

Terms of Reference

Road Network Upgrading Project Consulting Services: Preparation of Resettlement Plan for the Upgrading and Maintenance of Dili (Airport Junction) to Tibar Road, Dili (Airport Junction) – Tasitolu Section

1. INTRODUCTION

The Government of the Democratic Republic of Timor Leste (GoTL) received a loan from the Asian Development Bank (ADB) towards the cost of upgrading, maintenance and widening to four (4) lanes of the existing Tasitolu to Tibar road section, Section 2 of Dili (Airport Junction) to Tibar Road. Part of this loan intends to be used for Consultant's services that will be required for the preparation of Resettlement Plan for Section 1- Dili (Airport Junction) to Tasitolu road section.

GoTL will select a firm of consultants following quality and cost based selection process in accordance with ADB's Guidelines on the Use of Consultants (2012, as amended from time to time).

The Council for the Administration of Infrastructure Fund will be the Executing Agency (EA) and the Ministry of Public Works, Transport and Communications (MPWTC) will be the Implementing Agency (IA). During the services, the Ministry of Justice's National Directorate for Land, Properties and Cadastral Services (MOJ/DLPCS) and MPWTC will nominate selected personnel from the MPWTC and MOJ/DLPCS to work with the Consultant to receive training, experience and capacity building in the preparation and implementation of a Resettlement Plan (RP). For all activities, the Consultant will report to the MPWTC's National Directorate for Roads, Bridges and Flood Control (DRBFC) through the Project Management Unit (PMU).

1.1 Background

The MPWTC intends to standardize the approach on involuntary resettlement to lessen the adverse social impact of the projects and sub-projects. The Infrastructure development must satisfy the international procedure and process regarding social safeguard policy and resettlement framework in addressing issues and implementing the RP properly.

Through the additional financing of RNUP, there was an initial assessment made for the proposed improvements to the existing Dili to Tibar road, including widening to four lanes of the existing road alignment of the Dili (Airport junction) to Tibar Road, Dili (Airport Junction) – Tasitolu section. The proposed work would result in significant social impacts including physical and economic displacement of people. Initial screening and scoping suggested that the works would be Category "A" for involuntary resettlement¹. To manage the impacts a resettlement plan (RP) commensurate with the level of risk will be needed to address all possible displacement impacts and disturbances to the existing social living conditions. The preparation of RP will be based on social assessment and will seek to avoid, manage and/or compensate the adverse social impacts of the proposed road upgrading.

¹ Development partners - Asian Development Bank - safeguard policies.

1.2 Project Description

Section 1 of the Dili-Tibar road is the Dili (Airport Junction) to Tasitolu section, which starts at the Nicolau Lobato Monument roundabout and ends at Km 8+740 (the beginning of Tasitolu-Tibar road section 2).

The project will involve widening and upgrading of the road from two lanes to four lanes. The new road will have a total of 26 meters width of right-of-way limit to accommodate a 2 meters wide median, 2 x 7 meters wide carriageway, 2 meters sidewalk on each side of the road, and 3 meters wide parking bays on both sides. Drainage will be constructed under the sidewalk discharging to natural waterways.

1.3 Project Impacts

The road project is critical for the growth of local trade and commerce and in improving travel between Dili (including the rapidly growing Tibar Bay area) to the border with Indonesia at Mota-Ain. The road improvement will require the acquisition of private and public assets resulting in displacement of people from both residential and commercial properties and affecting livelihoods and sources of income. Reflecting the high-growth area, the land acquisition will occur in some densely populated areas.

1.4 Objectives of Resettlement Plan

The RP will be based on social impact assessment and will identify the costs of, and schedule for, relocating people, land acquisition, development of relocation sites and implementation of rehabilitation assistance that will be required for project affected people.

The RP is required to be able to effectively and meaningfully implement the activities involved in "resettling" of affected persons (APs) prior to the implementation of the proposed road project.

The main objective of the RP is to ensure that the livelihoods and standards of living of economically or physically displaced people are at least restored, if not improved, to pre-project levels and that poor and vulnerable affected persons (APs) are protected and supported to ensure they are not further marginalized by the development process. Through survey, impact assessment and consultations the RP will (i) document the views of APs and stakeholders (including people living at potential relocation sites) to the project; (ii) include an inventory detailing the type and the severity of project impacts covering all APs; (iii) identify a full set of mitigation requirements including the costs of compensation and rehabilitation support for remaining and relocating APs; (iv) a plan for developing relocation sites or resettling APs within already developed areas; (v) identifying a fully cost strategy for restoring, if not improving, the livelihoods of APs; and (vi) implementation schedule and plan for all activities for updating the RP based on detailed design and implementing the RP.

