

# Resettlement Plan

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October 2015

## SAM: Renewable Energy Development and Power Sector Rehabilitation Project

Prepared by the Electric Power Corporation for the Asian Development Bank. This is an updated version of the draft originally posted in August 2015 available on <http://www.adb.org/projects/documents/renewable-energy-development-and-power-sector-rehabilitation-af-fuluasou-shp-rp>.

## **CURRENCY EQUIVALENTS**

(as of 14 October 2015)

Currency unit	–	West Samoan Tala (WST)
WST1.00	=	\$0.39
\$1.00	=	WST2.60

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
APs	–	Affected persons
DPs	–	Displaced Persons
EA	–	Executing Agency
EPC	–	Electric Power Corporation
GoS	–	Government of Samoa
IA	–	Implementing Agency
IOL	–	Inventory of losses
IR	–	involuntary resettlement
MNRE	–	Ministry of Natural Resources and Environment
MOF	–	Ministry of Finance
NGO	–	non-governmental organization
RP	–	resettlement plan
RRP	–	Report and Recommendation of the President
SHP	–	small hydropower plant
TA	–	technical assistance

## **WEIGHTS AND MEASURES**

kWh	—	kilowatt hour
GWh	—	Gigawatt hour
MW	—	Megawatt hour
M2	—	Square meter

## **NOTE**

In this report, "\$" refers to US dollars.

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## **A. Executive Summary**

1. The proposed project is located in the islands of Upolu and Savaii of Samoa. The project includes two civil works components. The Component 1 includes the rehabilitation of three existing small hydropower plants (SHPs) damaged by Cyclone Evans in 2012: (i) Samasoni; (ii) Fale ole Fee; and (iii) Alaoa. The Component 2 comprises the construction of three new SHPs: (i) Faleaseela, (ii) Fausaga-Tafitoala; and (iii) Faleata. The Electric Power Corporation (EPC) has selected these SHPs based on the 2010 feasibility study and the project preparatory technical assistance (PPTA) supported by the Asian Development Bank (ADB). The detailed design and construction will be prepared during project implementation.

2. Out of the 6 SHPs included in the project, 3 are existing SHPs and will be rehabilitated in the existing land. Additional land will only be required for an access road to construct and maintain the Samasoni hydro penstock pipe. Process for acquiring this piece of land for access road is in process and is handled by the Land Division of the Ministry of Natural Resource and Environment. As per requirement of ADB's Safeguard Policy Statement 2009 (SPS), a due diligence/ Social Compliance Audit report has been prepared for existing hydropower plants proposed for rehabilitation, and findings of the due diligence and compliance audit are presented in the due diligence report and relevant information included in the RP. Except for the extra piece of access land required for Samasoni, the audit shows that the land was acquired in 1921 and 1929 by the colonial administrator—Government of New Zealand under the Ordinance numbers 18 and Ordinance 3 respectively. Concerns raised by local villagers will be addressed by a Coordination Committee that will be formed with representatives from EPC, the Ministry of Natural Resource and Environment (MNRE), Ministry of Finance, Attorney General's Office and Ministry of Women Community and Social Development. An assurance on this will be included in the project agreement.

3. The three new SHPs are proposed to be developed under a community ownership and protection scheme in partnership with local villages. In this context, the land to build SHPs on will to be acquired by Government under Taking of Land Act through negotiation with land owners under the established Government process of land acquisition and landowners compensated accordingly. Furthermore, Government is considering paying an annual fee to village through Council of Chiefs for protection of project and facilities as well as enforcing protection of water catchment areas. This modality will not only ensure security of project facilities during construction and operation, but will also encourage the enforcement of protection of river catchments and forests. These are tasks proposed to be under the oversight of the Village Councils. In return Cabinet has been requested for approval of a payment of an annual fee to Village Council that is based on a percentage of net incomes from the operation of SHP and selling electricity to EPC. A draft resettlement plan (RP) has been developed based on available information in anticipation of land acquisition need and in light of the proposed community model. The RP will be updated and finalized after the detailed design.

4. The PPTA assessment of 3 new SHPs shows that a total of 10 ha of lands are required and that a total of 14 households will be affected. There will not be any relocation of people and their permanent homes. The loss of crops includes yam, taro, banana, coconut, breadfruits etc. There will be loss of some shacks (farm house) in the small plantation or in the farm land. The underground waterlines of Samoa Water Authority (SWA) in Faleata and stream flow gauging station of MNRE in Faleaseela will also be affected but restored during design and construction.

5. The affected land includes both Government land and customary land. Government land is public access on either side of the rivers plus lands in Faleata SHP already taken by Government for SWA water treatment plant and pipelines. The Faleata SHP is thus located mostly on Government land acquired by SWA with only part of the SHP schemes to be located on customary land. The Fausaga-Tafitoala and Faleaseela SHPs will use mostly customary land. Fausaga-Tafitoala SHP involves lands from two neighboring villages, Fausaga and Tafitoala. The intake, headrace, headpond, penstock and the access road is on Fausaga village land. The power station and tailrace and high voltage powerline and part of the access road is on Tafitoala village land. Boundary of the two village lands is already determined and understood by both villages.

6. The land ownership status has been identified through a review of topographic maps, field visit and discussion with the Land Management Division of MNRE and the Resettlement Unit of the EPC. The required land area which includes both government and customary land for each of the new hydropower schemes is: (i) Faleaseela: 28,650sqm; (ii) Fausaga-Tafitoala: 46,640sqm; and (iii) Faleata: 25,400sqm. The land area is identified from the technical feasibility study of the SHPs, and field visits during the PPTA study. As mentioned above, the Fausaga-Tafitoala and Faleaseela SHPs include customary land and the Faleata SHP includes mostly government land. The exact area and percentage of each category of land will be determined during the update of the RP after detailed design is carried out.

7. A total of 14 villages are around the six SHPs, however not all the villages will be affected from land acquisition since the land has been acquired for SWA for Faleata SHP and existing SHPs do not require much land acquisition except for the extra land for the access road required for the Samasoni SHP. The impact in the customary land will be loss of land, crops and small structures (farm house) and restriction on access by villagers due to penstock construction and other associated facilities. The affected families/households will receive cash compensation for the affected properties.

8. The number of affected households, loss of crops, structure and any other assets of each of the hydropower schemes will be updated in the RP during the detailed design of the project. The Detail Measurement Survey (DMS) and Inventory of Loss (IOL) will be the basis for preparation of the updated RP. In preparation of updated RP, the Project will follow applicable laws of Government of Samoa (GOS) and ADBs SPS. An implementation schedule for preparing updated RP is included in the RP. The guidance on collection of socio-economic information for preparing the updated RP is included in the RP. A survey questionnaire for socio-economic information and inventory of losses is included in Appendix 1.

9. In 2009 - 2010, the feasibility studies were done for the several SHPs and consultations were conducted during this study including Faleaseela, Fausaga-Tafitoala and Faleata SHPs to introduce the project explaining concept of taking water from rivers to store in headponds then piping to turbines/generators in power stations to generate electricity and water returned back to rivers. It was also explained that Government will need to take customary lands, under the Taking of Land Act for public use, to build the SHPs and land owners are rightly compensated. Furthermore, the involvement of communities through Council of Chiefs of respective affected villages to protect water catchment areas in order to maintain river flows especially during dry periods. Government will set up some form of compensation to village communities for protection of river catchment areas. The results of the consultations with communities conducted in these 3 SHPs in 2010 are presented in the consultation section of the RP.

10. During the preparation of the RP, consultations were conducted with the relevant agencies and the affected households for the SHPs prioritized during the Inception Mission, except the Faleaseela SHP.<sup>1</sup> EPC plans to develop the Faleaseela and Fausaga-Tafitoala SHPs through taking of required land and compensating land owners for land and village councils for providing of security and keeping of peace amongst families and enforcing of protection of river catchments and forests. The EPC already conducted various consultations with communities/villages on SHPs developments. During the Fact Finding Mission in July 2013, the 3 SHPs: Fuluasou, Tiapapata and VaipuSHPs have been excluded from the project and 2 new SHPs namely, Fausaga-Tafitoala and FaleataSHPs have been included in the project. EPC will conduct third consultations with villages concerned and disclose draft RP in October 2015 and the results of the consultations will be included in the updated RP. Measures on consultations and participation for updating the RP are included in the draft RP.

11. The comparison of land acquisition laws of Government of Samoa (GOS) and ADB SPS requirements on resettlement has been done. The strategies for bridging the gap between the GOS laws and ADB SPS as well as the Entitlement Matrix of the project are presented in the RP.

12. An estimated budget for compensation of land, crops etc. and safeguard capacity is included in the RP. The Ministry of Finance is the Executing Agency for the project and the EPC is the Implementing Agency. The EPC will have overall responsibility of updating and implementing the RP with assistance from MNRE. The entitlement and compensation will be paid directly from the EPC based on the RP. The PMU will be assisted by team of safeguard consultants funded by ADB.

13. The RP is prepared based on the available information in anticipation of a possible land acquisition need if the proposed joint venture business does not materialize. The RP will be updated and finalized during the detail design. EPC will follow measures in the draft RP to updating the RP.

13. Joint venture business model as originally considered will not be used in RP. Instead, a 'Community Protection and Ownership Scheme' will be used. Under this scheme, Government will take the lands under 'Taking of Land Act' and compensate land owners accordingly based on most recent land valuation. For 'community protection' of project and catchment, Government will approve payment of annual compensation to villages through the Council of Chiefs for them to commit to enforcing protection of 'water catchment areas and forests' and provide security of project implementation and successful operation of the plant. The amount of compensation to community will be based on a percentage of net income of sale of electricity from plant to grid after deducting operation and maintenance costs and other financing costs.

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<sup>1</sup>In May, 2013, during the Inception Mission of the proposed project, the EPC had prioritized 3 HPPs: Faleata, Faleaseela, and Fausaga-Tafitoala.

## **B. Background of the Project**

14. The proposed project has been included in ADB's Country Operations Business Plan 2012–2014 and country Partnership Strategy (2008–2012). The project will be financed through ADB grants. The energy sector in Samoa is highly vulnerable to rising international oil prices, characterized by a heavy reliance on imported petroleum rather than on renewable energy sources for power generation. Seventy percent of the electricity is generated by diesel generators, 30% by hydropower plants, 1% by biofuel/coconut oil plants (but not operating currently), and 0.1% by solar generators. For the power utility, the Electric Power Corporation (EPC), fossil fuel is by far the single largest expense item representing 74% of total generation costs and 51% of overall operation costs. The utilities power asset management is still under development, hence power distribution system has about 17% losses, and the average tariff of electricity fluctuates between US\$0.40–\$0.55 per kilowatt hour (kWh). Developing indigenous and renewable energy sources is a viable solution for achieving energy sector priorities, as it will deliver socially acceptable, technically feasible, and affordable electricity services.

15. Samoa comprises two main islands, Savai'i and Upolu, where the capital city Apia is situated, and two small coastal habituated islands; Manono and Apolima. EPC's power systems in Savai'i and Upolu have independent grids. Apolima island has a small stand-alone solar supply with battery storage and Manono island is connected by a submarine power cable connected to Upolu 22kv grid. The total installed capacity of power generation mix of EPC in 2015 is 547.6 megawatt (MW), composed of 30 MW diesel generators, 11 MW run of river and one dam storage hydro power plants, 550KW of wind generators, and 6MW of small and large distributed solar generators from 150KW to 2.4MW kilowatt (KW) range, generating total generation about 136 million kWh of electricity per year. About 98% of the population has access to grid electricity, while the remaining 2% is connected to small diesel generators or small house solar systems.

16. The objective of the proposed project is to assist the government's efforts to reduce the country's heavy reliance on imported fossil fuels for power generation. To providing a secure, sustainable and environmentally-sound source of electricity for the consumers, the project proposes to construct 3 small hydropower plants schemes and to rehabilitate existing 3 hydropower plant schemes damaged by recent Cyclone Evan 2012.

17. Under the ongoing Loan - Power Sector Expansion Project, technical feasibility and environmental studies for small hydropower schemes of four rivers in Upolu and one river in Savaii was undertaken. The four rivers studies for the feasibility study were in Upolu: Faleaseela, Fausaga-Tafitoala, Fuluasou and Vaisigano West Branch (Tiapapata), and one in Savaii, Faleata.

18. The proposed project is located in the islands of Upolu and Savaii. The project includes 2 components: (i) Component -1 includes the rehabilitation of the existing 3 small hydropower power plants (SHPs) damaged by Cyclone Evan; and Component 2 comprises the construction of 4 new SHPs.

19. During the Inception Mission of this proposed project in May 2013, the EPC prioritized 4 SHPs: Faleaseela, Fuluasou, Tiapapata and Vaipu and rehabilitation of 3 existing schemes for this proposed project. However, during the Fact – Finding Mission of the Project in July 2013, the EPC excluded Fuluasou, Tiapapata, and Vaipu and included 2 new SHPs namely Fausaga-

Tafitoala and Faleata in the project. The rehabilitation of existing SHPs include: (i) Samosoni; (ii) Fale ole Fee; (iii) Alaoa. All of the 3 existing SHPs are in Upolu.

20. Table -1 provides the list of SHPs included in the project with respective key data as per the feasibility studies.

**Table1. List of SHPs**

	Name	Island	Plan Capacity MW	GWH/pa	Type
1	Faleaseela	Upolu	0.19	1.06	New
2	Fausaga-Tafitoala	Upolu	0.42	1.68	New
3	Faleata	Savai	0.55	1.05	New
4	Samasoni	Upolu	1.90	3.87	Rehabilitation
5	Alaoa	Upolu	1.05	4.78	Rehabilitation
6	Fale ole Fe	Upolu	1.74	3.34	Rehabilitation

21. SHPs are not expected to involve physical displacement or relocation of people. The rehabilitation of existing SHPs will be undertaken in the existing land and will not require additional land acquisition. New SHPs are proposed to be developed in partnership with local communities and a business model for this is under discussion at the Cabinet. The land is expected to be obtained through negotiation, but details can be finalized only after the Cabinet's decision on the model. A draft resettlement plan (RP) has been developed based on available information in anticipation of a possible land acquisition need if the proposed community model does not materialize and the RP will be updated and finalized after the detailed design. The draft RP is prepared in accordance with applicable laws and regulations of Government of Samoa (GOS) and ADB's Safeguard Policy Statement 2009 (SPS). The detail technical design of the hydropower schemes will be done during implementation of the project, and accordingly updated RP will be prepared. In preparation of updated RP, the Project will follow applicable laws of GOS and SPS of ADB. The Ministry of Finance (MOF) is the project executing agency and the EPC is the project implementing agency.

### **C. Location and Description of SHPs**

22. The existing three SHPs (Alaoa, Samasoni, Fale ole Fee ) to be rehabilitated under the Component-1 are located in the Vaimauga West District. The 3 new SHPs of the Component-2 are located in the island of Upolu and Savaii including the following Districts: Lefaga (Faleaseela SHP); Safata (Fausaga-Tafitoala SHP) and Palauli East (Faleata SHP in Vailoa). The following is the Map (Figure 1) of the project area covering the new SHPs and the existing SHPs to be rehabilitated.



## Small Hydropower Plants& Villages

23. Under the Component-1, the existing Samasoni, Alaoa, and Fale Ole Fee SHPs will be rehabilitated and is located in the district of Vaimauga West and spread over the following villages: Maagiagi Uta, Ma'agao, Fa'atoia, Alaoa, and Lelata. However, Samasoni covers another 4 villages: Vailima, Avele, Vaoala, and Tiapapata.

24. The three SHPs under the Component-2 includes several components and they are spread around the number of villages. The following are the components (layout ) and the name of the villages:

25. The Faleaseela SHP is located in Lefaga district and the SHP scheme includes components: intake area, power station, penstock and access road and this scheme is in the village - Falease'ela. The total number of households in Falease'ela village is 125.

26. Fausaga-Tafitoala SHP is located in Safata district and the SHP scheme includes components: intake, headrace, power house, tailrace, powerline, and access road. The components spread around the villages: Mulivai, Tafitoala, Fausaga, and Fusi. The total number of households in the 4 villages is 284.

27. Faleata SHP is located in Savai' Island and in the district of Palauli East. The SHP scheme includes following components: intake, headrace, power house and access road. The components spread around the village of Vailoa. The total number of households in the village is 110.

### Description of Rehabilitation or Construction of SHPs

28. The following is the background and rehabilitation work requirement for the 3 existing SHPs of the Component-1.

29. **Samasoni SHP:** The plant is located downstream of Fale ole Fee and Alaoa SHPs. The plant was heavily damaged by Cyclone Evan, in particular the intake, headpond, the penstock and power station generators. The two intakes in front of the head pond are fully blocked by bed load and sediment. The head pond is completely filled by fallen trees and sediment and the penstock was lifted by the floods and is destroyed at several locations. The falling trees have also caused damages of the penstock. The last approx. 100m of the penstock is laid

underground. No damages have occurred to this section. This clearly shows that a penstock laid underground is a much more favorable solution in the long run. The PPTA consultant has recommended laying a new penstock for Samasoni completely underground, also because of resettlement and environmental reasons. Land for a new access road is being acquired. Road is for construction and maintenance of the penstock and this is detailed in this RP. The access bridge to Samasoni headpond and Fale ole Fee power station was completely washed out during Cyclone Evan. There is no bridge now and no access during high flood periods. A ford is planned to be built as part of rehabilitation component to allow for vehicles to pass over during construction and access for operation staff of Fale ole Fee power station and Samasoni headpond and diversion weir.

30. **Alaoa SHP:** Cyclone Evan has caused heavy damages to the eastern headrace channel of the AlaoaSHP. Heavy rainfall during the cyclone has caused falling trees and landslides with slope erosion. This has destroyed the existing eastern headrace channel over a considerable length and also washed away the intake. Currently, Alaoa SHP is operating only at 1/3 of its capacity as only the western headrace channel is in operation.

