



**PUBLIC
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**DOCUMENT OF THE INDEPENDENT CONSULTATION
AND INVESTIGATION MECHANISM**

BR-MICI004-2011

**FIRST MONITORING REPORT ON THE CONSULTATION PHASE AGREEMENT
LOW-INCOME NEIGHBORHOOD IMPROVEMENT PROGRAM HABITAR BRASIL**

BR-0273

This document was prepared for the Consultation Phase

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First Monitoring Report on the Agreement:
May 2014 – November 2014

Case BR-MICI004-2011

Low-income Neighborhood Improvement Program
Habitar Brasil (BR-0273)

CONSULTATION PHASE

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MONITORING REPORT

Period: May – November 2014

I. EXECUTIVE SUMMARY

- 1.1 This document is being issued in accordance with paragraph 52 of the Policy establishing the Independent Consultation and Investigation Mechanism (the “Policy”)¹ and serves to initiate the process of monitoring fulfillment of the commitments acquired by the Parties in the context of the agreement signed on 24 May 2014 (the “Agreement”) for case BR-MICI004-2011 regarding the Low-income Neighborhood Improvement Program Habitar Brasil (BR-0273) carried out in São José dos Campos. The Consultation Phase report describes the process followed and includes a copy of the Agreement.²
- 1.2 The Agreement provides for the construction of single-family homes, in accordance with the model approved by the families, in an area close to the center of the city and within a maximum period of 18 months.³ It also includes social support for the families before and after acceptance of the house. To this end, the Municipal Government and the families will work together on a Social Action Plan (PAS).
- 1.3 A timeline of the activities necessary to fulfill the agreed objectives is attached to the Agreement. To monitor the scheduled activities, the Agreement calls for the creation of a joint committee (“Committee” or “Joint Committee”), consisting of three representatives from the families and three from the Municipal Government, to serve as a focal point for the flow of information between the Parties and with the ICIM. The latter, by decision of the Parties, is responsible for monitoring fulfillment of the 22 activities included in the Agreement.⁴
- 1.4 During the period from May to November 2014, in accordance with the information sent by the Parties to ICIM, once the Joint Committee has been set up and a work structure established, six of the 22 anticipated actions will have been fulfilled or will be in the process of being fulfilled. These include progress on the works preparation activities, specifically: (i) the negotiations for the transfer of the area earmarked for the works;⁵ and (ii) the drafting of documentation by the Municipal Government to be delivered to the SPU to obtain the permit to build in the area. As to the other 16 actions included in the

¹ The policy mentioned in this document is the Policy Establishing the Independent Consultation and Investigation Mechanism approved in February 2010 (document GN-1830-49), which was in force during the monitoring period reported on herein.

² The Consultation Phase Report and the Agreement can be accessed in the Public Registry at www.iadb.org/mici.

³ Given that authorization from the Secretaria do Patrimônio da União [Department of Federal Assets] (SPU) to make use of the land is required to build the houses, the 18-month deadline runs from the date on which the permit is received, including one additional month for the respective procedures to be completed. This reflects the limit of the Municipal Government’s responsibilities in terms of approvals under the authority of the SPU. Also, the agreement will be nullified if the SPU fails to transfer the land for the Municipal Government to use.

⁴ Annex I lists the 22 actions agreed upon and the fulfillment status of each one as of the writing of this report.

⁵ There were some informal settlements in the area where the houses are to be built. In order for the land to be completely cleared for use, the Municipal Government needs to negotiate with the residents of those settlements and provide them with a temporary housing solution, until they can move into their respective houses.

Agreement, no progress has been made as yet, since they are subject to official approval by the SPU.

- 1.5 During the next six months, the following is expected, *inter alia*: (i) SPU approval; (ii) signature of the contract between the Municipal Government and *Urbam*; (iii) final designs for the works; (iv) formulation of the Social Action Plan (PAS); and (v) start of the works.
- 1.6 According to the timeline in the Agreement, a period of 18 months is anticipated for housing construction. During this period, the ICIM plans to conduct three international missions to São José dos Campos to verify the status of the works on site. The dates are subject to the progress of the works. In addition, in accordance with the Agreement, the ICIM will verify the last activity—a post-occupancy work—which is to be done seven months after the houses are delivered to the beneficiaries. If it is considered implemented to the satisfaction of the Parties, the ICIM will consider the case closed.
- 1.7 With the entry into force of the ICIM Policy approved on 17 December 2014 (document MI-47-3) and the Transition Plan (document MI-48-1) approved by the Board of Executive Directors on 4 February 2015, some changes will be made in the management of this case for 2015, which are described in section V below.

