

**CHAPTER VIII****ENVIRONMENTAL AND SOCIAL SAFEGUARDS FRAMEWORK****A. RATIONALE**

- 8.1 The LISCOP Environmental Guidelines and Social Safeguard Policy Frameworks are developed to: (1) ensure that selected subprojects to be financed under LISCOP are designed to be beneficial to Laguna de Bay and its watershed and negative environmental and social effects are avoided or minimized; (2) identify any negative impacts and develop and implement appropriate mitigation measures as part of the sub-projects; (3) ensure that appropriate measures are taken in cases where indigenous peoples are affected by the subprojects; and (4) ensure that proper compensation and other entitlements are provided to affected person/s in cases where involuntary resettlement, land acquisition or loss of assets is necessary for the sub-projects.
- 8.2 The environmental guidelines are consistent with the World Bank Policy on Environmental Assessment (OP 4.01) and the Government of the Philippines Environmental Impact Assessment Law (Presidential Decree 1586) and its Implementing Rules and Regulations (Department Administrative Order 2003-30). Other environmental policies of the World Bank that are linked to the environmental assessment process (Policies on Pest Management, Natural Habitats, Forestry, Cultural Property) are also taken into consideration and will be addressed in the LEAP process, subproject identification and feasibility analysis.
- 8.3 The Land Acquisition, Resettlement and Rehabilitation Framework is consistent with the World Bank Policy on Involuntary Resettlement (OP 4.12) while the Indigenous Peoples Policy Framework is consistent with the Bank Policy on Indigenous Peoples (OD 4.20) and the Government of the Philippines' Indigenous Peoples Rights Act (Republic Act 8371).

**B. ENVIRONMENTAL GUIDELINES AND PROCEDURES**

- 8.4 The programmatic EIS approach to be adopted for the LISCOP is integrated in the watershed planning, through LEAP process, which, as discussed in Chapter III, already incorporates the assessment of environmental risks in planning and identification of sub-projects. In particular, the biophysical and socio-economic characterization in a given micro-watershed, including public consultation, disclosure and identification of priority interventions, consistent with the guidelines and requirements in the Philippine EIA system, are systematically linked with the LEAP process. The integration of the EIA in the LEAP process provides a more comprehensive and integrated approach to the assessment of the cumulative impacts of subprojects.
- 8.5 The result of the assessment, which will be contained in the Micro-watershed Environmental Assessment Report (MEAR), effectively serves as a planning tool to guide the LGUs in the eventual selection of subprojects for the micro-watershed that will have minimal and mitigable effects on the environment. This report is also expected to guide the formulation of an Environmental Management Plan (EMP), for covered

sub-projects and the Initial Environmental Examination (IEE) Report for non-covered sub-projects for the subsequent ECC issuance.

8.6 The Process Flow for the LISCOP Programmatic EIS is presented in Figure 1, and discussed in detail in the proceeding. The roles and responsibilities for undertaking the LISCOP Programmatic EIS is referenced in Table 5.

**8.7 Procedures for Carrying LISCOP Programmatic EIS**

8.7.1 **Participatory Micro-watershed Environmental Characterization**. (Stage 1) This is step 1 and 2 in the LEAP process, as well as the starting point for the programmatic EIA. Through a community participation process, the current state of the environment in a given micro-watershed will be characterized, with focus on the biophysical and socioeconomic profiles. The parameters to be collected and analyzed will be made consistent with the requirements of the Philippines and World Bank EA policy, and will generally include information on land, water, air and people, including those necessary to determine applicability of World Bank environmental safeguard policies. The micro-watershed characterization will also include identification of priority environmental issues and problems, including sources of pollution and causes of environmental degradation (*e.g.*, presence of LGU dumpsites, point and non-point sources of pollution, sanitation and solid waste management issues and practices, etc.).

**Table 1. Environmental assessment and environmental safeguards-related information to be collected as part of baseline analysis**

Collection of baseline data consistent with DAO 2003-30 and OP 4.01 Annex B.
Identification of existing natural habitats <sup>1</sup> and critical natural habitats <sup>2</sup> within the microwatershed.
Identification of major physical cultural resources. <sup>3</sup>

8.7.2 **Identification of Shortlist of Subprojects**.(Stage 2) This is step 7 in the LEAP process, wherein 4-6 priority subprojects in a given micro-watershed are short-listed based on pressing micro-watershed issues and priorities and following sets of criteria outlined in steps 2-6 of the LEAP. Additionally, the following safeguards-related eligibility criteria will be applied to the subproject selection.

8.7.3. **Environmental Impact Assessment of Short-listed Subprojects and Identification of Mitigation Measures**. (Stage 3) The short-listed subprojects will be subjected to an assessment to determine their environmental impacts and corresponding mitigation measures, as well as costs involved in implementing the EMP. The results of the assessment will guide LGUs in the eventual selection of subproject that will be pursued, and will verify compliance with eligibility criteria,

<sup>1</sup> **Natural habitats** are land and water areas where (i) the ecosystems’ biological communities are formed largely by native plant and animal species, and (ii) human activity has not essentially modified the area’s primary ecological functions. These can include terrestrial, freshwater, coastal and marine ecosystems.

<sup>2</sup> **Critical natural habitats** are (i) existing protected areas or areas proposed by governments as protected areas, areas initially recognized as protected by traditional local communities, and sites that maintain conditions vital for the viability of these protected areas; or (ii) other sites that are recognized as having high conservation value by traditional local communities, areas with high suitability for biodiversity conservation and sites that are critical for rare, vulnerable, migratory or endangered species.

<sup>3</sup> **Physical cultural resources** are defined as movable or immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Physical cultural resources may be located in urban or rural settings, and may be above ground, underground, or underwater.

including the safeguards-related criteria in Table 1. The requirements for content of the environmental assessment and environmental management plan are shown in Table 3 and Table 4.

**Table 2. Environmental safeguards-related subproject eligibility criteria**

Subprojects that will significantly degrade or convert natural habitats will not be short-listed <sup>4</sup> .
Subprojects involving conversion or degradation of critical natural habitats (including projects that may cause downstream or adjacent effects) will not be financed.
Subprojects involving commercial harvesting of natural forests will not be eligible.