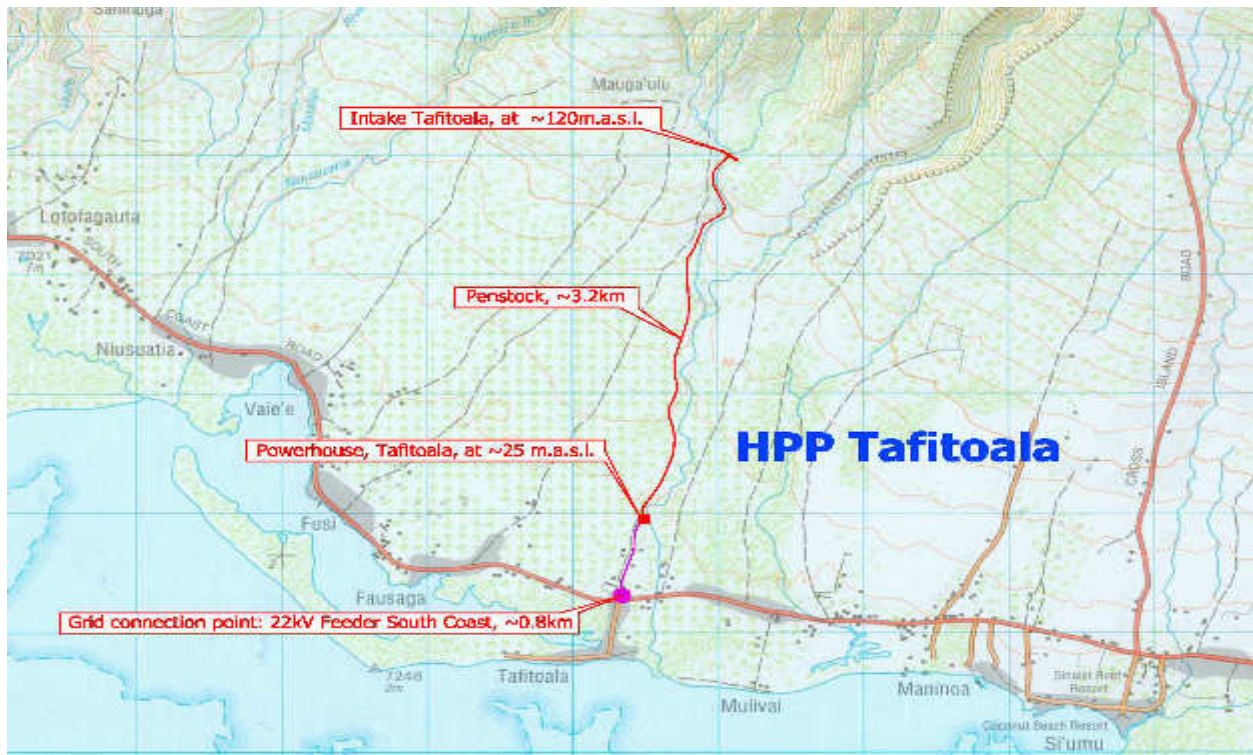
31. **Fale Ole Fee SHP:** The SHP house is located on the Vaisigano river, upstream of Samasoni SHP intake and downstream of the Alaoa power house. Its eastern intake utilizes the water of the Vaivase Stream and the western intake that of the Vaisigano Eastern Branch. The plant was out of operation before the cyclone hit the island and is still out of operation. The western intake and diversion pipeline were considerably hit by the cyclone. The above ground laid pipeline has been destroyed at some locations and the intake has been damaged and filled with sand and sediment.

32. The following is the description of the new SHPs of Component 2.

### ***Fausaga-TafitoalaSHP***

33. This project is a new SHP scheme. The scheme is located in the upstream of Tafitoala river on the south west side of Upolu, Samoa. The intake is located in Fausaga village at the western branch of the river and as well as the powerhouse is located in Tafitoala upstream of the village. The components include intake, headrace, power house, access road and power line. A Tyrolean weir with sand trap is proposed. The headrace consists of a penstock. The upper section of the headrace runs down a slope to the existing access road to the powerhouse. Additional land will be required only for the upper section of the headrace. The new powerhouse will be located adjacent to the river bed. Thus the tailrace water can be released directly into the river bed and some additional land will be required. All the components of the SHP are in the customary land.

**Figure 2: Fausaga-Tafitoala SHP**

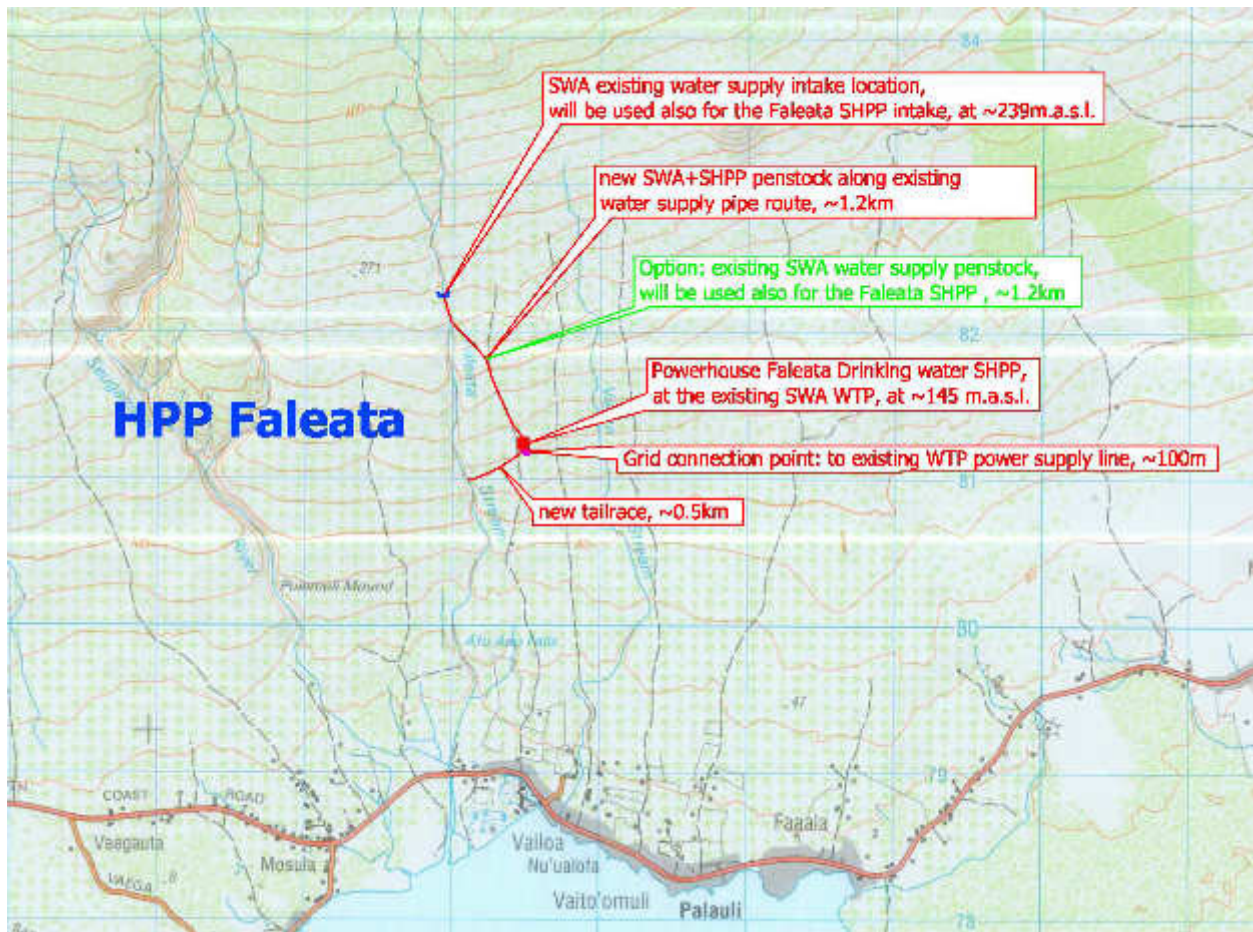


### ***FaleataSHP***

34. This Faleata schemes is a drinking water and SHP combined scheme on Savai'i island. An existing water intake for water supply operated by Samoa Water Authority (SWA) is situated approximately 30 meters of the upstream of the water treatment plant and storage tank. There is an 80 meters elevation drop from water intake to water filters. The SWA uses a break pressure tank or lower the water pressure before water goes into the filter. Rather than using pressure break tank, SHP scheme will install a generating plant upstream of the filters using water for drinking water to generate electricity before it is treated for drinking water. The water abstraction rights for SWA will be taken into consideration. It is unclear how much water is abstracted by SWA. In case this is a significant amount then also the energy of this water could be utilized by installing a little generation unit (electric motor and pump operated in reverse) at the intake to the water treatment plant. The main advantages of such a drinking water power plant would be (i) a common intake structure for water supply and power generation and (ii) the energy of the drinking water is also to be used for power generation (for the head between intake and water treatment plant). The SHP will be built on the land already acquired for SWA and only a small amount of additional land will be required for some part of the SHP scheme.

**Figure 3: Faleata SHP**

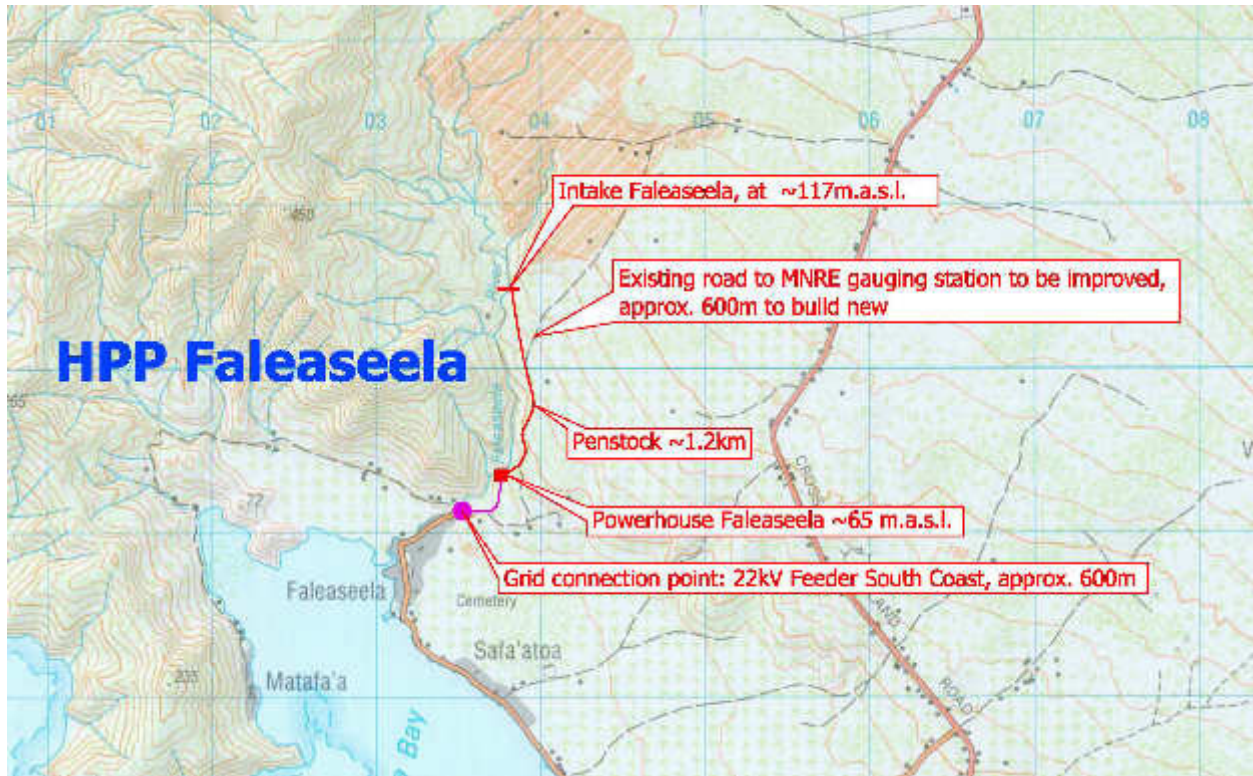




#### ***FaleaseelaSHP***

35. The Tyrolean intake weir of this new Faleaseela SHP scheme will be built at the area where MNRE's gauging station is built. . It is part of the new hydro project to restore the MNRE gauging station. The SWA operates a spring water intake for portable water supply approximately 30 meter upstream of the proposed intake. This water supply intake will be not be affected by new hydro intake. This will be considered in the SHP design and in the calculation of the energy production. The headrace consists of an approx. 1.2 km long penstock. The upper section runs down a gentle slope to the existing access road to a MNRE gauging station. In continuation the penstock route follows this road down till to the powerhouse location. The new powerhouse will be located adjacent to the natural river bed at the orographic left side of the Faleaseela river. Two short new access roads will be constructed from the existing dirt road up to the intake and down to the power house. Additional land will be required for the SHP scheme and it is mostly built on customary land.

**Figure 4: Faleaseela SHP**



### **Community Protection and Ownership Scheme of the Falease'ela, Fausaga-Tafitoala & Faleaseela SHPs**

36. The feasibility studies were conducted between 2009–2010 by EGIS International consulting company and EPC's Project Management Unit for several SHPs, including the 3 following SHPs: Falease'ela, Fausaga-Tafitoala, and Faleata. The study proposed that the 3 SHPs should be developed. The preliminary consultations were conducted by the EPC with the communities in Faleaseela, Fausaga-Tafitoala and Faleata during the feasibility study (2009-2010) about the community protection and ownership scheme model, while details on the modality of the model are yet to be finalized. The villagers showed general support to the preliminary idea but also raised several concerns. The results of this preliminary consultation are presented in the section on consultation.

37. The community protection and ownership scheme will be used for implementation of three SHPs. Under this scheme, Government will take lands required and compensate land owners accordingly based on most current land valuation. Furthermore, Cabinet is requested for approval of payment of an annual fee to village through Village Council of Chiefs for them to enforce protection of river catchment forest and overall security of project from its implementation and operation of plant in future.

38. The RP will be updated during the detail design of the SHPs. Customary land will be taken for new SHP. Land Division of MNRE will go through process of determining owners of land and land evaluation done to determine price of land to be taken. This is used by MNRE to negotiate value to be paid to land owners. Government also offered land to be leased. However, EPC approved to take all lands needed and compensate land owners rightly. Requirements for a negotiated settlement in this regard are also outlined in the RP in line with the SPS.

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

39. Out of the 6 SHPs included in the project, 3 are existing SHPs built on lands already acquired by Government, except for new land to be taken for access to the construction and maintenance of Samisoni penstock pipe. . The 3 new SHPs will require land acquisition, which Government will go through taking of land. There will be no physical displacement of people and the number of households affected by land acquisition is 14. The affected land includes both government land for river reserves and customary land. The Faleata SHP is located mostly in the government land acquired for Samoa Water Authority (SWA) and only part of the SHP scheme will be on the customary land. Details of customary land to be taken will be determined during design phase.

40. The amount of government land and customary land required for each of the new hydropower schemes is: (i) Faleaseela: 28,650 square meters; (ii) Fausaga-Tafitoala: 47,640 square meters; and (iii) Faleata: 25,400 square meters (Tables–2, 3, 4). The land ownership status has been identified through review of topographic map, field visits and discussion with the Land Management Division of Ministry of Natural Resource and Environment (MNRE) and Resettlement Unit of EPC. The affected area is identified from the feasibility study of the component of each of the hydropower schemes and the PPTA study. The Fausaga – Tafitoala and Faleaseela SHPs include customary land and Faleata SHPs includes mostly government land. The exact area and percentage of each category of land will be determined while updating of the RP during the detailed design.

41. In addition to loss of land, the crops such as taro, yam, taamu, coconuts, and breadfruits etc. will be lost. The number of different crops/plants will be lost are followings: 9,500 taro, yam and taamu; 1,970 banana; 560 coconut trees; and 400 breadfruits and other crops. The Table 4.1– below shows the loss of crops, plants, and trees. The loss of approximately 18 small structures (small shacks) such as farm house in the plantation and in the farm land is expected. The underground waterlines of SWA in Faleata and stream flow gauging station of Ministry of Natural Resource and Environment (MNRE) in Falease'ela will be affected.

42. A total of 14 villages are around the 6 SHPs, however not all the villages will be affected from land acquisition since for Faleata the land has been already acquired for SWA and existing SHPs do not require land acquisition. The impact in the customary land will be loss of land, crops and small farm house. The affected households will receive cash compensation for the affected properties.

43. The actual number of affected households, loss of land area, crops, structure and any other assets of each of the hydropower schemes will be updated in RP during the detailed design of the project. The Detail Measurement Survey (DMS) and Inventory of Loss (IOL) will be the basis for preparation of the updated detail RP. In preparation of updated RP, the project will follow applicable laws of GOS and SPSof ADB. The implementation schedule for updating RP is included in the RP. Guidance notes on collection of socio-economic information and consultation framework for preparing updated RP are presented in the RP. The household survey questionnaire for socio-economic information and inventory of loss is included in the Appendix 1.

44. The Tables 2, 3, 4, and 5 below present the component of each of the new hydropower plant (SHP), amount of land required and status of land ownership. Table 4.1 presents estimated loss of crops, etc. for these SHPs.

**Table-2: Falease'ela SHP Components, Land Status & Land Area**

<b>Falease'ela: Hydropower Plant &amp; components</b>	<b>Land Ownership Status</b>	<b>Land area</b>
1. Intake Weir (new)	Customary land	850 sqm
2. Powerline to intake (new)	Customary land	1,200 sqm
3. Power house (new)	Customary land	2,500 sqm
4. Penstock (new)	Customary land	16,800sqm
5. Power line to powerhouse (new)	Customary land	1,200 sqm
Tail race (new)	Customary land	To be identified
Desilting chamber (new)	Customary land	2,500 sqm
Access road to intake weir & powerhouse (new)	Customary land	3,600 sqm
		<b>Total =28,650 sqm</b>

**Table-3: Fausaga-TafitoalaSHP Components, Land Stataus& Land Area**

<b>Tafitoala Hydropower Plant &amp; Components</b>	<b>Land Ownership Status</b>	<b>Land Area</b>
1. Intake/Headpond, new	Customary land	850sqm
2. Penstock,new	Customary land	42,000sqm
3. Headrace, new	Customary land	330+160=490 sqm
4. Power house, new	Customary land	2500 sqm
5. Tailrace, new	Customary land	
6. Access road, existing village road	Customary land	Existing road
7. Grid Connection point to powerhouse, new	Customary land	1800 sqm
		<b>Total =47,640 sqm</b>

**Table- 4: Faleata SHP Components, Land Status & Land Area**

<b>Faleata (Savaii Island) Hydropower Plant &amp; Components</b>	<b>*Land Ownership Status</b>	<b>Land Area</b>
1. Intake, existing SWA intake pond		8500 sqm
2. Head Race, Penstock, new		14000 sqm
3. Power house, new		2500sqm
4. Tailrace or canal to river, new		
5. Access road to powerhouse, existing		To be identified
6. Access road to intake, existing		
7. 22kv line to power station, existing		
8. Grid Connection, new		400sqm
		<b>Total=25,400 sqm</b>

\*Land status includes Government land and some customary land.