2. SCOPE OF CONSULTANCY SERVICES

The scope of services in this terms of reference requires the preparation of the draft and final RP by a qualified consulting firm that will field the specialists identified in Section 3 to identify, cost and document the compensation and support/assistance needed for effective implementation of the RP. The RP will address the physical and/or economic displacement of APs including permanent and temporary loss of land, loss of assets on land (main structures, ancillary structures, crops, and trees), loss of income and/or employment, and/or loss of access to resources. The maximum duration for the preparation of RP should not be more than six (6) months.

Major Activities

The activities involved in the preparation of RP include but not limited to:

- a. Within one (1) month of mobilization prepare an inception report including overall work plan and schedule setting out the various activities in RP preparation (this will include identification of the statistical program proposed for analyzing the survey data). The work plan/schedule will identify the mobilization periods for all team members and will be agreed by MPWTC/PMU and ADB;
- b. Mobilize, and resource, the team as per the agreed schedule to carry out the various resettlement activities;
- c. Identify government representatives (focal points in agencies that are stakeholders to the process including MOJ/DLPCS) to be members of, and provide inputs to the process through, a working group, steering committee or similar. Act as secretariat for the group and prepare and distribute minutes of monthly meetings;
- d. Prepare monthly progress reports summarizing main activities and inputs/outputs of preceding month against the agreed work plan/schedule (template to be agreed with ADB and MPWTC/PMU);
- e. Prepare a consultation plan for the project identifying what project information will be communicated, how it will be communicated and to whom and when it will be communicated throughout the assessment and preparation of the RP;
- f. Conduct stakeholder and community consultations and project information education and communication with affected people, District/Sucos/Aldeias and relevant government agencies and civil society organizations;
- g. Based on the standard survey form adopted by PMU, prepare the survey tools to be used for the inventory of lost/affected assets and database for the same. PMU and ADB will approve the survey form;
- h. Based on the standardized entitlements matrix prepared by PMU, adapt this for the project and identify the appropriate entitlements for all classes of APs including livelihoods restoration and rehabilitation and additional assistance for vulnerable APs etc.;
- i. Undertake social assessment including consultations and inventory/survey work² of all affected people and their assets (improvements/structures) (i.e., field data gathering);
- j. Identify the needs for livelihood restoration activities and income generation transition support by type of AP. The livelihood restoration activities will be compiled into a time bound and fully cost plan, as part of the RP, for implementation indicating any re-training to be provided to APs;
- k. Prepare quantity estimate of affected land and improvements and other losses/impacts;
- l. Identify the need for relocation sites in consultation with government, District/Sucos/Aldeias, APs and host populations identify the impacts (positive and negative) of the different sites. Identify a preferred site(s) and costs of developing the preferred site(s);

² The impact survey and inventory, including the socio-economic benchmark survey of severely affected APs, will be the base data used in the validation exercise and will include the accomplished survey forms together with photographs of affected assets.

- m. Encode, processing and analysis of data. All data will be presented by type of AP and data analysis (including the baseline information and socio-economic profile) will be disaggregated based on sex, vulnerability, and level of impact (i.e. APs and severely affected APs);
- n. Finalize compensation and entitlements;
- o. Based on established processes and templates prepared by PMU, secure the Agreement (Initial Disclosure) between the project proponent and APs;
- p. Preparation of the technical plan and schedule for land and asset acquisition, livelihood restoration activities, and development of relocation site(s), if ascertained to be needed;
- q. Clearly and accurately identify the costs (including administration costs and contingency) and funds flow for compensation and entitlements, including for the relocation site, if required to enable the project proponent to include in budget;
- r. Compilation of the foregoing tasks into the draft RP to be circulated for review and comment by PMU, ADB and key government ministries. The draft RP will be revised within two weeks of receipt of the comments compiled from the review process; and
- s. A time bound action plan for updating and implementing the RP.

Throughout the whole process, the APs and other major stakeholders need to be informed and consulted in varying ways. Likewise, Project Authorities must promptly address any complaints of the APs as provided for in the Resettlement Policy Framework.

3. PERSONNEL REQUIRED TO EXECUTE THE WORKS

The Consultant shall provide a Team comprising of qualified specialists (not necessarily limited to those listed below) with duties and responsibilities described in this Terms of Reference (TOR) and with satisfactory experience in implementing activities of similar nature and size. The Consultant shall provide the resources to fulfill the general requirements described in this Terms of Reference.

