU under MoPIT/MoICS give guidance on the monitoring and prepare quarterly reports on the findings of the monitoring reports received from the sub-projects. The funding agency (World Bank) will receive copies of these monitoring reports. Once approved by the PCU and the funding agency for public disclosure, the quarterly RAP implementation reports will be disseminated through the project website as well as through the official website of DoR/MoICS

**External Monitoring**

The external monitoring to be conducted by an independent monitoring agency will assess the extent to which resettlement and rehabilitation objectives have been met or being achieved. The PCU, following the approval of the ToR for a specific task from the World Bank, will recruit an independent external firm/consultant for an independent annual review of RAP implementation to determine whether intended goals are being achieved, and if not, what corrective actions are needed. The independent agency will carry out field visits and hold consultations with the PAPs, including IPs and vulnerable communities. The findings of the external monitoring reports will be subject to public disclosure through a public consultation meeting. External monitoring reports will be submitted directly to the PCU under MoICS with copies to the funding agency, the World Bank. Once approved by the PCU and the funding agency for public disclosure, the external monitoring reports will be disseminated through the project website as well as through the official website of PCU/MoICS

**7.3 Social Indicators to Monitor the Effectiveness of the Proposed RAPs**

The following table 8.1 presents the basic indicators that are recommended under this framework for monitoring the success/failure of the resettlement activities and the development programs for vulnerable groups.



**Table 8.1: Framework for monitoring social Issues Related to Resettlement and Vulnerable Groups**

Type	Indicator	Variables
Process monitoring indicators	PAP involvement in ongoing project works, Consultation, Participation, and Grievance Resolution	<ul style="list-style-type: none"> <li>• Number of consultations with the PAPs and issues discussed</li> <li>• Number of workers employed from the project affected families/area</li> <li>• Number of persons belong to IPs or vulnerable groups being employed</li> <li>• Number of women being employed</li> <li>• Number registered grievances, types, and resolution</li> <li>• Number of field visits by project/subproject staff</li> <li>• Number of FDGs with IPs and or vulnerable groups on RAP issues</li> <li>• Number of PAPs who complaint that they don't understand entitlements</li> <li>• Number of PAPs receiving compensation and resettlement assistance</li> </ul>
	Procedures in Operation	<ul style="list-style-type: none"> <li>• Census and CDC asset determination/verification procedures in place</li> <li>• Effectiveness of compensation payment/delivery system</li> <li>• Number of land transfers undertaken</li> <li>• Coordination between PCU and line agencies</li> <li>• Number of households/PAPs to be resettled because of displacement.</li> <li>• Status of livelihood restoration activities.</li> <li>• Number of targeted beneficiaries provided support with employment and other income-generating activities, among others.</li> </ul>
Output and monitoring indicators	Acquisition of Land	<ul style="list-style-type: none"> <li>• Area of private agricultural land acquired by the subproject</li> <li>• Area of other types of private land acquired</li> <li>• Area of public/government land acquired</li> <li>• Compliance of established norms in land acquisition</li> <li>• Number of disputes resolved related to land acquisition</li> </ul>

Type	Indicator	Variables
	Structures	<ul style="list-style-type: none"> <li>• Number, type, and size of private structures acquired</li> <li>• Number, type, and size of community structures acquired</li> <li>• Number, type, and size of government structures acquired</li> </ul>
	Trees and Crops	<ul style="list-style-type: none"> <li>• Number and type of private crops and trees removed</li> <li>• Number and type of government/community crops and trees removed</li> <li>• Crops destroyed by area, type, and number of owners</li> </ul>
	Compensation and Rehabilitation	<ul style="list-style-type: none"> <li>• Number of households affected in terms of loss of land, buildings, trees, crops</li> <li>• Number of owners compensated by type of loss</li> <li>• Amount compensated by type and owner</li> <li>• Number and number of allowances paid</li> <li>• Number of replacement houses constructed by concerned owners</li> <li>• Number of replacement businesses constructed by owners</li> <li>• Number of owners requesting assistance for purchase of replacement land</li> <li>• Number of replacement land purchases effected</li> <li>• Number of delivery of entitlements</li> <li>• Number of use of entitlements by PAPs</li> <li>• Suitability of entitlements to APs as per RAP objectives</li> <li>• Number of poor and vulnerable APs requesting assistance to allocate land and provide lease/temporary rights</li> <li>• Number of assistances made related to poor and vulnerable APs</li> </ul>
	Construction-induced impact	<ul style="list-style-type: none"> <li>• Number of households affected during construction period and the nature of impacts</li> </ul>