**Table 3. Safeguards-related Requirements on Content of EA**

Consistent with DAO 2003-30 and OP 4.01.
Assess effects on natural habitats and wherever possible locate project activities in areas already converted.
Assess the need for procurement of pesticides and effect of project on use of pesticides.
Assess the effects on forests and the associated rights and welfare of local communities.
Assess the effects on physical cultural resources.

8.7.4. **Joint LLDA and DENR-EMB sub-project screening using DENR Threshold.**(Stage 5) The LLDA and the DENR-EMB shall jointly conduct screening of the sub-project relative to the environmental category and environmental clearance requirements. The DENR thresholds (shown in **Error! Reference source not found.**), will indicate whether or not sub-project is covered or non-covered which will define subsequent environmental clearance requirements.

8.7.4.1. Non-covered sub-projects or sub-projects outside the EIS system, will no longer be required to secure a Certificate of Non-Coverage (CNC) from the DENR-EMB but will be required to prepare and submit as part of the SPAR, an acceptable Environmental Management Plan (EMP) with detailed cost requirements. The EMP is included as one of the requirements for sub-project approval. An outline of the EMP is provided in **Error! Reference source not found.**

8.7.4.2. Covered sub-projects or sub-projects located in an Environmentally Critical Areas (ECAs), are types of projects which exceed the threshold for non-covered projects. . These are in general, small to medium types with minimal to moderate impacts, localized, short-term to medium-term and reversible environmental impacts, which can be mitigated by implementing simple to sophisticated environmental measures. Sub-projects of this type are required to submit the Initial Environmental Examination (IEE) checklist or IEE report to the DENR-EMB for the issuance of the ECC. The sub-project ECC and the IEE checklist or report will need to be submitted by the LGU as part of the SPAR during the review and appraisal process. The ECC and IEE will be required for the approval of covered sub-projects. The steps and application requirements for the IEE checklist are referenced. **Error! Reference source not found.** .

<sup>4</sup> **Conversion** means the elimination or severe diminution of the integrity of a natural habitat caused by a major, long-term change in land or water use. This may include: land clearing, replacement of natural vegetation by crops, permanent flooding, drainage, dredging, filling or channelization of wetlands, and water pollution.

**Degradation** means the modification of a critical or other natural habitat that substantially reduces the habitats ability to maintain viable populations of its native species. The exact interpretation of **significant conversion or degradation** should be determined on a case by case basis by LLDA. As a guideline, conversion or degradation of natural habitats could be considered significant if the conversion is: (i) in absolute terms, more than 500 hectares of natural habitats; or (ii) in relative terms, more than one percent of the remaining area of any ecosystem type within the Laguna De Bay watershed.

**Table 4. Safeguards-related requirements on the Content of EMP**

Consistent with DAO 2003-3) and OP 4.01 Annex C.
The EMP for community forestry subprojects must include standards and monitoring for good forest management <sup>5</sup> or outline a time-bound action plan for their establishment.
If the subproject will procure pesticides or affect pesticide management, the EMP will ensure: (i) the subproject will avoid or limit the use of synthetic chemical pesticides with organic substitutes wherever possible; (ii) where the use of synthetic chemical pesticides is necessary, it should be ensured that they: will have negligible adverse effects on humans and other non-target species; will be effective against the target species; and are manufactured, packaged, labeled, handled, stored, disposed of and applied according to internationally accepted standards. Also, their use should be under the framework of an integrated pest management program <sup>6</sup> .
The EMP for agroforestry subprojects will include measures to enhance biodiversity and control invasive species.
Subprojects that affect use of forest products, the markets for these products will be evaluated in light of the full range of forest goods and services from a well managed forests.
Subprojects that may affect physical cultural resources will include a restoration and preservation plan and chance find procedures.

**NON-COVERED sub-projects**

**8.7.5. Formulation of the Environmental Management Plan for Selected Subproject.**

The selection of subproject to be pursued and implemented by LGUs will make use of the findings of the micro-watershed environmental assessment report. With the selection of the subproject and the determination of its size, scope, location, etc., the EMP will be prepared and finalized by taking into consideration the recommended environmental measures in the programmatic EIA report and the requirements shown in Table 4. The EMP will be prepared by participating LGUs, in collaboration with the River Councils. The EMP will form part of the Subproject Appraisal Report (SPAR) and be made a requirement for subproject approval. The cost of implementing the EMP will be taken into consideration in the feasibility of the subproject.

**8.7.6. DENR Review of EMP and Issuance of ECC.** The EMP of selected subproject will be submitted by the Proponent LGU to the DENR-EMB for review and issuance of ECC. The DENR-EMB may, during its review of the EMP, refer to the MEAR

**8.7.7. Sub-project Approval and Implementation.** Following the conduct of sub-project appraisal, the subproject will be submitted to the TRP for approval. At the same time, the World Bank will review the sub-project EA and EMP<sup>7</sup>. Before implementation, the proponent LGU and the PCO will ensure that the preparation of the detailed engineering design and the program of work for the subproject will incorporate the measures in the EMP, where necessary.

<sup>5</sup> This includes: (i) compliance with relevant laws; (ii) recognition and respect for any legally documented or customary land tenure or use rights as well as the rights of indigenous peoples and workers; (iii) measures to maintain or enhance sound and effective community relations; (iv) conservation of biological diversity and ecological functions; (v) measures to maintain or enhance environmentally sound multiple benefits accruing from the forest; (vi) prevention or minimization of the adverse environmental impacts from forest use; (vii) effective forest management planning; (ix) active monitoring and assessment of relevant forest management areas; and (x) maintenance of critical forest areas and other critical natural habitats affected by the project.

