

# Land Acquisition and Resettlement Framework

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Project Number: 52122-001  
August 2018

## TAJ: Reconnection to Central Asian Power System Project

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## DEFINITIONS OF LAND ACQUISITION AND RESETTLEMENT TERMS

<b>Displaced Persons (DP)</b>	Those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
<b>Detailed Measurement Survey (DMS)</b>	With the aid of the approved detailed engineering design, this activity involves the finalization and/or validation of the results of the inventory of losses (IOL), severity of impacts, and list of DPs. The final cost of resettlement can be determined following completion of the DMS.
<b>Compensation</b>	Payment in cash or in kind to replace losses of lands, housing, income and other assets caused by the Project. All compensation is based on the principle of replacement cost, which is a method of valuing assets to replace the loss at current market rates, plus any transaction costs such as administrative charges, taxes, registration and titling costs.
<b>Cut-off Date</b>	The date after which people will not be considered eligible for compensation.
<b>Dekhan Farm</b>	Midsized land, which is legally and physically distinct from household plots, for which full land use rights, but not ownership, is allocated to either individuals or groups. Regulations concerning Dekhan farms in Tajikistan are laid out in Law No. 48 on Dekhan Farms, from 2002.
<b>Encroachers</b>	People who have trespassed onto private/government/community land for which they are not authorized to use. If such people arrived before the cut-off-date, they are eligible for compensation for any affected structures, crops or land improvements.
<b>Entitlements</b>	The range of measures comprising cash or in-kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution/business restoration, which are due to DPs, depending on the type, extent and nature of their losses, and which suffice to restore their social and economic base.
<b>Eligibility</b>	Any person who resided in the Project area before the cut-off date that suffers from (i) loss of house, (ii) loss of assets or ability to access such assets, permanently or temporarily, or (iii) loss of income sources or livelihood, will be entitled to compensation and/or assistance.
<b>Hukumat</b>	District administration in Tajikistan
<b>Income restoration</b>	This is the re-establishment of sources of income and livelihood of the affected households.
<b>Income Restoration Program</b>	A program designed with various activities that aim to support displaced persons to recover their income / livelihood to the pre-Project levels. The program is designed to address the specific needs of the affected persons based on the Socioeconomic (SES) survey and consultations.
<b>Jamoat</b>	A sub-district level administration
<b>Land Acquisition</b>	Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land/assets for public purposes in return for in-kind replacement or compensation at replacement costs.
<b>Land Acquisition and</b>	A time-bound action plan with budget setting out compensation for affected land/assets and resettlement strategies, objectives, entitlement, actions, responsibilities, monitoring and evaluation.

<b>Resettlement Plan (LARP)</b>	
<b>Non-titled</b>	Means those who have no recognizable rights or claims to the land that they are occupying.
<b>Presidential Land</b>	Means land for which use rights have been allocated by a Presidential Decree, but the ownership remains with the state.
<b>Rehabilitation</b>	This refers to additional support provided to DPs losing productive assets, income, employment or sources of living, to supplement payment of compensation for acquired assets, in order to achieve, at a minimum, full restoration of living standards and quality of life.
<b>Replacement cost</b>	The calculation of full replacement cost will be based on the following elements: (i) fair market value; (ii) transaction costs; (iii) interest accrued, (iv) transitional and restoration costs; and (v) other applicable payments, if any.
<b>Reserve Fund Land</b>	Means land owned by the state and controlled by the district administration that may be rented, mainly for agricultural use.
<b>Resettlement</b>	This includes all measures taken to mitigate all adverse impacts of the Project on DP's property and/or livelihood. It includes compensation, relocation (where relevant), and rehabilitation as needed.
<b>Severely Affected</b>	This refers to affected households who will (i) lose 10% or more of their total productive land and/or assets, (ii) have to relocate; and/or (iii) lose 10% or more of their total income sources due to the Project.
<b>Vulnerable</b>	Vulnerable groups refer to people who, by virtue of gender identity, ethnicity, age, disability, economic disadvantage or social status may be more adversely affected by project impacts than others and who may be limited in their ability to claim or take advantage of project benefits. Vulnerable individuals and/or groups may also include people living below the poverty line, the landless, the elderly, women and children headed households, refugees, internally displaced people, ethnic minorities, natural resource dependent communities or other displaced persons who may not be protected by national and /or international law.

## 1. Introduction

1. This Land Acquisition and Resettlement Framework (LARF) for ADB financed Reconnection to Central Asian Power System Project in Tajikistan, has been prepared by PMU Barqi Tojik. The LARF aims to assist at timely preparation of safeguards documents as per ADB SPS 2009 requirements, timely and effective planning of resources needed for preparation, endorsement and implementation of the land acquisition and resettlement plan (LARP). It also includes a template for the LARP document as per ADB SPS (2009). This LARF will be disclosed on the ADB website. This LARF will also be translated into Russian language and disclosed on the PMU Barqi Tojik website.

2. Objective of this LARF is to establish a set of mechanisms and procedures that Barqi Tojik agrees to follow during the project processing and implementation so as to ensure:

- (i) procedural compliance with the requirements of ADB SPS (2009)
- (ii) timely preparation of the safeguard documents, such as LARP and DDR, in a format and quality acceptable under the ADB SPS (2009)
- (iii) advance planning of the requisite resources to implement the LARPs
- (iv) a common understanding between ADB and Government (including local and regional partners) of the timing and sequence for undertaking and completing ADB SPS (2009) mandated and Government-required LAR tasks
- (v) timely endorsement of the LARP and DDR by the Government

## 2. Background and Project Description

3. The Republic of Tajikistan has received a grant from the Asian Development Bank (ADB) towards the cost of the Wholesale Metering and Transmission Reinforcement Project. Parts of this financing are being used for the interconnection of the Tajik Sughd 500/220 Substation with the Uzbekistan 500 kV line that is passing next to the substation (please refer to Figure 1 below), by the construction of two short overhead transmission lines sections and the installation of the required equipment at the substation plus the dismantling of 4 towers and the conductors at the relevant stretch of the current route of the Uzbekistan 500 kV.

4. The project aims to improve the regional energy resource utilization among CAPS countries. To achieve this, the project will: (i) Synchronize Tajikistan grid with Uzbekistan grid through installation of modern relay protection equipment; (ii) Expand Tajikistan interconnection with Uzbekistan through establishing 2 new 500kV interconnections; and (iii) Improve capacity for stable parallel operation through training of Barqi Tojik staff on stability and protection management operation. Expanding interconnection and synchronization of Tajikistan grid with that of Uzbekistan will facilitate the export of surplus electricity not only to Uzbekistan but to other neighboring countries such as Kazakhstan and Kyrgyz Republic. It will also help improve energy efficiency and reliability within the country, as well as efficiency of regional energy resource utilization. These will benefit the citizens in the form of increased gross domestic income, more employment opportunities, and better access to basic services. Improving the capacity of staff on stability and protection management operation will decrease system losses and enhance service provision, which will benefit end consumers. This will also inform the upcoming reorganization of Barqi Tojik to streamline its functions and provide more efficient energy services.

5. The objective of the project is to enable power exchange between Tajikistan and Uzbekistan at 500 kV. Expected exports are 100-120MW November to April by Uzbekistan and similar volume May to October by Tajikistan. Power exchange at 220kV between the two countries is happening since April 2018.

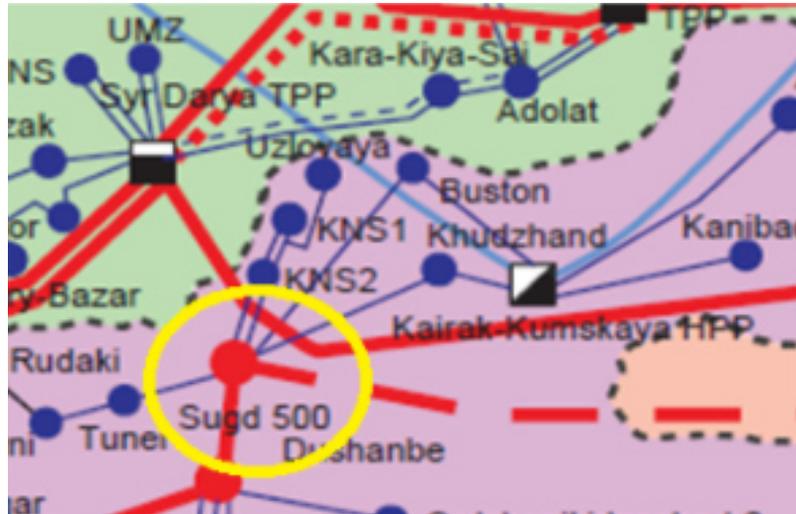


Figure 1. Diagram of the electric grid that shows the current setting where the Uzbekistan 500 kV OHTL passes 300m away of Tajikistan’s Sughd SS but do not connect to it.

6. Looking at the development objective of the project, the project will improve power reliability and quality of supply in nearby regions of Tajikistan and Uzbekistan, improving the living conditions as well for citizens and the business climate. The project will mean as well an economic opportunity for the Government of Tajikistan for increased revenues. An increase in the national revenues could translate into a rise of the national budget for investments that could improve the quality of life of Tajikistan’s citizens.

7. Two possible routes for the OHTL sections that will be built are being considered at the moment. Barki Tojik has indicated that a 50 m wide right-of-way (RoW) should be implemented for the OHTL based on technical considerations.

8. “Sughd” substation is located in Sughd province, Jukumat Devashtich (district), Jamoat Lolazor (sub-district), at 1,600 m from the town Kurkat.



Figure 2. Location of Sughd substation

9. Substation Sughd 500/220 kV was built in 2010 in the scope of a project financed by the Exim Bank of China. The substation has 2 groups of single phase autotransformers with 167x3 MVA

capacities. 500 kV switchyard has one and a half configuration only with one connected transmission line dispatch #518 which is coming from Substation Dushanbe 500 kV.

10. Transmission line from Syrdarinskaya SS (Uzbekistan) crosses the territory of the Republic of Tajikistan and it is owned by the Uzbekistan power utility Uzbekenergo. Current route of the existing Uzbekistan line is going 300m West of Sughd SS.

11. In the course of the preliminary technical survey, it was revealed that the area near the substation is heavily occupied by other power transmission towers. Two options are considered for the opening of the existing 500 kV overhead line. Both cross existing transmission lines and have to connect with bays that located on opposites points of the SS, which makes difficult the use of double circuit towers.

12. Option #1. In accordance with this second proposal, 5 towers of the current 500 kV line (Uzbekistan) would be dismantled and 3 pcs of 45-90 degrees (LAT and HAT) and 2 terminal towers (DET) would be installed. The new line would be crossing the existing 500 kV line #518 one time.

13. Option #2. In accordance with this proposal 3 towers of the current 500 kV line (Uzbekistan) would be dismantled and 4 towers of 45-90 degrees (LAT and HAT) and 2 terminal towers (DET) would be installed. The new line would be crossing the existing 220 kV line two times.

14. The construction of 5 new transmission towers will involve the following stages, that will have to be performed with strict safety, project quality and environmental protection practices. Envisaged project works are; 1. Transporting materials to the tower sites, 2. Building the foundations and anchors 3. Assembling the towers 4. Raising the towers 5. Unreeling and installing the conductors 6. Installing the counterpoise wires 7. Restoring the site.