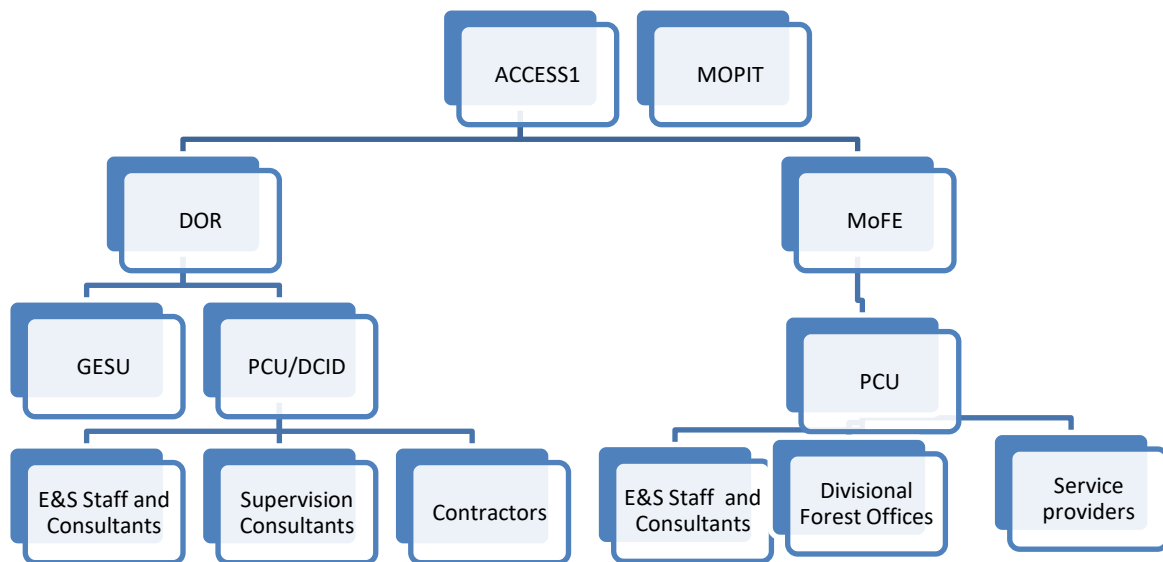
Type	Indicator	Variables
	Reestablishment of community resources	<ul style="list-style-type: none"> <li>• Number of community buildings/facilities repaired/ replaced</li> <li>• Number of saplings supplied for plantation</li> <li>• Number of trees planted by government agency as compensatory plantation</li> </ul>
Outcome/ Impact and evaluation indicators	Household Earning Capacity	<ul style="list-style-type: none"> <li>• Employment status of economically active members</li> <li>• Landholding area cultivated, production volume by crop</li> <li>• Types and value of livestock raised</li> <li>• Selling of cultivation land</li> <li>• Changes to agricultural income-earning activities – pre-and post-disturbance</li> <li>• Changes to off-farm income-earning activities - pre-and-post-disturbance</li> <li>• Amount and balance of income and expenditure</li> <li>• Numbers of vulnerable groups received livelihood opportunities</li> <li>• Number of APs received employment opportunities to restore pre-project income levels and maintain their original living standards.</li> </ul>
	Changes to Status of Women	<ul style="list-style-type: none"> <li>• Participation in users' committees, disaggregated by subject</li> <li>• Participation in training programs, disaggregated by subject</li> <li>• Participation and types of saving/ credit facilities</li> <li>• Participation in construction employment contracts and payment</li> <li>• Participation in commercial enterprises</li> <li>• Change in ownership over assets</li> <li>• Change in status in decision making</li> <li>• Change in the mobility and participation in public affairs and user groups (if formed).</li> </ul>