II. ICIM POLICY BACKGROUND FOR AGREEMENT MONITORING

- 2.1 Paragraph 52 of the Policy Establishing the ICIM⁶ establishes the obligations in terms of monitoring of agreements for the Consultation Phase as follows: “The Project Ombudsperson⁷ is responsible for making arrangements to provide for (a) direct or outside monitoring of any agreement reached by the parties to the consultation and (b) adequate measures to determine whether such agreement is being implemented in an appropriate manner. The Project Ombudsperson shall consult with the Requester with respect to the monitoring measures. Monitoring reports shall be issued at least semi-annually for so long as the Project Ombudsperson deems appropriate. Monitoring protocols and reports shall be made public via the Registry. The Project Ombudsperson will notify the President, Board (and the Donors Committee, in the case of a MIF-funded operation), the Requester, and other relevant parties of the results of its periodic monitoring exercises and of any recommendations that may result therefrom.”

III. BACKGROUND OF THE CASE

- 3.1 The case originated with the Request presented to the ICIM on 10 June 2011 by Mr. Cosme Vitor of Central de Movimentos Populares (CMP), representing some 30 families alleging that they had been harmed by the Low-income Neighborhood Improvement Program – Habitar Brasil (“Program” or “Project”), financed by the Inter-American Development Bank (IDB) in the Município of São José dos Campos, State of

⁶ Policy Establishing the ICIM (document GN-1839-49), approved on 10 February 2010 and superseded on 17 December 2014.

⁷ Starting on 31 August 2013 and until the effective date of the revised ICIM policy, monitoring of agreements is performed by a team comprised of the Executive Secretary and the official assigned to the case.

- São Paulo, Brazil, because of potential noncompliance with the provisions of the policy on Involuntary Resettlement (Operational Policy OP-710).
- 3.2 The Request stated that the resettlement process implemented under the Project had caused a series of adverse social impacts for people living in the *Vila Nova Tatetuba* and other communities. Specifically, some families believed that the proposed housing alternative did not satisfy the minimum conditions required under OP-710, and so had decided not to accept the conditions. Following this decision, the families in question had been evicted from their houses, and had been living in makeshift accommodations in a disused railway hangar since January 2004.⁸
- 3.3 From December 2011 to May 2014, the Parties, i.e., the representatives of the families (“Requesters”) and the Municipal Government of São José dos Campos (“Municipal Government” or “Municipal Government”), voluntarily conducted a process of dialogue facilitated by the ICIM and focused, primarily, on finding a housing solution for these families. This process ended on 24 May 2014 with the signature of the Agreement between the Parties.
- 3.4 The Agreement provides for the construction of single-family homes, in accordance with a design approved by the families, in an area close to the center of the city and within a period of up to 18 months.⁹ It also includes social support for the families before and after acceptance of the house. To this end, the Municipal Government and the families will work together on a Social Action Plan (PAS). A timeline of the activities necessary to fulfill the agreed objectives is attached to the Agreement.
- 3.5 The ICIM, by decision of the Parties, is responsible for monitoring the Agreement and, for purposes of the Parties’ direct monitoring, the creation of a Joint Committee, consisting of three representatives from the families and three from the Municipal Government, is provided for. The Joint Committee’s responsibilities include holding monthly meetings and issuing quarterly reports to inform the other Requesters and the ICIM on the progress achieved during the periods in question.
- 3.6 Closing the ICIM case depends on the accomplishment of the last activity in the monitoring plan: the post-occupation work to be done over the seven months following the delivery of the houses to the beneficiaries. Once this activity has been completed, the monitoring stage will be declared completed and the case closed.

IV. ACTIONS PERFORMED DURING THE MONITORING PROCESS

- 4.1 To comply with the Agreement, 22 activities were identified, listed in Annex I to this document, of which the following were carried out between May and November 2014:

⁸ For more information on the Consultation Phase process, see the ICIM Public Registry (www.iadb.org/mici).

⁹ Given that housing construction depends on SPU authorization to make use of the land, the 18-month period begins on the date on which the permit is received, including one additional month for the respective procedures to be completed. This reflects the limit of municipal government responsibilities in terms of approvals under the authority of the SPU. Also, pursuant to the Agreement, the latter will be nullified if the SPU fails to transfer the land for the Municipal Government to use.