<sup>6</sup> **Integrated pest management** consists of a mix of farmer-driven, ecologically-based pest control packages that seeks to reduce reliance on synthetic chemical pesticides. It involves (a) managing pests (keeping them below economically damaging levels) rather than seeking to eradicate them; (b) relying, to the extent possible, on non-chemical measures to keep pest populations low; and (c) selecting and applying pesticides, when they have to be used, in a way that minimizes adverse effects on beneficial organisms, humans and the environment.

<sup>7</sup> This will be done for the first 12 subprojects only.

- 8.7.8. **Environmental Compliance Monitoring and Audit.** The monitoring of subproject compliance with the EMP and conditions in the ECC will be the joint responsibility of the PCO and the DENR-EMB. World Bank will monitor compliance as part of its supervision missions.

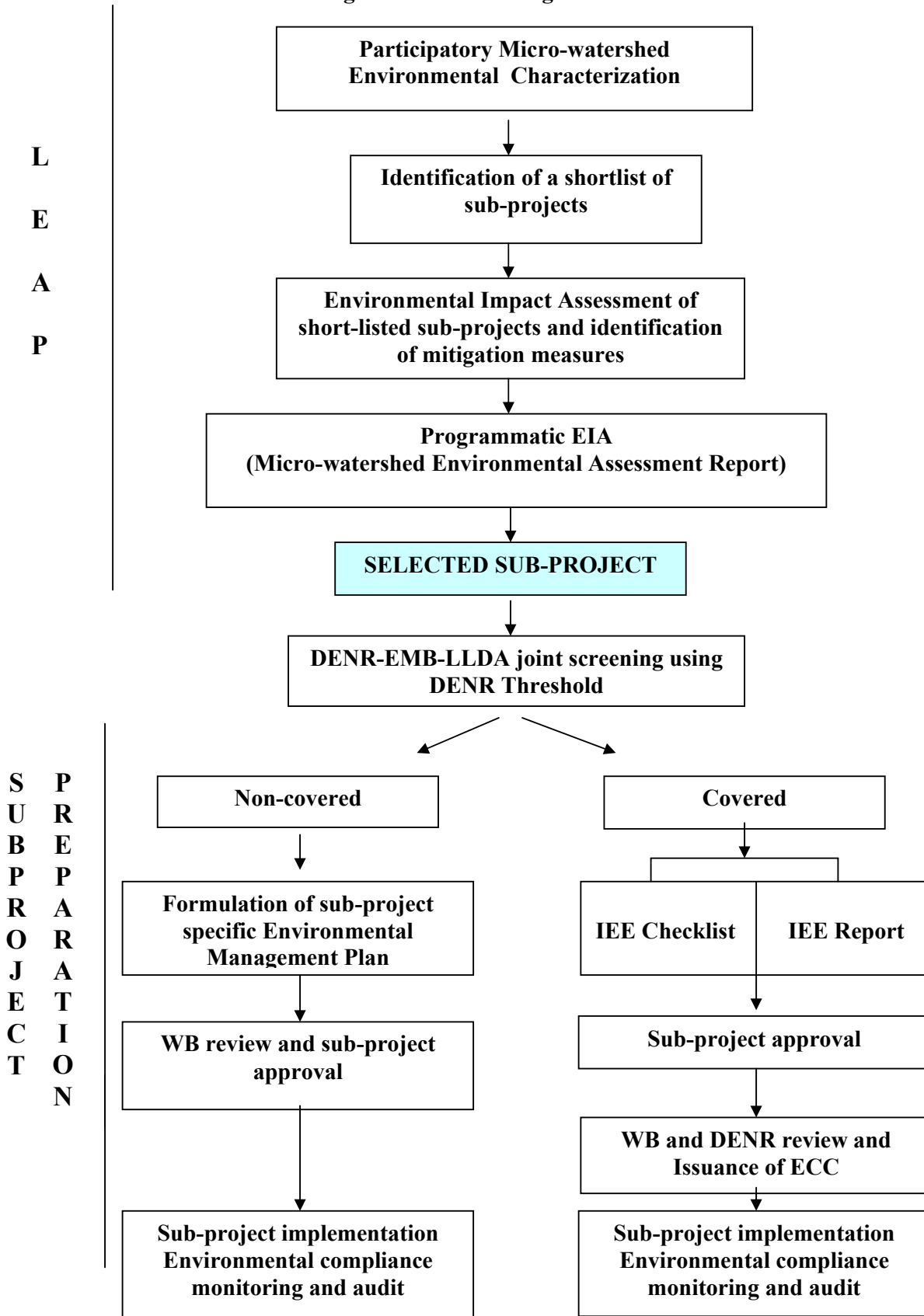
#### **COVERED Sub-projects**

- 8.7.9. **Preparation of IEE Checklist/IEE Report.** The participating LGUs will be required to accomplish the IEE Checklist or prepare the IEE Report relevant to the sub-project. Other documentation required for the checklist include signed accountability statement from the proponent and Barangay Council Resolution endorsing the sub-project. (See **Error! Reference source not found.**). The IEE Report on the other hand requires the preparation of a more detailed Environmental Management Plan as well as the need to submit technical designs, location maps for submission to the DENR-EMB. The outline of the EMP for projects with IEE report requirement is given in **Error! Reference source not found.**
- 8.7.10. **DENR Review of Checklist/ IEE Report and Issuance of ECC.** The Checklist/Report on the selected subproject will be submitted by the Proponent LGU to the DENR-EMB for review and issuance of ECC. The DENR-EMB may, during its review of the Checklist/Report, also refer to the MEAR.
- 8.7.11. **Approval and Implementation of Selected Subproject.** The ECC of the selected subproject, together with the other requirements prescribed in the SPAR, will be submitted to the TRP as part of the subproject approval. At the same time, the World Bank will review the subproject EA and EMP<sup>8</sup>. The proponent LGU and the PCO will ensure that the preparation of the detailed engineering design and the program of work for the subproject will incorporate the measures in the EMP, where necessary.
- 8.7.12. **Environmental Compliance Monitoring and Audit.** The monitoring of subproject compliance with the EMP and conditions in the ECC will be the joint responsibility of the PCO and the DENR-EMB. World Bank will monitor compliance through its supervision missions.