Type	Indicator	Variables
	Changes to Status of Children	<ul style="list-style-type: none"> <li>• School attendance rates (male/female)</li> <li>• Participation in civil construction of the subprojects</li> <li>• Incidences of trafficking</li> </ul>
	Settlement and Population	<ul style="list-style-type: none"> <li>• Growth in number and size of settlements</li> <li>• Growth in market areas along the access road to subproject</li> <li>• Influx of informal settlers and informal occupiers around the subproject areas</li> <li>• Increase in public facilities</li> </ul>
	Multiplier effect	<ul style="list-style-type: none"> <li>• Changes in the economic activities, enterprises, and functions of the market</li> <li>• Changes in the employment status of the population</li> <li>• Changes in the economic and social infrastructures</li> <li>• Changes in the pattern of consumption</li> </ul>

## 8. Institutional Arrangements for RAP Implementation

### 8.1 Organizational Structure to Implement the RAP

The trade component of the ACCESS 1 will be implemented MoICS, through a Project Coordination Unit (PCU), in coordination with designated units in the agencies responsible for implementation of various sub-activities. The ACCESS 1 ESMF (2022) has proposed an integrated an institutional framework and environmental and social staffing arrangement within the institutions (Figure9.1).



**Figure 2 E&S Implementation Arrangements of ACCESS1**

#### Project Coordination Unit (PCU)

At the central or federal level, the Trade Facilitation Components will be managed by a Project Management Unit (PCU) under MoICS. A new PCU, headed by a Project Director, will under DoR/MoICS will be established for this purpose. The PCU will be tasked with the responsibility of managing E&S safeguards aspects, and undertaking all procurement and contract management activities. As stated earlier, the PCU will recruit dedicated Social Development Specialists who will be responsible for planning, designing and implementation of the RAP/LRP, monitoring and reporting quarterly on the implementation of the RAP and other social management plans. The PCU also ensures that the contractors will have adequate environmental, health and safety (ESHS) specialists for implementation of the subprojects.

#### Project Site office

At project level, the project site office of DoR and MoCIS will be responsible to facilitate and assist PCU for planning, designing, implementation and monitoring of the RAP/LRP including community consultations, managing project-related complaints and grievances, and supporting community mobilization efforts of the project. The project site office will recruit a dedicated E&S staff /specialist to be responsible for the implementation of the planned activities in this RAP and the E&S specialist/staff will be responsible for managing E&S issues of the project at the local level, with technical support and guidance from the social staff/specialist at the PCU. In addition, the E&S specialist will also serve as the focal persons for the GRM Level 1 at the local level. In addition, the E&S specialist will also be responsible for reporting and helping to manage sensitive incidents, such as

grievances related to SEA/SH to the Social staff at the DoR/MoICS. The staffs to be recruited at the PCU and project site office will be trained by the World Bank in collaboration with the PCU/DoR on the management of project-related E&S risks and impacts. The organizational structure will be reviewed periodically to ensure the effectiveness of RAP implementation.

## 8.2 The Roles and Responsibilities of Units/Agencies and individuals

The roles and responsibility of key agencies/units envisaged for the implementation of the RAP are shown in the table below.

**Table 9.1: Roles and Responsibility of Related Units/Agencies**

Key units/agencies	Roles and responsibilities
DoR at MoICS	<ul style="list-style-type: none"> <li>• Procure environmental and social consultants to prepare the required E&amp;S instruments such as ESIA, RAP, IPDP, and IEE/EIA needed for the World Bank and government approvals</li> <li>• Review and approve the RAPs prepared by the project office/s</li> <li>• Planning, budgeting, and ensuring the implementation of the RPF/RAP.               <ul style="list-style-type: none"> <li>○ Coordinate and monitor PPF/RAP activities with the Project site office established by MoICS.</li> <li>○ Collating RPF/RAP-related activities from the project site office along with their performances and outcomes.</li> <li>○ Undertaking periodic monitoring of PPF/RAP, and preparation and dissemination of quarterly PRF/RAP implementation reports.</li> </ul> </li> <li>• Ensuring necessary financial and human resources for effective implementation of the PRF/RAP and other E&amp;S management plans.</li> <li>• Ensuring the project activities as per the various guidelines and directives issued by the government and other related organizations, including Covid 19 management protocols.</li> <li>• Ensuring effective management and reporting of project-related complaints and grievances as per the project GRM.</li> </ul>
E&S staff within PCU	<ul style="list-style-type: none"> <li>• Screening of proposed subprojects to identify their resettlement risk category and requirement of safeguard instruments to be prepared (ESIA or IEE, RAP, IPDP, etc.)</li> <li>• Prepare terms of reference for the E&amp;S studies of subprojects</li> <li>• Reviewing consultant deliverables related to ESIA including RAP, reviewing bid documents for inclusion of ESMP measures, supervising construction activities, producing periodic monitoring reports,</li> <li>• Supervising CSC for the implementation of RAP &amp; ESMP</li> <li>• Closely coordinate with other concerned agencies, local governments, and communities to support the implementation of RAP</li> </ul>