**Table-5: Samasoni SHP Components, Land Stataus& Land Area**

<b>Hydropower Plant &amp; Components</b>	<b>Land Ownership Status</b>	<b>Land Area (Sq.meters)</b>
1. Intake/Headpond, existing	Government land	22,059
2. Penstock, new/buried on route of old one	Government land	12,493
3. Power house, existing	Government land	1,012
4. Tailrace extension, new	Government land	140
5. Access road at Alaoa, existing	Government land	120
6. Grid Connection point to powerhouse, new	Government land	10
7. Access road at Lelata (Govt taking land), new	Customary land	1,016
		<b>Total = 36,850</b>



**Table – 4.1: Loss of Crops**

	FaleaseelaS HP	FaleataSHP	Fausaga - TafiatolaSHP	Total
Crops/Trees/Plants	Qnt.	Qnt.	Qnt.	
1. Taro/Yam/Taamu	4,200	1,500	3,800	9,500
2. Banana	650	550	770	1,970
3. Coconut	140	250	170	560
4. Bread fruits & others	100	190	110	400

***Due Diligence/Social Compliance Audit of the Component 1: Rehabilitation of 3 Existing SHPs.***

45. The project includes existing hydropower plants for rehabilitation. The following is the description of the rehabilitation work required for the existing three facilities.

46. **Samasoni:** Rehabilitation work includes rehabilitation of refurbishment of the existing concrete intake, replacing of penstock, access road, refurbishment of powerhouse and installation of measures to make power for flood proof, refurbishment of intake and clear sediments in the intake area and repair of generators and turbines. Also includes replacement of generator control equipment and replacement of turbine governor systems. . A minor piece of land will be acquired for construction and maintenance access of the penstock.

47. **Fale Ole Fee:** Repairing of penstock, head race power house and clear sediments in the intake and access road. Refurbishment of powerhouse, generators, switchgear, transformer, and installation of measures to make power for flood proof and rehabilitation of turbine. It also includes construction of a ford across river for vehicle and people access.

48. **Alaoa:** Repairing of existing headrace, replacement of completely destroyed channel and clearing of Intake. There will be construction of new intake in a form of a Tyrolean weir with sand trap. However, no new land will be acquired.

49. The Table-5 presents the rehabilitation work of the existing SHPs and screening of impacts.

**Table- 5 Existing Hydropower Plants Rehabilitation and Screening of Resettlement Impacts**

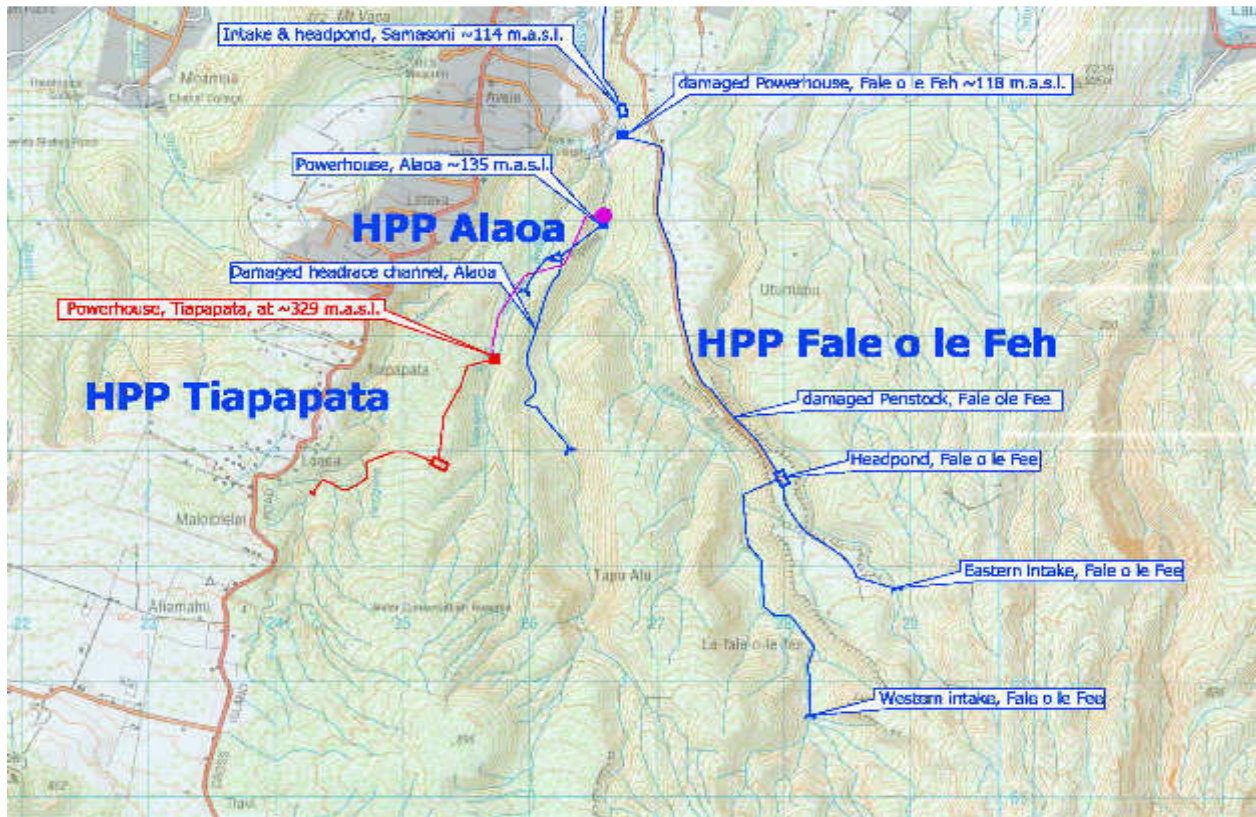
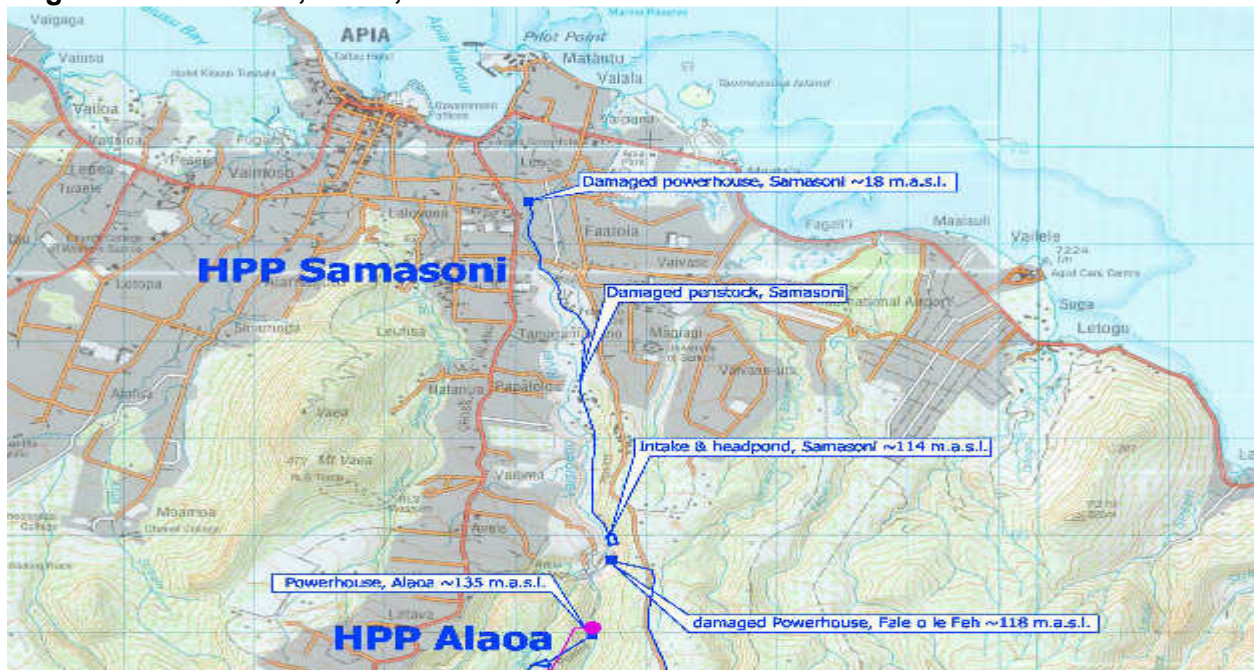
Name of Hydropower Plant	Proposed Activities	Screening of Resettlement Impacts
1. Samasoni, SHP Rehabilitation	<ul style="list-style-type: none"> <li>rehabilitation of refurbishment of the existing concrete intake; clear sediments in the intake area;</li> <li>replace and bury penstock, take land for access road, build ford in Alaoa</li> <li>refurbishment of powerhouse and installation of measures to make power for flood proof.</li> <li>Replace generators</li> <li>Extend tailrace at power station</li> </ul>	<ul style="list-style-type: none"> <li>The land for Samasoni SHP was acquired in 1921, and 1929; A minor piece of land will be acquired for construction and maintenance access of the penstock.</li> <li>. Given that the land was acquired in 1921 and 1929 and no record of compensation is available, a complaint was made by Magiagi villagers to the Ministry of Natural Resource and Environment (MNRE) for all three SHPs: Samasoni; Alaoa and Fale Ole Fee (refer to compliance audit report) regarding the past</li> </ul>



	<ul style="list-style-type: none"> <li>• Protect penstock along river</li> </ul>	compensation.
3. Alaoa SHP	<ul style="list-style-type: none"> <li>• Rebuild damaged east headrace replacement of completely destroyed channel in the existing alignment and clearing of Intake;</li> <li>• construction of new intake in a form of a Tyrolean weir with sand trap.</li> </ul>	<ul style="list-style-type: none"> <li>• The land for Alaoa SHP was acquired in 1921 and 1929; and no new land acquisition is required.</li> </ul>
4. Fale Ole Fee SHP	<ul style="list-style-type: none"> <li>• Repair penstock and replace sections; rebuild intakes and repair access road.</li> <li>• Refurbishment of powerhouse and installation of measures to make power for flood proof and rehabilitation of turbine.</li> <li>• Replace generator, electrical equipment and transformer in power station</li> <li>• Replace machine governor system with PLC unit</li> </ul>	<ul style="list-style-type: none"> <li>• The land for Fale Ole Fee was acquired in 1921, and 1929; and no new land acquisition is required.</li> </ul>

50. Figure 5 below shows the layout of the each of the Hydropower Schemes proposed for the rehabilitation.

**Figure 5: Samasoni, Alaoa, Fale Ole Fee SHPs**



51. As per requirement of ADB's Safeguard Policy Statement 2009, a due diligence/social compliance audit report has been prepared under the PPTA and findings of the due diligence and compliance audit are presented in details in this report. The due diligence/audit shows that there will not be any land acquisition for the rehabilitation of the existing hydropower plants except taking of 1,016 sq meters of land for access road for construction and maintenance of Samasoni penstock. The existing land was acquired in 1921 and 1929 by the colonial administrator – Government of New Zealand under the Ordinance numbers 18 and Ordinance 3 respectively. No record of compensation payment was available at the time of study given that the land was acquired long time ago. According to EPC, building of the three existing SHPs indicates that compensation was in fact paid by the government otherwise villagers would never have agreed to build these plants. However, according to MNRE, villagers from Maagiagi have expressed concerns that they did not receive compensation for the land. As recommended by the due diligence/audit, the concerns raised by the villagers will be addressed during implementation by a Coordination Committee formed with the representatives from EPC, MNRE, Ministry of Finance, Attorney General Office and the Ministry of Women Community and Social Development. An assurance on this will be included in the project agreement. The due diligence/ social compliance audit report including an outline of the action plan to address relevant issues is in the Attachment 1.

## **E. Socio Economic Information of the Affected Villages**

52. According to the 2011 Population and Housing Census, the total population of Samoa is 187,820 which comprised of 96,990 males, and 90,830 females. This is an increase of 3.9 percent of the population when compare with the Population census in 2006 with 180,741 persons. The population is divided into four major statistical regions namely: Apia Urban Area (AUA), North West Upolu (NWU), rest of the Upolu and Savaii. The census 2011 shows that AUA region constituted for 19 percent of the total population and 81 percent made up of rural population. The island Savaii has 24% of the total population. The Samoan way of life is based on the matai –system. The matai system refers to a traditional set up in the villages where the traditional village is based, managed and operated under the Village Council known as Pulega Mamalu a Alii ma Faipule. The Village Council plays a significant role in the village such as establishing the village protocols and disciplinary actions to manage and maintain peace and harmony amongst the villagers. During the PPTA study, community profile of Faleaseela village under the Faleaseela Hydropower Plant was available and is presented in the section below.

### **Faleaseela – Community profile**

53. The Faleaseela hydropower plant will affect the village Falease'ela. The community profile of Falese'ela village is adopted from the feasibility study of the Faleaseela Hydropower Power Scheme.

54. The village of Falese'ela lies on the southwestern coast of the island of Upolu in the district of Lefaga between the villages of Safa'atoa to the east and Matafa'a to the west. Falease'ela lies deep on the far end of the Lefaga Bay inlet, looking cross the bay to Matafa'a, which at its widest point is 1.0km to the east. The village is flat with most houses located along the Main South Coast Road that runs along the coastline but many houses extend into the interior adjacent to plantation access road to as far as 2km inland.

55. The 2011 census recorded a total population of 875, living in approximately 125 households with an average per household 7 people. The split between male and female is 52% and 48% respectively.

56. Village infrastructure consists of a paved all-weather road that is part of the Main South Coast Rd, with several by-roads and work roads providing access to plantation land and coastal settlements. Electricity is widely available with 100% of households connected to the EPC grid. Piped water is similarly readily accessible with 80% dependent on taps for drinking water. The community is well served by several radio stations and three TV stations. Similarly mobile telephones are widely used. There is a regular daily public bus service to and from the capital of Apia but 14% of households are reported to own private vehicles.

57. Wood (73%) and LPG gas (14%) are the main types of cooking fuel for households. Fifty three (53%) percent of all houses are of the traditional open Samoan/European design. Closed European type houses constituted 31%.

58. In terms of economic activities, according to the 2006 census, farming for subsistence and or for income occupies 33% of the economically active population. Twelve (12%) percent hold paid jobs of which 5.2% and 6.4% are males and females respectively. The largest group is that engaged in domestic/housework of which there is a total of 39% split into 8% and 31% respectively for men and women. Consultations conducted for this report show that over 80% of the households sell taro, bananas, yams and vegetables for income on a regular basis. Five households operate small roadside retail shops, and 2 operate taxis. There is no available census data on levels of income but based on findings of consultations conducted, all families receive part of their annual income from remittances, from relatives living in Australia, New Zealand, American Samoa and the United States. Consultations also showed that no family relies on the Faleaseela River for income or food, with the harvesting of freshwater prawns and eels a sporadic and opportunistic activity mainly carried out by kids. A small scale tourist operation using the Faleaseela stream for swimming and bathing is owned communally and operated by village chiefs who collect an entry/user fee for all visitors and tourists. Income from this venture is used by venture owner.

59. Key village resources other than cultivable land are the expansive lagoon area and reef, on which the village depends for fish for protein, and the perennial Falease'ela Stream that ensures access to freshwater.

60. The soils of the Lefaga District are good for a range of crops including cocoa and coffee. Today, nearer the village, the old cultivated areas are mainly covered in coconuts, mostly reaching heights of 10m. Some cattle is grazed under coconuts. Towards the interior, the main land use is a form of agro forestry, with taro the main crop but combined and interplanted with tree crops including bananas, coconuts, Arthrira (gatae), pandanus and poumuli for fale poles using a range of spatial arrangements. Cultivated lands normally starts along the road side and in several places, extends onto the river banks. Recent land clearing visible from the plantation road have completely denuded a large area of Mt Leatueka's eastern slopes and is intensively cropped with taro.

61. Village houses are concentrated along the coastline, on either side of the Main South Road, and for some distance inland, along the plantation access road.

62. The Falease'ela stream is traditionally known as Liua le Vai o Sina. It has significance in the folklore and legends of the district and of Samoa. Widely cited local folklores say that the Liua le Vai-o-Sina was diverted from its northern course through village of Fasitootai by the goddess Sina to its existing southern course where it now runs through the village, when she

was offended by the young fishermen of this village. Derived from these folklores are several proverbial expressions (*alagaupu*) that are widely recited by traditional orators and chiefs during their oratorical discourses or *lauga*. The river is therefore of cultural significance. A small tourism operation comprising of six small *fales* is established near where the main road crosses the river, and provide day accommodation for visitors and tourists. This operation is owned and run by village matais.

63. Consultations for this report noted that several elderly people remain superstitious and uncertain about using the river for a hydropower generation for fear of offending the traditional goddess Sina and may cause her return course of river north through village of Fasitoo-tai, although this highly unlikely..

64. The community profile and additional socio-economic information for this as well as other SHP sites will be updated in the RP during the detailed design for updating the RP as prescribed in the relevant section of the RP below.

### **Guidance on Household Socio-economic Survey & Updating the RP**

65. The detailed measurement survey including census, baseline socio-economic survey and inventory of loss (IOL) for all the SHPs will be conducted and their findings included in the updated RP following the SPS. In addition, community profile of the rest of the 2 new SHPs will be also prepared by EPC for the updated RP. The community profile will include village population, topography, physical infrastructure, economy, social structure, customs tradition etc. The land ownership status will be reviewed and surveys will be conducted for the preparation of updating RPs. The following are key steps in this regard.

#### ***a. Land Ownership Status Review***

66. During the updating of the RP, the EPC will conduct due diligence of all lands likely to be affected by the SHPs. It will review land records with MNRE to determine the legal status of all land plots that will be affected by the SHPs. The review will determine if affected land plots have been surveyed/registered, name of landowners and land areas. It will also determine land affected by river reserves as declared by the Water Act 1965, existing easements and ROWs and any land that may have been gifted to Government by landowners and evidence of such gifts.

#### ***b. Land Surveys and Measurements***

67. Land proposed for acquisition for the selected SHPs will be surveyed if they are not yet surveyed and legally described. GIS coordinates will be taken for MAP and information will be processed and stored in EPC's digital land resources database.

#### ***c. Baseline Socio-Economic Survey***

68. A socio-economic survey will be conducted by EPC for capturing the socioeconomic information of affected households. The survey includes sampling 10-20% of affected persons to generate data that will facilitate the analysis of the following: (i) demographic and socioeconomic characteristics of the respondents and their families, such as age, civil status, occupation and education as well as monthly income that will be disaggregated into gender specific information; (ii) nature of land acquisition requirements, i.e. temporary and permanent,



the use of land and the tenure arrangement; (iii) the impacts of land acquisition and trees, crops and small structure that would be affected; (iv) classification of vulnerable people, if any; and (v) gender division of labor. The Questionnaire for Household Survey for the census, inventory of losses and socio-economic surveys is presented in the Appendix 1.