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<sup>8</sup> This will be done for the first 12 subprojects only.

Figure 1 LISCOP Programmatic EIS Process Flow



**Table 5. Environmental Safeguard Framework: Institutional Roles and Responsibilities**

Stages in the sub-project cycle	Environmental Safeguards Programmatic EIS process			
	PCO	DENR	Consultant	LGU/TC
<b>Micro-watershed Planning (LEAP)</b>	Ensure that the conduct of the LEAP is consistent with DAO 30-s. 2003 and WB EA Policy and guidelines;  Ensure that short-listed subprojects identified through the LEAP will be subjected to an environmental impact assessment	Participates in the LEAP and ensures consistency of the LEAP with the EIS requirements and review process	Prepare ecoprofiles and carrying capacity studies of respective micro-watersheds;  Ensure that the LEAP process is participatory and consistent with DAO 30s.2003 and WB EA policy and guidelines.	Participate in the LEAP process
Stakeholder mapping	Ensure that all sectors are represented	Ensure that all sectors are represented	Conduct stakeholder analysis and mapping. Identify vulnerable and marginalized groups	Assist in the analysis and engage the support of stakeholders
Participatory Micro-watershed Characterization		Assign focal persons to participate in the LEAP process; Ensure that EIA process is integrated in the LEAP	Prepare carrying capacity study of the respective micro-watershed and Micro-watershed Impact Assessment Report	Participate in the LEAP process
Setting priorities for co-managed investments	Ensure that potential sub-projects adhere to the sub-project eligibility criteria	Ensure the participation of the EMB in the process	Facilitate the process of sub-project identification	Identify potential sub-projects
Evaluation of viability of subprojects			Prepare pre-FS of 5 potential sub-projects	Participate in the process
Identification of subprojects				Decide on the priority subproject
<b>Sub-project preparation and approval</b>			Assist in FS preparation	Ensure that PDT are involved in FS preparation
Memorandum of Agreement (LGU-MDFO-LLDA)	Initiates signing of the MOA			Creation of Project Development Team to

Stages in the sub-project cycle	Environmental Safeguards Programmatic EIS process			
	PCO	DENR	Consultant	LGU/TC
				undertake FS preparation
Feasibility preparation to establish the viability of the sub-project	Oversee FS preparation to ensure that provisions of the micro-watershed impact assessment report are integrated in the preparation.		Ensure that the feasibility study will include environmental impacts of the subproject and the cost for implementing the EMP; Environmental Management Plan (EMP) will be developed based on pre-approved guidelines and will be submitted as part of the SPAR	Ensure that the feasibility study will include environmental impacts of the subproject and the cost for implementing the EMP; Environmental Management Plan (EMP) will be developed based on pre-approved guidelines and will be submitted as part of the SPAR
Preparation of the sub-project appraisal report		Review IEE checklist/report and Issue ECC	Prepare the SPAR	Prepare documentation required for appraisal (SB resolution, etc)
1 <sup>st</sup> and 2 <sup>nd</sup> level screening and approval process	Conduct 1 <sup>st</sup> level screening and ensure that the ECC and EMP are submitted as part of the required documentation and refer to the TRP for 2 <sup>nd</sup> level screening			
Execute the sub-project Loan Agreement (SPLA)	Include the EMP implementation as part of the terms and conditions of the SPLA			Incorporate EMP in the contractor's contract
<b>Sub-project Implementation</b>				
Detailed Engineering Design and Bidding Documents	Ensures that the relevant/applicable measures in the EMP will be included in the detailed engineering design and bid documents will include compliance with EMP and		Ensures that the relevant/applicable measures in the EMP will be included in the detailed engineering design and bid documents will include compliance with EMP and	Ensures that the relevant/applicable measures in the EMP will be included in the detailed engineering design and bid



Stages in the sub-project cycle	Environmental Safeguards Programmatic EIS process			
	PCO	DENR	Consultant	LGU/TC
	conditions in the ECC.		conditions in the ECC.	documents will include compliance with EMP and conditions in the ECC
Construction				
Operation and Maintenance				
Monitoring and Evaluation	Monitoring of compliance to the EMP	Monitor compliance to the EMP		Comply with EMP and prepare periodic reports to be submitted to the PCO-safeguards coordinator

## C. FRAMEWORK AND PROCEDURAL GUIDELINES FOR INDIGENOUS PEOPLES

- 8.9 **Framework Objectives.** The Framework and Procedural Guidelines seek to ensure that Indigenous Peoples (IPs) are informed, meaningfully consulted and mobilized to participate in the LEAP process, subproject identification, development, implementation, monitoring and evaluation. Their participation can provide them benefits with more certainty and/or protect them from any potential adverse impacts of subprojects to be financed by the Project.
- 8.10 **Definitions.** Indigenous Peoples will be used to refer to cultural communities, tribal groups that can be identified in particular geographical areas by the presence in varying degrees of the following characteristics:
- a close attachment to their ancestral territories and the natural resources in these areas;
  - self-identification and identification by others as members of a distinct cultural group;
  - an indigenous language, often different from the national language;
  - presence of customary social and political institutions; and
  - primarily subsistence-oriented production.
- 8.11 **The Indigenous Peoples of Laguna de Bay Region.** According to the records of NCIP Region IV, IP groups are present in the Laguna de Bay Region particularly in the 11 municipalities of the Province of Rizal. NCIP 2000 census put the total IP population in these municipalities to 24,799, with the following municipal breakdown: Tanay (10,154); Rodriguez (7,363); Antipolo (1,568); Taytay (1,502); Pililla (899); Morong (788); San Mateo (729); Cardona (530); Teresa (466); Jala-jala (427); and Binangonan (373). The IP groups are dominated by Remontados and Dumagats.
- 8.12 **Legal Framework.** The LISCOP Policy Framework and Procedural Guidelines for IPs is prepared within the context of the World Bank Operational Directive 4.20, which instructs Bank-supported projects to give protection to IPs with regards to mitigating possible adverse impacts of investments and requires the development of an IP Action Plan should projects have potential adverse impacts on IP populations.
- 8.13 The Guidelines support the priority given to IPs by the GOP, embodied foremost in the 1987 Constitution, which recognizes the rights of the IPs to their ancestral domains and their power of dominion over their lands and resources. Among its pertinent provisions are:
- Section 17, Article XIV: *“customary laws governing property rights or relations shall be applied in determining the ownership and extent of ancestral domains; and*
  - Section 22, Article II; Section 5, Article XII: *“...the rights of IPs to natural resources pertaining to their lands shall be especially safeguarded...”* These rights include the right of the IPs to participate in the use, management and conservation of natural resources.
  - The right to stay in their territory and not be removed there from except when relocation is necessary as an exceptional measure, as in the case of an ecological

disaster or armed conflict. IPs have the right to return to their territories once the ground for relocation ceases.