CSC	<ul style="list-style-type: none"> <li>• RAP and ESMP implementation in close coordination with E&amp;S staff at Project site office of MoCIS</li> <li>• Preparation of monthly RAP progress reports and submit to PCU</li> <li>• CSC will have dedicated environment, social and OHS staff</li> </ul>
Project site office of MoCIS	<ul style="list-style-type: none"> <li>• Facilitate and assist CSC and PCU for planning, designing, implementation and monitoring of the RAP/LRP</li> <li>• Supporting the consultants hired for preparing the RAP as per the guidance provided by the RPF</li> <li>• Lead the implementation of stakeholder consultation activities at the community level as per the RPF/RAP</li> <li>• Supporting the PCU in identifying PAPs of the project at the local level and updating the list of stakeholders.</li> <li>• Mobilizing and organizing consultations and project engagement activities related to implementation of RPF/RAP</li> <li>• Disseminating project-related information in a timely manner.</li> <li>• Managing and ensuring the smooth functioning of the Level-1 GRM.</li> <li>• Reporting (monthly) on RPF/RAP and GRM to PCU</li> </ul>

### 8.3 Approval and Implementation Schedule for the Resettlement Action Plan

The PCU will procure consultants to prepare project specific RAP, if required, before implementation and the consultants procured by PCU with work in close collaboration with social staff of project site office. RAPs will be prepared as per the guidance made and the provisions specified in the RPF. The RAPs will be reviewed by E&S specialist staff of PCU and approved by the chief of the PCU.

The PCU at the MoICS will ensure that required funds are managed and handed over to the concerned CDC for timely acquisition of private land. It will make sure that the civil works contracts will not be awarded unless the agreed compensation has been paid and the title transfer activities of both voluntary and involuntary contribution of land have been completed.

For the project, an indicative schedule for implementing the RAP is shown in the Table 9.2., assuming a sequential order of proposed activities. Some of these steps may overlap in their timing and some will be repeated throughout the project cycle.

**Table 9.2: Milestones for RAP Implementation Schedule**

Activities	Milestone	Schedule
Deploy PCU at DoR/MoICS and required logistics	PCU established and started functioning	First year
Provide orientation/training on RPF/RAP to the Social Development Specialist and the relevant staff at the PCU	Orientation/training provided/organized	First year
Recruit required social staff and specialist at project site office and provide them orientation/training on RPF/RAP	Required social staff recruited	First year

Continue implementing consultation, information dissemination and participation programs and form GRM committee and initiate GRM awareness activities along with resolution of grievance (if any) Consultation with local communities, officials, PAPs and concerned line agencies	Orientation/training provided/organized Activities related to consultations and information dissemination started. GRM established and started functioning	
Coordinate to organize CDC meeting to initiate land acquisition process and procedure( See annex 4 for detail steps and procedures as per Land Acquisition Act)	CDC meeting with basic steps of acquisition processes to be followed	
Undertake Asset Inventory Survey Prepare and distribute copies of initial RAP, entitlement framework to affected PAPs/communities	Survey conducted and initial RAP prepared Entitlement framework discussed with the PAPs	First year
Verify inventory of losses	Inventory of losses verified	First year
Finalize list of entitled persons, establish compensation rates, effect compensation payments, ensure appropriate advance evacuation notification and implement land transfer procedures	A list of the entitled persons and the entitlement framework finalized Public notice issued by the CDC as per Clause 9 of the Land Acquisition Act, 1977 Land transfer procedures initiated and implemented	First year
Provide rehabilitation support and other social preparation/ social mobilization programs	Rehabilitation support provided to the eligible PAPs	First Year
Construction induced impact procedure	Construction induced impact procedure prepared	During construction
Contract and mobilize independent Monitoring agency	Independent Monitoring agency selected and mobilized	Second year
Implement internal and external monitoring programs	Periodic monitoring reports are prepared and disseminated	From second year and throughout the construction period