#### ***d. Updated Resettlement Plan***

69. After the detail design of the SHPs, the updated RP will be prepared based on the results of the census and inventory of losses as well as information drawn from the baseline socio-economic survey. Primary data from survey questionnaires will be processed and summarized to give the following key information—name of affected persons (APs), cadastral lot number, type of tenure, type of land acquisition (temporary or permanent), current use, and inventory of affected assets. Socio economic data will identify livelihood, gender, gender division of labor, and vulnerability status of each affected household. Using the information from the survey, an Entitlement and Compensation plan will be formulated for each of the affected households. The database of affected persons will be completed before the preparation of updated RP. The updated RP will be prepared by the EPC assisted by consultants (Resettlement Specialist, Land Surveyor, Valuation Officer) included in the project. The EPC will also designate a Safeguards Officer, who will coordinate the updated RP preparation. The draft updated RP will be prepared in consultation with affected people and will be disclosed properly in a formal meeting with relevant affected people, agencies and comments received will be taken into consideration in subsequent revisions.

### **F. Consultations, Participation and Disclosure**

70. Consultation is an on-going process and will be conducted throughout the project cycle. The consultation activities undertaken since the feasibility study in 2009-2010 until July 2013 includes the following:

#### **I. Consultation during feasibility study of the SHPs (2009–2010)**

71. In 2010, feasibility studies were undertaken for several small SHPs and consultations were conducted with the communities involved in SHPs including Faleaseela, Fausaga-Tafitoala and Faleata to introduce the project. The preliminary concept of the joint venture limited company business model of SHP development involving the communities was also presented to the communities. The results of the Faleaseela, Faleata and Fausaga-Tafitoala community consultations are presented below.

##### **Faleaseela SHP Community Consultation**

72. The Faleaseela consultation included three steps: (i) Initial meeting with Council of Chiefs; (ii) Household consultations using questionnaire in 13 December 2010, (iii) follow up consultation with village on status of project and affected land.

73. The initial consultations consisted of a formal meeting between the Council of Chiefs of the Faleaseela village, and a delegation of representatives from the Government (EPC) and the Consulting Agency (Egis). This consultation followed traditional protocol of an ava ceremony before EPC and Egis made presentations of the proposed development, and the business model for the joint venture of the SHP facility. After the presentation, the Council of Chiefs and the attendants were given the opportunity to ask questions and raise any issues of concern. The EPC and the Consultants in turn responded with answers and clarifications.

74. The second round of consultations took the form of a household questionnaire survey on the 13 December 2010. Two surveyors interviewed 19 women and men representing 18 households in their homes using questionnaire. Additional notes were taken of other issues of relevance that were raised, including assessments of each individual's perceptions of and attitudes towards the proposed development. The followings are the main concerns raised during the consultations.

1. *Environmental considerations*

- a. Village concerns that the hydropower project will contaminate the stream with used oils from the powerhouse.
- b. Concerns that in other hydro projects (e.g. Afulilo) there are allegedly reports of water pollution affecting the river as well as the lagoon and coastal areas.
- c. Concerns that the river biodiversity, in particular freshwater prawns, eels and fish that villagers sometimes depend on for food and protein, will decline when river flow will be reduced as the water is diverted for hydropower generation.

2. *Cultural considerations*

- a. Deep seated superstitions that the use of the river for a hydropower project may anger the supernatural powers that, according to legend, diverted the river from its coastal route to through Faleaseela, and will have the river re-diverted back to the northern coast.
- b. The river was a gift from the traditional gods to the village, and using it for something like a hydropower may be seen as abusing that gift.

3. *Financial considerations*

- a. Strong interest in the proposed co-management and co-ownership arrangement.
- b. Concerns regarding the equitable distribution of benefits amongst the whole village from such a partnership.
- c. Concern that benefits will be limited to only a few, particularly those with land directly leased for the Project.
- d. Concerns that a decision on the matter should not be rushed, and that the village should be given time to consider the proposal carefully before making a firm and final decision.
- e. General excitement about the range of possible benefits to be gained from this partnership including free electricity for all households of the village, employment etc.

*Findings of the Household Questionnaire Survey*

75. The interviewees did not quite understand the technical nature of the Project, and some indicated during the survey that they will not support the Project based on the wrong technical understanding of how the hydropower works. For instance, a group of women interviewed were misinformed that EPC will be 'extracting' the water permanently in the same way the Samoa Water Authority is doing, i.e. not simply diverting it temporarily, returning it to the river after

going through the powerhouse. Based on this misunderstanding, several women were not supportive fearing that the river will eventually dry up as a result.

76. There is very minimal use of the river for fishing (prawns, eels and fish) for food and or income. Where it happens, mainly in the form of kids engaging in fishing for recreation and not for income or food. Water pollution and contamination from used oils in the powerhouse were the most serious concern amongst the people interviewed. There is little use of the forests in the riparian strip and river valley.

77. There is good understanding of the linkages between good vegetation cover in the catchment area and the amount of water flowing through the river. People are supportive of not cutting forests in the catchment to ensure adequate flows.

78. There is agreement that the village will commit to protecting the catchment area if the proposed partnership will deliver significant benefits for the whole village. There is interest in getting free electricity for all villagers as a benefit from the Project.

79. There is little use of the forests in the riparian strip and river valley. There is good understanding of the linkages between good vegetation cover in the catchment area and the amount of water flowing through the river. People are supportive of not cutting forests in the catchment to ensure adequate flows. There is agreement that the village will commit to protecting the catchment area if the proposed partnership will deliver significant benefits for the whole village.

80. There is a tendency to compare the Faleaseela project to the Afulilo Project with people drawing the conclusions that the hydropower project will pollute the river and the coastal environment, as has been reported about Afulilo.

81. The consultation and survey shows that more interaction and more information exchange on the proposed joint venture model are needed between EPC and the villagers to explain the detail on the modalities of proposed business mode, the project impact to provide clarifications to some of the misinformation and misunderstandings that are abound in the village regarding the project.

82. The issue of pollution to the Faleaseela River from used oils, even though it was explained in both consultations that this will not happen, is deep-seated and continues to concern most people. For this EPC will organize meetings with chiefs of Faleseela to the Alaoa HP facility where water that has passed through the turbine is routed into storage tanks of SWA to be treated for drinking water. Visit to Alaoa by the Faleaseela villagers will be considered to address pollution issue and to make informed decision by the Faleseela decision-makers.

#### *Fausaga-TafitoalaSHP Community Consultation*

83. The initial consultation on Fausaga-Tafitoala SHP was conducted between the Council of Chiefs of the Tafitoala village, and a delegation of representatives from the Government (EPC) and the Consultant of Egis on 15 December 2010. This consultation followed traditional protocol of an ava ceremony before EPC and Egis made presentations of the proposed hydro development utilizing rivers in the village, and of the business model for the joint development and management of the new hydro facility. After the presentation, the Council of Chiefs, the attendant men and women were given the opportunity to ask questions and raise any issues of



concern. The EPC and the Consultants in turn responded with answers and clarifications. About 50 village people attended the consultation. There was no second round of consultations with households using survey questionnaire. Second round of consultation was held in 2015. This time, Fausaga village was also included. Reason is, part of proposed SHP will be on Fausaa land and rest on Tafitoala. Because hydro will be built on lands belonging to Tafitoala and next village Fausaga, EPC held separate consultations with Tafitoala village and then with Fausaga villages. Both villages indicated their support of the project and are willing to work out details of land acquisition and compensation when project design details are defined.

1. *Environmental considerations:*

- a. Government taking more water from river for hydro plant after taking water for drinking or away from where water is taken from spring for drinking. Samoa Water Authority built a new water system in same river and was officially dedicated a few days before. People connected to SWA new water system are metered and billed monthly. Village did not like this. So village continue to maintain its own old water system to use free water. EPC had explained to village that hydro plant will only take water not used for drinking water systems. Hydro intake will be built downstream from the village and SWA drinking water intakes. EPC also explained that water is put back into river after power plant because MNRE required a minimum flow down the river at all time. EPC will take this into consideration with design of hydro plant.
- b. The issue of taking more water from river for hydro, even though it is put back, is one of village's main concerns which caution them from giving a straight out approval of the proposed hydro scheme. They had asked for more time.
- c. They had difficulties understanding the difference between taking (as in abstraction) and temporarily diverting for power generation and returning it to the river.
- d. Not enough water for downstream uses including fishing, shrimps, and washing.
- e. They also raised pollution from powerhouse. This village also mentioned about Taelefaga in Fagaloa and its adverse environmental impact on the coastal environment. The EPC and the consultant pointed out the situation in Alaoa hydro plant where water is used for drinking water after discharge from hydro plant. EPC/consultant mentioned that case in Taelefaga hydro is different and that in Fausaga-Tafitoala, river discharges to the sea. Even with or without hydro, water will continue to discharge to sea.
- f. In this village it is the women chiefs (represented by 2 female chiefs) who spoke out against the hydro development and men responded in favor of the hydro.
- g. One of the female chiefs had voiced concern of cutting down the forest by people in catchment areas in the mountain behind the village and the people cutting the forest are not from their village but from neighbor villages.
- h. Later on in the same week after consultation, one of the chiefs (name Ale) came to EPC PMU office and conveyed that the village discussed the

matter afterwards and generally support the plan but would need more discussions when project is known to be moving ahead.

2. *Financial considerations:*

- a. Even though a business model was considered, for legal reasons, it will not be used. Instead land required will be taken by Government under Taking of Customary Land Act and land owners compensated. Furthermore Government will consider to approve a form of annual compensation be paid to village through Council to Chiefs for enforcement of protection of water catchment forests as well as providing security for successful implementation of project and operation of plant ones built.
- b. Concerns regarding the equitable distribution of benefits amongst the whole village from such a partnership. Compensation of land taken will be paid directly to land owner(s) ones determined.
- c. Concern that benefits will be limited to only a few, particularly those with land directly leased for the Project. EPC/consultant responded that this is not the case because the model requires protection of water catchment area, which belongs to whole village and part played by overall village council of chiefs is critically important in maintain security of entire project. Village council is represented by representatives of all families in village and they look after interest of whole village and not just a few.
- d. Concerns that a decision on the matter should not be rush, and that the village should be given time to consider the proposal carefully before making a firm and final decision. The EPC/consultant concurred with this concern. There will be more consultations in future until a firm decision is made after entire village fully understand the model and benefits to village and that EPC would have address all concerns as raised.
- e. General excitement about the range of possible benefits to be gained from this partnership including free electricity for all households of the village, employment, and continue receiving of payment of dividends from sale of electricity.

84. The consultation and survey showed that more interaction and more information exchange needed between EPC and the village to better explain the project and to provide clarifications on the water availability after building hydropower plant. The business model shall be further explained to the village. The other method of acquiring the land by either leasing it or government taking it and compensate the village and land owners appropriately will be explored. However, the importance of village continuing to benefit from payment of dividends of net income from sale of electricity generated from power plant will not be discounted. On issue of pollution of water, it will be considered to arranging a tour of the Alaoa hydro by the village so that they can see how hydro and drinking water system are combined without any pollution. The EPC will address concerns of village women as conveyed by the two female chiefs in the original consultation.

*FaleataSHP Community Consultation*

85. The Faleata SHP consultation was conducted with village Council of Chiefs and rest of Villagers on 7 December, 2010. This was the first consultation held by EPC/Consultant and

villages involved. The consultations consisted of a formal meeting between the Council of Chiefs of the Vailoa (Palauli) village, and a delegation of representatives from the Government/Electric Power Corporation (EPC) and the Consultant (Egis). This consultation followed traditional protocol of an ava ceremony before EPC and Egis made power point presentations of the proposed hydro development, and the idea of a 'business model' for the joint business partnership between EPC and Village of Vailoa for management of the new hydro facility. After the presentation, the Council of Chiefs and the attendant of men and women were given the opportunity to ask questions and raise any issues of concern. The EPC and the Consultants in turn responded with answers and clarifications. A second consultation was held with the same village and the same people of village were involved. Again the village Council of Chiefs pledged their support of the project.

86. The purpose of hydropower plant using Faleata river in village was explained. The Faleata is the source of water for Savaii's largest portable surface water treatment plant which supplies about 50% of total population of Savaii. Samoa Water Authority has a surface water treatment plant close where planned hydro will be built. There is already a good paved access road and high voltage power line to where water treatment plant is to be built.

87. The following is the summary of the presentation made by EPC.

- Hydro development is part of the Government plan to develop renewable energy to reduce dependency on fossil fuel. EPC is also developing other RE sources such as sun, wind, etc.
- Proposed scheme in Faleata is to generate electricity in a new hydro power station.
- Plan is to build a dam/intake (10m high) just downstream from SWA water intake and before first water fall. A penstock pipe is then built from dam down waterfall and follow alongside the river until it gets to a new power station to be built upstream from tourist attraction pool. Water is then discharged back into the river. So hydro will not affect pool. From power station, a 22kv transmission line is built to connect to existing power line to SWA water treatment plant. Already there are access roads to all the planned facilities. All is needed is to upgrade them.
- A final plan of scheme is changed. Dam will not be built. New scheme will utilize the Samoa Water Authority's portable water system infrastructure from water intake to treatment plant to build new penstock pipe from intake to power station sited next to water treatment plant bypassing break pressure tank that SWA current uses to reduce water pressure before water enters water treatment plant.
- 3 ways Government could acquire land for public use: (i) straight out taking of land and landowners compensated accordingly; (ii) lease; (iii) new idea of 'business model' where villages/land owners will form a joint venture limited liability company with EPC to fund and develop the new hydro. Newly formed company will sign a Power Purchase Agreement with EPC to sell electricity from power plant to EPC electric grid. Net income from sale of electricity will be disbursed as dividends to village/land owners and EPC. Payment of dividends is only made if there is a profit and power is generated and sold to EPC. So no advance payments to land owners and village are done. Different from current arrangement where lump sum payment for taking of land is made by government to village and land owners. Village role in this development is critical for security reasons and they are responsible for water catchment area, which is biggest land

that will be used for hydro development. Catchment is important and it will be protected and logging will not take place as it is happening in a lot by the river catchments like Fuluasou and Vaisigano. The following were main concerns raised during consultation and the response from EPC.

1. *Environmental considerations:*

- a. Village concerns that the hydropower project will contaminate the stream with used oils from the powerhouse.

*Answer – No, there will be no contamination of river. Like in Alaoa hydro, SWA takes water from power station after it is used to generate electricity and treat it for drinking water in Apia.*

- b. Concerns that in other hydro projects (e.g. Afulilo) there are allegedly reports of water pollution affecting the river as well as the lagoon and coastal areas.

*Answer – Afulilo is different from planned Faleata hydro. Afulilo diverts water that normally flows towards south side next to Salani and discharge into Fagaloa Bay because power station is located in Taelefaga. For Faleata, water still discharge to sea. Other reason is Afulilo dam is built in swamp and a lot of trees were not removed, which cause smell which village of Taelefaga complaint about. For Faleata it is only an intake not a dam. So there is no problem with any smell like in Afulilo.*

- c. Concerns that the river biodiversity, in particular freshwater prawns, eels and fish that villagers sometimes depend on for food and protein, will decline when river flow will be reduced as the water is diverted for hydropower generation.

*Answer – A minimum flow of water will still be maintained in the river between intake and powerhouse. During rainy season, there will be abundance of water flowing down stream which would overflow from intake. Water is returned to river after power station.*

- d. Impact on tourist attraction like swimming pool and water fall.

*Answer – it won't be affected. Power station is located upstream from pool and waterfall. Water will be returned to river after power station.*

- e. Would proposed hydro affect drinking water system?

*Answer – No, because drinking water intake is upstream from where hydro intake will be built.*

2. *Cultural considerations:*

- a. The river was a gift from the traditional gods to the village, and using it for something like a hydropower may be seen as abusing that gift.

*Answer – Electricity generated from water will benefit village in terms of dividend payments from sale of electricity generated from it to EPC. Village is earning very little from water flowing to sea. With the project water will continue to flow to sea but village and land owners will earn money from power generated. Villages will be encouraged to protect catchment forest which maintains source of water for*

river.

3. *Financial considerations:*

- a. Strong interest in the proposed co-management and co-ownership arrangement.
- b. Concerns regarding the equitable distribution of benefits amongst the whole village from such a partnership.
- c. Concern that benefits will be limited to only a few, particularly those with land directly leased for the Project.
- d. Concerns that a decision on the matter should not be rushed and that the village should be given time to consider the proposal carefully before making a firm and final decision.
- e. General excitement about the range of possible benefits to be gained from this partnership including free electricity for all households of the village, employment etc.
- f. Some asked if they can get free power.

*Answer – yes and no. EPC recommended against people getting free power because it will encourage wastage of power. But they can get a slightly lower power rate only if village decides to use part of dividend payments towards a subsidized rate for them. Otherwise everyone will pay same power rate as rest of country. But village will be paid dividends of profit from sale of electricity to EPC.*

*Conclusions and Recommendations:*

88. Leading chief of Vailoa village, Toluono, conveyed full support of their village on the Government's plan to build a new hydro on Faleata. The village looks forward to next meeting for more detailed plan for project and involvement of village. They are keen to move project forward. The EPC responded and thanked them for their forthcoming and support of Government/EPC plans and again convey to them that this development will benefit village as well. EPC reciprocated village for ava ceremony and providing of nice lunch with a monetary gift.

**II. Consultation during the preparation of the Draft Resettlement Plan (May–June 2013)**

89. The PPTA Team and EPC staff visited the 9SHPs considered initially for this proposed project and had consultations with the relevant agencies and affected households from the 7 SHPs which were prioritized during Inception Mission in May–June, 2013, except the Faleaseela SHP. EPC plans to develop the Faleaseela SHP as a joint venture between the community and the EPC, but this business model approach has not yet been approved by the government. The EPC plans to conduct consultations with communities on this SHP after the decision is reached by the government on the business model. During the Fact Finding Mission in July 2013, the 3 SHPs namely Fuluasou, Tiapapata and Vaipu SHPs have been excluded from the proposed project and 2 new SHPs namely Fausaga-Tafitoala and Faleata SHPs have been included in the proposed project. These 2 new SHPs are also part of the EPC's plan for the joint venture business with communities. Given that these 2 SHPs are included during Fact Finding Mission very recently (July) and the business model for joint venture has not been approved yet, and similar to Faleaseela, the EPC plans to conduct detailed community consultations for these 2 new SHPs also after the business model is approved by the government. However, the EPC has agreed to conduct consultations and disclosure of the draft

RP by mid-August, 2013. The result of the consultations will be included in the updated RP. A framework for further community consultation and participation is included in the next section.