- a. The Joint Committee was set up in June 2014 and it held its first two meetings in July. During the meetings, a work plan was established that provided for monthly meetings to: (i) report on progress with the activities in the timeline by *Urbam* and the Municipal Government; (ii) clarify doubts and answer questions; (iii) jointly identify complementary activities that arise during the process; (iv) discuss any challenges that arise during implementation of the activities; and (v) jointly prepare quarterly progress reports to send to the ICIM.
 - b. In June 2014, the social assistant who represents the Municipal Government on the Joint Committee presented the list of beneficiary families as the first stage in carrying out the PAS.
 - c. The required documentation to request SPU authorization to use the area for housing construction was prepared in June 2014. When the documentation was presented to the SPU, however, it imposed additional requirements,¹⁰ resulting in some delays in this regard.
 - d. The request for plant cover removal was submitted and the Environment Department provided authorization.
 - e. As to the informal settlements on the land earmarked for housing construction, negotiations were undertaken, the process to grant housing subsidies for the construction period were followed (*auxilio moradia*) with the respective departments, and the residents still needed to be moved in August 2014. In November 2014, one resident still needed to move for the area to be vacant.
 - f. The survey work in the area was performed in October 2014.
 - g. In August and October 2014, the ICIM conducted two international missions to São José dos Campos,¹¹ in order to: (i) facilitate understanding of the terms of the Agreement and (ii) understand the operation of the Committee's communication and work structure, given that the Committee's members had not been active participants in the dialogue. In addition, the ICIM presented the requirements for delivering the information needed to be able to properly and effectively monitor implementation of the Agreement.
- 4.2 During the period covered by this report, the following actions in the Agreement were carried out or are in the process of being carried out:¹²

¹⁰ Initially, it was anticipated that an authorization to operate in the area would be issued through the publication of an ordinance (*Portaria*) in the Official Gazette of the Union, with the documentation of the property being processed simultaneously with the housing construction. The additional requirements for such authorization requested by the SPU were that the land in the greater area be separated and recorded in the registry. It was therefore necessary to submit survey work on the boundaries of the property and to obtain the consent of the neighbors regarding such boundaries. This process is still under way. Unless the neighbors object, the land would be registered and the property registration will be included as a key document for the request for SPU authorization.

¹¹ The missions were conducted in conjunction with case BR-MICI006-2011 on 4 August and 10 October 2014.

¹² This includes activities performed after the Agreement was signed and through November 2014.

#	AGREEMENT/ACTIVITY	Status
1	Plant cover removal request and authorization	FULFILLED
2	Preparation of documentation for the SPU	UNDER WAY
3	Negotiation and relocation of the families living in the area to temporary housing	UNDER WAY
4	Area survey	FULFILLED
5	Drafting and signature of the contract (Municipal Government and <i>Urbam</i>)	UNDER WAY
6	Preparation of the Social Action Plan (PAS)	UNDER WAY

V. CONCLUSIONS AND NEXT STEPS

- 5.1 Although at the start of Agreement implementation there were some difficulties in the areas of communication and information sharing within the Committee and between the Committee and interested third parties, the interaction among the Parties has improved through clarification of the scope and objectives of the Agreement as well as various actions provided for in the timeline.
- 5.2 On the other hand, the key initial activity—SPU authorization to operate in the area—experienced some delays because of additional requirements not considered from the start. Despite this, progress has been made in other preparatory activities for building the houses.
- 5.3 The Parties have demonstrated their willingness and commitment to the Agreement in that they have devoted time and effort to comply with the actions agreed upon within as short a time as possible.
- 5.4 With regard to the ICIM, the revised ICIM policy was approved on 17 December 2014 and the Transition Plan, which introduces some changes in the management of Requests, was approved on 4 February 2015.¹³ As to the monitoring of Agreements, in accordance with the Transition Plan and the current version of the Policy (paragraph 35), the duration of the monitoring is not to exceed five years from the date the Policy enters into effect. Moreover, monitoring reports are to be submitted annually.
- 5.5 In this context, during the period from December 2014 to December 2015, the ICIM will monitor the following actions, among others:
- a. Full clearing of the land for the works.
 - b. Finalization of documents for the request for SPU authorization to operate in the area.

¹³ For more details, consult the Policy of the Independent Consultation and Investigation Mechanism approved on 17 December 2014 (document MI-47-3) and the Transition Plan (document MI-48-1), approved by the Board of Executive Directors on 4 February 2015.