#### 8.4 Cost Estimate and Financing for the RAP

The exact locations, scale and scope of project intervention are yet to be finalized. However, rehabilitation, improvements, and new construction (if required) of trade facility infrastructures may require the procurement of privately-owned land. The costs of land acquisition and resettlement will be itemized and included in the overall project costs under the budget for 'Environmental and Social



Management Costs'. The cost of land acquisition and resettlement will be financed from government's counterpart fund. The detailed cost estimates for the selected subprojects will be captured in the respective IEEs or EIAs and, where applicable in the respective RAPs. The cost estimates will include:

- Planning and preparation costs, including the sub-project specific RAP and asset inventory survey
- Resources for land acquisition and resettlement costs,
- Funds for PAP consultations, information dissemination, and GRM operation
- Contingency arrangements.

A Detailed Cost Estimation chapter will be included in the subproject level Resettlement Action Plan (RAP).

## Annexes

### Annex 1: Indicative Contents of the Resettlement Action Plan (RAP)

1. **Description of the project.** General description of the project and identification of the project area.
2. **Potential impacts.** Identification of:
  - the project components or activities that give rise to displacement, explaining why the selected land must be acquired for use within the timeframe of the project.
  - the zone of impact of such components or activities.
  - the scope and scale of land acquisition and impacts on structures and other fixed assets.
  - any project-imposed restrictions on use of, or access to, land or natural resources.
  - alternatives considered to avoid or minimize displacement and why those were rejected; and
  - the mechanisms established to minimize displacement, to the extent possible, during project implementation.
3. **Objectives.** The main objectives of the resettlement program.
4. **Census survey and baseline socio economic studies.** The findings of a household-level census identifying and enumerating affected persons, and, with the involvement of affected persons, surveying land, structures and other fixed assets to be affected by the project. The census survey also serves other essential functions:
  - (a) identifying characteristics of displaced households, including a description of production systems, labor, and household organization; and baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population.
  - (b) information on vulnerable groups or persons for whom special provisions may have to be made.
  - (c) identifying public or community infrastructure, property or services that may be affected.
  - (d) providing a basis for the design of, and budgeting for, the resettlement program.
  - (e) in conjunction with establishment of a cutoff date, providing a basis for excluding ineligible people from compensation and resettlement assistance; and
  - (f) establishing baseline conditions for monitoring and evaluation purposes.
  - (g) As the Bank may deem relevant, additional studies on the following subjects may be required to supplement or inform the census survey:
  - (h) land tenure and transfer systems, including an inventory of common property

natural resources from which people derive their livelihoods and sustenance, non-title-based usufruct systems (including fishing, grazing, or use of forest areas) governed by local recognized land allocation mechanisms, and any issues raised by different tenure systems in the project area.

- (i) the patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; and
- (j) social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e. g., community organizations, ritual groups, nongovernmental organizations (NGOs)) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.

5. **Legal framework.** The findings of an analysis of the legal framework, covering:

- a. the scope of the power of compulsory acquisition and imposition of land use restriction and the nature of compensation associated with it, in terms of both the valuation methodology and the timing of payment.
- b. the applicable legal and administrative procedures, including a description of the remedies available to displaced persons in the judicial process and the normal timeframe for such procedures, and any available grievance redress mechanisms that may be relevant to the project.
- c. laws and regulations relating to the agencies responsible for implementing resettlement activities; and
- d. gaps, if any, between local laws and practices covering compulsory acquisition, imposition of land use restrictions and provision of resettlement measures and ESS5, and the mechanisms to bridge such gaps.