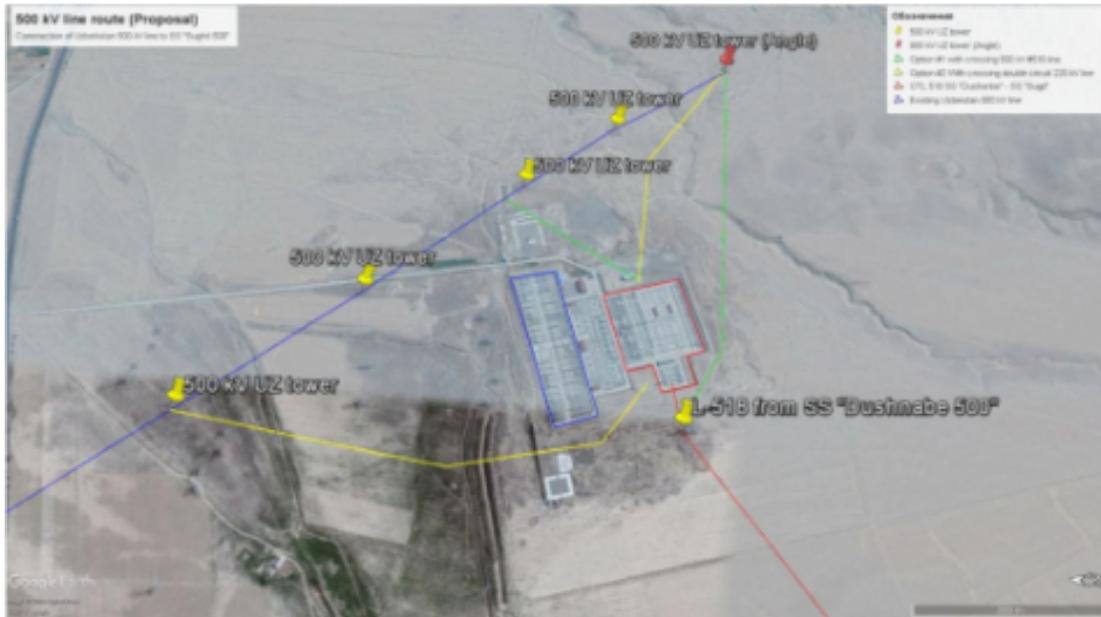


Figure 3. Possible line routes for the new OHTL sections.

### 3. Potential Resettlement Impact

15. The scope of the project is limited and it will be implemented in a high density Energy sector infrastructure area. Physical observation of the project location and investigations on the above-mentioned options of line routes showed that the project do not cross any residential area and/or lands heavily engaged with agricultural activities. The area around the substation can be described as unfit

for neither housing nor farming and is not being used for any income generation activity. The land around the substation has no water available for irrigation.



Figure 4. Land around the Sughd Substation, non-arable.

16. The standard angle tower designs used in other OHTLs in Tajikistan have a foundation area of 100-144 m<sup>2</sup>. As indicated by Barki Tojik, Right of Way (RoW) for a 500 kV line should be 50m from the centre of the line towers which will result in a line corridor of 100m free from any constructions.

17. Prior to the final design of the line by the building contractor it will not be possible either: (i.) to identify the final plots required for construction of towers and those pieces of land which would possibly be affected by the construction work and stringing lines or, (ii.) to know exactly which land owners would be affected by the foundation of the new towers. Therefore, the current land assessment is preliminary.

Table 1: The key points of the preliminary land assessment,

Towers	Option 1	Option 2
Total length of the new OHTL sections	1910m	1230m
Required towers	6 (5 new foundations)	5 (4 new foundations)
Single circuit towers	4	3
Terminal towers	2	2
Length of new OHTL sections on agricultural land	0 km	0 km
Land required for new towers foundation	500- 720 m <sup>2</sup> (approx. 0.05 ha)	400-576 m <sup>2</sup> (approx. 0.04 ha)
Land required for new OHTLs RoW	142,800 m <sup>2</sup> (14.28 ha)	<142,800 m <sup>2</sup> (14.28 ha)
Required access paths for construction	2,400 m <sup>2</sup>	2,000 m <sup>2</sup>
Required site for construction and area	1,350 m <sup>2</sup>	1,125 m <sup>2</sup>

18. The EA has the obligation to prepare a land acquisition and resettlement plan (LARP), if the proposed project will have involuntary resettlement impacts. The objective of the LARP is to ensure that the livelihoods and standards of living of displaced persons are improved, or at least restored to pre-project levels and that the standards of living of the displaced poor and other vulnerable groups are improved by providing adequate housing, security of land tenure and steady income and

livelihood sources. The resettlement plan will address all relevant requirements specified in Safeguard Requirements 2 of ADB SPS (2009), and the level of detail and comprehensiveness of the LARP will be corresponding to the significance of involuntary resettlement impacts. The outline of the LARP is annexed to this document.

19. After detailed design including final alignment of the transmission lines is completed, the project activities will be screened for LAR impacts and a LARP (when LAR impacts are identified) or a due diligence report (DDR; when no LAR impacts are identified) will be prepared. This LARF will guide the EA to conduct screening and preparing LARP as per ADB SPS (2009) as well as national laws and regulations of Tajikistan.

#### **4. Socio-economic profile**

20. Tajikistan is a Central Asian country bordering Afghanistan, China, Kyrgyzstan and Uzbekistan. According to the 2008 census, the country's population was 7,373,800. However, the population in 2015 is estimated to be 8,610,000 people. Population density is 63 persons per square kilometer. Tajikistan is divided into four regions: Sughd, Khatlon, Gorno-Badakhshan and Region of Republican Subordination, while the capital Dushanbe is administratively separate. Each region is divided into several districts (districts) which are subdivided into village level self-governing administrative units – jamoats. There are 58 districts (rayons) and 368 jamoats in Tajikistan.

21. 31.3% of the population lived below the national poverty line in 2015. The proportion of employed population below USD 1.90 purchasing power parity a day in 2015 was 4.8%. For every 1,000 babies born in Tajikistan in 2016, 43 died before their fifth birthday.

22. Tajikistan's GDP is expected to grow by 6.0% in 2018 and 6.5% in 2019. Per capita GDP growth is expected at 3.3% in 2018 and 5.4% in 2019. Inflation rates are forecasted at 7.5% in 2018 and 7.0% in 2019.

23. With some of the world's highest mountains covering 93% of its territory, Tajikistan faces obvious obstacles to its development. These include unstable food security, limited transport connectivity, and low levels of private investment. Due to its narrow economic base and reliance on remittances by labor migrants, Tajikistan's economy remains vulnerable to external shocks.

24. Socio-Economic Profile of Jukumat Devashtich, Lolazor Jamoat (the Project location). The population of Lolazor Jamoat was 15,060 people in 2015. The percentage of the population who were women was 51.34%. Main sources of income are agriculture and cattle rising, there were 3,597 farms (2015).

#### **5. Objectives, Policy and Legal Framework**

25. LARF is a document of the Government of the Republic of Tajikistan and reflects the relevant national legal framework and requirements along with specific ADB's requirements under ADB SPS (2009). The document is agreed between the Government of the Republic of Tajikistan and ADB and no changes shall be made to the LARF without prior approval from ADB.

26. The objectives of this LARF document are to guide the Barqi Tojik and the PMU in conducting screening, defining the displaced people, conducting a socio-economic assessment of affected population, identifying types the extent of permanent and temporary impact, eligibility and compensation as well as assistance to Displaced People (DP) etc.

27. LARP, when necessary, will be prepared in accordance with this LARF upon assessment, guidelines and recommendations by the social safeguards specialist, for the project. Projects that have no land acquisition or resettlement impacts will require preparation of a DDR. This LARF will also help PMU to prepare, implement and monitor the LARPs for the project.

## 6. Land Acquisition and Resettlement in Tajikistan Laws and Regulations

28. This policy framework is based on the Law of the Republic of Tajikistan and ADB SPS (2009). In the legislation of Tajikistan, there is no special law or policy, which regulates the issues of resettlement and/or land acquisition or expropriation of rights to land and immovable property for state or public needs. Moreover, there is no separate law that completely provides norms and mechanisms for the determination of the full and fair, market value of land. The key legislative acts regulating land management relations and the ownership rights to immovable properties in the Republic of Tajikistan are the following:

- Constitution of the Republic of Tajikistan (1994, as amended in 2003)<sup>1</sup>
- Land Code (amended in 2012)<sup>2</sup>
- Land Code (amended in 2008)<sup>3</sup>
- Civil Code (amended in 2007)<sup>4</sup>
- Regulation “about compensation of losses to the land users and losses of agricultural products” (approved by the Decree of Government of Republic of Tajikistan, 30 December 2011. № 641)<sup>5</sup>

29. The Constitution of the Republic of Tajikistan, Land Code and the Civil Code of the Republic of Tajikistan are the fundamental laws on which the legislation is based. The framework for the Project is based on the Republic of Tajikistan applicable laws, regulations and policies and ADB SPS 2009 requirements. Where differences exist between local law and ADP policies and practices, the resettlement for this Project will be resolved in favor of the later.

### Types of land ownership and land use rights allocation

30. All land is owned by the Republic of Tajikistan, which is responsible for its effective use. Several tenure options for agricultural land are defined by the Land Code. There are primary use rights and secondary use rights. Primary use rights include the following:

- Perpetual use which has no fixed term. It is granted to legal entities such as state and cooperative agricultural enterprises, public and religious organizations and charities, industrial and transportation needs, public enterprises, defense and joint ventures that include foreign entities.
- Limited or fixed-term use may be granted to legal or physical persons for either a short-term (up to 3 years) or long-term (3 to 20 years).
- Life-long inheritable tenure which may be assigned to physical persons or collectives. Physical persons must re-register the right in the case of inheritance. This right applies to land-shares used to organize a Dekhan farm, as well as household (garden) plots.

31. The only secondary use-right recognized under the Land Code is the right to lease. According to the Code, primary rights holders may lease out their plots for a term not exceeding 20 years. The land is used in accordance with the state-established land-use standards. The right to use land may be terminated for various reasons such as termination of activities by the land user, non-use for two years and use of the land differing from the use established in the use-rights document. (Land Code Article 37)

<sup>1</sup> Constitution, November 6, 1994, as amended on 22 June 2003.

<sup>2</sup> Land Code of the Republic of Tajikistan as amended on 01 August 2012

<sup>3</sup> Land Code, as amended by N 498 from December 12, 1997., N 746 from May 14, 1999, N 15 from May 12 2001, N 23 from February 28, 2004. From 28.07.2006 №199, from 5.01.2008 №357, from 18.06.2008 №405.

<sup>4</sup> Civil Code, as amended by August 6, 2001, N 41: May 3 2002 №5, March 1 2005, N 85; April 29, 2006 №180, May 12, 2007. №247).

<sup>5</sup> Approved by the Decree of Government of Republic of Tajikistan, December 30, 2011. №641.

32. Dekhan land is the result of the splitting up of large state-owned farm enterprises, known as kolkhoz and sovkhoz farms, which were established throughout much of the former Soviet Union. Sovkhoz farms were run by the state, while kolkhoz farms were a form of co-operative farm, run by a committee of members approved by the state. The Agrarian Reform Program in Tajikistan was adopted for the period of 2012-2020. Creation of Dehkan farms is one of the priority areas of land reform. The basis for creating Dehkan farm in the Republic of Tajikistan is defined by the Law “On Dehkan farms”<sup>6</sup>, №48 of 10 May 2002. It resulted in the creation of 31 Dehkan farms in 1992 with 300 hectares of land. In 2003, there were 16,433 registered Dehkan’s farms with 240,100 hectares<sup>7</sup>.

33. In Dekhan farms, the land remains state property (which cannot be bought or sold), but farmers are granted inheritable land use rights which give complete legal freedom to landholders to manage the land as they desire. The state collects taxes and can repossess the land if it believes the land is not being managed properly. There are three types of Dekhan land: individual (the land use certificate is held by an individual), family (the certificate is jointly held) and collective (the certificate details common property shareholders).

34. A collective Dehkan consists of two or more unrelated families, producing and marketing jointly. Dekhan farm associations, or associative dekhkan farms, operate in a similar manner to collective Dekhans, although the families involved technically have their own Dekhans and work together cooperatively. Both family and collective Dehkans operate by appointing a head who officially holds the farm’s land registration certificate and legally represents the interests of the farm (Duncan 2000; GOT 2008; ARD 2003; Robinson et al. 2009; GOT 2009a).

35. Presidential land is similar to Dekhan land. It was allocated in small plots to private households in the late 1990s by Presidential Decree. The essential difference between Dekhan and Presidential land is that no land-use rights certificate is required for the latter land plots (they are registered at the jamoat level per household).

36. Reserve Fund land usually consists of unused land. It also includes land plots for which land use rights have been abandoned. State reserve land is at the disposal of the district administrations and is rented out or distributed for individual agricultural cultivation purposes.

37. Article 100 of the Land Code states that State land stock is reserved for the agricultural, industrial, transport and other needs of the national economy.

38. Supported Farms land includes land provided to different government institutions as assistance to their members and employees. The land is given to employees who did not get any land under other government schemes.