90. During the preparation of the RP, consultations were conducted with the relevant agencies: Office the Attorney General, MNRE, the Ministry of Women, Community and Social Development and the Ministry of Works, Transport and Infrastructure, .The Attorney general Office provided written comments during this consultation in May, 2013based on the discussion on the first consultation in February 2013. The written comments were submitted through a Letter dated February 18, 2013 on Hydro Development Land Acquisition Issues. Some of the main points raised by the Attorney General Office and the MNRE regarding the proposed business model are:

- i. If the customary land is used for business equity there might be some implications on whether this can be used as a form of alienation. According to the Customary Land Act and the Constitution of Samoa, the only way that customary land can be alienated is through leasing. When land is contributed as equity into business relationship, does this mean land becomes the property of both business partners? Whether use of this land as an equity directly and indirectly create some transfer of ownership rights to EPC as a partner? This issue needs to be further researched and looked into.
- ii. The involvement of village council should be further considered given that the village council does not have legal title to the land and it is the landowner who has the legal title. However it is the village council of chiefs that has overall control of catchment areas which needs to be protected.
- iii. The risks with this model are the following: village people do not have business background; if village council is involved then there will be village politics; consensus is needed on the partnership agreement, percentage of shareholding, and share of dividends; and land owners may suddenly want to withdraw from the business agreement if “Matai” (family Clan Chief ) changes. Legal issue which is raised by and a concern of the Office of Attorney General is related to possible alienation of communal lands used for SHP.
- iv. MNRE raised the issue that the catchment area as well as the intake, head pond, penstock etc.is not owned by all the villagers. Therefore, the community ownership might not be agreeable to the land owners and in future they might not agree to share the dividends. However, Government has in place a process to determine rightful owners of this land.

#### *Consultation with Samoa Water Authority (Faleaseela SHP)*

91. The SWA has an intake at Faleaseela that comes directly from a spring within the rocks, and is good quality drinking water that serves that whole Lefaga area. The SWA is concerned whether the intake would have any negative impact in their water intake. EPC has determined that planned SHP will not affect source of the portable water system. The spring source is located away and in a higher elevation from proposed site of the intake for the SHP.

### **III. Addressing Concerns of Communities in the Project Design and the RP**

92. The questions raised by villages/communities in consultation meetings during the feasibility studies for SHPs were answered by EPC staff and consultants (see above the section on Consultations during Feasibility Study). The following points summarize how the project design and the RP have addressed key concerns:

- a. The 3 new SHPs at Faleaseela, Tafitoala-Fausaga and part of Faleata will entail land acquisition with next to no resettlement. A due diligence has been undertaken and follow-up actions identified to address ongoing concerns for the existing facilities to be upgraded under the project.
- b. The technical design of SHPs will include weir/intake and will not include reservoirs/dams inundating villages. This will be further confirmed during the detailed design.
- c. Environmental concerns that were raised during consultations such as water pollution, bio-diversity, downstream flow, etc. will be addressed by the project's environmental assessment reports and environmental management plans for respective SHPs.
- d. The RP describes the processes for the negotiated settlement and land acquisition. The mode of land acquisition will be finalized and the RP updated during the detailed design after the government decides on the business model. This will allow sufficient time for villagers to discuss and decide on their preferences.
- e. Further consultations will be organized with villagers and affected communities/persons during the detailed design. The EPC will address all relevant concerns including any additional concerns from villagers before finalizing the RP.
- f. The RP provides the detailed guidance on further consultations and collection of socio-economic information to updating the RP (see next section). The section G describes necessary consultation process for the negotiated settlement.

#### **IV. Further Consultations for Updating the RP.**

93. Given that there are legal issues on the joint venture business model as advised by Attorney General, draft RP is prepared based on a different model of community ownership and protection scheme. Under this scheme, Government will take land involved and compensate landowners accordingly. Furthermore, Government is considering approval of payment of an annual fee to village involved through Council of Chiefs in return for protection of project construction and operation of plant afterwards and enforcement of protection of rivers' water catchment areas. Further consultations with villages will be based on this scheme. In such a case compensation will be paid to the affected households and accordingly an estimated budget is included in the RP. Measures on further consultations to updating the RP during the detailed design are described in the following paragraphs.

94. A series of consultations with the affected people and agencies including women and youth will take place in updating the RP for all SHPs during detailed design and will be continued throughout the project implementation phase. Consultations will be scheduled and take place in venues and manners that will facilitate the participation of poor, women, elderly, vulnerable groups, youth and other disadvantaged groups. To facilitate maximum participation, the consultation with the affected persons and village communities will be conducted both in the SHP sites as well as in the village. Participation of women, poor households, disabled, elderly, disadvantage and vulnerable households will be ensured. The consultation will be conducted in Samoan language. The concerns of the affected persons (men and women) and the village

communities will be taken into consideration for the detail design. The consultation for updating the RP will involve explaining the project in details such as components of each of the SHP schemes and its impact on land, crops, topography etc. Both permanent and temporary impact, mitigation measures, grievance procedures, sharing of development benefit, opportunities and implementation schedule will be discussed. The consultation with affected households both men and women will also include detail explanation of their participation in detail measurement survey and inventory of loss and benefits of their participation for calculating actual loss of their land, crops, asset etc.

95. During disclosure of the RP, the entitlement matrix, the principles for calculation of compensations, processes and arrangements for the payment of compensation and for lodging grievances etc. will be explained in details in Samoan language. Particular attention will be paid to the need of the disadvantage, vulnerable, poor, women, female households, elderly, youth and those without legal title.

96. The active participation of the affected persons and the communities during detail design phase of the SHPs, socio-economic survey, disclosure of the RP, etc., will be pursued as an effective mechanism to discuss and agree on the proposed compensation measures and to address any concerns of the affected persons and resolving problems in a meaningful way. The consultation process will also help to gain endorsement of the project from the affected persons and the communities. Any affected people expressing disagreement at this point over entitlements will be advised to follow grievance procedures for lodging complaints.

97. The table 6 summarizes the community consultation and participation activities and roles of affected people in updating and implementing the RP.

**Table 6: Community Consultation and Participation for the RP Update and Implementation**

Consultation Activities	Subject of Consultation	Role of Affected People	Objective
<b>Pre-Implementation</b>			
Consultations and focus group discussions during detail design	Understanding the project and mitigation/compensation measures	<ul style="list-style-type: none"> <li>• Participate in project disclosure, public meetings and consultations.</li> <li>• Discuss project design and express views regarding the appropriateness of the design, and whether or not they will be adversely impacted.</li> <li>• Invite and encourage the participation of women, poor, elderly, vulnerable groups and youth in project disclosure, public meetings and consultations.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that all APs including women and youth fully understand the proposed project and its benefits to the community.</li> <li>• Promote an informed and inclusive resettlement planning and project design process.</li> </ul>
Consultations for updating the RP	Land acquisition and compensation	<ul style="list-style-type: none"> <li>• Agree on land acquisition and compensation strategies; agreeing on the results of detail measurement survey and inventory of loss.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure APs have an opportunity to comment on the project's land acquisition and compensation</li> <li>• Generate a sense of local ownership of the project</li> </ul>



Formulating compensation and entitlement packages for APs	Compensation and entitlement packages	<ul style="list-style-type: none"> <li>• Agree on the compensation and entitlement packages for APs.</li> <li>• Identify if any women including Female Household Heads, elderly, vulnerable groups, are adversely affected and in need of gender-specific livelihood restoration measures if any</li> </ul>	<ul style="list-style-type: none"> <li>• These measures will lessen conflicts and disruption during project implementation and will facilitate support for the project</li> </ul>
Disclosure meeting on the contents of the RP	Explaining the contents of the RP	<ul style="list-style-type: none"> <li>• Agree on the contents of the RP before submission to ADB</li> </ul>	To confirm APs participation in the development of the RP and their agreement to its contents
<b>Implementation</b>			
Information dissemination on project employment	Employment in the project site if feasible	<ul style="list-style-type: none"> <li>• APs and the local community will get information about employment opportunities during implementation of the project.</li> </ul>	<ul style="list-style-type: none"> <li>• Generate interest in and support for the Project during implementation, and provide an opportunity to enhance income</li> </ul>
Information dissemination on grievances redress mechanism	Grievances and redress mechanism	<ul style="list-style-type: none"> <li>• AP's understanding on the grievance procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that problems are addressed within reasonable time</li> </ul>
<b>Post-Implementation</b>			
Consultations on monitoring and evaluation of implementation of the RP	Monitoring and evaluation system; participatory monitoring involving APs	<ul style="list-style-type: none"> <li>• Provide inputs to monitoring and evaluation</li> </ul>	To capture any lessons learned that may be helpful in shaping future activities

### **Institutional Responsibilities for Public Consultations and the RP Update**

***Electric Power Corporation (EPC).*** EPC will have the following responsibilities:

- Hold public and village consultations and disclosure for the RP
- Ensure prior notification by public media of consultations dates and venues (including reaching out to NGOs, women and church groups) to maximize participation.
- Consult with APs and MNRE to finalize the location of subproject facilities to avoid or minimize IR impacts.
- Cause boundary surveys for all affected land to be carried out, where necessary.
- Carry out socio-economic survey, census of affected people and Inventory of Loss (IOL) for each SHPs. Organize and lead consultations with affected people to discuss and explain the draft RP. Prepare the updated RP once affected people are finalized.
- Assess and submit paper to Cabinet through Minister of amount of an annual payment to be paid to village through Village Council of Chiefs for doing things. One is for them to promote and enforce protection of river water catchment forests. Second is to provide protection for successful implementation of project, SHPs and operation of plant.

***Ministry of Natural Resources and Environment (MNRE).*** MNRE will have the

*following responsibilities:*

- Provide EPC with land registration records to ascertain land ownership and land descriptions that will be presented in the consultations.
- Make determination of land acquisition and compensation measures to guide project design.
- Assist EPC by clarifying all government requirements on land acquisition and compensation that project design should comply with.
- Assist EPC with cadastral surveys of affected land boundaries, including ascertaining rightful owners of affected land and resolving any conflicts or grievances.
- Assist EPC in updating and disclosing the updated RP in consultation with affected landowners.
- Perform land valuation and recommend compensations to be paid to land owners.
- Undertake taking of customary land for SHPs.

***Office of Attorney General***

- Deal with all legal matters of any agreements between villages, land owners and Government
- Provide legal advice to EPC and all ministries involved on law related to land acquisition and resettlement and implications of proposed decisions.
- Consults with all ministries involved in land acquisitions.

***Ministry of Women Community and Social Development***

98. This Ministry will work closely with EPC to liaise with affected villages through the *Sui-o-le-Nuu* (Mayor) for updating the RP. They will also facilitate consultations between villages and EPC and relevant ministries.

**V. Disclosure of the Project and draft RP**

99. The project and contents of the draft RP have been disclosed to the people in public meetings. Public meetings for disclosure were advertised well in advance using the local radio stations and newspapers. Disclosure for directly affected villages was communicated and arranged via the village mayors or *Sui o Nuu*. The affected people were invited in village disclosure, including women, poor, elderly, disbalance and youth. The project will ensure that women from the affected households attend all the disclosures of the project during the updating the RP.

100. Presentation was made on the following: (i) the scope and various components of the project, (ii) land resettlement related issues, and the draft RP was also presented for comments and views of both men and women of the affected households and the relevant agencies.

101. The draft RP will be endorsed by EPC, distributed locally and uploaded on ADB website by November 2015.

## **G. Community Ownership and Protection Scheme**

102. The proposed community ownership and protection scheme will be used for land acquisition and community involvement for three new SHPs. In 2015 consultations with 4 affected villages, this scheme was discussed with them. In this scheme, government will take lands required and compensate landowners accordingly. Government is also considering paying villages through Council of Chiefs an annual payment for their involvement to settle any disputes, protect construction of project and operation of plant, and protection of river water catchment areas. The key principles to be followed for a negotiated settlement are: (i) affected communities will be fully informed of the proposed model and meaningfully consulted; (ii) negotiations will be conducted in good faith, free of intimidation and equal footing and landowners will not be forced to provide their land; (iii) negotiated settlement will provide fair price for affected land and/or distribution of benefits to landowners; and (iv) the negotiation and settlement process will be validated by a third-party. In this regard, the EPC will follow the following steps:

- a. **Land Negotiation Team.** MNRE is responsible for managing the process of taking land for public purposes. Other GoS agencies that will assist include Office of Attorney General, EPC, Ministry of Women Community and Social Development, and Land and Title Court if dispute cannot be resolved outside of court.
- b. **Identification of land requirement and survey:** In coordination with MNRE, the EPC will identify the land requirement based on the detail engineering design, undertake survey of land and other properties required for SHPs, and consult with local communities/stakeholders.
- c. **Consultation and Negotiation with landowners:** The EPC through its land negotiation team will identify landowners and their representatives. The EPC will inform landowners about land requirements for the SHPs. The EPC will provide landowner communities with detailed information on the proposed joint venture model and negotiated approach that will benefit the community. If communities required or asked for an external legal expert to ensuring that they have equal bargaining power or footing as a negotiating partner in the negotiation and settlement process, the EPC will provide services of such an expert. The negotiation team will obtain views of the land owners as to whether they support the SHPs and are willing to provide the land. In cases where the land owners are willing to further discuss, the team will document the considerations requested by the land owners. The team will negotiate an agreeable purchase price for the land. The team will further discuss the method in which payment will be made to landowners.
- d. **Publication of notice:** Public notices will be publicly disclosed through publication in newspaper or announcement in radios and being put up in the villages of the land owners and villages adjacent to the SHP area. The public notice will document: (i) the objectives of the overall project; (ii) the nature, scope, and timeframe of the SHP (including a map if applicable); (iii) a list of the land owners as identified; (iv) proposed mode of land acquisition; and (v) types of compensation being considered in return for the customary land. In the event that additional land owners come forward, their validity as land owners will be verified, and if they found to be landowners, they will participate in the process. Responses to any written or verbal comments on the public notices, if required, will be made by the EPC.
- e. **Memorandum of agreement (MOA):** After the public notices have been published, the MNRE will prepare a valuation report and a draft agreement on land use (lease or

purchase). Discussions will be held with the landowners about whether the transaction will be through lease arrangements or complete purchase. Once agreed, MOA will be signed by all the parties: the landowners and representatives of the government (the EPC and the MNRE will decide). The MOA will establish obligations of each party to the agreement.

- f. **Documentation and third-party validation:** The project's safeguards specialist(s) will document the consultations and agreements reached. A third party, such as a civil society organization or a magistrate, will provide independent verification/validation that (i) the consultations have been undertaken, meaningfully, freely, and in good faith; (ii) the landowners have agreed on the joint venture and are willing to provide land to the SHP; and (iii) the compensation for land and other improvements have been agreed to by the land owners. The process of third party verification/validation will include following tasks:
- Undertaking interviews and meetings as required. Review of the process for identification and verification of relevant land owners. Review of all meeting minutes and documentation of the consultation process leading up to the signing of the MOAs;
  - Validation that consultations with landowners and communities have been undertaken and that they were provided with relevant information including modalities of the joint venture, how this land will be used, risks and benefits involved, and sharing of benefit/profit;
  - Validation that the agreement is voluntary, that landowners have understood arrangements including their roles and responsibility and agreed to the terms and conditions;
  - Validation that the land owners speak for, and reasonably represent, the community;
  - Verification that the provision of the land to the project will not cause undue hardship to any individual;
  - Validation that any losses or damages to individuals or third-parties have been identified and sufficiently compensated for;
  - Validation that compensation for loss of customary land being provided by the EPC to the landowners/community represent a fair and reasonable replacement value for the affected land; and
  - Documentation of the foregoing in a short report.
- g. **Report on Negotiated Settlement:** The EPC will prepare the report on negotiated settlement summarizing the process and outcome of the process mentioned above. The EPC will submit such report together with its validation by a third-party to Ministry of Finance and ADB for approval. The EPC will provide agreed compensation package to affected people/communities before awarding the civil works contracts for the respective SHPs.

## H. Grievance Redress Mechanism

103. Members of the public will have rights to make grievances known to the EPC and for them to be addressed, to the extent practicable and reasonable. During project construction, a Supervising Field Engineer, EPC PMU's Head and Social Development Specialist (Resettlement Specialist) who are the member of the PMU team will be assigned the role of community liaison for the project (Liaison team). They will liaison with the land owners, Village Council Chiefs through Village Mayor or Sui ole Nuu. The affected people will file a written complaint to EPC or MNRE " and informing Village Council of Chiefs directly or through Village Mayor or Sui ole Nuu. The name and contact details of these individuals will be presented on a notice board at the village or site of the project area. The EPC Liasion team will hear grievances

and initiate appropriate remedial action.

104. For complaints over major issues, such as lower compensation, damage to property and crops,

105. or occupation of land during construction without due agreement, the EPC-PMU Liaison team will respond within 24 hours and arrange a meeting with appropriate personnel including a representative of EPC-PMU to hear the complaint. If a solution, agreeable to all parties, is not reached within a period of seven days, the complainant may file the grievance with the Secretary of the Samoa Land Board, who will hear his/her grievance when the Board meets monthly. The complainant also has the right to take his/her grievance to the Magistrate Court for resolution. If the complainant remains dissatisfied with the corrective action proposed, he /she may take his/her complaint to the Magistrate's Court. The Magistrate Court has a complement of over 50 Court staff including 5 Magistrates. It is not anticipated that the level of complaints from the project will be significantly high such that current resources of the Court will be stretched. However, should this situation arise, the Court will appoint a Magistrate to deal specifically with Project related cases, to avoid lengthy delays. A register of complaints will be maintained by the EPC-PMU Liaison team, recording dates, name of complainants (men or women), action taken and personnel involved. A summary on grievances and their status will be reported through regular progress reports and safeguard monitoring reports.

## **I. Legal Framework**

### ***Samoa's Legal Framework on Land Acquisition***

106. Samoa does not have a separate national policy on land acquisition and resettlement. In the assessment of the country's Constitution, there are salient provisions that can be cited as being the foundation of the basic legal framework on land acquisition. These are presented below:

107. **Section 13: Rights regarding freedom of speech, assembly, association and residence**

- (1) All citizens of Samoa shall have the right to:
  - (a) freedom of speech and expression;
  - (b) assemble peacefully and without arms;
  - (c) form associations or unions; and
  - (d) move freely throughout Samoa and to reside in any part thereof.

108. **Section 14: Rights regarding property -**

- (1) No property shall be taken possession compulsorily, and no right over or interest in any property shall be acquired compulsorily, except under the law which, of itself or when read with any other law—
  - (a) Requires the payment within a reasonable time of adequate compensation therefore;
  - (b) Gives to any person claiming that compensation a right of access, for the determination of his interest in the property and the amount of compensation, to the Supreme Court.