6. **Institutional framework.** The findings of an analysis of the institutional framework covering:

- (a) the identification of agencies responsible for resettlement activities and NGOs/CSOs that may have a role in project implementation, including providing support for displaced persons.
- (b) an assessment of the institutional capacity of such agencies and NGOs/CSOs; and
- (c) any steps that are proposed to enhance the institutional capacity of agencies and NGOs/CSOs responsible for resettlement implementation.

7. **Eligibility.** Definition of displaced( physical and economic both) persons and criteria for determining their eligibility for compensation and other resettlement assistance, including relevant cut-off dates.

8. **Valuation of and compensation for losses.** The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation for land, natural resources and other assets under local law and such supplementary measures as are necessary to achieve replacement cost for them.

9. **Community participation.** Involvement of displaced persons (including host communities, where relevant): a description of the strategy for consultation with, and participation of, displaced persons in the design and implementation of the resettlement activities.
- (a) a summary of the views expressed and how these views were considered in preparing the resettlement plan;
  - (b) a review of the resettlement alternatives presented, and the choices made by displaced persons regarding options available to them; and
  - (c) institutionalized arrangements by which displaced people can communicate their concerns to project authorities throughout planning and implementation, and measures to ensure that such vulnerable groups as indigenous people, ethnic minorities, the landless, and women are adequately represented.
10. **Implementation schedule.** An implementation schedule providing anticipated dates for displacement, and estimated initiation and completion dates for all resettlement plan activities. The schedule should indicate how the resettlement activities are linked to the implementation of the overall project.
11. **Costs and budget.** Tables showing categorized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.
12. **Grievance redress mechanism.** The plan describes affordable and accessible procedures for third-party settlement of disputes arising from displacement or resettlement; such grievance mechanisms should consider the availability of judicial recourse and community and traditional dispute settlement mechanisms.
13. **Monitoring and evaluation.** Arrangements for monitoring of displacement and resettlement activities by the implementing agency, supplemented by third-party monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for resettlement activities; involvement of the displaced persons in the monitoring process; evaluation of results for a reasonable period after all resettlement activities have been completed; using the results of resettlement monitoring to guide subsequent implementation .

***Additional planning requirements where resettlement involves economic displacement***

- If land acquisition or restrictions on use of, or access to, land or natural resources may cause significant economic displacement, arrangements to provide displaced persons with sufficient opportunity to improve, or at least restore, their livelihoods are also incorporated into the resettlement plan, or into a separate livelihood improvement plan. These include:

- *Direct land replacement.* For those with agricultural livelihoods, the resettlement plan provides for an option to receive replacement land of equivalent productive value or demonstrates that sufficient land of equivalent value is unavailable. Where replacement land is available, the plan describes methods and timing for its allocation to displaced persons.
- *Loss of access to land or resources.* For those whose livelihood is affected by loss of land or resource use or access, including common property resources, the resettlement plan describes means to obtain substitutes or alternative resources, or otherwise provides support for alternative livelihoods.
- *Support for alternative livelihoods.* For all other categories of economically displaced persons, the resettlement plan describes feasible arrangements for obtaining employment or for establishing a business, including provision of relevant supplemental assistance including skills training, credit, licenses or permits, or specialized equipment. As warranted, livelihood planning provides special assistance to women, minorities or vulnerable groups who may be disadvantaged in securing alternative livelihoods.
- *Consideration of economic development opportunities.* The resettlement plan identifies and assesses any feasible opportunities to promote improved livelihoods as a result of resettlement processes. This may include, for example, preferential project employment arrangements, support for development of specialized products or markets, preferential commercial zoning and trading arrangements, or other measures. Where relevant, the plan should also assess the feasibility of prospects for financial distributions to communities, or directly to displaced persons, through establishment of project-based benefit-sharing arrangements.
- *Transitional support.* The resettlement plan provides transitional support to those whose livelihoods will be disrupted. This may include payment for lost crops and lost natural resources, payment of lost profits for businesses, or payment of lost wages for employees affected by business relocation. The plan provides that the transitional support continues for the duration of the transition period.