## **Tajikistan Constitution, Law/regulation on Land Acquisition, Resettlement and Compensation**

39. The Constitution of the Republic of Tajikistan is the main legal document which guarantees citizen’s rights. Article 13 states that land, bowels of the earth, [i.e. mineral resources], water, airspace, animal and vegetable kingdoms, [i.e. flora and fauna], and other natural resources are owned by the state, and the state guarantees their effective use in the interests of the people. Furthermore, Article 12 states that the economy of Tajikistan is based on various forms of ownership and the state will guarantee freedom of economic activity, entrepreneurship, equality of rights, and the protection of all forms of ownership, including private ownership.

40. The legal basis for state acquisition of private property for public works is outlined in Article 32 which states “...*the property of an individual is taken away only on the basis of the law, with the consent of the owner and to meet the requirements of the state and society, and with the state paying full compensation.*”

<sup>6</sup> Law of the RT “On Dehkan farms”.2002. [www.mmk.tj](http://www.mmk.tj)

<sup>7</sup> Source: Statistical Yearbook of the Republic of Tajikistan. 2001. Statistical Agency. Dushanbe, 2001, c.175. Statistical Yearbook of the Republic of Tajikistan. 2004. Statistical Agency. Dushanbe, 2004, c.173.

## Provisions regulated by the Land Code

41. In August 2012 amendments to the Land Code that enable legal sales and lease transactions for land use rights were approved.<sup>8</sup> The Land Code also includes changes to the provisions related to land acquisition.<sup>9</sup>

42. The revocation/allotment of lands and resettlement envisages compensation for losses incurred by land users or those with other registered rights to the land when the land plot is revoked for state and public needs.

43. The state may revoke land plots for state and public needs from land users after:

- allocating a land plot of equal value;
- constructing housing and other buildings with the same purpose and value, in a new location for the natural persons and legal entities to whom the land plot had been allocated, in accordance with established procedures;
- fully compensating for all other losses, including lost profits, in accordance with the legislation of the Republic of Tajikistan.

44. Upon the revocation of land plots for state and public needs, all losses shall be calculated according to the market price, which shall be defined by taking into consideration the location of the land plot, and compensation shall be paid to the persons/legal entity whose land has been taken away. Termination of the right to use a land plot, for state and public needs, can be carried out after allocation of an equal land plot and compensation of other expenses is provided by part one of the present article. (L.C. Article 41; In the Republic of Tajikistan Law edition dated 1 August 2012, No. 891).

45. The procedure for the compensation of losses to land users and losses arising from the removal of land from circulation is regulated by Article 43 of the Land Code edition dated 1 August 2012, No. 891:

- In the event of revocation of a land plot for state and public needs, compensation for losses to land users and others with registered rights to the land, and losses connected to the removal of land from circulation, shall be made by the natural/legal persons whose activity led to the revocation.
- In the event of withdrawal of a land plot for state and public needs, the procedure for compensation of losses to land users and others with registered rights to the land, and losses connected to the removal of land from circulation, shall be defined by the Government of the Republic of Tajikistan (In RT Law edition dated 5 January 2008, No. 357).
- Upon termination of the rights to a property, the property will be assessed based on its market value (Article 265 Civil Code).
- Land users should be notified in writing about land revocation by the local executive government body no later than one year before the pending withdrawal of the land (Article 40. Land Code of the Republic of Tajikistan Law edition dated 1 August 2012 no. 891).
- In the event that international agreements recognized by the Republic of Tajikistan establish other rules than those contained in the Land Code of the Republic of Tajikistan, the rules of the international agreement shall be applied (Article 105, LC of the RT edition dated 28 February 2004 No. 23).

46. The Land Code of 1997 is the core legal document related to land acquisition. It has been updated a few times and most recently in August 2012. Article 2 of the Land Code states that “*land is an exclusive ownership of the State... [but]... the State guarantees its effective use in the interests of its citizens*”. However, Articles 10-14, the Land Code outlines land title as being of long-term, short-term, and inherited land use entitlement. Article 14 of the LC of the RT also states that land

<sup>8</sup> Law 891 dated August 2012, article 19.

<sup>9</sup> Articles 37-45

users may lease land plots by agreement (In the Republic of Tajikistan Law addition dated 1 August 2012 No. 891).

47. Article 24 of the Land Code describes the allocation of land for non-agricultural purposes and provides that when choosing a suitable location for such land uses, land not suitable for agriculture should be favored. The same principle is stressed by Article 29, which discourages the use of high-yielding agricultural land for non-agricultural use. However, Article 29 also allows for allocation, and appropriating of agricultural land for “*other very important State objects*”.

48. In accordance with Article 19 of the Land Code, the land right users may:

- execute civil-legal transactions (buying-selling, gift, exchange, mortgage and other) with allocated (acquired) use right to a land plot with a right to alienate it independently without interference of executive government bodies, except for provisions of present Code; (In the Republic of Tajikistan Law edition dated 1 August 2012 No. 891)
- lease the land plot;
- establish private (based on consent) servitude to a land plot; (In edition dated 1 August 2012 No. 891)
- mortgage the right to a land plot;
- receive compensation in the event of withdrawal of the right to use the land plot for state and public need in accordance with Article 41 – 43 of the present Code.

49. ADB applicable policies and regulations are summarized in ADB SPS 2009.

50. These laws and policies are triggered when there is a physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of:

- Involuntary acquisition of land, or
- Involuntary restrictions on land use or on access to legally designated parks and protected areas.

51. The LARP must be prepared regardless of the character of the losses: whether involuntary restrictions are **full** or **partial**, **permanent** or **temporary**.

## **Involuntary Resettlement Safeguards Requirements of ADB SPS 2009**

52. The three important elements of ADB’s involuntary resettlement policy are: (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. For any ADB operation requiring involuntary resettlement, resettlement planning is an integral part of project design, to be dealt with from the earliest stages of the project cycle, taking considering the following key policy principles for IR. These can be summarized as follows:

- Screen the project early on to determine past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, related to resettlement impacts and risks.
- Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and resolve the affected persons’ concerns. Support the

social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.

- Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.
- Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with the relevant income sources and legal and affordable access to adequate housing.
- Establish procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.
- Ensure that displaced persons without titles to land or any recognizable legal rights to land, are eligible for resettlement assistance and compensation for loss of non-land assets.
- Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.
- Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by considering the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

53. The ADB SPS 2009 distinguishes three categories of displaced persons, with variable compensation needs:

- **Legal DPs:** DPs with formal legal rights to land/land use right lost in its entirety or in part;
- **Legalizable DPs:** DPs without formal legal rights to land/land use right in its entirety or part but who have claims to such lands that are recognized or are recognizable under national law and;
- **Non-legal DPs:** DPs who have neither formal legal rights nor recognized/recognizable claims to land/use right which is lost in its entirety or in part.

54. For categories (i) and (ii) above, borrowers are expected to provide compensation for loss of a land use right and compensation at full replacement cost for structures, land improvements and relocation assistance. For DPs in category (iii) (informal settlers), the borrower/client is expected to compensate all assets other than land (i.e. buildings, trees, crops, businesses) at full replacement cost. The risk of opportunistic encroachment on land designated for acquisition by the project is managed through a cut-off date.

55. Compensation for lost right to use land may be in the form of replacement land (preferable if feasible) or in cash. When “land for land” compensation is not feasible, cash compensation can be valued based on market rates or, in absence of land markets, through other methods (i.e. land productivity or reproduction costs, or an established price for loss of land use rights practiced at other current ADB financed project in Tajikistan)<sup>10</sup>. Applicable compensation is to be provided at “full replacement cost”. This includes: (i) transaction costs; (ii) interest accrued; (iii) transitional and restoration costs; and (iv) other applicable payments, if any. Compensation for all other assets is to be provided in cash at replacement cost without deductions for amortization, salvaged materials and transaction costs.

## 7. Comparison of the Provisions Under ADB SPS (2009) and National Legislation

56. In general, there are no significant differences between Tajikistan legislations and practices and ADB policies regarding the land acquisition and resettlement as ADB SPS (2009) requirements are incorporated and in use at other projects in Tajikistan. However, the Tajik laws and regulations do not recognize non-titled land users and owners or other assets, while the SPS 2009 recognizes as eligible to compensation or at least rehabilitation titled and non-titled owners or registered and unregistered tenants.

57. To reconcile these gaps between the legislation of Tajikistan and ADB’s Policy, PMU has drafted this LARF for the Project, ensuring compensation at full replacement cost of all items (except for illegally used land and wood and decorative trees) and at least rehabilitation of informal/non-titled settlers, unregistered businesses. The LARF also provides allowances for DPs that will be relocated and are vulnerable or severely affected.

58. Enforcement or practical application of laws and regulations relevant to LAR should be adequately considered before and during the civil works. For the Project, this will be addressed through awareness raising and regular information dissemination with all the key stakeholders, including those responsible for implementation of LAR at various levels: PMU, district and jamoats, the Project Contractors and Project Management Consultants.

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<sup>10</sup> Based on the SPS (Appendix 2, para. 10) in absence of well-established land markets land compensation will be provided based on a thorough study of the land transaction, use, cultivation and productivity patterns in project areas. One method accepted by ADB in such a situation would be to provide land compensation based on land productivity or land reproduction costs.”

59. The key differences between the laws and regulations of the Republic of Tajikistan and ADB Safeguards policy are presented below. Any major differences will be resolved in favor of ADB SPS 2009.

<b>Comparison of the Provisions under ADB SPS (2090) and National Legislation</b>				
<b>No</b>		<b>ADB Social Safeguard Requirements</b>	<b>Tajikistan Legal Provisions</b>	<b>Reconciliation</b>
1.	Eligibility	DPs with legal rights receive compensation for land and non-land assets	DPs with legal/registered land use rights are eligible for compensation \ rehabilitation.	For this Project, land will be compensated either by provision of replacement plot or in cash. For agricultural land, replacement cost will be computed based on the productive value of the affected plot. For residential or /commercial land, a replacement cost will be computed based on current lease rate multiplied by 25 years since in Tajikistan there are no functional land markets.
		DPs with legalizable rights are entitled to compensation for land and non-land assets.	DPs with legalizable rights receive compensation for the land and non-land assets.	Same in principle and application.
		DPs with no legal rights receive compensation for the assets/improvements	Informal land users (without right to use land) are not entitled to any compensation (for land or non-land assets)	Different in principle but same in application for non-land assets.
2.	Livelihood rehabilitation standards	ADB Policy requires improvement in the standards for DPs' livelihood	No such a provision exists in the national law	Different in policy but Government accepts ADB SPS (2009) requirements and endorses them in the entitlement matrix on a project by project basis.
3.	Compensation	i. Loss of land. Replacement land as the preferred option of the compensation. If land is not available, cash compensation at full market cost.	i. Permanent loss of land. Replacement land but also cash compensation.	i. Cash allowance for loss of land use rights informally recognized at previous projects.
		ii. Loss of structures. Cash compensation for lost structures at full replacement cost irrespective of the legal status of land and free of depreciation, transaction costs and other deductions.	ii. Loss of structures. Cash compensation for lost structures at market cost with depreciation or value of salvaged materials sometimes included in the calculation.	ii. Different in policy and application. Informally reconciled in previous projects.