109. **Section 101: Land in Samoa—**

- (1) All land in Samoa is customary land, freehold land or public land.

- (2) Customary land means land held in Samoa in accordance with Samoan custom and usage and with the law relating to Samoan custom and usage.
- (3) Freehold land means land held in Samoa for an estate in fee simple.
- (4) Public lands means land vested in Samoa being land that is free from customary title and from any estate in fee simple.

110. **Section 102: No alienation of customary land** – It shall not be lawful or competent for any person to make any alienation or disposition of customary land or of any interest in customary land, whether by way of sale, mortgage or otherwise howsoever, nor shall any customary land or any interest therein be capable of being taken in execution or be assets for the payment of the debts of any person on his decease or insolvency: Provided that an Act of Parliament may authorize –

- (a) The granting of a lease or license of any customary land or of any interest therein;
- (b) The taking of any customary land or any interest for public purposes.

111. Based on the above provisions, several laws and statutes were legislated and enacted by the GoS to govern its lands, where several provisions of which can be applied on land acquisition under the Project, such as: (a) The Taking of Land Act 1964; (b) The Alienation of Customary Land Act 1965; and (c) The Land and Titles Act 1961. The important features of these laws are as follows:

### ***The Taking of Land Act 1964<sup>2</sup>***

112. This Act sets out the implementing rules and regulations for taking the land; Provides for the compulsory taking by government of customary land and freehold land for public purposes in return for a fair and just compensation; Public purposes include: aerodomes, public health, education, public recreation, graveyard, forestry, production and distribution of electricity, provision of postal, telegraph, and telephone services, the control of coast and rivers, the safeguarding of water, soil, and forest resources, water supply, drainage, lighting, defence, the provision of public buildings, the provision of sites for townships, the provision of reserves for erosion control and water catchment, the provision of roads, wharves, harbours, and all law full purposes and functions of the Government of Samoa. Per Public Purposes Order 1969/9, the list can also be expanded by the Head of the State, upon the advice of the Cabinet. Other provisions allow the Government to take water for public purposes from any lake or stream, and stone and gravel. Where there is a building, yard, cemetery or burial ground on the land, or an ornamental park or a pleasure ground, the consent of the Cabinet is required.

113. The Government can seek to enter into voluntary arrangements withholder so customary and freehold land under the *Alienation of Customary Land Act 1965*, the *Alienation of Freehold Land Act 1972*, or the *Land, Survey and Environment (LSE) Act*. But if voluntary negotiations fail, the Head of the State, acting on the advice of the Minister of Lands<sup>3</sup>, Survey and Environment can make the decision to take customary or freehold land compulsorily for public purposes, after paying compensation. But if agreement on compensation cannot be reached, the Supreme Court will determine what is fair and just compensation.

<sup>2</sup> Samoan Customary Lands at the Crossroads—Some Options for Sustainable Development”, Samoan Environment Forum, 2003, No. 4.

<sup>3</sup> This Ministry is now known as the Ministry of Natural Resources, Environment and Meteorology (MNRE)

### ***The Alienation of Customary Land Act 1965<sup>4</sup>***

114. In Section 4, the Minister may lease or license customary land for an authorized purpose such as a public purpose, agricultural, forestry, forest produce, hotel, industrial, commercial or business purpose; as trustee for the beneficial owners, “Beneficial owner” includes any Samoan who is entitled in equity to occupy the customary land or to share in the occupation thereof or to have the income there from or a share in the income paid to or held in trust for him, or who is entitled in equity to any such benefit contingently or in reversion; and does not include any Samoan who holds any such land or interest only by way of trust, mortgage or charge.

### ***The Alienation of Freehold Land Act 1972***

115. In Section 3, the Director of the Department of Lands and Survey shall administer the sale or transfer of any freehold estate or interest in freehold land under the control of the Minister of Lands. Included under such administration is the leasing of any freehold land, whether legal or equitable, for a term of more than 20 years. Alienation of the freehold land is prohibited unless there is a written consent of the Head of the State.

### ***The Land and Titles Act 1981<sup>5</sup>***

116. It establishes the Land and Titles Court with exclusive jurisdiction to deal with all matters pertaining to Samoan titles and Samoan customary land;

117. Part of the Act deals with customary land. Section 8 defines customary land as: (a) Samoan freehold land (within the meaning of Section 13 of Samoa Land and Titles Protection Ordinance [SLTPO]) declared by the Court pursuant to Section 16 of the SLTPO to be held in accordance with the customs and usages of the Samoan people; (b) Samoan freehold land (within the meaning of Section 13 of SLTPO further to Section 17 thereof), there has been a recital or declaration made pursuant to a Government or other grant, will, conveyance, lease, assurance or other deed of document that such land to be held in accordance with the customs and usages of the Samoan people; and (c) Any land ordered by the Court to be customary land under Section 9 of this Act; In Section 9, an Order of the Court made with the consent of all the parties declaring such land to be customary land;

118. Section 10 provides for the survey of customary land as required by the Registrar to define any land or boundary subject to petition or in respect of an application for a *pule faamau* (authority to own).

119. Sections 11 to 13 provide for the registration of customary land. Section 11 requires the Registrar of the Court to transmit to the Land Registrar every judgment of the Court concerning the title or status of any customary land; and every Order or Declaration made under Sections 8 and 9. In Section 12, the Land Registrar is required to register every judgment, order or declaration received under Section 11; and to enter a memorial in the Land Register to that effect.

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<sup>4</sup> “Samoan Customary Lands at the Crossroads—Some Options for Sustainable Development”, Samoan Environment Forum; 2003, No. 4.

<sup>5</sup> “Samoan Customary Lands at the Crossroads — Some Options for Sustainable Development”, Samoan Environment Forum; 2003, No. 4.

## **The Institutional Environment for Land Acquisition**

120. Important to the implementation of the said laws is the institutional framework defined by various legislation. Samoa's political structure is unique in the way its Parliamentary system of Government integrates the Westminster model of parliamentary democracy with its own cultural and traditional chiefly system or the *matai* system.

121. The national government comprises of the Executive, a legislative body and the Judiciary. At the village level, Village *Fonos* or Councils of Chiefs are functioning entities with decision-making powers that are recognized by the Court. These councils allocate common village resources including land, implement community projects and maintain peace and order within their respective boundaries. The powers of the *Fonos* are embodied in the Village *Fono* Act 1990. The *Fonos* serve as the local government in Samoa. In the Internal Affairs Act 1995, "Local Government" is defined as including the Government (referring to the national government) and administration of a village by its Fono<sup>6</sup>.

122. In the socio-cultural and economic context in Samoa, land ownership is a very sensitive issue. While the legislated process for taking of lands for public purposes reflect the principle in practice, customary land can only be successfully acquired for public purposes via a protracted process of consultations preferably resulting in the full consent and support of the Council of Chiefs of villages concerned. In the context of this Project, the responsibility for consultations with villages on behalf of the GOS lies with the EPC and its duly authorized representatives.

### **1. Relevant Central Government Institutions**

#### **(a) The Electric Power Corporation**

123. The EPC is a statutory authority empowered to generate, manage, distribute and maintain electricity and electricity facilities and retail electricity in the country. As the first step, the authorization to initiate consultations and negotiations with villages and land owners for land acquisition comes from the EPC Board of Directors, who is chaired by the Minister for EPC (this is currently being changed to replace the Minister from being a member and Chairman of the Board). The Minister provides the link with Cabinet, the supreme authority for the approval of development initiatives and the allocation of public funds in the country.

124. The Minister could also facilitate coordination with the Water Authority which is charged of regulating the production, distribution and use of portable water in Samoa, given the nature of the Project.

#### **(b) Ministry of Natural Resources, Environment and Meteorology**

125. This Ministry of Natural Resources, Environment and Meteorology (MNRE) is important for EPC because it has the direct supervision on the Department of Lands, Survey and Environment (DLSE). The DLSE is responsible for the administration of the implementing rules and regulations of the following laws: (a) The Taking of Land Act 1964, (b) The Alienation of Customary Land Act 1965, and (c) The Alienation of Freehold Land Act 1972. The DLSE is also in charge of setting up a Commission for investigating the authenticity of land titles being

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<sup>6</sup> D. Farrier & R. Lussick; "Working Paper No.1: Report on Legislative and Institutional Arrangements Relating to Land Use Planning in Samoa", TA No. 3566-SAM: Capacity Building for Urban Planning and Management–Samoa; July 2001



claimed for certain lands as embodied in The Land Titles Investigation Act 1966. The Department can provide legal advice to EPC on the procedures for land acquisition. The Ministry also administers the Water Resources Act 2008 which stipulates the setting aside of an 'environmental flow' when water is diverted for hydroelectric power generation, to protect downstream biodiversity values.

126. An integral part of the MNRE is the Division of Land and Surveys. This division maintains land registries and is the authoritative source of information for clarifying rightful ownership of land (s) that are to be subject to acquisition. Where land requires proper survey and registration, DLS provides this service or otherwise can outsource the cadastral survey tasks to a private surveying company.

**(c) Lands and Titles Court, Ministry of Justice**

127. Under the Ministry of Justice, the Department of Land and Titles was created through *The Land Titles Act 1981*. The Act provides for the Land and Titles Court to hear disputes and/or misrepresentation as the rightful person for claiming for the title on lands. It plays an integral role in any grievance redress mechanism for land related disputes arising from this Project.

**(d) Ministry of Women Community and Social Development**

128. The Ministry of Women Community and Social Developments provides guidance, advice and assistance to the Village *Fonos* or Council as defined in the Internal Affairs Act 1995. It is charged with the responsibilities of explaining the need for, and acting as an advocate for, local government. Among the specific functions of MWCSO are to: (a) draft local government by-laws proposed by the Village *Fonos*, and (b) formulate policies and guidelines for social and economic development. The MWCSO is also responsible for the processing of requests by the Village *Fonos* for development projects, and (c) coordinate consultations with Villages.

129. The Minister appoints a Council of Chiefs or *Pulenu'u*, now changed to a *Sui-ole-Malo* to act as a go-between the Village and the National Government. The former is nominated by a village for appointment by the Minister, while the latter is appointed by the Minister as a representative by the Government to cover areas where a customary village does not exist. Their duties cover the maintenance of law and order, health, village cleanliness and ensuring the free-flow of communication between the Village *Fono* and the National Government. Given the nature of the Project, the EPC will have to work closely with the Ministry vis-à-vis liaising with *Pulenu'u* or a *Sui-ole-Malo* as well as the Council of Chiefs, for the Project. This was done during first consultations between villages of the 4 of the 5 rivers. At this stage, EPC introduced the project and a new business model involving the access to land for the hydro development. There was excellent reception from 3 of the 4 village consultations.

**2. At the Village Level**

**(a) The Village Fono**

130. The Village *Fonos* represent the central government at the village level. Every Fono has one or several Tapaau (High Chiefs), and many *Tulafale* (Talking Chief) of varying rankings, that together forms the Council of Chiefs. Supporting the Council of Chiefs are two other traditional bodies—*Nu'u of Tamaitai* (Women's village) and *nu'uo taulelea* or *aumaga*. As stated earlier, the Council of Chiefs works closely with the DIA but is not subservient to it, while the Department of

Legislative Assembly validates their authority and empowers them to make rules according to the customs and traditions of the people and the usage of land in their villages. It is imperative for EPC to fully disclose the Project to all affected villages in the traditional manner, and work closely and in consultation with the Councils in all aspects of project planning and implementation where village interests including the interest of specific households in the villages directly affected by the Project, are concerned.

**(b) The Matais**

131. The *matais* are the titled land owners of customary lands in Samoa. Within each village, some customary lands are owned collectively by the Council of Chiefs or 'Aliima Faipule' until the Council allocates them to specific matais on behalf of their extended families. The 'matais' are therefore the trustee of *aigas* (extended families) for their family lands. In all customary land matters, every *matai* represents the interest and acts on behalf of his *aiga*, through a consensus. Any decision involving the use of or taking of customary lands pertaining to a specific extended family go through the family *matai*. The matai's consent reflects also the consensus of his extended family.

**(c) Non-Government Organizations**

132. Given the legal processes involved and the ADB's requirements, EPC may engage a non-government organization (NGO) in monitoring RP implementation. The Samoa Umbrella NGO (SUNGO) is an appropriate choice for this role, if EPC choose to exercise this option. Other local NGOs such as METI and Ole Siosiomaga Inc, lacks capacity for the kind of monitoring required.

**Comparison of ADB SPS and Samoa Laws on Land Acquisition**

133. While Samoa has no separate resettlement policy, there are several provisions in the Taking of Land Act 1964 which serve as a basis for land acquisition. However, there are also some gaps vis-à-vis ADB's Safeguards Policy Statement (SPS) requirements on involuntary resettlement. The table below summarizes the comparison of the ADB SPS requirements and Samoa's law and necessary gap filling measures for the project.

ADB SPS Requirements on Involuntary Resettlement	Samoa's Law on Taking/Acquisition of Land	Gaps and Consistencies between the Samoa Laws and ADB SPS Requirements	Gap-filling Measures under the Project
Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives.	In Part II A of the Taking of Land Act 1964, <b>Section 24 F</b> states that: "In the exercise of the powers conferred by this Part of this Act the Minister or his officers, workmen or others by his direction shall do as little damage as maybe;..."	The meaning of the Act is consistent with the objective of ADB SPS.	It is stated in the RP that the project avoids and minimizes impacts by exploring alternatives. A component involving resettlement impacts has been excluded from the project scope.
Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Improve the standards of living of the displaced poor and other	While there is no provision for livelihood restoration in the Act, Part III of the Taking of Land Act 1964 provides for the following:  <b>Section-25. Persons entitled</b>	The law requires just compensation for land acquired or any damages. However, it has no clear provisions for livelihood restoration or	Social impact assessment will be undertaken and the RP will include measures to restore livelihood of all affected persons and improve living standards of poor or

ADB SPS Requirements on Involuntary Resettlement	Samoa's Law on Taking/Acquisition of Land	Gaps and Consistencies between the Samoa Laws and ADBSPS Requirements	Gap-filling Measures under the Project
vulnerable groups.	<b>to compensation, and for what payable</b> —(1) Every person having any estate or interest in any land taken under this Act for any public purpose, or injuriously affected thereby, or suffering any damage from the exercise of any powers given by this Act, shall be entitled to a full and just compensation for the same from the Minister.	improvement.	vulnerable groups.
Screen the project early on to identify 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, specifically related to resettlement impacts and risks.		The Act does not require detailed assessment of impacts and resettlement planning.	The project components have been screened for their potential impacts and a draft RP has been prepared. A detailed measurement survey including the census and inventory of losses will be undertaken during detailed design to updating the RP.
Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. 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 facilitate resolution of 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	<b>Section 14. Surveys, plans, and objections in respect of freehold land</b> — Whenever it is proposed to take freehold land for any public purpose, the Minister shall: (c) Cause a notice to be publicly notified and to be sent to each owner, occupier and person having an interest in the land, or the agent of any of them, whose name and address are readily ascertainable, stating the Government's proposal to take the land, the public purpose for which it is wanted, that the plan thereof maybe inspected in the said office in ordinary office hours, and that any persons affected may give written notice of objection with reasons to the Director within 28 days of the first publication of the notice.  The same provision is written in Section 14 A covering customary land in which the notice is written in <i>Savali</i> .	The provisions in Section 14 and 14 A are closely consistent with the ADB SPS requirements. It has the following elements:  (a) public notice; (b) presentation of the project plan; (c) provision for consultation; and (d) opportunity for complaint or objection. It also provides for claim by vulnerable persons, e.g mentally defective, through their trustees. In case of freeholdland, the owners are compensated for their land and affected properties.  In the case of customary land, there are two layers of compensation; i.e., the <i>matais</i> for the affected customary land while the <i>aigas</i> for their directly affected structures, trees and crops. But this type of compensation should be	Measures on consultation and participation of APs in the project cycle and grievance redress mechanism have been included in the RP. The project does not involve physical displacement and highly complex/sensitive issues, so it does not require measures on a separate social preparation phase.

ADB SPS Requirements on Involuntary Resettlement	Samoa's Law on Taking/Acquisition of Land	Gaps and Consistencies between the Samoa Laws and ADBSPS Requirements	Gap-filling Measures under the Project
resettlement decisions should be preceded by a social preparation phase.		<p>cleared with the <i>matais</i>.</p> <p>The law however does not explicitly require: (i) participation of APs particularly vulnerable groups in implementation and monitoring; (ii) establishing project-specific grievance redress mechanism, (iii) supporting social and cultural institutional of displaced persons; and (iv) a social preparation phase before resettlement phase.</p>	
<p>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.</p>	<p>Part III of the Taking of Land Act 1964, covering Sections 25 and 26 provides for the following:</p> <p><b>Section–25. Persons entitled to compensation, and for what payable</b>—(1) Every person having any estate or interest in any land taken under this Act for any public purpose, or injuriously affected thereby, or suffering any damage from the exercise of any powers given by this Act, shall be entitled to a full and just compensation for the same from the Minister.</p> <p>(1A) Notwithstanding subsection (1) of this section, where it is customary land which has been taken under this Act for any public purpose, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers given by this Act, the Minister and the Court shall be entitled to proceed as if the <i>matasi</i> who had the <i>pule</i> (power) over that land at the relevant date is the only person so entitled to a full and just compensation from the Minister and to be paid that compensation.</p> <p><b>Section 26. How</b></p>	<p>The Act is consistent on the principle of replacement cost. However, gap noted in the Act is the absence of the provisions for (i) land-based resettlement strategies; and (ii) additional revenues and services through benefit sharing schemes.</p>	<p>The provisions of the land-for-land compensation option and measures on sharing of project benefits have been included in the RP.</p>

ADB SPS Requirements on Involuntary Resettlement	Samoa's Law on Taking/Acquisition of Land	Gaps and Consistencies between the Samoa Laws and ADBSPS Requirements	Gap-filling Measures under the Project
	<p><b>compensation as <i>certained</i></b> – (1) As soon as reasonably possible after the Minister is satisfied:</p> <p>a) That compensation has become payable under this Act; and</p> <p>(b) As to the person entitled to such compensation, by reason, if the land taken or affected or suffering is customary land, of the <i>matai</i> having the <i>pule</i> there over at the relevant date having been determined by an order of the Samoan Land and Titles Court– the Minister shall offer such sum as he thinks fit as compensation to that person, and that person may agree with the Minister as to the compensation payable by the Minister.</p> <p>(2) Any such agreement between the Minister and such a <i>matai</i> shall be binding on any other person claiming an interest in that land under Samoan custom and usage</p>		
<p>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</p>		<p>The Act does not have equivalent provisions on this aspect.</p>	<p>The project does not involve physical displacement, so it does not require measures on relocation (housing, transition, etc.). The provision on employment opportunities for APs in project construction has been included in the RP.</p>

<b>ADB SPS Requirements on Involuntary Resettlement</b>	<b>Samoa's Law on Taking/Acquisition of Land</b>	<b>Gaps and Consistencies between the Samoa Laws and ADBSPS Requirements</b>	<b>Gap-filling Measures under the Project</b>
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 appropriate income sources and legal and affordable access to adequate housing.		The Act does not have specific requirement on improving living standards of displaced poor and other vulnerable groups.	Measures on identification of vulnerable households during DMS and providing additional allowances and priority employment to such households have been included in the RP.
Develop 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.	The Government can enter in to voluntary arrangements with holders of customary and freehold land under the <i>Alienation of Customary Land Act 1965</i> , the <i>Alienation of Freehold Land Act 1972</i> .	The law provides for voluntary arrangement, but is less prescriptive on procedures and outcome.	Measures on negotiated settlement are included in the RP.
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		The Act recognizes customary rights, but does not require compensation for other non-titleholders such as squatters.	Non-titled APs identified as of the cut-off-date will be eligible for assistance and compensation for loss of non-land assets under the RP.
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.		The Act does not require preparation of such RP.	A draft RP has been prepared and this will be updated during the detailed design.
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		The Act does not have a provision on this.	A draft RP will be disclosed before the appraisal. A final RP will be disclosed once updated during the detailed design.