## Annex 2: PAP Census Questionnaire Template

Name of the Subproject: \_\_\_\_\_

Address/Location: \_\_\_\_\_

Name of Interviewee: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Address in Project Area: \_\_\_\_\_

Age, sex \_\_\_\_\_

Relationship to the PAP: \_\_\_\_\_

Date of Interview: \_\_\_\_\_

1. Name of PAP? \_\_\_\_\_
2. Age of the PAP? \_\_\_\_\_ Gender? \_\_\_\_\_ HH head? \_\_\_\_\_
3. Civil status of the PAP? \_\_\_\_\_
4. Number of members in the PAP household? \_\_\_\_\_
5. What is your main occupation of the PAP? \_\_\_\_\_
6. Estimated annual income of PAP from all sources? \_\_\_\_\_
7. How many in PAP household are earning regular incomes (incl. PAP)? \_\_\_\_\_
8. What is the estimated combined annual income of the PAP household? \_\_\_\_\_
9. How many children below 5y of age are in the PAP household? \_\_\_\_\_
10. Have any of the children been diagnosed as underweight/undernourished? \_\_\_\_\_
11. Persons with disability in the PAP household? \_\_\_\_\_ Nature of disability? \_\_\_\_\_
12. Are there elderly persons in the PAP household? \_\_\_\_\_
13. Has the PAP lost his home before? \_\_\_\_\_ How/Why? \_\_\_\_\_
14. What is the total (estimated) area in hectares of all PAP landholdings? \_\_\_\_\_
15. What is the floor area of PAP's current house? \_\_\_\_\_
16. Does the PAP own the house he is currently living in? \_\_\_\_\_
17. Does the PAP belong to any caste? \_\_\_\_\_ which one? \_\_\_\_\_
18. Does the PAP belong to any IP group? \_\_\_\_\_ which one? \_\_\_\_\_
19. Does the PAP home have access to piped drinking water? \_\_\_\_\_
20. Does the PAP home have electricity connection? \_\_\_\_\_

Other relevant observations (about socioeconomic status, ethnicity, etc.):

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**Annex 3: Inventory of Affected Assets for RAP/LRP****Survey Status (Preliminary/Final):**

<b>PAP Code#/ Name</b>	<b>Affected Asset</b>	<b>Quantity</b>	<b>Assessed Value</b>	<b>Concurrence (PAP Signature)</b>
xxx01 (Name is optional)	Land	x	x	xx
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	
xxx02	Land	x	x	xx
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	
xxx03	Land	x	x	xx
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	
xxx04	Land	x	x	
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	
xxx05	Land	x	x	
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	
xxx06	Land	x	x	
	Entire Home*	x	x	
	Structure*	x	x	
	Trees	x	x	
	Crops	x	x	
	<b>Total</b>	x	x	

\*Even if only portions are affected but the remaining is no longer viable as a dwelling place, the entire home is deemed displaced. Otherwise, the affected portion will be counted as part of the other structures in the property.

**Annex 4: Indicative RAP Monitoring Report Template**

Name of Subproject: \_\_\_\_\_

Nature of Subproject (describe): \_\_\_\_\_

Address: \_\_\_\_\_

**I. General**

## 1. Status of Subproject (Check Status):

 Under Preparation Procurement Construction Completed

## 2. Status of Land Acquisition Activities for the Subproject (Check Status):

 Screening Validation RAP/LAD Preparation RAP/LAD Implementation Completed Land Acquisition/Implementation Completed Resettlement/Evaluation Stage

## 3. Issues and constraints encountered in the implementation of RPF

Issues and Constraints Encountered (Describe)	Suggested Corrective Actions	Status

**II. Specific to the PAPs**

Status of PAPs (Use portrait orientation for more space)

Name of PAP	HH Size	Vul*	Land sq m	House flr area	Structure flr area**	Crop area	Trees no.	Livelihood yes/no.	Status***	Remarks/ Issue
1.										
2.										
3.										