<b>Comparison of the Provisions under ADB SPS (2090) and National Legislation</b>				
<b>№</b>		<b>ADB Social Safeguard Requirements</b>	<b>Tajikistan Legal Provisions</b>	<b>Reconciliation</b>
		<p>iii. Business and employment (temporary and permanent Business owner: In case of permanent loss, compensation equal to 1-year net income (lost profits) plus cost of lost certificates / licenses / patents. The income is based on the official tax declaration, or (if tax declaration is unavailable) it is accepted as the official monthly average wage multiplied by 12. Tax exemptions applicable to commercial establishments during the construction process, are the cases of temporary disruption of livelihoods due to the construction activities during the construction period.</p>	<p>iii. Business Losses. Compensation in cash at market value for legal businesses but the methodology is not specified. Non-registered businesses are not entitled to compensation.</p>	<p>iii. Different in policy and application. Informally recognized in previous projects. In case of permanent loss, compensation for up to 1-year net income (lost profits) based on the official tax declaration or (if tax declaration is unavailable) it is accepted as the official monthly average wage multiplied by 3. The period for compensation depends on the assessed time needed for re-establishment of business activities.</p>
		<p>iv. Loss of trees. Irrespective of legal land occupancy status compensation at market cost based for application on tree type/ wood volume for wood trees and based on income lost (x tree type x market value of 1-year income x years to grow the tree to a full production.</p>	<p>iv. Loss of trees. Compensation for loss of fruits for number of years needed to grow the tree. In general, wood and decorative trees are not compensated but the wood cut is left to the DPs.</p>	<p>iv. Same in principle and application</p>
		<p>v. Crops. Cash compensation equal to the gross income on the affected land for 1 year at market prices at the time of cancellation. No compensation will be paid for the land.</p>	<p>v. Loss of crops. Cash compensation at market price for all incurred land preparation activities and expected gross crop value.</p>	<p>v. Same in principle and application.</p>
4.	Procedural mechanisms	<p>i. Prior notification. Timely notice on land acquisition needed.</p>	<p>i. Prior notification. Written notification prior to withdrawal (acquisition) of land.</p>	<p>i. Similar</p>

<b>Comparison of the Provisions under ADB SPS (2090) and National Legislation</b>				
<b>No</b>		<b>ADB Social Safeguard Requirements</b>	<b>Tajikistan Legal Provisions</b>	<b>Reconciliation</b>
		ii. Information disclosure. LAR documents should be disclosed in a timely manner and in a language accessible to local population.	ii. Information disclosure, LARP to be published in national media in Russian and Tajik within 5 days from approval.	ii. Same in principle and application
		iii. Public consultation. Meaningful public consultations are to be held with the DPs. DPs should be informed about their entitlements and options, as well as resettlement alternatives.	iii. Public consultation. There are no requirements to inform directly the DPs about their entitlements and resettlement options as such.	iii. Reconciled in previous project with wide and meaningful public consultations and disclosure of their entitlements and resettlement alternatives.
		iv. GRM should be established for each projects, and information on GRM should be communicated to DPs.	iv. GRM. No project specific GRMs exists. Disagreements are resolved by through Hukumats' grievance mechanism or appeal to court.	iv. Application already reconciled in previous projects.
5.	Condition of property seizure	Property can be acquired only after full compensation is paid to the DPs	Property can be acquired only after full compensation is paid to the DPs	Same in principle and application.
6.	Resettlement planning, assessment and valuation of project impacts	i. LARP Preparation: includes compensation entitlements, income/livelihood restoration strategy, monitoring plan, budget and implementation schedule, based on sound impact/valuation surveys as detailed below.	i. LARP Preparation: No requirements to prepare LARP or pursue measures to restore the livelihoods of DPs to the pre-project level.	i. Reconciled in previous projects by preparation of LARPs with compensations entitlements, income/livelihood restoration strategy, internal/external monitoring, budget, implementation schedule and institutional arrangements for implementation of the LARP.
		ii. Detailed measurement survey (DMS). Measures quantitatively impacts for each affected property.	ii. DMS. Measures all impacts in quantitative terms.	ii. Same in principle and application. Valuation mechanisms need to be updated.
		iii. DP Census (including review of legal status). Identifies all DPs and establishes a list of legitimate beneficiaries	iii. DP Census: DP Identification. Identifies all DPs by residence or locality and establishes a list of legitimate beneficiaries based on land title and	iii. Same in principle and application.

Comparison of the Provisions under ADB SPS (2090) and National Legislation				
No		ADB Social Safeguard Requirements	Tajikistan Legal Provisions	Reconciliation
			house ownership status.	
		iv. Socio-economic survey. Includes information on DP's disaggregated by age, sex, family size, education, occupation, income source.	iv. Socio-economic survey. No comparable requirements exist.	iv. Reconciled in previous projects by conducting of SES based on 25% of the sample for the draft LARP and 100% sample for the final LARP.
		v. Valuation survey	v. Valuation survey.	v. Different in principle and application. Reconciled in previous projects. Valuation of lost assets is based on the replacement cost regardless of legal status.
		a) Land: If land market exists, based on a survey of recent land transactions. In absence of land market info, based on land productivity and income	a) Land: Mechanisms for land valuation to be defined.	a) Methodology for land valuation developed and agreed for other projects. Valuation is based on the land productivity and income.
		b) Buildings/structures: Buildings replacement cost of materials, labor and transport and special features of the building/structure without discounting for depreciation, salvaged materials and transaction costs.	b) Buildings/structures: Market value of materials, labor and transport and special building features but discounted for depreciation, salvage materials, and transaction costs.	b) Reconciled at other projects. Cash compensation at replacement rate for affected structure / other fixed assets (without deduction of depreciation, taxes, costs for salvageable materials and other transaction costs). All affected buildings and structures will be compensated in their entirety.
		c) Trees/crops. Based on the set methodology.	c) Trees/crops. Based on the set methodology.	c) Reconciled at other projects.
7.	Special assistance to vulnerable severely affected and relocating DPs	i. Vulnerable DPs should be identified, and special assistance should be provided to them to help their restoration or improvement of pre-project level of livelihoods.	i. Vulnerable DPs: No special consideration is required for vulnerable DPs; no distinction is made between DPs when deciding on the compensation or rehabilitation package.	i. Different in principle and application. Partially reconciled at previous projects by a provision of 3-monthly average salary as a vulnerability allowance.
		ii. Resettlement assistance. DPs to be resettled receive relocation assistance covering transport and	ii. Resettlement assistance. No special consideration is required for resettled DPs. However, the	ii. Reconciled at other projects. Allowance equivalent to official monthly average wage for 3-months.

Comparison of the Provisions under ADB SPS (2090) and National Legislation				
No		ADB Social Safeguard Requirements	Tajikistan Legal Provisions	Reconciliation
		transitional period livelihood costs.	package depends on Government's decision regarding transitional period allowance.	

60. The PMU has drafted this LARF for the Project to bridge the gaps between the legislation of the Republic of Tajikistan and ADB's Safeguards policy. It will be endorsed by the Government of the Republic of Tajikistan and serve as a guiding tool for planning and implementing LAR in compliance with the ADBs SPS 2009.

## 8. Compensation Eligibility and Entitlements

61. All LAR impacts under the Project will be identified and compensated according to the eligibility criteria and entitlement matrix conforming to the legislation of the Republic of Tajikistan as well as ADB's safeguards policy.

62. All DPs in the Project are entitled to various types of compensation and resettlement assistance to help restoration of their livelihoods to the pre-Project levels. The combination of compensation measures and resettlement assistance offered to them, depends on the nature of the lost assets and the magnitude of the Project's impact, including the social and economic vulnerability of the displaced persons. All DPs are eligible for compensation and rehabilitation assistance, irrespective of their land ownership status.

63. In the context of land acquisition and resettlement, the term '*entitlements*' encompasses the benefits comprising compensation, income restoration, transfer assistance, income substitution and relocation due to the people physically or economically displaced by a Project (DPs, under the Tajikistan Law and in accordance with the safeguard policies of the Asian Development Bank).

### LARF Principles and Entitlements adopted for ADB financed Projects

64. Based on applicable laws of Tajikistan and ADB SPS (2009), core involuntary resettlement principles are developed:

- Land acquisition, and other involuntary resettlement impacts will be avoided or minimized exploring all viable alternative project designs;
- Where unavoidable, a LARP will be prepared, and DPs will be assisted in improving or at least regaining their pre-project standard of living;
- Meaningful consultations with DPs on compensation, disclosure of resettlement information to DPs, and participation of DPs in planning/implementing projects, such as providing their views on design alternatives and participating in monitoring activities, will be ensured;
- Vulnerable and severely affected DPs will be provided a special assistance;
- Non-titled DPs (e.g., informal land users, DPs without full documentations on buildings and structures) will be fully compensated for losses *other than land*.
- Provision of income restoration and rehabilitation;
- The LARP will be disclosed to the DPs in the local language;
- Payment of compensation, resettlement assistance and rehabilitation measures will be fully provided prior to the contractor taking physical possession of the land and to the commencement of any construction activities and
- Appropriate redresses mechanisms to solve DPs grievances are established.

## Eligibility

65. DPs entitled for compensation or at least rehabilitation provisions under the Project are:

- All DPs losing legal right to use land;
- Owners of buildings, crops, plants, or other objects attached to the land; and
- DPs losing business and income.

66. Compensation eligibility will be limited by a cut-off date to be set for each project/subproject and widely advertised and published. DPs who settle in the affected areas after the cut-off date will not be eligible for compensation. They, however will be given sufficient advance notice, requested to vacate premises and dismantle affected structures prior to project implementation. Their dismantled structures materials will not be appropriated, and they will not pay any fine or suffer any sanction.

## Compensation Entitlements

67. Under the SPS 2009, the livelihood of affected persons should be enhanced or at least restored to the pre-project level. To achieve this target, the DPs are given entitlements to land replacement, wherever possible, compensation at replacement cost for all affected assets, as well as to other allowances which are aimed at minimization of adverse impacts. The following are the key elements of an entitlement policy:

- Paying replacement cost for affected assets;
- Preference for land replacement (land for land);
- Replacement/provision of income generating assets;
- Transfer arrangements (from affected to relocation areas);
- Provision of adequate infrastructure at relocation sites;
- Transition allowances for the duration of the transition.

68. All DPs in the Project are entitled to compensation and resettlement assistance, irrespective of their land ownership status, to help the restoration of their livelihoods to pre-Project levels. The combination of compensation measures and resettlement assistance offered to them depends on the nature of the lost assets and the magnitude of the Project's impact as well as the social and economic vulnerability of the displaced persons. The compensation packages must reflect replacement costs for all losses (such as right to use and, crops, trees, structures, businesses, incomes, etc.).

69. The following are core components for a resettlement package which should be considered:

- Compensation for affected property (houses, commercial buildings, supporting buildings and structures, improvements on land, regardless of the legal status of affected property);
- Compensation for loss of land use right and compensation for standing crops and trees;
- Allocation of replacement land plot(s) for relocation;
- Compensation for the loss of income;
- Compensation for the loss of employment;
- Assistance in moving to a new relocation site;
- Assistance during the transition period (ie. accommodation rental during the house construction);
- Allowances to seriously affected and vulnerable persons;
- Provision of civic and other public amenities at the resettlement site
- Priority of employment for seriously affected and vulnerable persons;
- Compensation of any temporary impact envisaged during the construction period;

70. According to the adopted Project Specific Entitlement Matrix, which is based on the Republic of Tajikistan's Laws and the requirements of ADB SPS (2009), DPs eligible for compensation and/or at least rehabilitation are: (i) all DPs losing legal land use right; (ii) owners of buildings, crops, plants, or other structures attached to the land, regardless of their legal title, and (iii) DPs losing their businesses and income, regardless of their legal status. These entitlements are detailed in the Project-Specific Entitlement Matrix.

71. Summary of the entitlements for this Project is included in the following table.

Project-Specific Entitlement Matrix			
No	Asset	Displaced Person	Compensation Entitlements
<b>Permanent Loss</b>			
1	Agricultural land (all losses irrespective of severity)	Individual land-use rights holders	Cash allowance for loss of land use rights equal to net income in the last 5 years generated from the affected land area, at market rate, at the time of taking; or Provision of alternative land plot of equal value/productivity to the lost plot. If the remaining portion of the plot to be taken is too small to use, the whole plot is compensated or exchanged.
		Collective land-use rights holders	Cash allowance for loss of land use rights equal to net income for the last 5 years generated from the affected land area at market rate at time of revocation; or Provision of alternative land plot of equal value/productivity to the lost plot. If the remaining part of the plot to be taken is too small to use, the whole plot is compensated or exchanged. Agriculture leaseholders will be compensated for 1 year of lost crops from the affected area.
		Renters and leaseholders	Rental allowance in accordance with the conditions of the rent agreement, but not less than the cost of rent for 3 months; or Continuation of rental agreement on alternative land plot or cash allowance for the lost income equivalent to 1 year of average crop productivity.
		Informal (if any) <sup>11</sup>	Provision of opportunity to lease a plot on state land. Relocation allowances.
2	Residential and commercial land	Owners	Cash allowance for loss of land use rights in cash equal to current annual land lease rates at the time of acquisition multiplied by 25; or Provision of alternative land plot of equal value/productivity (similar conditions and facilities) to plot lost. If the residual portion of the plot to be taken is too small to use, the whole plot is compensated or exchanged.
		Renters	Rental allowance in accordance with the conditions of the rental agreement, but no less than the cost of rent for 3 months, or Continuation of the rental agreement on an alternative land plot.
		Informal (if any)	Provision of opportunity to lease a plot on state land. Relocation allowance if applicable.