8.14 Another legislation protecting the rights of IP is Republic Act 8371 or the Indigenous Peoples Rights Act (IPRA), which states certain requirements in activities and programs affecting IPs. Some relevant provisions include:

- Chapter III, Section 7b: “...IPs have the right to an informed and intelligent participation in the formation and implementation of any project, government or private, that will impact on their ancestral domain...”;
- Chapter IV, Section 16: “...IPs have the right to participate in decision-making, in all matters which may affect their rights, lives and destinies, through procedures determined by them as well as to maintain and develop their own indigenous political structures...”

8.15 In addition, the Philippines supported various international agreements and conventions to protect the rights and culture of IPs, among them: Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities; United Nations Draft Universal Declaration on the Rights of IPs.

8.16 **Guiding Principles.** The LISCOP shall ensure that poor communities of IPs are given priority in the LEAP and decision-making processes, especially when subprojects pose potential adverse impacts to them as a community. The project must, with absolute certainty, assure that IPs do not suffer adverse effects during and after project implementation as well as receive culturally compatible social and economic benefits.

8.17 The LISCOP PCO and the LGUs must ensure at all times that development processes implemented by the project foster full respect for the IPs’ dignity, human rights and cultural uniqueness.

8.18 Consensus of all IP members affected must be determined in accordance with their respective laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the subproject activity, in a language and process understandable to the community. The conduct of field-based investigation (FBI) and the process of obtaining the Free and Prior Informed Consent (FPIC) shall take into consideration the primary and customary practices of consensus-building, and shall conform to Section 14 (Mandatory Activities for FPIC) of NCIP Administrative Order No. 3, series of 2002.

8.19 The LISCOP must ensure that none of its infrastructure or related-subprojects will damage non-replicable cultural property. In cases where subprojects will pass through sites considered as cultural properties of the IPs, the LISCOP must exert its best effort to relocate or redesign the subprojects, so that these sites can be preserved and remain intact in situ.

8.20 Subproject designs must at all times be consistent with the traditional and cultural practices of the IP group in the area.

8.21 **Strategies for Local IP Participation**

- 8.21.1 **IP Participation in the LEAP Process.** The IPs in Laguna de Bay Region shall participate in the LEAP process and in the identification and development of selected subprojects within their barangay or ancestral domains. IPs shall be included in the discussions, workshops and interviews. Efforts shall be exerted to solicit their views and perspectives. As much as possible, separate sessions shall be held with them so that discussions are more focused on their views and concerns. In barangays where IPs are not dominant, or where communities fall within the ancestral domains of IPs, the LISCOP shall ensure that assistance is provided to enable the IPs to participate meaningfully in the LEAP process. This may mean deployment of competent and committed project partners who can work with IP communities and ensure that IP issues and concerns are integrated and incorporated in micro-watershed visioning and planning and the entire LEAP process.
- 8.21.2 **Use of Appropriate Communication Media and Strategies.** Meetings, consultations, interviews, etc. shall be conducted in the local or native language. In addition, facilitators shall use simple and uncomplicated process flows during these sessions.
- 8.21.3 **Strong Adherence of LISCOP, Consultants and LGUs in the Documentation of Interactions with IP Communities and Compliance to Agreements Made.** Project staff, consultants and LGUs shall adhere to the requirements for documentation of meetings with IP communities, especially those which pertain to acquisition by subproject proponents of the FPIC. The LISCOP-PCO shall not proceed with subproject endorsements or appraisals unless the corresponding documentation of meetings with the IP communities are attached to the subproject proposals submitted for review and approval.
- 8.21.4 **IP Participation in Development, Monitoring and Evaluation of Mitigation Measures.** Where subprojects pose potential adverse impacts on the environment and the socio-economic-cultural-political lives of IP communities, IPs shall be informed of such impacts and their rights to compensation. Compensation for land and other assets to be acquired shall follow the Project's Policy Framework on Land Acquisition, Resettlement and Rehabilitation. Should IPs grant their approval of such subprojects, affected IP communities shall be part and parcel of the development of mitigation measures. The PCO shall ensure that action plans are drawn to be able to monitor and evaluate the implementation of such mitigation measures and compensation agreements, with the active involvement of affected IP communities. The PCO, through its Facilitators, shall not allow work to commence on any subproject until compensation and/or required rituals have been completed to the satisfaction of the affected IP communities.

Coordination, Supervision and Monitoring. To ensure compliance by concerned project stakeholders with the guidelines set forth in this Policy Framework, the following mechanisms and processes shall be followed during LISCOP implementation:

The PCO shall establish institutional linkages with the National Commission for Indigenous Peoples (NCIP) by entering into a MOA with the NCIP. The MOA shall enable the NCIP Regional Offices in the Laguna de Bay Region to designate specific staff that can act as the Commission's Focal Person/s for LISCOP. The staff assigned shall be expected to substantially contribute to the realization of the

objectives of the LISCOP Policy Framework on Indigenous Peoples. Additionally, the staff shall ensure that compliance by all concerned to the general principles and operational strategies contain herein shall be enforced.