\*Vulnerability: IP, Dalit, PWD, IDP, Single Woman, Landless

\*\*Structure affected other than house

\*\*Surveyed, Assessed, Paid, Relocated



**Annex 5: Steps of Land Acquisition through Eminent Domain in Nepal**

	<b>Steps</b>	<b>Activity</b>
1	Decision to Acquire Land	The government/project shall nominate designate a Preliminary Action Officer (PAO) who would undertake the preliminary action. The officer should be a Gazetted Class 3 officer or Head of Office or the Project Chief.
2	Posting of Notice (Intent to Acquire)	The PAO will post a notice of land acquisition intent near or around the properties to be acquired and at the VDC or Municipality Office.
3.	Entry of the property to undertake validation/ confirmation of suitability	Three (3) days after posting, the PAO may enter the subject property along with employee and workers to conduct survey, map, collect samples of the soil, demarcated, etc. to confirm land suitability. During this activity, any trees, crops, or wall to be demolished maybe done with the approval of the PAO and in the presence of the concerned property owner.
4.	Payment of compensation for damage during the Preliminary Action	PAO to determine the amount of compensation and pay the property owner for any losses because of clearing and confirmation
5.	Filing and resolution of any complain about the Preliminary Action damage compensation	If dissatisfied with the amount of compensation payment, the PAP owner shall file complaint to the District Officer. District Officer's decision is final.
6.	Preparation and Submission of Report on the Findings of the Preliminary Action	The PAO shall complete the preliminary action within fifteen (15) days and then submit a report containing necessary information in respect to preliminary action to the Local Office/CDO as early as possible. The report shall mention the property losses/damage during preliminary action and the amount of compensation paid.
7.	Notification of Land Acquisition	After receiving a report of Preliminary Action Report, the local officer/CDO shall issue a notification containing particulars about the property to be acquired, the associated assets to be affected, the purpose for the acquisition, the particulars for the information of the concerned PAP, including requirements for an application for compensation, the time-limit for the claims (i.e. fifteen days) and time-limit for felling trees or harvesting corps grown on the land, demolition of structures, etc.

	<b>Steps</b>	<b>Activity</b>
		The notification shall be posted in the ff: (a) The local office of the project; (b) the district government office, (c) the VDC or Municipality Office, (d) Land Revenue Office, (e) thoroughfares around the subject land, (f) others. However, the local officer may, if he/she so deems appropriate and feasible, personally send a notice to property owners.
8.	Land Revenue Office to suspend all transaction relating to the title of the land	After the notice mentioned has been affixed, the appropriate Land Revenue Office shall suspend land title of the land. The suspension shall be lifted in case the local officer directs the Land Administration or Revenue Office in writing to that effect
10.	PAP appeal period regarding the Notice of Land Acquisition	Within seven (7) days from the date of the publication of a Notice, the concerned landowner may file a complaint with the Ministry of Home Affairs, the Government of Nepal through the local officer/CDO, explaining the reasons, if any, why his/her land should not be acquired. In hearing the complaint, the Ministry of Home Affairs, the Government of Nepal shall exercise the powers vested in a district court in respect to conducting local investigations. Decision on the complaints shall be pronounced ordinarily within fifteen days from the date of receipt of such complaint.
11	PAP submit application for Compensation Claim based on the Notice	Concerned person shall apply claiming compensation within a minimum time-limit of fifteen days, along with documentary evidence of his/her title to the land
12.	List of Entitled to Compensation	Based on the applications received within the time-limit prescribed in the notification issued, the local officer/CDO shall prepare a list of persons entitled to compensation and issue a notice accordingly for the information of the concerned persons.
13.	PAP appeal regarding the List of Entitlements	A person who is not satisfied with the list contained in the notification issued may file a complaint with the Ministry of Home Affairs, the Government of Nepal within fifteen (15) days after the publication of such notification.
14.	Taking possession of the land	After a decision has been made on the complaint or at any time after the expiry of period allowed to file a complaint, the local officer/CDO takes possession of the land and hand it over to the Project.

	<b>Steps</b>	<b>Activity</b>
		<p>If any house is to be acquired along with the land, and if it is being occupied personally by the owner thereof, it shall not be taken possession of (by the local officer) unless (the owner thereof) is paid 50 percent of the amount of compensation payable to him/her, if such compensation has already been determined, or reasonable expenses in advance as required to enable him/her to shift his residence, if the amount of compensation has not already been determined.</p>