<sup>11</sup> Landless DPs without rights to use land, living on income from the illegally used land plot. DPs owning land adjacent to the illegally used parcel will be compensated for losses from the illegally used part as per the entitlement matrix.

3	Buildings and structures	Owners of structures including <b>“informal” and encroaching</b>	Cash compensation at replacement rate for affected structure/other fixed assets (without deduction of depreciation, taxes, costs for salvageable materials and other transaction costs). All buildings and structures will be compensated in their entirety; or According to the owner’s choice, if feasible, a building for building/structure for structure exchange.
		Renters	Rental allowance in accordance with the conditions of the rental agreement, but not less than cost of rent for 3 months; or Continuation of the rental agreement for an alternative building/structure.
4	Crops	All DPs, including <b>“informal” and encroaching</b>	Cash compensation equal to gross income generated on the affected land area for 1 year at market rate at time of revocation. No compensation for land will be paid.
5	Trees	All DPs, including <b>“informal” and encroaching</b>	Compensation reflecting income replacement. Cash compensation for productive trees based on the net market value of 1 year of income multiplied by the number of years needed to grow a tree to a similar level of productivity, plus purchase of saplings and starting materials.
6.	Business and employment (temporary and permanent)	All DPs (including workers of affected businesses)	Owners of shops / renters/ commercial establishments: In case of permanent loss, <b>compensation equal up to 1 year’s net income</b> (lost profits) plus cost of lost certificates/licenses/ patents. The income is based on the official tax declaration, or (if tax declaration is unavailable) it is accepted as the official monthly average wage <sup>12</sup> multiplied by (up to) 12. <b>(Depending on assessed time needed for re-establishing the business. A kiosk will need less time to be reestablished than affected restaurant or a petrol station.)</b> In case of the temporary loss of a business, compensation equal to the net income for the period of disruption (<1 year). The income is based on the tax declaration, or it is calculated based on the monthly average wage multiplied by the number of months since the operation was disrupted (less than 12 months).
			<b>Registered workers</b> indemnity for lost wages equal to 3 months’ income. For temporary loss of employment, indemnity for lost wages for the duration of impact if less than 3 months.
7.	Relocation	Physically displaced households regardless of type of impact	Transportation allowance (cost of labor and vehicle rent to transport materials and belongings of the house/business structures and stocks to a new location).  Communal and site preparation cost for the alternative land plot (including connection to power grid, water supply system, installation of latrine etc.).  Severity/livelihood rehabilitation allowance in the form of cash compensation equal to the official monthly average wage for 3 months.
8.	Public / common assets		Rehabilitation/ in kind substitution of affected items and rehabilitation of their functions. Alternative service supplied, if cut off temporarily.

<sup>12</sup> Official average monthly wage for March 2018 is 1,228.10 TJS/month and reported within macroeconomic indicators by the Agency on Statistics under President of the Republic of Tajikistan. Available via: <http://stat.tj/en/macro-economic-indicators/> and <http://www.tradingeconomics.com/tajikistan/wages>

9.	Vulnerable households	DPs receiving government assistance for poor, single women-headed HH below poverty line, elderly households, households with no means of living, households headed by disabled person or other HH members.	Allowance equivalent to official monthly average wage for 3months; Assistance in enrolment in Government social scheme, if not yet enrolled; Priority in project-related employment for members of vulnerable households (if at legal working age).
<b>Temporary Loss</b>			
10	Public / common assets		Rehabilitation/substitution in kind or in cash at replacement cost of affected items and rehabilitation of their functions. Alternative service supplied, if cut off temporarily.
11.	Temporary impacts	All relevant DPs	For unforeseen and temporary impacts other than stated above, ADB SPS (2009) general principles and objectives will be used as the minimum benchmarks, and appropriate impact mitigation measures will be sought to meet them. The payment for rented land during the construction, will be based on the market price under negotiated agreement. After discontinuation of land use, the land must be restored to the original status, or as per the agreement with the land rights holder <sup>13</sup> .
<b>Unanticipated impacts</b>			
12.	Other unanticipated assets loss or impact on livelihood	All DPs residing in the project corridor before the cut-off date.	Compensated as per the Project-specific Entitlement Matrix.

## Valuation Methodology

72. The valuation methodology is adopted for the determination of unit rates, cost of LAR and compensation that will be paid to DPs for resettlement impacts caused by the Project. The compensation entitlements of different categories of DPs have been defined according to the ADB SPS (2009) and the applicable laws of the Republic of Tajikistan. The compensation rates for buildings, structures and fruit trees, will be determined by a certified independent valuator. All land in Tajikistan belongs to the government and therefore, there is no official land market, nor established value of land. As accepted for all ADB Projects, compensation will be paid for the loss of land use right. Compensation for loss of land use right is based on the Hukumats' data on the yearly yield of different crops grown in the area. The value of lost businesses' profit is based on data from the Taxation Committee of the Republic of Tajikistan.

73. In accordance with the adopted practice in Tajikistan and ADB SPS (2009), the current ground situation measured is based on the actual size of the assets used by the DPs at the time of the detailed measurement survey (DMS). A licensed valuation company independently values affected buildings, constructions, and other immovable assets except land. The following paragraphs outline valuation methodology and compensation for each type of affected assets.

<sup>13</sup> In case that the Contractor and Land-use rights holder both agree in writing to leave the land area in a state precisely described in the agreement.

### Land valuation

74. Land with a legal right to use it will be compensated by land-for-land principle or in cash based on the current market value of for loss of land use right based on the market value of different types of crops planted in the period of the DMS; the value of all crops affected in the Project area was aggregated, and one average 'land-use-right price' was established. In this way, for example, two neighbors with the same quality of land will receive the same amount per m2, regardless of the standing crop. In addition to compensation for loss of right to use land, the DPs will receive a compensation for loss of crops. The loss of 1 year's yield will be compensated as per actual crop grown during the DMS. In this way, the compensation will not be dependent on individual 'luck' arising from the choice of a more expensive crop to grow in the period of the DMS.

### Valuation of Trees

75. The calculation of losses for fruit trees and saplings is based on the following approaches:

- The cost of saplings of fruit trees is based on the price of saplings in the nurseries;
- The cost of fruit-bearing trees is based on the net annual harvest from the tree(s) for the number of years needed for replacement tree(s) to reach comparable production (based on the data available in each Hukumat for their respective areas).
- Wood and decorative trees are not commonly compensated in Tajikistan, but DPs keep cut trees.

### Compensation for Buildings, Structures and Improvements

76. The compensation for alienated buildings and structures is calculated for both, the owners of legal structures and the users of illegal ones. The replacement costs for buildings and structures is determined by calculating the construction cost of a similar new building/structure, for the same use and materials, based on market prices. All necessary taxes, fees and costs for obtaining the documents for registration of land, design of a new building, cost of technical passports and other related documents to establish the ownership, are included in the replacement cost price.

### Compensation for Business and Income Losses

77. All affected businesses, regardless of legal status, are to be compensated for their losses. Compensation for legal entity (registered businesses) is calculated as per the tax declared income. The patent holders commonly do not have demonstrable accounting records. **In the absence of recorded income, compensation is based on the average national monthly wages.**

78. Other allowances such as allowances for severely impacted DPs, allowances for vulnerable and relocation allowances are paid as per the entitlement matrix.

## 8. Allowances

### Severe Impact Allowance

79. DPs losing more that 10% of agricultural land or other income resources, DPs needed to physically relocate due to loos of home or business are entitled to severity/livelihood rehabilitation allowance in the form of cash compensation equal to the official monthly average wage for 3 months.

### Allowances to Vulnerable Groups

80. Single women head of households, registered poor, households with more than five dependent children and households with members with disabilities, are entitled to allowances for vulnerable groups as per the provisions stated in the Project Entitlement Matrix.

### **Transportation Assistance**

81. The DPs needed to relocate due to demolition of a residential home or business operating building, are entitled to allowance for transport of their household belongings or business stock to another location. The calculation of the transportation allowances will be based on the transportation price within the Project area.

### **Rental Assistance**

82. DPs losing main residential building and need to relocate/rebuild the house, are entitled to rental assistance for three months at market rental rate in the area.

## **9. Surveys, Impacts Assessment and Resettlement Planning**

83. This section describes the required procedure for preparation of resettlement planning document that includes the methodologies to be used for socioeconomic surveys, censuses, inventories of losses, and assessments of land losses. It also describes the methods and outlines preparation of resettlement plan for the subprojects entailing resettlement impacts.

### **Socioeconomic Survey, Census, Inventory of Losses**

84. The PMU with the assistance of the resettlement/social safeguard team (consultants) will conduct a census and inventory of all losses (IOL) due to the project works based on detailed engineering design. Details on the scope and methods of carrying out the census, Socioeconomic Survey (SES) and Detail Measurement Survey (DMS) are provided in the following paragraphs.

- **Inventory of losses (IOL) and assessment of land losses.** Based on the engineering design, IOL will be conducted in the project areas where there are households which are adversely affected by the proposed project. Specific data to be gathered includes (i) type or nature of landholding that will be affected by the project, (ii) size; (iii) type and extent of possible project impacts; and (iv) name of owner/tenant of the property that will be affected. It will include all types of losses incurred by affected persons such as area of land to be acquired, type and area of affected structures (houses, shops, fences, sheds, toilets, wells, etc.) damaged infrastructure (drainage, electricity, sewer pipes, cable, etc. if any) heating, number of affected trees by type, area of crop production, loss of income and/or livelihood, loss of employment, permanent or temporary impacts, etc.
- **Detail Measurement Survey and Census.** PMU and the resettlement specialists will undertake surveys for each identified subproject, based on detailed/final technical design. Detailed measurement survey (DMS) includes the following: (i) a full inventory/measurement of all land/other assets losses including buildings, crops, trees, and income; (ii) description of the type of (construction) materials used; (iii) an assessment of unit replacement values for each affected asset will be conducted to ascertain the value of losses and identify rehabilitation measures to mitigate impacts. A valuation company/individual licensed valuator will be contracted to provide valuation report and define the replacement value for each affected asset. Valuation report will serve as a basis for defining compensation package along with other entitlements.

- The census of affected persons will be conducted to document the status of the displaced persons (DPs) within the project impact area and identify vulnerable displaced persons. **It shall cover 100% of displaced households/entities and should identify and record all displaced persons.** The census will include a socio-economic profile of affected households and entities, especially their assets and main sources of livelihood. These resettlement investigations will be the basis to prepare a detailed inventory of losses for each displaced person in terms of type and extent of impact with respect to land, structures, businesses, livelihoods and access to common property resources, if any.
- **Socio-economic sample survey.** The socio-economic sample survey will be conducted for the final LARPs prior to contract award will supplement additional information gathered during the project impact assessment. The survey will provide general socio-economic profile based on at least 20% sample, or possibly larger, in case the project is with smaller number of DPs. The survey will focus on severely and vulnerable displaced households/entities. The survey will also collect sex-disaggregated data to address gender issues in resettlement and analysis of social structures and income resources of the Project population.
- **Database.** All information related to the resettlement issues such as land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual displaced persons/entities, compensation and entitlements, payments and relocation, will be entered into a computer database. This database will form the basis of information for preparation and implementation of LARP, monitoring and reporting purposes and facilitate efficient management and monitoring distribution of compensation. The collected data and the analysis shall quantify the degree of losses and implications for the affected households in terms of living conditions, livelihoods, income loss and other impoverishment risks.
- **Analysis of social impacts.** The above-mentioned data shall be analyzed to review the social impact of each subproject on the displaced persons and communities, particularly on poor, women and other vulnerable and disadvantaged groups. The analysis shall provide the socio-economic profile of the affected community, disaggregated by gender, income, education and other socio-economic parameters. The impacts, including the direct resettlement impacts to the land, businesses and other assets of people/community shall be assessed. The concerns and needs of women and other disadvantaged groups, and their priorities shall be identified, and relevant mitigation and rehabilitation measures developed.