- c. Effective removal of plant cover and earthworks.
 - d. Delivery of the final design of the works.
 - e. Signature of the contract between *Urbam* and the Office of the Mayor.
 - f. Finalization and implementation of the PAS.
 - g. Start of the works.
- 5.6 During the same period, the ICIM will monitor the activities in accordance with the following monitoring plan:
- a. The ICIM's local facilitator will attend the monthly meetings of the Committee until the start of the works, in order to contribute with the background knowledge of the case, provide clarifications on specific questions regarding the case and the Agreement, and serve as a bridge for communication between the Parties, if necessary.
 - b. The Consultation Phase team will conduct an international mission to São José dos Campos to verify progress on site, once the works have begun, tentatively estimated for March 2015. The date is subject to progress with the procedures required for the start of the works.
 - c. The ICIM will monitor progress with the implementation of the Agreement activities remotely and will request additional information to that included in the Committee's progress reports, if necessary. In addition, it will maintain contact by telephone and in writing with the Parties on possible challenges or delays in the implementation of the timeline of activities and will have the support of the local facilitator should any unforeseen obstacles arise.
- 5.7 In 2015, the ICIM is expecting to conduct two international missions to São José dos Campos to verify construction work progress and consistency with the approved model. The dates are subject to the project's progress.
- 5.8 Lastly, and in accordance with the content of paragraph 5.4, the next monitoring report will be submitted in January 2016.

ANNEX I. Activities Monitoring Table

Stage	#	Activity in the timeline	Description	Current status
Preparation	1	Request for plant cover removal - preparation	The land where the works will be carried out currently has vegetation that needs to be eliminated. Authorization from the Municipal Department of the Environment is needed for this purpose.	Fulfilled
	2	Authorization for plant cover removal		Fulfilled
	3	Preparation of documentation for the SPU	The Municipal Government needs SPU approval to use the land for housing construction. As the owner of the land, the SPU required a series of documents that will need to be prepared and delivered by the Municipal Government.	Under way
	4	SPU response		Pending
	5	Negotiation with the residents of the project area and temporary housing solution	There were some informal settlements in the area to be used for housing construction. In order for the land to be completely cleared for use, the Municipal Government needed to negotiate with the residents of those settlements and provide them with a temporary housing solution, until they can move into their respective houses.	Fulfilled
	6	Preparatory actions to move the residents out of the project area		Fulfilled
	7	Relocation of the residents in the project area		Under way
	8	Monitoring of the relocation of the residents in the project area		Under way
	9	Authorization to operate in the area	The SPU is responsible for such authorization, which is the key activity for the start of the works.	Pending
	10	Final design	This document is to be prepared by <i>Urbam</i> , the construction company in charge of the works.	Pending
	11	Area survey	The survey work in the area is necessary to support the SPU's land transfer process.	Fulfilled
	12	Drafting and signature of the contract (Municipal Government and <i>Urbam</i>)	The Municipal Government and <i>Urbam</i> must draft and sign the terms of the contract for the works.	Under way

Stage	#	Activity in the timeline	Description	Current status
	13	Preparation of the Social Action Plan (PAS)	This is technical social work to be performed by the Parties, which will cover the following activities, <i>inter alia</i> : (i) social support for families in vulnerable circumstances; (ii) development of community activities during works execution; and (iii) support for establishing community life following the move.	Under way
	14	Social actions with the families that will be resettled	These are activities provided for in the PAS for the pre-occupation period.	Pending
	15	Creation of the financial model for paying for the houses	The financial model to be used for paying for the houses will be similar to the one used in the social program <i>Minha Casa Minha Vida</i> . The specific modality and the conditions for delivery of the houses and payment therefor will be created in the context of the Agreement.	Pending
Execution	16	Works execution	This involves the actual construction of the works.	Pending
Delivery of the works	17	Preparation of the terms of the contract	Upon delivery of the houses, the beneficiary families will sign a delivery contract.	Pending
	18	Signature of the contract and delivery of the houses		Pending
	19	Monitoring and support of the families' relocation	These are activities provided for in the PAS for the relocation to the new houses.	Pending
	20	Registration of the payment card	Each beneficiary will have to register a payment card to make payments on the houses.	Pending
	21	Notification to the SPU that the families have been relocated	The SPU will be notified when the beneficiary families have moved out of the railway hangar and have been relocated to their new houses.	Pending
	22	Post-occupation work	This involves social activities to promote integration and establishment of community life provided for the families after they move.	Pending