The Consultant's services will support the MPWTC and the MOJ/DLPCS to prepare and implement a resettlement plan for a 2.0km section of road between the Dili (Airport Junction) and Tasitolu. As a minimum requirement, the consultant services will comprise a Team Leader/Resettlement Specialist (International, 6 person-months), Resettlement Supervisor (International, 5 person-months / National, 4 person-months), Legal Advisor (International, 6 person-months / National, 2 person-months), and Resettlement Coordinator (National, 5 person-months). The team shall also include other technical specialists (technical support for inventory and validation, and enumerator staff) necessary to adequately carry out this assignment and administrative staff needed to meet the requirements of this TOR.

- 3.1 **Team Leader/Resettlement Specialist (TL/RS)**– (International, 6 person-months)–will have a Master's Degree, or equivalent, in an applied Social Science, e.g., Sociology, Anthropology, Economics, Development or Human Geography or other related fields. University degree in an applied Social Science, e.g., Sociology, Anthropology, Economics, Development or Human Geography or other related fields, combined with specialized experience in similar organization/s, may be considered in lieu of a Master's degree. The specialist will have at least 10 years of relevant experience in involuntary resettlement and social safeguard planning and implementation. In addition, the TL/RS shall have comprehensive knowledge and understanding of social and cultural

environments and of issues related to land acquisition, involuntary resettlement and social development in Timor-Leste or similar Asian or Pacific countries and excellent oral and written communication skills. The TL/RS will:

- (i) Take a leading role in supporting the Directorate of Land Property and Cadastral Survey (DLPCS) to prepare and implement a resettlement plan (including resettlement and land acquisition) for the Airport Junction to Tasitolu road upgrading guiding these activities to ensure that they comply with ADB's Safeguard Policy Statement (SPS) the project's Resettlement Framework (RF) and relevant national laws;
- (ii) Assist the DLPCS in meeting compliance requirements by preparing measures to mitigate and address any impact and risks arising from the roads construction;
- (iii) Provide advice and assistance to DLPCS to address social safeguard issues related to involuntary resettlement in project implementation and reporting;
- (iv) Establish consultation and communication/information systems and programs to ensure the full awareness and participation of affected communities and stakeholder agencies;
- (v) Establish and implement the project's grievance redress mechanism, including the setting up of District Resettlement and Grievance Committees and Suco Resettlement and Grievance Consultative Groups and their familiarization with grievance procedures;
- (vi) Support the DLPCS in the Ministry of Justice and with their staff conduct census and detailed measurement survey and negotiation with Affected Persons (APs) for purposes of compensation or replacement of land and other property acquired for purposes of the project road upgrading;
- (vii) Support DLPCS in the design and adoption of a replacement cost survey and valuation system for the determination of replacement cost or market prices of land and property for purposes of fair and agreed compensation or replacement;
- (viii) Take the role of team leader for resettlement and social safeguards and supervise the work of team members; and
- (ix) Coordinate with other specialist and provide safeguard inputs to overall project reports, including quarterly progress reports.

3.2 **Resettlement Supervisors** – (International, 5 person-months / National, 4 person-months) shall have a degree in social science or related field and preferably 5 years of relevant experience in involuntary resettlement and social safeguard planning and implementation. In addition, the Resettlement Supervisor (RSup) shall have comprehensive knowledge and understanding of social and cultural environments and of issues related to land acquisition, involuntary resettlement and social development in Timor-Leste or similar Asian or Pacific countries and excellent oral and written communication skills

- (i) In-charge of consultation and communication/information systems and implement the programs and resettlement activities to ensure the full participation of affected communities and stakeholder agencies;
- (ii) The RSup will be the focal point for APs for preparation of the resettlement plan and implementation, and will ensure all questions, and complaints etc. are appropriately dealt with in accordance with the Resettlement Plan;
- (iii) Facilitate the establish and implement the project's grievance redress mechanism, including the setting up of District Resettlement and Grievance Committees and Suco Resettlement and Grievance Consultative Groups and their familiarization with grievance procedures;
- (iv) In-charge on field works with coordination with the DLPCS in the Ministry of Justice and to the conduct census and detailed measurement survey and negotiation with Affected Persons (APs) for purposes of compensation or replacement of land and other property acquired for purposes of the project road upgrading;

- (v) Confirming the design to the technical team to be use in the DMS and orienting the resettlement team including the DLPCS on the strategies, plan activities and problems on the project area, confirming the replacement cost survey and valuation system for the determination of replacement cost or market prices of land and property for purposes of fair and agreed compensation or replacement;
- (vi) Assist the team leader for resettlement work activities and social safeguards, in-charge on supervising the RP preparation work of team members, stays on the site; and
- (vii) Assist the team leader in of coordinating with other specialist and provide safeguard inputs to overall project reports, including preparation of RP reports.