## Compensation, Income Restoration and Relocation

85. Income restoration assistance to the affected persons includes various strategies. Short term income restoration strategies are for an immediate assistance during relocation and include the following:

- Compensation for land, structures, and all other lost assets is paid in full before construction activity begins;
- Shifting allowance for households based on actual cost of moving/unloading;
- 60-day notice to harvest standing seasonal crops, if harvest is not possible, compensation for affected standing crops at market rate.
- As a gap-filling measure, special permit will be given for physically displaced DPs to construct new house/buildings on the replacement land (where applicable). PMU will

ensure the registration of land use rights in reasonable timeframe so the DPs do not face difficulties getting their land use certificates. This issue will be one of the focus areas for the resettlement monitoring task.

## 10. Public Consultation, Participation and Disclosure

86. According to ADB SPS (2009), the DPs must be meaningfully consulted and provided with opportunities to participate in the planning and implementation of LARP. Under the same principles, the DPs must be informed in an appropriate and timely manner of the planning process outcomes, as well as the schedules and procedures for the preparation and implementation of the LARP, including entitlements, payment procedure and relocation.

87. Communities consultation processes should be interwoven in all stages of the project and last, at minimum, for the duration of the project. They encompass involvement of the primary stakeholders as well as other stakeholders groups. Consultation and participation goes closely with information disclosure. The flow of information is a two-way communication between the borrower/client and APs, and a platform where all relevant information is taken into consideration in project planning and implementation phases. Meaningful and continuous consultations create a platform for the stakeholders' participation/inclusion in the project processes. Consultations must be wide, and open to all who would like to participate. At a later stage, consultations with only directly affected people, may be held, to discuss more concrete measures related to affected people, only.

88. The most commonly used approaches to consultations or/and information sharing with and engagement of the stakeholders, are outlined as follows:

- (i) Wide Community Consultations - include a wide representation of the communities;
- (ii) Targeted Stakeholders Consultations - include specific groups of affected persons (for example, affected small business owners, affected large business owners, DPs losing agricultural land, etc. (do not include any confidential information about DPs);
- (iii) Workshops - representatives of local authorities and non-governmental and civil society organizations and representatives of the project communities;
- (iv) Focus group discussions - representatives of local authorities and non-governmental and civil society organizations, representatives of communities, community groups such as women groups, youth groups, ethnic minority groups, and any other third parties to discuss specific project related issues raised, gather participants' opinions, suggestions and concerns. (For details, visit <http://ctb.ku.edu/en/table-of-contents/assessment/assessing-community-needs-and-resources/conduct-focus-groups/>)
- (v) Key Informant interviews - good to conduct during the project preparation phase to generate information and ideas about project.
- (vi) Face-to-face meetings with the DPs – in cases when clarification of confidential information on compensation amount, particular entitlements related to the DPs' affected assets, complain or concerns related to the project needed.
- (vii) Specific issue questionnaires/interviews - may include a socioeconomic questionnaires, census questionnaires, poverty assessment, gender related questionnaires, etc.

89. Consultations proceedings should be properly documented. The essential documents should include:

- A summary
- List of the key issues raised by the participants
- Agreed actions
- Photographic records
- List(s) of participants

90. The minutes of the consultations, together with scanned signature of the participants should be included in the monthly reports and in the LARP, if there will be one. The data should be disaggregated by gender, with the key information recorded at the top of the minutes, stating the number of participants, the number of men and the number of women participants.

91. National and local authorities, including district and sub-district levels are informed about the Project. Their assistance will be solicited at the LARP preparation, updating and implementation stage during the LAR processes, such as consultations with DPs, conducting inventory of losses, Census and DMS. When and if LARP will be required, DPs will be informed about the results of the Census and DMS. Their preferences on compensation and other types of assistance will be thoroughly considered before finalizing the LARP.

## Information Disclosure

92. ADB SPS (2009) requires the provision of relevant project information in a timely manner, at an accessible place and in a form and language(s) understandable to the affected persons and other stakeholders. Information disclosure involves delivering information about a proposed project to the affected people and other stakeholders. The purpose of the information disclosure requirements specified under ADB SPS (2009) is to facilitate engagement of people so that a constructive relationship between the parties is established at the outset, and maintained over the life of the project. Special efforts should be made to reach vulnerable groups lacking access to public media and information exchange.

93. There is a variety of the means and approaches for disseminating/disclosing information to the stakeholders. Which of these will be used, will depend on the target group, stage of the project and the type of information to be disclosed. For example, affected communities may have local media which they know and understand well and to which they have an easy access. Such media should be used for dissemination of the project information. If printed media is used, the information must be in local languages, meaningful, relevant and presented in a way understandable to the affected local communities. Establishment of an information unit and appointment of focal persons in Rayons, would ensure accessible, effective and timely disclosure of information.

94. Some of the disclosing information methods to be considered are:

- Information campaigns, media, posters, brochures
- Public meetings
- Focus groups discussions
- Household/individual interviews
- Workshops/seminars
- Project websites
- Local information boards

95. Information related to different stages of the project needs to be disclosed, when it is relevant. Each project cycle contains information relevant to that project stage. The following paragraphs briefly outline the information disclosure throughout project cycles

96. At his stage of the project, consultations and involvement of the affected communities and other stakeholders are very intensive. The SES, census, DMS, valuation and other LAR activities are conducted during this stage of the project cycle. Consequently, information disclosure is of vital importance. For this purpose, a comprehensive project information brochure must be prepared and distributed to the affected persons and communities.

97. The information to be disclosed includes:

- Project information brochure

- Community consultations plan
- Plan for LAR studies (SES, Census, DMS, Valuation)
- Compensation entitlements
- Grievance mechanisms with contact details of the focal persons
- Final LARP endorsed by the government
- Any addendum to endorsed LARP
- LARP compliance monitoring reports (ADB/EA sites)
- Bi-annual and annual Monitoring reports on the LARP and GRM (ADB/EA sites)

98. The final, implementation-ready LARP, prepared at this stage of the project, reviewed and approved by the EA/PIU and ADB, must be translated into Russian/Tajik languages and disseminated transparently to the local authorities' offices to which displaced people, other stakeholders, and the public in general have an easy access. This document must be posted on the EA's and ADB's websites.

99. This LARF in Tajik and or Russian will be disclosed to the public on the PIU Barqi Tojik website. It will be also disclosed to the affected communities in the project location. LARF in English will be disclosed on ADB website after being endorsed by the Government of the Republic of Tajikistan. Consultation with the affected communities will be held throughout the Project cycle.

## **11. Grievance Redress mechanism**

100. To enable DPs to voice their concerns or disagreements with the compensation procedure and/or negative impact of the civil works, a Grievance Redress Mechanism (GRM) will be established and maintained for the duration of the Project and in accordance with ADB requirements.

101. The GRM is a formalized way for the PMU to identify and resolve concerns and DPs' grievances. It offers the DPs a forum to voice their concerns, seek clarifications to their queries, or register complaints related to the Project's performance. The scope of the GRM addresses issues related to involuntary resettlement, social and environmental performance, and information disclosure.

102. The DPs will have the right to file complaints and/or queries on any aspect of the Project, including land acquisition and resettlement. Under the adopted grievance mechanism, the DPs may appeal any decision, practice or activity related to the Project. All possible avenues will be made available to the DPs to voice their grievances. The PMU will ensure that grievances and complaints on any aspect of the Project are addressed in a timely and effective manner.

103. DPs will be fully informed about their rights and responsibilities, the procedures of submitting written or verbal complaints and grievances. Based on the experience and lessons learnt from other ADB projects in the country, DPs will also be informed about the GRM at the time of compensation payment. Affected communities and DPs will be continuously consulted through effective communication and coordination between the affected communities, PMU and local authorities. This approach will aim at minimizing grievances and/or ensure prompt addressing of grievances.

104. The project GRM will be effective from the commencement of the project preparation activities until completion of the civil works and will be addressing both, resettlement and environmental complaints. Copies of the GRM process and the complaint forms in Tajik/Russian will be available at the Jamoat and Hukumats' offices and PMU office. The Grievance Redress Mechanism will be detailed in the LARPs accordingly.

105. The following paragraphs outline briefly the Project grievance redress procedure.

### **Grievance Resolution Process**

106. Grievances can be lodged with any of the GRC member at the PMU representative office in project location and/or local jamoat office. The GRC member receiving a complaint, will register the complaint, issue a receipt of the complaint and inform the aggrieved person about the expected timeframe for the complaint review. The received complaint will be screened for eligibility. If the complaint is: (i) not related to the project; (ii) needs to be reviewed by a separate, more appropriate procedures (e.g. issues of fraud and corruption); (iii) nature of the issue is beyond the official mandate of the GRM or (iv) complainant has no standing to lodge a grievance, the focal person will inform the complainant in writing about the eligibility and inform about other appropriate avenues for addressing the complaint. This should be done within 14 calendar days of the grievance lodgment.

107. If the complaint is found eligible, it should be assigned one of the following categories:

- Type A – inquiry, clarification, suggestion, request;
- Type B – complaint regarding alleged breach of the SPS 2009 or Public Communication Policy 2011;
- Type C – allegation of fraud or corruption.

108. The complaint registered with the GRM should be reviewed, addressed and a decision made on its relevancy to the Project within 14 calendar days of lodgment. If the case is complex or requires more detailed investigation (e.g. inspection by technical experts or legal opinion from the state or certified private entities) the complaint review period may be extended to 30 calendar days or more, if necessary. In such cases, written notification should be sent to the complainant explaining the reasons for extension, describing the process and indicating the expected dates for the delivery of the results of the revision.

109. If the complaint is not resolved within the set timeframe, or the complainant is not satisfied with the GRC decision, s/he can appeal at the PMU Barqi Tojik central level GRM. The PMU central level GRC focal person will register the complaint/appeal, issue a written note with information on the timeframe for grievance resolution (14 to 30 days, depending on the complexity of the case) and initiate a review of the complaint. The focal person should initiate the grievance review and convene the GRC meeting no later than 5 days since the complaint was registered as eligible for the GRM. All supporting documents – photo and video materials, required certificates, legal opinions, technical expert opinions if practicable – should be prepared prior to the meeting. The minutes of each meeting should be agreed and signed by all members of the GRC no later than 3 days following the gathering.

110. All supporting documents such as, photographs, related certificates and legal and technical expert opinions, if required, should be reviewed and assessed. Once the complaint is resolved, the GRC will organize a complaint closure meeting, where the complainant confirms the closure of the complaint. The PMU representative will oversee the resolution of the complaint. The PMU has a dispatch services which are available 24 hours / seven days a week. The dispatch service representative will be a member of the GRC and invited to the grievance redress meetings when required.

111. All efforts will be made to settle issues at the Project level. All complaints and resolutions will be properly documented by the PMU and made available for review, monitoring and evaluation purposes. PMU safeguard specialist will keep in regular contact with the GRCs and will have a database for the whole Project's grievances cases, including the status of grievances. This report will be regularly included in monthly project progress reports and semiannual social safeguards reports and submitted to ADB. Any costs involved in filing and resolving complaints are to be covered by the project.

112. Regardless of the set grievance mechanism and procedures, DPs will have the right to submit their cases to a court of law at any point in time of the grievance redress process. All efforts will be made to settle the issues at the Project level through community consultation with affected person. If not possible, attempts will be made to resolve the issues at the Project level to avoid/minimize litigation as much as possible. All complaints and resolutions will be properly documented by the PMU and made available for review, monitoring and evaluation purposes. In addition, the complainant can appeal the decision and bring the case to the ADB Accountability Mechanism (AM). The GRM at the Project level does not in any way impede the DPs' access to the ADB Accountability Mechanism (AM).

113. GRM proceedings may need one or more meetings for each complaint and may require field investigations by specific technical or valuation experts. Grievance cases shared by more than one complainant may be held together as a single case.