- 8.21.5 The SPAR includes screening for safeguard issues, including presentation of the results of FBI and FPIC, where proposed subproject affects IPs and/or their ancestral domains.
- 8.21.6 Meaningful participation of IPs is imbedded in the LEAP process and the programmatic environmental impact assessment, which will include social assessment.
- 8.21.7 Supervision meetings and visits of project and subprojects shall be done regularly by PCO through its Facilitators. The Facilitators shall involve the local IP representatives in these meetings and visits. Documentation of such meetings and visits shall be furnished to the nearest service center of NCIP, or its provincial or regional office. The NCIP Focal Person shall monitor or help facilitate required follow-up actions to ensure that subprojects benefit the IPs according to agreements, and that compensation or mitigation measures as documented are completed on time.
- 8.21.8 Supportive monitoring shall be done regularly, involving affected IP communities and NCIP representatives, with emphasis on the following concerns:
- a. verification as to whether the guiding principles for implementing subprojects with IP groups or communities are followed
  - b. implementation review of subprojects in IP communities to determine whether these are being implemented as designed and approved
  - c. documentation of all meetings, assemblies and other gatherings done during the monitoring period, with copies furnished to the affected IP community, LGU concerned, NCIP offices and the PCO
  - d. assess whether recommended solutions discussed during previous supportive monitoring visits have been implemented, as committed
- 8.23 Complaints and Grievances. All complaints shall be discussed and negotiations shall be carried out in the specific communities where affected IPs live. The barangay and the tribal council concerned shall facilitate this process and the PCO shall ensure that affected IPs are properly represented. Where necessary, the PCO shall bring in NCIP staff so that rights of IPs are protected. If negotiations are stalled, or IPs disagree with all possible options presented during these deliberations, the affected IPs can bring their grievance or complaints to the PCO. Should this still fail the IP expectations, the IPs can elevate their complaints to the Provincial or Regional representative of the NCIP

**D. Land Acquisition, Resettlement And Rehabilitation Policy Framework**

- 8.22 This Framework will govern the conduct of land acquisition and involuntary resettlement of project affected persons (PAPs) during the design and implementation of subprojects to be financed by LISCOP. The Framework also provides guidelines on accepting and recording land donations during the project implementation.
- 8.23 The Framework is based on the following policies:
- World Bank Policy on Involuntary Resettlement (OP 4.12)

- Executive Order 1035: Procedures and Guidelines for the Expeditious Acquisition by the Government of Private Real Properties or Rights thereon for Infrastructure and other Government Development Projects
- Executive Order 132: Procedures to be followed in the Acquisition of Private Property for Public Use and Creating Appraisal Committee

8.24 In case of inconsistency in the different laws and policies, the WB Policy on Involuntary Resettlement will prevail in terms of appropriate mitigation for PAPs.

8.25 Definition of Terms.

Project Affected Person (PAP) refers to any person/s who would be identified, based on the baseline information required for each particular subproject proposal, to be affected in a selected sub-project in any of the following circumstances:

- a. acquisition or possession by the project, in full or in part, permanently or temporarily, of any title, right or interest over house(s), land(s), including but not limited to residential, agricultural and grazing lands, and/or any other fixed/movable assets;
- b. acquisition or possession by the project of crops and trees whether partially or in whole;
- c. whose business/livelihood is in part or as a whole negatively affected by the project.

Land Acquisition refers to the process whereby a person or entity is compelled by a public agency to alienate all or part of the land a person or entity owns or possesses, to the ownership and possession of that agency for public purpose in return for a consideration.

Baseline Surveys refer to the census and inventory of losses for each PAP, which will be recorded in the subproject proposal submitted by the LGU. The baseline surveys are integrated into the LEAP process.

Replacement Cost refers to the value determined to be fair compensation for real property based on its productive potential, replacement cost of houses and structures (as reckoned on current fair market price of building materials and labor without depreciation or deductions for salvaged building materials), and the market value of residential land, crops, trees and other commodities.

Resettlement refers to all measures taken to mitigate any and all adverse impacts of the project on PAP's property and/or livelihood including compensation, relocation and rehabilitation, where applicable.

Relocation refers to the physical relocation of a PAP from his/her pre-project place of residence.

Rehabilitation refers to compensatory measures provided under these guidelines other than payment of the replacement costs of acquired or affected assets.

Compensation refers to payment in cash or in kind of the replacement costs of the acquired or affected assets.

**8.26 Principles and Objectives.** The following principles and objectives will govern preparation and implementation of subprojects:

- 8.26.1 Acquisition of land and other assets should be avoided, where feasible, and minimized as much as possible.
- 8.26.2 All PAPs, whose land or business are determined to be affected by land acquisition at the time of the baseline survey for a sub-project proposal, will be entitled to be provided with compensation sufficient to assist them to improve or at least maintain their pre-Project living standards, income earning capacity and production levels.
- 8.26.3 The baseline-survey recorded in the sub-project proposal will constitute the cut-off date for future claims for compensation.
- 8.26.4 Lack of legal rights to the assets lost will not bar the displaced person from entitlement to such compensation or rehabilitation measures.
- 8.26.5 If replacement land is provided for agricultural, residential and business use, it will secured tenure status and be without any additional cost, taxes, and surcharges to the displaced persons at the time of transfer.
- 8.26.6 Planning and implementation for acquisition of land and provision of compensation will be carried out in consultation with the displaced persons during the sub-project planning by the community (barangay) to ensure minimal disturbance and transparency in transactions between the project implementers and displaced persons.
- 8.26.7 Entitlements will be provided to displaced persons no later than one month prior to expected start-up of works at a particular sub-project site. Construction work will not be initiated until displaced persons are compensated or adequately relocated.
- 8.26.8 Commitments regarding financial and physical resources compensation will be made by the municipality at the Inter-Barangay Forum when a sub-project involving land acquisition is selected.
- 8.26.9 Supervision, monitoring and evaluation of the implementation of land acquisition and compensation plans will be carried out by the Regional Project Management Offices.
- 8.26.10 Entitlements. The MOA between LLDA, MDFO and participating Municipal Local Government Units will obligate these entitlements to ensure compliance with the implementation of the Policy Framework. The LGUs with the assistance of the facilitators and other technical staff, will assess the land needs of each subproject proposed and ensure that appropriate measures are in place to obtain the land, either through donation, making government land available, or through acquisition with compensation. Where the landowner does not want to either sell or donate his/her land only, the LGU may initiate expropriation measures under the eminent domain principles. Where such procedures may be required, the LGU proposing a particular sub-project may reconsider its viability for funding under this scheme. In practice, the Proponent LGU and the PAP(s) will jointly determine and agree the appropriate compensation in accordance with the following compensation scheme:

### **8.26.11 Productive Lands and Crops**

PAPS losing more than 20% or all of their agricultural land, or in cases when the remaining assets are not economically viable, are entitled to:

- Full compensation at replacement cost of the entire asset either through provision of equivalent land of equal productive capacity (if available and so desired by the displaced person) or through cash compensation.
- Displace persons who will lose their income will be provided opportunities for alternative livelihood, through skills and entrepreneurship training, job matching or business development assistance.
- Appropriate transfer and subsistence allowances will be given during the transition phase.

PAPS losing less than 20% of their productive assets, where the remaining assets remain viable for continued use, are entitled to cash compensation at replacement cost for the affected asset.

Replacement of damaged or lost crops will be based on full market value for one year's harvest and will be paid cash.

PAP whose land is temporarily taken will be compensated at full replacement cost for their net loss of income and/or damaged assets.

Verification of land titles and tax payments shall be undertaken before land replacement or cash compensation.

### **8.26.12 Residential Lands and Structures**

- Full compensation at replacement cost of the entire asset either through provision of equivalent land of equal productive capacity (if available and so desired by the PAP) or through cash compensation, and
- Cash compensation reflecting full replacement cost of the structures, without depreciation;
- If the PAP so wishes and the remaining land is still a viable residential lot, cash compensation, at full replacement cost (market value), will be provided to the displaced person;
- If after acquisition, the residential land and/or structure is sufficient to rebuild the residential structure lost, then at the request of the PAP the entire residential land and structure will be acquired at full replacement cost, without depreciation;
- Tenants, who have leased a house for residential purposes will be provided with a cash grant of three months rental fee at the prevailing market rate in the area, and will be assisted in identifying alternative accommodation.

### **8.26.13 Loss of Business**

- The provision of alternative business site of equal size and accessibility to customers, satisfactory to the displaced person;



- Cash compensation for the lost business structure reflecting full replacement cost without depreciation;
- Cash compensation for the loss of income and opportunity during the transition period.

8.26.14 Voluntary Land Donations. Land that will be required for small-scale civil works or for other subproject components will most likely consist of governments lands free of claims or encroachments, or of voluntary donations from community members.

8.26.15 Arrangements have to be made to ensure that the donation is indeed voluntary, that the donor is the legitimate owner of such lands, and that the donor is fully informed of the nature of the sub-project and the implications of donating the property. Should the donor decide to donate the property on a conditional basis, the terms and conditions for the temporary use (usufruct rights) of the property must be clearly stated in a *Conditional Deed of Donation* document.

8.27 Where land is donated, the following safeguards need to be applied, based on their relevance to the cases being encountered by sub-project proponents:

8.27.1 An assessment that the affected person does not suffer a substantial loss affecting his/her economic viability as a result of the donation;

8.27.2 Certification from the LGUs and the proponents, that the land is free of claims or encroachments from any third party;

8.27.3 *Deed of Donation* to the Community Association of the LGU concerned, as witnessed by the LGU barangay and municipal government officials, notarized by a registered Lawyer, with copies of donation papers furnished the Office of the Municipal Assessor and the Provincial Register of Deeds;

8.27.4 Declaration of Ownership with Waiver of Claims for Affected Assets;

8.27.5 Joint Affidavits of Two Adjoining Landowners of Barangay Officials (for unregistered lands);

8.27.6 Waiver of Rights/Quit Claim (for plants, trees, houses, structures claimed by tenants, informal settlers)

8.27.7 Waiver of Rights/Quit Claim (With Sharing of Claim)

8.28 Implementation Arrangements. The responsibilities for implementing the policy and guidelines set forth in this document are as follows:

8.28.1 The overall responsibility for the implementation and enforcement of the policy and guidelines for resettlement and land acquisition rests with the PCO.

8.28.2 Guided by the Facilitator, the LGU Municipal Planning and Development Officer, together with representatives from River Council and Indigenous Peoples, if applicable, shall be responsible for preparing the asset inventories, the compensation plans, and the supervision of action plans for land acquisition until all requirements have been completed. The LGU Project Management Team (PMT) may form a Land

Acquisition Committee to ensure that the required consultation and participation of PAPs in the preparation and implementation of the land acquisition activities comply with the provisions of this Policy Framework and the Framework for Indigenous Peoples Development (if applicable to area being acquired). The Committee is terminated once the required documentation have been fully complied with.

- 8.28.3 Funds for implementing inventories and land acquisition action plans will be provided by the LGU based on budgetary requirements established by the Land Acquisition and Resettlement Committee (LARC) of the PMT, in consultation with the PAPs.
- 8.28.4 Documentation of voluntary land donations as described in this framework must be completed before civil works under the subproject are initiated. Likewise, compensation payments for assets acquired must be completed before civil works under the project are initiated.
- 8.28.5 The progress of implementation of the Land Acquisition and Compensation Plan will form part of the reporting by the LGU to the PCO.
- 8.29 Training on the procedures to be followed regarding implementation of the provisions in this Framework will form part of the capacity building activities for LGUs under Component 2 of LISCOP.
- 8.30 **Supervision, Monitoring and Evaluation.** Implementation of the inventories and resettlement plans will be regularly supervised and monitored by the PCO, in coordination with the LGU PMT and RCs. The findings will be recorded in the regular LGU reports to the PCO and will be validated by the PCO Facilitators. Internal monitoring and supervision by the PCO will constitute:
  - 8.30.1 Verification that the baseline information of all PAPs has been carried out and that the valuation of assets lost or damaged, the provision of compensation and other entitlements, and relocation has been carried out in accordance with the provisions of this Policy.
  - 8.30.2 Verification and follow-up action to ensure that funds for implementing the inventory and resettlement plan are provided by the LGU in a timely manner and in amounts sufficient for the purpose, and that such funds are used by the LARC in accordance with the provisions of the inventory and resettlement plan.
  - 8.30.3 Record all grievances and their resolution and ensure that complaints are dealt with in a timely manner.
- 8.31 The joint environmental compliance monitoring and audit of the PCO and the DENR-Environmental Management Bureau may be expanded to include subproject compliance to social safeguards such as land acquisition and resettlement and IPs.
- 8.32 **Costs and Budget.** Each inventory and resettlement plan will include detailed cost of relocation, compensation and other entitlement, with a breakdown of replacement or rehabilitation costs for agricultural land, residential land, business land, houses, business and other assets, public facilities and services and utilities. The cost estimates will make