<b>ADB SPS Requirements on Involuntary Resettlement</b>	<b>Samoa's Law on Taking/Acquisition of Land</b>	<b>Gaps and Consistencies between the Samoa Laws and ADBSPS Requirements</b>	<b>Gap-filling Measures under the Project</b>
final resettlement plan and its updates to affected persons and other stakeholders.			
Conceive and execute involuntary resettlement as part of a development project or programme. 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.		The Act does not have a provision on this.	The resettlement will be executed as part of the project. The resettlement cost will be included in the project cost. As the project doesn't involve significant resettlement impact, there is no need for implementation of resettlement 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.		The Act does not have a provision on this.	The provision of compensation before displacement is included in the RP.
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 taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.		The Act does not have a provision on this.	The provisions of monitoring and preparation of monitoring reports have been included in the RP.

### **Project's Policies on Land Acquisition and Resettlement**

134. The following project-specific policies or measures will be used by the EPC for land acquisition and resettlement under the Project. These policies and measures also include gap-filling measures that have been identified above, so that the project will be implemented in consistent with the ADB SPS requirements, with due consideration given to Samoa's existing local customs and traditions.

- (a) Acquisition of customary and/or freehold lands and resettlement of people will be avoided, as much as possible.
- (b) Where land acquisition and population displacement is unavoidable, it will be minimized by exploring alternative options. Livelihoods of all affected persons

- (APs) will be restored and living standards of poor and vulnerable APs improved. Social impact assessment will be undertaken and necessary measures included in the resettlement plan (RP).
- (c) The *matais* will be systematically informed and consulted on the acquisition and compensation of customary lands, while their affected *aigas (men and women from the family)* will be informed and consulted on their affected assets, the rights and options available to them and the proposed mitigating measures, and they will be involved in the decisions to avoid any delay in resettlement plan implementation. The same shall be accorded to APs who have interests on freehold lands.
  - (d) In the consultation process, the EPC will also include the representatives of the Village *Fonos*, men and women, elderly, poor, community leaders and civil society organizations like non-government organizations (NGOs) where the Project is located.
  - (e) The customs and traditions as well as the religious practices and observances of the village people will be respected and preserved.
  - (f) The APs will be identified and their affected properties will be completely recorded with active participation of men and women from the affected households in a census and an inventory of losses (IOL) to be carried out by the EPC during the detailed design. The last day of the census represents the cut-off date for eligibility. Eligible persons are entitled to compensation and rehabilitation measures sufficient to assist them to improve or at least maintain their pre- project living standards, income earning capacity and production levels. The compensation and rehabilitation measures to APs are:
    - Cash compensation at replacement cost of houses and other structures without deduction for depreciation or the remaining salvage values of materials. If the AP is shifting to another location, then transportation and food allowance will be given to his/her family;
    - Replacement of customary land with equal productive capacity acceptable to the APs<sup>7</sup>. Or, Cash compensation at replacement cost if land-for-land is not possible or preferred by APs; and
    - Additional rehabilitation measures to restore APs livelihoods.
  - (g) Lack of formal legal rights to assets lost should not deprive any APs from receiving compensation, entitlement and rehabilitation measures. Non-titled APs identified as of the cut-off-date will be eligible for assistance and compensation for loss of non-land assets.
  - (h) Compensation rates for physical assets, i.e. house, building and other structures, and non- physical assets like lost income from productive assets or jobs shall be calculated at replacement cost or at current market rates in the Project area at the time of compensation.
  - (i) APs that stand to lose only part of their physical assets will not be left with a proportion inadequate to sustain their current standard of living, such a minimum size will be identified and agreed upon during the resettlement planning

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<sup>7</sup> It means that the land provided as compensation will be able to produce the same or better than the yield the AP was producing from the previous land. The production will be in planting season immediately following the land acquisition. It can be for a future period if transitional allowance equivalent to the APs previous yield is provided while waiting for the land to achieve the same productivity as the previous land.



- process.
- (j) Particular attention will be provided to the socially and economically vulnerable groups like the women-headed households, children, the landless, pastoralists and the elderly people without support structures and people living in extreme hardships during the resettlement plan implementation process. Vulnerable households will be identified during census and survey.
  - (k) The previous level of community services and resources accessible to APs will be provided after resettlement.
  - (l) A proper mechanism for hearing and resolving grievances and complaints associated with the Project during the implementation of the project and resettlement plan will be established by the EPC and will include representatives of the Village *Fonos*, EPC and the contractors.
  - (m) Whenever necessary, the EPC will arrange for the assistance of relevant government agencies and institutions for the effective consultation, implementation of land acquisition, resettlement plan, and compensation and rehabilitation program.
  - (n) The *matas* and the men and women from the affected families will be involved in decision making related to land acquisition and resettlement and they will be assisted by the EPC to mitigate the adverse impacts of resettlement.
  - (o) Acquisition of land through negotiated settlement will be conducted in a transparent, fair and equitable manner.
  - (p) The full cost of land acquisition and resettlement will be included in the project cost and benefits and adequate budgetary support will be committed and make them available by the EPC during implementation.
  - (q) Appropriate reporting (including auditing and redress functions), monitoring and evaluation mechanisms will be established by the EPC as part of the resettlement management system.
  - (r) Land acquisition, compensation, resettlement and rehabilitation activities will be satisfactorily completed and the Project areas are cleared of all obstructions before the EPC requests for a “no objection” from the ADB for the start of civil works.
  - (s) The draft RP will be prepared and disclosed before the appraisal and the final RP once updated after the detailed design, in project areas.

## **J. Eligibility Criteria and Entitlement for Affected Persons**

135. The cut-off date after which Aps eligibility for compensation will cease will coincide with the final date for the census of Aps and inventory of losses (IOL) for each SHPs. The cut-off date will discourage parties from taking advantage of the opportunity for compensation. All structures and crops/trees constructed and planted after the cut-off date are not eligible to receive compensation.

136. The following categories of persons are expected to be affected by land acquisition based on the PPTA assessment of the project components:

- a. Category1: Rightful owners whose land are either acquired permanently or used temporarily by the Project.
- b. Category2: Occupants of affected lands whose crops and or trees are affected irrespective of whether or not they have titles to the land;
- c. Category3: Community people whose access to a common property resource is affected (temporarily or permanently).

137. The compensation and entitlements for Aps are described in detail in the Entitlement Matrix below.

### EntitlementMatrix

	Type of loss	Application	Entitled Person	Compensation/Entitlement Policy	Implementation issues
1	Loss of land	Homestead land, agricultural land, or vacant plot	Owner(s) with legal title	a) Compensation at replacement value or land-for-land where feasible. If the replacement cost is more than the compensation, as determined by EPC, then the difference is to be paid by the project in the form of "assistance." b) Provision of stamp duty, land registration fee, capital gains tax, and value added tax incurred for replacement land. c) Option to be compensated if remaining land is no longer viable d) Transitional allowance based on three months minimum wage rates. e) Shifting assistance for households with structures on land. f) Notice to harvest standing seasonal crops. If notice cannot be given, compensation for share of crops will be provided. g) Additional compensation for vulnerable households (item 4).	Vulnerable households to be identified during detailed measurement surveys conducted as part of the updating resettlement plan.
1	Loss of land	Homestead land, agricultural land, or vacant plot	Tenant(s) and or leaseholders	a) Compensation equivalent to up to 3 months of rental. b) For agricultural lands, 60 days notice to harvest standing seasonal crops. If notice cannot be given, compensation for share of crops will be provided. c) Additional compensation for vulnerable households.	a) Land owners will reimburse tenants and lease holders land rental deposit or unexpired lease. b) Vulnerable households to be identified during detailed measurement surveys conducted as part of the resettlement plan update.
1	Loss of land	Homestead land, agricultural land or vacant plot	Affected persons (Aps) Without legal titles	a) 60 days advance notice to shift from occupied land. b) Resettlement assistance (land, other assets, cash, employment, etc.) in lieu of compensation for the land they occupy. c) Additional compensation for vulnerable households (item 5 in the first row).	a) Vulnerable households to be identified during detailed measurement surveys conducted as part of the resettlement plan.
2	Loss of crops and trees	Standing crops and trees	Owners with legal titles, tenant(s), leaseholder(s), Aps without legal title	a) 60 days advance notice to harvest standing seasonal crops, if harvest is not possible, cash compensation for crops (or share of crops) equivalent to prevailing market price b) Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by 5 years. c) Cash compensation equivalent to prevailing market price of timber for non-fruit trees.	a) Work schedule to allow harvesting prior to acquisition and avoid harvest season. b) Market value to be determined during DMS. c) Tree replanting for shade to be considered wherever possible.

	Type of loss	Application	Entitled Person	Compensation/Entitlement Policy	Implementation issues
3	Loss of structure	Farm house and other structures/assets	Owner(s) with legal titles	<ul style="list-style-type: none"> <li>a) Cash compensation equivalent to replacement value of structure (or part of structure).</li> <li>b) Option to be compensated for entire structure if remaining structure is no longer viable.</li> <li>c) Rights to salvage materials from structure.</li> <li>d) Provision of all taxes, registration costs, and other fees incurred for replacement structure.</li> <li>e) Transfer and subsistence allowance (upto 3 months).</li> <li>f) Additional compensation for vulnerable households (item 5 in the first row).</li> </ul>	
3	Loss of structure	Farm house and other structures/assets	Tenants and/or leaseholders	<ul style="list-style-type: none"> <li>a) Cash compensation equivalent to replacement value of structure (or part of structure) constructed by the AP</li> <li>b) Rights to salvage materials from structure</li> <li>c) Provision of all taxes, registration costs, and other fees incurred for replacement structure.</li> <li>d) Transfer and subsistence allowance.</li> <li>e) Lease/rental agreements to be continued after the reconstruction of the structure.</li> <li>f) Additional compensation for vulnerable households (item 5 in the first row).</li> </ul>	<ul style="list-style-type: none"> <li>a) Vulnerable households to be identified during detailed measurement surveys conducted as part of the resettlement plan.</li> <li>b) Structure owners will reimburse tenants and leaseholders rental deposit or unexpired lease.</li> </ul>
3	Loss of structure	Farm house And other structures/assets	AP(s) without legal titles	<ul style="list-style-type: none"> <li>a) Cash compensation equivalent to replacement value of structure (or part of structure) constructed by the AP.</li> <li>b) Rights to salvage materials from structure.</li> <li>c) Provision of all taxes, registration costs, and other fees incurred for replacement structure</li> <li>d) Transfer and subsistence allowance.</li> <li>e) Additional compensation for vulnerable households (item 5 in the first row)</li> </ul>	<ul style="list-style-type: none"> <li>a) Vulnerable households to be identified during detailed measurement surveys conducted as part of the resettlement plan.</li> </ul>
4	Impact s on Vulnerable APs	All Impacts	Vulnerable APs	<ul style="list-style-type: none"> <li>a) Additional allowance for loss of land or structure</li> <li>b) Vulnerable households will be prioritized in any employment required for the Project.</li> </ul>	<ul style="list-style-type: none"> <li>a) Vulnerable households to be identified during detailed measurement surveys conducted as part of the resettlement plan update.</li> </ul>
5	Temporary loss of land	Land temporarily acquired for the Project	Owner(s) with legal title, tenant(s), leaseholder(s), Aps without legal title	<ul style="list-style-type: none"> <li>a) Temporary use will happen only with agreement with APs/landowners</li> <li>b) 60 days advance notice</li> <li>c) Provision of land rental value during the duration of temporary acquisition</li> <li>d) Restoration of affected land</li> </ul>	

	Type of loss	Application	Entitled Person	Compensation/Entitlement Policy	Implementation issues
6	Temporary loss of access	Temporary loss of access to land, structure, utilities, common property	Owner(s) with legal title, tenant(s), leaseholder(s), Aps without legal title	a) 60 days advance notice b) Provision of temporary access where possible c) Restoration/enhancement of affected land, structure, utilities, common property resource.	
6	Temporary loss of source of income	Temporary loss of source of income	Business owner(s), tenant(s), leaseholder(s), employee(s), agricultural worker(s), hawker(s)/ vendor(s), APs without legal title	a) 30 days advance notice regarding construction activities, including duration and type of duration. b) Contractors action to ensure there is no income/access loss through provision of access etc. c) Assistance to mobile vendors/hawkers to temporarily shift for continued economic activity. d) For construction activities involving unavoidable livelihood disruption, compensation for lost income or a transitional allowance for the period of disruption whichever is greater. e) Restoration of affected land, structure, utilities, common property resource.	
7	Any other loss not identified			Unanticipated involuntary impacts shall be documented and mitigated based on the principles provided in the RP and ADB SPS.	

138. Land acquisition/resettlement impacts will be compensated in accordance with the provisions of the Entitlement Matrix. Compensation for loss of trees, crops and other assets will be determined on the basis of replacement costs based on current market values. Compensation will be paid to all affected people both men and women in the household before taking possession of land/properties and prior to the start of civil works. The updated RP will include necessary income restoration program and special measure for vulnerable households (poor men and women, disabled men and women), if any. Besides direct compensation, such income restoration measures for the affected people may include employment in project construction, skill training etc. to be specified in the updated RP.

139. The affected people will hand over the land to Government and properties acquired free from all encumbrances such as mortgage and debt.

140. In addition to direct compensation or entitlements, there will be opportunities for affected villages and communities to derive several benefits from the project, whether implemented with the negotiated settlement or otherwise. The indicative description of such benefits, which will be further updated and finalized during the detailed design, is as follows:

- a. Employment opportunities in project construction and related works;

- b. Access to supply of reliable electricity and its productive use;
- c. Improvement of small community infrastructures; and
- d. Potential share of revenues (subject to discussion).

## K. Resettlement Budget and Financing Plan

141. Estimate for the RP is presented below. However, during preparation of the updated RP, the detailed budget will be updated and finalized. It will include (i) costs of compensation for required land, loss of crops, structure, etc., as relevant; (ii) costs for necessary safeguard capacity for survey, implementation and monitoring; (iii) sources of funding and arrangements for approval, (iv) the flow of funds, and (iv) contingency arrangements. Table below gives a broad estimate of resettlement costs anticipated.

**Table 7. Estimate of Resettlement Costs**

Components and Activities			Indicative Budget (US\$) by Source		
			GoS	ADB	
1.	Resettlement	Pland Update	&Compensation		
1.1	Specialists for updating, implementing and monitoring the RP				100,000
1.2	Preparation of census of affected people and inventory of losses (IOL) and socio-economic survey of affected communities.				20,000
1.3	Public/village consultations				20,000
1.4	Compensation for affected land, assets, crops, tress, etc.			322,250	
1.5	Compensation for				
1.6	Land surveying				20,000
2. Administrative costs					
2.1	Transport, accommodation, materials, operation staff, etc				30,000
2.2	Grievances			10,000	
3. Third-party validation (for business model)					10,000
4. Contingencies				36,000	
5. TOTAL				368,250	200,000
Grand total				568,250	

## L. Institutional Arrangement

142. The Ministry of Finance (MOF) is the Executing Agency (EA) for the Project. The EPC is the Implementing Agency (IA). As the IA, EPC will have overall responsibility for updating and implementing the RP with the assistance and support of MNRE and other relevant agencies. The EPC has a Project Management Unit (PMU) staffed with a Manager, several engineers, environmental, land resettlement and community liaison specialists. The PMU will have overall responsibility for updating the RP and submitting to ADB for review and approval. The PMU is also responsible for implementation of the RP and for reporting to ADB. The PMU will also be assisted by consultants who will be placed in the EPC and funded under the Project. For RP planning and implementation, one international Resettlement Specialist (3 person months) and one national Resettlement Specialist (5 person months) will be assigned safeguards responsibility. The international Resettlement Specialist will do overall coordination for resettlement planning and implementation. The national resettlement specialist will assist the international Resettlement Specialist in updating and implementation of the RP. In addition to Resettlement Specialists, an Asset Valuation Specialist and a Land Surveyor will be included in

the Resettlement Team.

143. The International Resettlement Specialist will be responsible for the following tasks:

- Coordinate overall planning, data collection, detail measurement survey (DMS), inventory of loss (IOL), socio-economic survey for updating the RP;
- Supervise the work of national Resettlement Specialist and land surveyor, for survey and preparation of census of affected people, DMS, IOL and socio-economic survey of the affected people; Supervise work of valuation specialist for assessment of price for land, crops, trees, structure, etc.
- Coordinate the hiring of surveyors, to undertake any land survey and measurements necessary to derive legal descriptions for affected land and for calculation of compensation payments; coordinate hiring of valuation officer to calculate actual value of land, asset, crops, tree etc.;
- Ensure that gender issues are addressed in data collection, inclusion of women during DMS and ILO; Ensure entitlement matrix and compensation plan address gender issues such as compensation plan include both men and women's name;
- Prepare the updated RP based on this RP as well as information from census of displaced people, DMS and IOL;
- After the draft updated RP is formulated, carry out consultations with all APs to discuss the updated or final compensation and entitlement matrix and to explain how compensations were derived. In these consultations, also re-explain the grievances and redress procedures. Coordinate public disclosure process and consultations for updated RP;
- Oversees RP implementation and ensure that compensation is paid by Matai to both men and women from the affected households;
- Monitors RP implementation to ensure that it is implemented fully, and that all affected people eligible for compensation and other entitlements do receive their compensation.
- Compile and submit to ADB progress reports on RP implementation, during and at the end of the project implementation. Prepare and submit semi-annual monitoring reports.
- Attend consultations and negotiated settlement between the community and the EPC on limited company business model and ensure consultation and negotiation is in an atmosphere free of intimidation or coercion; ADB's process policies, and laws that are applicable in the negotiation settlement is applied; Keep record of all consultations and report to ADB.