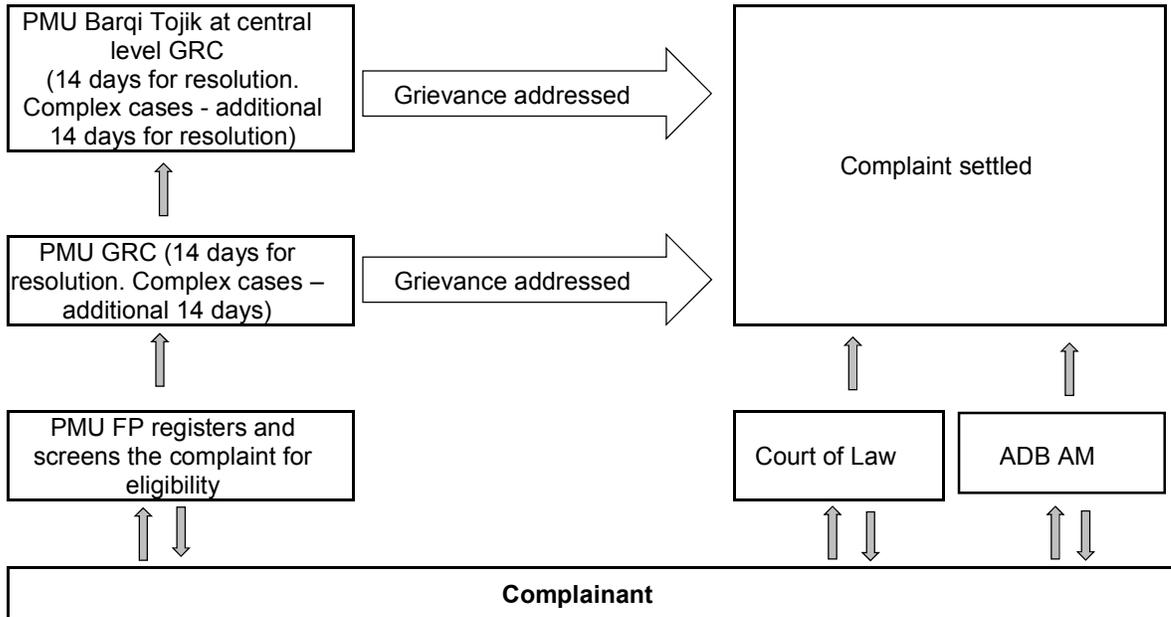
114. For appeals lodged directly to the PMU, the designated person will, together with the GRC will review the case and attempt to find a resolution together with the aggrieved person.

115. At each level of appeal, the GRC will be assisted, as required, by the professional capacity needed to solve specific cases. This may include among others:

- Jamoat and/or hukumat and mahalla representatives
- Related land committee
- Representatives of the State Agency for Architecture
- State Agency for Environment and Forestry
- State Unitary Enterprise for Housing and Communal Services
- Technical expertise from professional water and sanitation engineers
- Representatives of displaced persons
- Representatives of Women’s Affairs
- Other specialized organizations as necessary

116. The following figure schematically presents the grievance redress process:

**Figure 11-1: Grievance Redress Process**



**Grievance Mechanism during the Construction Period**

117. People living in the project area may experience some adverse impact during the construction period such as property/assets damages caused by a direct physical impact of the contractor’s equipment, contractor’s or employer’s design, or by other activities related to the rehabilitation/construction activities. Under the terms of the civil works contract, the Contractor has

the obligation to provide a third-party insurance in the joint name of the Employer and the Contractor. According to the terms of the civil works contract, in case of damages, an affected person (the Claimant) may follow the claim procedure:

- Address the claim(s) for damages to the Employer, Contractor or both;
- A Grievance Redress Committee will be call for a meeting. It includes members of the affected communities, a representative of the Jamoats and PMU technical and safeguards specialists. Grievances must be addressed and resolved within 14 days of submission of the complaint;
- If still unsettled within 14 days, a grievance can then be lodged at PIU central level which, apart from the members of established GRC, will include representative(s) of PMU Barqi Tojik at central level authorities;
- If no solution is not reached within 14 days the affected parties can further submit their case to the appropriate court of law.

## **12. Institutional Arrangements**

118. The planning, preparation and implementation of the LARP involves distinct processes and different parties. This chapter details the core agencies and organizations involved, as well as their roles and responsibilities during the land acquisition and resettlement activities.

119. Various State Agencies and Institutions are responsible for different functions in the LAR processing and implementation. The Land Code stipulates that the decision for LAR for state and public needs is made by the local state authority (district authority) or, for major infrastructure projects, the decision on LAR may be approved by the Government. More specifically, the Barqi Tojik who is in charge of energy projects, endorses LAR related decisions, including compensation packages.

120. The following paragraphs describes the core agencies and organization which will be included at various stages of the project.

### **Asian Development Bank**

121. The Asian Development Bank (ADB) will be the funding agency of the Project. In addition to funding, ADB will periodically review the Project and LARP implementation as well as provide clearance for contract awards and the signing/initiation of civil works on the Project. The main responsibilities of ADB are: guidance for LARP preparation, approval and disclosure of the LARP and issuance of a no objection letter for the beginning of the construction works.

122. The EA and IA will be wholly responsible for the implementation of the Project as agreed jointly between the government and ADB. ADB will be responsible to support project implementation, including compliance by the EA and IA of their obligations and responsibilities for project implementation in accordance with ADB policies and procedures. Any changes to the project implementation arrangements made following ADB Board approval of the project will be subject to approval in the context of government and ADB procedures and subsequently incorporated into the PAM.

## Executing Agency (EA)

123. The EA and IA will be wholly responsible for the implementation of the Project as agreed jointly between the government and ADB. ADB will be responsible to support project implementation, including compliance by the EA and IA of their obligations and responsibilities for project implementation in accordance with ADB policies and procedures. Any changes to the project implementation arrangements made following ADB Board approval of the project will be subject to approval in the context of government and ADB procedures and subsequently incorporated into the PAM. The EA will be Barqi Tojik, and the IA will be the PMU Barqi Tojik, under which a project implementation unit for the project called Project Implementation Group will be established. The project will be under MOF oversight. The EA and the IA will provide its relevant portion of the counterpart funds for the Project on time including the necessary counterpart funds for (i) advance actions for the recruitment of national consultants for the detailed engineering, preparation of bid documents and establishment of a grievance mechanism by the EA acceptable to ADB; and (ii) land acquisition and resettlement costs in accordance with the LARP.

124. The EA will ensure that adequate funds are provided through annual budget allocations to sustain the operation and maintenance of the Project facilities in sound functional order after Project completion, including sufficient funds to provide efficient operation and necessary maintenance of the completed Project facilities. The Government, the EA and IA will ensure that the implementation of the Project will conform to all applicable ADB policies including those concerning anticorruption measures, safeguards, gender, procurement, consulting services, and disbursement as described in detail in the project administration manual and loan documents. These assurances will for the part of the Grant's legal documents. The Government shall ensure or cause the EA and the IA to ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with each updated LARP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with each updated LARP.

## Implementing agency – PMU Barqi Tojik

125. The PMU Barqi Tojik is the Implementing Agency (IA). PMU will ensure the smooth implementation of the project and adequate resources and skilled personnel. The PMU will mobilize staff with extensive experience in managing ADB Projects including a full time designated safeguards specialist who, with assistance from other designated officials as necessary, will be managing the implementation of the LARP, including co-ordination of the work of all involved agencies. The PMU Social Safeguard Specialist is responsible directly to the PMU Director. The PMU Social Safeguards Specialist is responsible for:

- cross-agency coordination and cooperation
- liaison between the resettlement specialists of the Supervision Consultant, other relevant organizations, agencies and government authorities and ADB with respect to LAR tasks
- verification of the list of DPs based on the final design;
- updating a database of DPs and impacts based on the verification results;
- maintaining regular coordination and communication with relevant state agencies;
- following up and providing support during notification of DPs on upcoming land/property acquisition;
- providing support during verification of the DP census and socioeconomic survey data, and valuation of the land and other assets to be acquired;
- preparing documents for negotiation of compensation with the DPs;
- preparing documents for formalizing agreements with DPs, processing of compensation payments, following up with registration of land / property titles;

- conducting regular consultations and exchange of information with DPs on the implementation of the LARP;
- disclosing the LARP and the information brochures;
- reviewing and issuing the LARP to ADB for review;
- planning and managing LARP implementation and the distribution of compensation;
- assisting in receiving, recording, resolving and reporting of grievances related to land / property acquisition process and other issues related to the Project and coordinate with the local authorities;
- ensuring proper internal monitoring;
- monitoring/supervising the temporary land acquisition carried out by contractor(s) engaged for the project;
- preparing regular reports on the progress of LARP related activities.

## **The Ministry of Finance**

126. The Project will be under the Ministry of Finance (MOF) oversight. Together with the EA and the MOF will approve all of the Safeguard Documents, participate at Grant negotiations and Grant signing.

## **Ministry of Agriculture**

127. The Ministry of Agriculture has the responsibility, together with the local authorities, to provide the data on cropping patterns in the Project area, productivity of lands and other data relevant for calculation of compensation for loss of right to use land, fruit trees yield and other affected crops.

## **State Committee for Land management and Geodesy (SCLMG)**

128. During the impact assessment, when land user data is concerned, land specialists from SCLMG subdivisions at district and jamoat levels provide information on ownership/use rights and propose the replacement land plot for DPs. The central office of the CLMG, through its subdivisions like "*Markaz Zamin*" or "*Fazo*", deals with the transfer of land use rights from land users to the EAs. Based on the National Law on State Registration of Immovable Property and Rights to it a Unified Registration System (URS) was created under SCLMG, which combines functions of several institutions such as Mezhraion (Inter-district) Bureau of Technical Inventory (MBTI), the Ministry for Justice and some of the functions of local government offices into a more efficient and streamlined registration authority. There are 34 URS offices operating at district and city level in the country. During the LARP preparation and implementation phases, the agency will provide the following services:

- together with the DMS and valuation teams visit each affected property, provide information on the right to use land and verify the documents on ownership use rights;
- participate in the technical inventory of the immovable property and assist in preparation of the ownership certificates for the remaining immovable assets;
- enable objective valuation of affected immovable assets by providing information necessary for the valuation.

## **State Unitary Enterprise for Valuation (SUE) 'Narkhguzori'**

129. All agencies involved in the appraisal process should be licensed to perform such services. Of all the pricing and valuation entities functioning in the country, both independent and state-owned, the State Unitary Enterprise (SUE) "*Narkhguzori*" (pricing) under the State Committee on Investment and State Property Management is the only licensed institution performing valuation services for

huge infrastructure development projects. During the LARP preparation, the valuers of the SUE 'Narkhguzori' will:

- Valuate all state-owned assets, valuate project affected residential, commercial or industrial buildings (and the functional land plot associated with the structures).

## District Authorities

130. District level authorities are responsible for general LAR cases. The district authorities base their review and decisions for LAR on planning documents and other designs, as well as approved feasibility studies. District authorities should work closely with the client's valuation/assessment teams who prepare the documents necessary for LAR. These documents include the impact details for DPs, the unit cost per type of impact and a list of DPs for compensation. The district office representative of the Ministry of Agriculture values the loss of crops and fruit trees, the district office representative of the Committee on Environment Protection values wood trees, the district office representatives of the Ministry of Labor and Social Protection and Tax Committee value the loss of income/business/job. Valuation of structures/buildings and other tangible assets require a special valuation license; therefore, this task is contracted out to SUE "Narkhguzori". The impact assessment should be verified/signed and stamped by relevant district level agencies (chief architect, head of agriculture department, head of land management committee, MBTI etc.) Based on the list of DPs the district level authorities prepare a request letter for compensation payment and send it to the EA for further action.

## The Local Executive Government Districts (Hukumats)

131. The District (Hukumat) is the local administrative body, established in all cities and districts. It is under the district level and above the jamoat level. The hukumat is led by a chairperson who has a wide range of responsibilities and authorities including land management, housing and infrastructure, social security, law and order, healthcare and production. The planning and implementation of any LAR activities related to land and assets is done through districts' authorities (Hukumats). This is the local administration that has a direct link with the people through sub-districts 'Jamoats' and heads of communities. In relation to land and immovable property administration, the Hukumat assists the concerned departments in resolving issues such as allocation of land use rights, and decisions on acquisition of land use rights and allocation of alternate sites for resettlement.

## Jamoat

132. The jamoat is the sub-district level local authority and is instrumental during impact assessment by identifying/verifying land users and their type and ownership/use status. The jamoat also re-confirms the names of DPs, etc. While district level authorities officially endorse the list of DPs, the jamoat level authorities are the front-line force working with the surveyors to identify the impact. The Land Code of the Republic of Tajikistan (Article 8) defines the land-related role of jamoats as follows:

- assignment and confiscation of land;
- establishment and approval of the size of privately tilled household plots within the norms specified in Article 71 of the Code;
- registration of titles to land use and land-lease agreements;
- keeping of household registers;
- control over land use and land protection.