3.3 **Legal Advisor (LA)** – (International, 6 person-months / National, 2 person-months) – the international legal advisor shall be a qualified lawyer registered in his/her own Country and the national legal advisor shall be a qualified lawyer registered to practice in Timor-Leste and both shall have at least 5 years post qualification experience preferably in land use, land entitlement and/or resettlement issues. The legal advisor will:

- (i) Support DLPCS and the TL/RS by preparing all legal documents, in the form prescribed by DLPCS, including notifications, deeds, settlements, etc. required for implementation of the resettlement plan for the upgrading of the road from Comoro roundabout to Tasitolu;
- (ii) Identify, research and evaluate existing claims of tenure over land to be affected by the proposed road upgrading;
- (iii) Ensure that all transactions are prepared, conducted and completed strictly in accordance with ADB's SPS and relevant national laws;
- (iv) Ensure that all transactions are properly recorded and registered in a transparent manner; and
- (v) Provide guidance and advice in respect of the application of legislation to activities associated with preparation and implementation of the resettlement plan.

3.4 **Resettlement Coordinator (RC)**– (National, 5 person-months) – shall have a degree in social science or related field and preferably at least 5 years' experience in activities involving community liaison and development. The RC will support the DLPCS, TL/RS and Legal Advisor in coordinating the concerned Ministry in preparing and implementing the resettlement plan for the upgrading of the road from Airport Junction to Tasitolu. The RC will:

- (i) The RC will be the in-charge in coordination to the concern ministries, actors and point for APs for preparation of the resettlement plan and implementation, and will ensure all questions, and complaints etc. are appropriately dealt with in accordance with the Resettlement Plan;
- (ii) Support DLPCS and TL/RS in conducting consultations with APs including minutes of meetings, translation etc;
- (iii) Support and assist the TL/RS and in identifying and registering APs and their affected assets;
- (iv) Support and assist negotiations between DLPCS and APs with regard to compensation for loss of property or assets;
- (v) Explain the grievance address mechanism to APs and facilitate implementation of the grievance redress mechanism; and
- (vi) Ensure all notices are effectively delivered, explained and are in a language that is understood by the AP.

3.5 **Technical Support Staff – Inventory and Validation, national (number of person-months will depend on the proposal of the Consultant to complete the works without delay)**

- (i) Undertake all the technical requirement assistance in validating the affected assets etc.;

- (ii) Must be technical person that can understand and read technical plan, road alignment, maps and knowledgeable in measurements;
- (iii) In-charge in setting up principally the enumerators in its fieldwork and in conducting preliminary assessment of affected assets;
- (iv) Validate the list of APs and the assets that will be affected by the project and compute the compensation and other entitlements due to the APs consistent with the resettlement policy frame work used for this projects.

3.6 Enumerator Staff, national (number of person-months will depend on the proposal of the Consultant to complete the works without delay)

- (i) Under the instruction of the TL/RS, undertake the socio-economic and inventory of lost/impacted assets required for the RP. The TL/RS will determine the necessary number of enumerators to accomplish the tasks.

Miscellaneous technical support staff and enumerators. The firm shall provide all supporting staff (qualified national personnel), including but not limited to engineers, surveyors, office staff and assistants as may be needed to satisfactorily undertake the services based from the implementation schedule required for this work.

- 3.7 The consultant's services will provide for its own staff on rental basis the vehicles and drivers needed for the duration of the activity.

4. IMPLEMENTATION SCHEDULE

The preparation of Resettlement Plan shall be completed within six (6) months after commencement.

5. COUNTERPART FACILITIES

The Consultant shall make its own arrangement for office accommodation, facilities and equipment in the country, including arrangements for international and local transportation. It is expected to establish an office in Dili.

The MPWTC and MOJ/DLPCS may attach personnel to the Consultant's team from time to time for training and capacity building purposes. The Consultant shall use its best effort in ensuring that appropriate exposure to all aspects of the assignment is provided.

6. REPORTS

The consulting firm will prepare and submit three copies of the following reports to the MPWTC/PMU:

- a. Inception report within 1 month after mobilization.
- b. Monthly progress report to be submitted within the first week of every succeeding month.
- c. An initial final report will be prepared and submitted on the fifth (5th) month of engagement.
- d. A final report will be prepared and submitted 2 weeks after completion of resettlement work that is envisaged for completion as set by the MPWTC/PMU.