adequate provisions for continuous consultation and information dissemination, surveys and project supervision under contingencies.

8.33 **Complaints and Grievances.** Complaints and grievances relating to any aspect of the resettlement entitlements and/or activities, including the determined areas and price of the lost assets, will be managed as follows:

8.33.1 Grievance will be filed by the PAP with the Complaints and Grievance Committee (CGC) established at the Barangay level to hear complaints and grievances of the PAPs regarding the acquisition of land and other assets, compensation, resettlement, rehabilitation and other entitlements. Members of the CGC shall include the Barangay Captain, Barangay Secretary, a member of the Barangay Justice (Lupong Tagapamayapa), as well as formal and informal representatives of the affected community or IP community, where applicable.

8.33.2 The complaint, grievance and appeal shall have the following levels:

- a. *Level 1.* PAP lodges complaints and grievances to the CGC. The CGC will have to document its investigation of the facts presented and provide a written response to the PAP within fifteen (15) calendar days upon receipt of the complaints.
- b. *Level 2.* If the PAP is not satisfied with the decision of the CGC, the PAP may appeal the case to the MPDO within fifteen (15) calendar days upon receipt of the written decision/s from the CGC. The decision of the MPDO shall be rendered within thirty (30) calendar days upon receipt of the PAP's appeal after validating the facts of the complaint.
- c. *Level 3.* If the PAP is not satisfied with the decision of the MPDO, the PAP may appeal the case to the PCO, through the Facilitator, within fifteen (15) calendar days upon receipt of the written decisions from the MPDO. The decision of the PCO shall be rendered within thirty (30) calendar days upon receipt of the PAP's appeal after validating the facts of the complaint.

8.33.3 PAPs will be exempted from paying all administrative and legal fees.

8.34 Resorting to courts prior to availment of this complaint and grievance process will make the appellant's action dismissible on the ground of non-exhaustion of administrative remedies.



Stages in the sub-project cycle	Social Safeguards							
	Indigenous Peoples				Land Acquisition			
	PCO	NCIP	Consultant	LGU/RC	PCO	Consultant	LGU/RC	PAP
Memorandum of Agreement (LGU-MDFO-LLDA)					Ensure provisions for training LGUs/RCs to enable them to implement the provisions of the social safeguards framework		Assign a LARR focal person;  Earmark funds for implementing inventories and land acquisition action plans.  Provide compensation to PAPs. If replacement land is provided, ensure that said land has secure tenure status	
Feasibility Study preparation	Shall not endorse sub-projects for short-listing or selection in the event that corresponding documentation of meetings with the IP communities are not annexed to the sub-project proposals;  Informs the IP communities of any potential adverse impact of sub-projects and rights to compensation							

Stages in the sub-project cycle	Social Safeguards							
	Indigenous Peoples				Land Acquisition			
	PCO	NCIP	Consultant	LGU/RC	PCO	Consultant	LGU/RC	PAP
Sub-project Appraisal Report	Integrate in the SPAR, the need to screen for safeguard issues including presentation of FBI and FPIC, where proposed sub-project affects IPs and/or their ancestral domain	Submit Field-Based Investigation Report and Free and Prior Informed Consent (FPIC), if required					Ensure that land acquisition documents are submitted as part of SPAR	
<b>1<sup>st</sup> and 2<sup>nd</sup> level screening process</b>								
Sub-project Loan Agreement (SPLA)	Include compliance with IP Policy Framework as part of the terms and conditions of the SPLA	Ensure that compliance with IP Policy Framework forms part of the terms and conditions of the SPLA			Include compliance with Land Acquisition, Resettlement and Rehabilitation Policy Framework as part of the terms and conditions of the SPLA			
<b>Sub-project Implementation</b>								
Detailed Engineering Design and Bidding Documents	Ensure that agreements made with the IP are considered in the preparation of the DED	Ensure that agreements made with IP are considered in the preparation of the DED	Integrate agreements made with IP in the preparation of the DED	Ensure that agreements made with the IP are integrated in the DED				

Stages in the sub-project cycle	Social Safeguards							
	Indigenous Peoples				Land Acquisition			
	PCO	NCIP	Consultant	LGU/RC	PCO	Consultant	LGU/RC	PAP
Construction  Operation and Maintenance		Shall monitor and facilitate required follow-up to ensure that sub-projects benefit the IPs according to agreements, and that compensation and mitigation measures as documented are completed.					Assign a focal coordinator for land acquisition-related concerns to ensure that the land acquisition activities comply with the provisions of the policy	
Monitoring and Evaluation	Supervise and monitor the implementation of inventories and resettlement plans;  Ensure IP participation in monitoring and evaluation of mitigation measures;  Maintain database of all meetings, assemblies involving the IPs.	Focal person to participate in monitoring and evaluation of mitigation measures		Ensure IP participation in monitoring and evaluation of mitigation measures	Maintain database on land acquisition and monitoring reports;  Supervise, monitor and evaluate implementation of land acquisition and compensation plans		Implement the resettlement plans and provide periodic reports to the PCO-STG;  Monitor and evaluate implementation of land acquisition and compensation plans and prepare periodic reports for PCO-STG	