## LAR Committee and Other State Agencies

133. The main role of the LAR Committee is identification of impact and valuation of lost assets. The LAR Committee is comprised of representatives from the PMU Barqi Tojik, District Commission for Land Acquisition, State Architecture, State Committee on Investment and State Property Management, State Unitary Enterprise for Housing and Communal Services, relevant local governments such as jamoats and hukumats, representatives of dekhan farms, environmental department, safeguards team and others. The LAR Committee seeks to ensure due diligence in the implementation of the detailed measurement survey (DMS), census of the displaced persons and valuation of acquired assets. The LAR Group ensures that the DMS and valuation results are technically comprehensive and comply with ADB social safeguard requirements as well as the relevant norms of the Republic of Tajikistan.

134. The main responsibilities of the LAR Committee are to:

- prepare the preliminary list of displaced persons and affected assets;
- conduct a DMS for each asset affected;
- prepare an inventory of losses;
- identify non-formal assets, businesses and illegally used land;
- check necessary documents to establish the legal status of affected assets;
- value affected assets in accordance with the laws and legislations of the Republic of Tajikistan and ADB SPS (2009) requirements;
- assist in the resolution of grievances by visiting the location, of the grievance, assist the GRC by suggesting solutions to the grievance and participating in the GRC meetings when required.

135. The State Committee for Land Management and Geodesy (SCLMG) is the central government body with executive power for land management. It was approved by Order No. 225 of the Government of the Republic of Tajikistan on 3 May 2010 and it determines the general and special properties of authenticity of the documents provided for completion of the state registration of real estate and the rights to it. This Committee, together with the state enterprises under its control, is responsible for:

- managing survey work including land cadasters, geodesy, aerial imagery and topographic mapping
- controlling the use and protection of land, geodesy, and further development of the level of government geodetic control, aerial imagery and mapping activities
- undertaking government activities on land management, land cadaster, geodesy, aerial imagery, mapping
- undertaking surveying and land plot formation activities
- registering land use rights and implementation of land reform
- preparing and issuing of Land Use Right Certificates<sup>14</sup>
- acquiring land as requiring by the state, registering changes of land users and allocating new land plots
- surveying the land plots, that are the subject to land use rights
- developing projects for allocation of land use rights for non-agricultural needs
- implementing land assessment work, soil assessment and economic valuations of land.<sup>15</sup>
- providing a technical inventory of residential houses, buildings, apartments and state companies
- providing technical inventory and valuation of affected structures, and
- providing registration of ownership and preparation of an Ownership Certificate for immovable assets.

<sup>14</sup>This is a legal document that verifies the title holding of any parcel of land.

<sup>15</sup> Government Decree No.590, dated 28 December 2006 provides the details of the roles and responsibilities, organizational structure and its associated enterprises.

## **Construction Supervision Consultants**

136. The Construction Supervision Consultants (CDS) will assist PMU Barqi Tojik to:
- Prepare and supervise the consultations, disclosure of information and documents, detailed measurement survey, census and socioeconomic survey related to the finalization of the LARP;
  - Coordinate with the licensed valuator in the conduct of official valuation of affected assets to ensure that these are conducted following the replacement cost principles of the ADB SPS (2009);
  - Ensure complete relocation or reconstruction of affected structures / businesses before civil works commencement and payment of appropriate compensation before displacing the DPs;
  - Monitor LARP implementation process, provide data and support to PMU during preparation of quarterly monitoring reports on LARP implementation and monitoring activities;
  - Inform the PMU on the issues and bottlenecks that arise during LARP implementation and monitoring, and provide recommendations and suggestions on solution of such issues;
  - Control the activities of Contractor(s) and Subcontractor(s) if any, including implementation of mitigation measures, temporary land acquisition, etc.;
  - Provide advice to PMU on LAR issues and grievance redress;
  - Study, communicate to PMU and implement immediate remediation in case of any non-compliance with the LARP.

## **13. Resettlement Budget and Financing**

137. All the costs associated with LAR administration, compensation of DPs and LARP implementation will be contributed by the Government of the Republic of Tajikistan as the Government's contribution to Project funding.

138. The Barqi Tojik- the Executing Agency will allocate funding based on the submitted request from PMU with details of the DPs and compensation amounts based on the LARP. The funds will be transferred to the special account in every concerned district and DPs will pick-up their compensation amount in person when verified against their passports/IDs. PMU together with the internal monitor/resettlement. The Ministry of Finance will oversee the process. Consultant will observe compensation payment and carry out a sample survey of DPs who received compensation. The results of the monitoring will be reflected in the periodic Social Monitoring Reports to the ADB.

139. PMU Barqi Tojik will ensure compensation funds are made timely available and DPs are compensated prior to acquiring the land and other affected assets. It will prepare a detailed LARP budget, which will include: (i) detailed costs of land acquisition, structures, trees, relocation, businesses and livelihood and income restoration and improvement; (ii) administrative costs; (iii) LARP implementation cost; iv) monitoring costs.

## **14. Implementation Schedule**

140. PMU Barqi Tojik will make sure resettlement planning is carried out before the award of the civil works contract. The LARP, if required, shall be implemented before the commencement of the civil works. The implementation schedule for LAR tasks will depend on the design of the projects. The tentative LARP preparation and implementation schedule will be detailed in the LARPs.

## 15. Monitoring, Reporting and Evaluation

141. PMU Barqi Tojik will develop and implement a detailed monitoring and evaluation plan reflecting the resettlement and land acquisition issues. PMU will maintain the database with the baseline data against which the LAR progress will be tracked and monitored. Monitoring of the compensation process will allow understanding if DPs received fully their compensation.

142. To enable efficient, effective and fair monitoring, the following indicators are proposed to monitor LARP implementation:

- Number of land plots lost versus the number of replacement land (of similar or better quality);
- Number of DPs who received their land use certificate (for replacement land);
- Number of DPs lost residential home;
- Number of DPs lost/have affected their means of income;
- Number of jobs provided (temporary and replacement), including number of DPs employed for these jobs;

143. Data for these indicators will be collected through random sample surveys among the DPs as well as through the consultation meetings or FGDs.

144. PMU Barqi Tojik shall prepare and submit a semi-annually monitoring reports to ADB on LARP implementation and a compliance report upon completion of the LARP implementation.

145. The Project Supervision Consultant (PSC) will assist PMU in carrying out the duties related to finalization, implementation, supervision, monitoring and evaluation of the LAR activities. In particular, the Project supervision consultant will assist PMU to:

- Finalize the design for the sub-projects and get the details of affected lands and properties;
- Design and supervise the consultations, disclosure, DMS and census/socioeconomic survey related to the finalization of the LARP;
- Coordinate closely with the licensed valuator in conducting official valuation of affected assets to ensure compliance with the replacement cost principles of the ADB SPS (2009);
- Ensure complete vacation of affected structures/land before civil works commencement and payment of appropriate compensation before displacing the DPs;
- Monitor LARP implementation process, provide data and support PMU in preparation of quarterly monitoring reports on LARP implementation and monitoring activities;
- Inform the PMU on issues and bottlenecks that arise during the LARP implementation and monitoring, and provide recommendations and suggestions on solution of such issues;
- Supervise the activities of Contractor(s) and Sub-contractor(s), including implementation of mitigation measures, temporary land acquisition, etc.;
- Advise PMU Barqi Tojik on LAR issues and grievance redress;
- Study, communicate to PMU and implement immediate remediation in case of any non-compliance with the LARP;

## ANNEXES

### ANNEX 1: Involuntary Resettlement Impact Screening Checklist

(To be completed by the PMU for each subproject)

Possible Involuntary Resettlement Effects	Yes	No	Not known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be any land acquisition?				
2. Are the locations for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
10. Will there be physical relocation of DPs? [ ] No [ ] Yes If yes, approximately how many (DHs/DPs)?				
<b>Involuntary restrictions on land use or on access to legally designated parks and protected areas</b>				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned by communally or by the state be restricted?				
<b>Quantification of land to be acquired</b>				
Preliminary estimated size of land that will be required by the Project? [ ] No [ ] Yes If yes, approximately how much? _____ hectares				
<b>Information on Displaced Persons:</b>				
Estimated number of households/persons that will be displaced by the Project? [ ] No [ ] Yes If yes, approximately how many? _____				

Are any of them poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many? _____
Are any displaced persons from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, how many? _____

## **ANNEX 2: Outline of a Land Acquisition and Resettlement Plan**

1. The comprehensiveness of a resettlement plan would correspond to the potential involuntary resettlement impacts/risks and size of the project. The resettlement plan must adequately address all involuntary resettlement issues related to the project, describe specific mitigation measures that will be taken to address the issues, and outline institutional requirement and resources required to implementation of the LARP. The following outline of LARP is suggested for the present project.

### **A. Executive Summary**

2. This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

### **B. Project Description**

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement and identify the project area. It also describes the alternatives considered to avoid or to minimize resettlement. It includes tables with quantified data and provide a rationale for the final decision.

### **C. Scope of Land Acquisition and Resettlement**

4. This section:

- Discusses the project's potential impacts and includes maps of the areas or zone of impact of project components or activities;
- Describes the scope of land acquisition and explains why it is necessary for the main investment project;
- Summarizes the key effects in terms of assets acquired and displaced persons; and
- Provides details of any community/government property resources that will be acquired.

### **D. Socioeconomic Information and Profile**

5. This section outlines the results of the social impact assessment, the census survey, and other studies, with information and data disaggregated by gender, vulnerability, and other social groupings, including:

- Number and description of people and communities to be affected;
- likely impacts on land and asset acquisition on the people and communities affected;
- Description of the project's impacts on poor, indigenous and/or ethnic minorities, women, disabled and other vulnerable groups;
- Description and analysis of the socioeconomic situation, impacts, needs, and priorities for women.

### **E. Information Disclosure, Consultation, and Participation**

6. This section:

- Identifies project stakeholders, especially key stakeholders;
- Describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- Describes the activities undertaken to disseminate project and resettlement information during the project design and preparation for engaging stakeholders;

- Summarizes the results of consultations with affected and displaced persons (including host communities if applicable), and discusses concerns raised and recommendations made for inclusion in the LARP;
- Confirms disclosure of the draft LARP to displaced persons and includes arrangements to disclose any subsequent plans; and
- Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with displaced and affected persons during the project implementation.

#### **F. Grievance Redress Mechanisms**

7. This section describes mechanisms to receive and facilitate the resolution of affected persons concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

#### **G. Legal Framework**

8. This section:

- Describes national and local laws and regulations that apply to the project and identifies gaps between local laws and ADB's policy requirements; and, discuss how the gaps will be addressed;
- Describes the legal and policy commitments from the Executing Agency for all types of displaced persons;
- Outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, livelihoods; and sets out the compensation and assistance eligibility criteria and procedure and the timeframe for disbursement of compensation and assistance;
- Describes the land acquisition process and prepares a schedule for meeting with the key procedural requirements.

#### **H. Entitlements, Assistance and Benefits**

9. This section:

- Defines displaced persons entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
- Specifies all applicable assistance to vulnerable groups, including women, and other special groups; and.

#### **I. Relocation of Housing and Settlements**

10. This section:

- Describes options for relocating housing and other structures, including replacement housing, replacement cost cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
- Describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about locations, environmental assessment of sites, and development needs;
- Provides timetables for site preparation and transfer;
- Describes the legal arrangements to regularizes tenure and transfer titles to resettled persons;
- Outlines measures to assist displaced persons with their transfer and establishment at new sites;
- Describes plans to provide civic infrastructure; and

**J. Income Restoration and Rehabilitation**

11. This section:

- Identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- Describes income restoration programs, including multiple options for restoring all types of livelihoods;
- Describes special measures to support vulnerable groups;
- Explains gender considerations; and
- Describes training programs where applicable.

**K. Resettlement Budget and Financing Plan**

12. This section:

- Details costs for each type of affected assets including applicable allowances;
- Provides an itemized budget for all resettlement activities;
- Includes a justification for all calculated compensation at a replacement cost, rates and other cost estimates (considering applicable contingencies), plus replacement costs;
- Includes information about the source of funding for the resettlement plan budget.

**L. Institutional Arrangements**

13. This section:

- Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the LARP;
- Includes institutional capacity building program, including technical assistance, if required;

**M. Implementation Schedule**

14. This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works and provide timing for the land acquisition processes.

**N. Monitoring and Reporting**

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the LARP. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.