144. The role of national Resettlement Specialist is to conduct all resettlement related survey, socio-economic survey and assist the international Resettlement Specialist.

145. The MNRE's Department of Lands will have the following tasks:

- Provide information on the legal status of all lands affected by the Project;
- Provide technical support to EPC for surveying land boundaries and preparing plans where no private surveyors are available;
- As required, provide assistance to EPC in clarifying land legislation for the redressing of any land grievances that may arise.
- Assist EPC in updating and implementing the RP.

## **Organizational Procedures for Delivering Entitlements**

146. Cash compensation will be paid out directly from the EPC cashier, based on the Compensation Entitlement Form (CEF) that will list all affected people and their corresponding entitlements. Aps will be required to provide means to verify their identity and will sign on prepared forms to confirm receipt of compensation payment.

147. The EPC will announce over the radio and the local newspaper the date, times and place for compensation payment, and requirements for verifying identification.

148. The delivery of other entitlements (e.g. restoration of temporarily occupied or disturbed sites, alternative access etc.) will be coordinated by EPC-PMU and will be delivered as work progresses, before working crews and machinery shift to new locations. EPC-PMU will liaise directly with Project contractors to ensure the delivery.

## **M. Implementation Schedule**

149. The following Table presents schedule for updating the RP and implementation.

**Table8. Schedule for RP Updating and Implementation**

#	Activity	Agencies	Timelines
<b>A</b>	<b>Updating of RP for selected SHPs</b>		
1	Conduct consultations with affected communities and stakeholders	EPC with support from Division of Internal Affairs, MWSD.	Month 1 and continue throughout the project cycle
2	Finalize design for selected SHPs	EPC-PMU with design consultants	Months1-3
3	Confirm status of affected land and if necessary, conduct land boundary surveys of land.	EPC-PMU and hire surveyors or MNRE	Month 2
3.1	Decide on the business model and complete the process for negotiated settlement (RP section G) in case this approach will be followed.	EPC-PMU through the negotiation team	Months 1-3
4	Conduct census of APs and Inventory of losses (IOL),and socio economic survey of affected communities.	EPC-PMU	Months–3-4
5	Mobilize Grievance and Redress mechanism to address grievances and disputes as they arise.	EPC-PMU and Land Board	Month 4
6	Prepare updated RP using census and inventory data and confirmed rates for land and crops compensation.	EPC-PMU	Month 4
7	Conduct consultation with affected people & agencies on updated RP	EPC-PMU	Month 5
8	Finalize updated RP, endorse by EA and seek ADB approval.	EPC-PMU	Month 5
<b>B</b>	<b>RP Implementation</b>		
1	Verification of Affected households	EPC/MNRE	Month 6
2	Approval and release of funds/compensation	EPC-PMU/MOF	Month 6
3	Internal monitoring of RP	EPC-PMU	Month 6& six-monthly
4	Grievance and Redress	EPC-PMU	Month 6
5.	Land acquisition	EPC-PMU	Month 7
6.	Submit land acquisition completion reports to ADB	EPC-PMU	Month 7

#	Activity	Agencies	Timelines
7.	Submit semi-annual monitoring reports	EPC-PMU	Month 7 & semi-annually thereafter
<b>C</b>	<b>Construction Stage</b>		
1	Confirm No Objection' for the award of civil works	ADB	Month 8
2	Tendering and award of civil works	EPC-PMU	Month 5-8
3	Hiring of APs and community members whenever feasible and mobilization of labor force	Civil works contractor	during construction
4	Compensation for any land temporarily used by contractor	Civil works contractor	during implementation
5	SHP construction	Civil contractor	Months 9 onwards
<b>D</b>	<b>Post Construction</b>	MPWU	
1	Restoration and return of temporarily affected lands	Civil works contractor	As per agreement with landowners

150. Implementation of most RP activities will precede and will not overlap with the activities in the construction of the project. Exceptions are compensations for damages or temporary usage of land during construction. EPC-PMU will satisfactorily complete the payment of compensations and the land is free of all obstructions and encumbrances before civil works begin.

## **N. Monitoring and Reporting**

151. EPC-PMU will monitor preparation of updated RP and RP implementation on an on-going basis and submit monitoring reports to ADB on a semi-annual basis. The monitoring report will include a list of all affected households, their entitlements and the status of delivery of cash compensation. It will use the following indicators to gauge progress in RP implementation.

- (a) Budget and time frame:
  - Evidence of resettlement staff being mobilized for field and office work
  - Reports of landownership preview, census of APs and inventory of losses
  - Record of resettlement funds being received, indicating date of receipt.
- (b) Delivery of entitlements to affected people:
  - Compensation Form (showing, affected people's name (men and women); amount of land, asset, tree, crops, structure etc., date, time, amount of compensation received and signature.
- (c) Consultations, grievances and special issues:
  - Reports of all consultations held, listing names of participants, summary of views expressed and photographs of meetings (including number of men and women participated).
  - Copies of PIB in English and Samoan. Evidence of disclosure to APs of the draft and updated RP
  - Record of all APs who lodged complaints, nature of complaints and outcomes.

152. At the completion of RP implementation, EPC-PMU will report to the ADB that it has complied fully with all the requirements of the RP. The monitoring report will confirm that the



following documents are available at EPC-PMU and include a summary status on the same.

- Completed Compensation Forms
- Copy of PIBs in English and Samoan
- Record of consultations with APs
- Minutes of consultations with women (if a separate consultation is conducted) - Minutes of consultations agreeing to the content of the RP
- Individual agreement on compensation reached with APs, where appropriate
- Evidence of transfer of titles of acquired lands, where appropriate
- Journal voucher(s) or equivalent document (s) showing payment for compensation and entitlements to APs.

153. Civil works will commence once the RP has been satisfactorily completed.

## Appendix: 1. Socio-economic Household Survey Form

1. The following census survey form will be used to collect data for the preparation of updating RP.

### SOCIO-ECONOMIC AND CENSUS/INVENTORY QUESTIONNAIRE

<b>Samoa : Renewable Energy Project</b>									
<b>Name of Subproject:</b>									
<b>Census of Displaced Persons and Inventory of Losses</b>									
Village:							Street Name: (where appropriate)		
Name of Head of Household:									
<b>Introduction:</b> The purpose of this census and inventory is to identify and list the names of all affected persons the assets that will be affected as a result of the Samoa Renewable Energy Development and Power Sector Project The Implementing Agency for the Project is the Electric Power Corporation (EPC) The EPC_PMU is undertaking survey.									
<b>DEMOGRAPHIC AND SOCIO-ECONOMIC CHARACTERISTICS</b>									
A	A1	Name of Respondent:							
	2	Age:		3	a. Gender:	Male	Female		
	4	Civil Status:			a. Married		d. Single		
					b. Widower/Widow		c. Divorced		
	5	Occupation:							
	6	Education:		a. Primary			b. Secondary		c. Tertiary
	7	Monthly Income:							
	A2	Name of Spouse:							
		1	Age:	2	Occupation:				
		3	Education:	a. Primary			b. Secondary		c. Tertiary
		4	d. Monthly Income:						
A 3 Type of Tenure		Landowner			Leaseholder			Non-title holder	

A 4	<b>Members of the Family:</b>						
Name	Age	Relationship	Sex or Gender			Occupation/ Type of Work	Monthly Income
			Male	Female	Total		

### B. LAND ACQUISITION

Cadastral Lot No. _____	(this number should be obtained from the Land Registry)
<b>1.Land Ownership/ Land Status</b>  a. How much total land that the family is allocated as per customary law? Land Amount _____	

Acres  b. How much free hold land is owned by the family? Amount _____ Acres  c. How much customary land is owned by the family?  d. Other land _____ Specify (Acres)			
<b>2. Temporary Land Acquisition</b>		1. Private Customary Land	2. Government leased land
Use of Land	Total Size of land in sq. meters	To be Acquired	
		Area in m2	% of total size of land
a. Residential			
b. Commercial			
c. Water Reserve			
d. Agriculture land ( garden land); plantation; family plot for agriculture;			
e. Forest land			
f. The temporarily affected land is under lease: i.. YES		b. NO	
g. If the temporary affected land is customary land? Yes		ii. No	
h. If the temporary affected land is leased then how long is the period of the lease?			
i. Amount of the lease: \$		6. Periodic payment of lease?	
j. Is the lease of land mortgaged to a financial institution? a. YES _____ b. NO _____			
<b>3. Permanent Land/User Rights</b>			
a. Cadastral Lot No.		(this number should be obtained from the Land Registry)	
Use of Land	Total Size of land in sq. meters	To be Acquired/Used for Project	
		Area in m2	% of total size of land
a. Residential			
b. Commercial			
c. Water Reserve			
d. Agriculture land ( garden land); plantation; family plot for agriculture;			
e. Forest land			
a. Grazing land			
f. Land Status: Is this permanently affected land is customary land ?i.YES _____ ii. No _____			
g. The land to be acquired is under lease: . YES _____ b. NO _____			
h. If YES, how long is the period of the lease?			
i. Amount of the lease: \$ _____		11. Periodic payment of lease? _____	
k. Is the lease of land mortgaged to a financial institution? a. YES _____ b. NO _____			
<b>4. IMPACTS OF LAND ACQUISITION</b>			
Impacts mean the adverse effects to the objects presently established on the affected lands, whether the acquisition is temporary or permanent.			

Names of Affected Trees & Plants	Number	Unit cost	Total Replacement Cost
<b>a. Coconut Tree</b>			
Fruit bearing			
Non-bearing with trunk			
Non-bearing without trunk			
<b>b. Breadfruit tree</b>			
Fruit bearing			
Non bearing			
Newly planted			
<b>c. Nonu tree</b>			
Fruit bearing			
Non bearing			
Newly planted			
<b>d. Bananas tree</b>			
Fruit bearing			
Non bearing			
Non bearing without trunk			
<b>e. Papaya tree</b>			
Fruit bearing			
Non bearing and above 3 feet high			
<b>f. Taro</b>			
Planted corms (> 5 months)			
Newly planted (<5 months)			
<b>g. Mangoes</b>			
Fruit bearing			
<b>h. Non-fruit bearing</b>			
<b>i. Newly planted</b>			
<b>j. Citrus Plants</b>			
<b>k. Fruit bearing</b>			
<b>l. Non fruit bearing</b>			

<b>l. Yams</b>			
Old crops (>12 months)			

<b>m. Forest timber and pole trees</b>			
> 25cm DBH			
< 25cm > 10cm DBH			
<b>n. Buildings ( house, kitchen, other structures, far house);</b>			
Name of Permanent structures ( sq meter)			
Name of Semi permanent structures ( sq meter)			
Other building (per sq meter)			
Ponds			
Farm house			

<b>b. Water source</b>			
<b>River/stream</b>			
Use of river/stream for bathing			
Use of river/stream for fishing			
Use of river/stream for washing cloths only			
Other use of river/stream			

### 5. Gender Division of Labor

<b>Tasks ( Agriculture)</b>	<b>Women</b>	<b>Men</b>	
a. Clear the land			
b. Preparation of the land			
c. Sowing/planting			
d. Weeding			
e. harvesting			
f. Marketing			
g. Preservation of seeds			
<b>Task: Livestock</b>			
Fodder collection/feeding the animal			
Taking care of the animal			
Marketing of livestock			
<b>Task: Fuel wood collection</b>			
<b>6. Assessment of the APs</b>			
a. An elderly (i.e. 65 yrs and older)	YES	NO	
b. Heads very poor family	YES	NO	Use level of income and state of dwelling as indicators.
c. Has physical disability	YES	NO	If yes, indicate disability
d. A woman who is separated from her husband and head the family	YES	NO	
e. A woman who is a widow and head the family.	Yes	NO	
Interviewer		Date	

## Appendix – 2 List of People Consulted Faleaseela SHP

A head count of participants to this meeting estimates 40 chiefs and untitled men attending.

No.	Name	Gender	Group
1	MalianaFaaleleiMataia	F	Woman
2	NiuMaasei	F	Woman
3	MisiuataIsitolo	F	Woman
4	Vaafusuaga Sa	F	Woman/Matai
5	Niko NofoaigaNeemia	M	Untitled man
6	ApatoMose	M	Untitled man
7	AusaliloUi	M	High Chief
8	FenuutiTusaFaalili	F	Woman
9	SinaSalilolasoni	F	Woman
10	SegiaMaselino	M	Matai
11	OgiMolipopo	M	Untitled man
12	Lila LigaLome	M	Untitled man
13	TinoaeMalae	M	Untitled man
14	LotovaleSemo	F	Woman
15	Taloto	M	Untitled man
16	Toe ApatoMose	F	Woman
17	LalagaSevao	M	Matai
18	Fane Sevao	F	Woman
19	Akenese	F	Woman

### **Appendix 3: PROJECT INFORMATION BOOKLET: SAMOA RENEWABLE ENERGY DEVELOPMENT AND POWER SECTOR REHABILITATION PROJECT**

1. **The Samoa Renewable Energy Development and Power Sector Rehabilitation Project.** Asian Development Bank (ADB) approved finance of the Samoa Renewable Energy Development and Power Sector Rehabilitation Project. The Project involves : rehabilitation of 3 existing SHPs and construction of 3 new SHPs. The new SHPs are Faleseela, Tafitoala-Fausaga, and Faleata and rehabilitation SHPs are Samasoni, Alaoa and Fale ole Fee. The first three are new and others are existing plants. The Faleata is located in Savaii and the rest are in Upolu. Asian Development Bank will consider for approval in November 2015 funding for Fuluasou SHP. The 5<sup>th</sup> new SHP in Tiapapata is cancelled due to environmental reasons.
2. ***What are the objectives of this public meeting?*** The first objective of this meeting is to **inform** the public about the Samoa Renewable Energy Development and Power Sector Rehabilitation Project. The second objective is to provide the public with the opportunity to express any views, concerns and comments they may wish to voice. All views and comments from this meeting will be considered in the Project design.
3. ***What constitutes the Project works?*** The Project works are the construction and rehabilitation of hydropower schemes. For new SHPs, construction work depends on the final design of the schemes but will include construction of intakes/dams, head pond, powerhouses, installation of generators and associated equipment and the laying of penstocks to convey water from rivers to powerhouses, access road and power lines. For rehabilitation of SHPs, construction work includes replacing of damaged penstock pipes with new ones, burying new pipes, protection of pipes, powerhouse and equipment from river flooding, replacing generators electrical switchgear and power transformers, and governing systems, with new equipment and repair of head pond, intakes, and weirs.
4. ***Why is this Project needed?*** Samoa is heavily dependent on imported oil for diesel powered electricity. Oil is expensive and oil price is expected to continue to increase over the coming years. Samoa's economy is highly vulnerable to oil prices fluctuations as well, diesel-generated electricity is costly for the final consumer. Hydropower represents an option that will reduce Samoa's vulnerability to imported fossil fuel. It is renewable, clean and less expensive for the final consumer.
5. ***What benefits will the Project generate?*** The Project will contribute to stability of price for electricity for local households. The Project will also promote renewable energy use that emits little or no carbon dioxide to the atmosphere, and contributes to fulfilling Samoa's obligation as a party to the Framework Convention on Climate Change.
6. ***Will the people in the villages participate in the planning of the project?*** Definitely yes. Local people will, and in some cases have already been consulted regarding environmental and social impacts of the project. Further consultations will be carried out when detailed assessments of environmental and social impacts are conducted in the coming months. Similarly, views expressed in this meeting will be taken into account in project design. Additional consultations with affected people will be conducted when detailed designs for the Project are completed and the affected people are identified.
7. ***Will the Project require land Acquisition?*** The Project will require the use of some government and customary land where intakes/dams and power houses, penstock/pipes, will be located. Land will also be required for access roads to these facilities. Some land will be

temporarily occupied or use during construction by contractors for site camps and parking machinery and equipment.

8. ***What direct impacts will the Project have on people of the affected sites?*** In the long term: Land will be taken that may have been used by some households for cultivation. Where the penstock is above ground, it may restrict access of vehicles to some areas. Crops and trees of value will be lost where land is taken for intakes/dams, powerhouses, penstock and headraces, and access roads.

During construction phase:

- Some areas next to project sites may be used temporarily by the contractors for access, to store or park heavy machinery and to establish facilities.
- Noise will increase during working hours.
- Dust may escape from project sites and become a hazard to nearby households. Access into some private properties will be temporarily disrupted.
- Access to common resources or parts thereof may be temporarily restricted when drilling work for the ocean outfall pipe gets under way.

9. ***Will affected people and their assets be compensated?*** Yes. Compensations will be paid as follows:

- Rightful owners of customary land in the selected SHP areas will be compensated for the use of that land.
- Agricultural crops, fruit trees or timber and pole trees that will be removed or damaged will be compensated. Compensation will be payable to the present occupant of the land.
- Other land that will be required temporarily for the Project or disturbed as a result of the Project will be paid compensation and the land will be returned to their original condition or better.
- For land that will be used as temporary work stations or storage of construction materials, there will be payment of rent to the owners by the construction contractor.

10. ***What is the basis of compensation for affected land and assets?*** Compensation for affected assets such as land and crops will be at replacement cost based on the prevailing market price. Compensation will be paid to people who have a rightful claim to the land as of the date of completion of the census and inventory of losses. Crops or structures planted or constructed on the acquired land after this cut-off date will not receive compensation.

11. ***Who will pay the compensation?*** EPC.

12. ***If there are disputes or grievances associated with the Project, how will they be addressed?*** There are procedures for grievance and redress provided for in the Samoa legislation. EPC-PMU will ensure that all grievances or complaints from affected person will be solved quickly and to the satisfaction of all parties.

13. ***What if the compensation is refused?*** Disputes that do not get resolved by the contractor or EPC will ultimately be referred to the Land Board and following that, the Magistrate Court for resolution.



14. ***How does the Project determine assets for compensation?*** A census of affected persons (APs) and inventory of all assets that are affected will be conducted. Before the census is conducted, EPC will work closely with local communities and landowners to conduct detailed measurement survey of lands affected. The census/inventory will use a questionnaire format to record all APs and their affected assets. The assets recorded in the questionnaire will form the basis for calculating compensation.
15. ***When will surveys and inventory of assets be conducted?*** The measurement survey and inventory of affected assets will be carried out during the detailed design.
16. ***Will there be further consultations for the Project?*** YES. There will be direct consultations with affected landowners during the conduct of surveys and inventories. During these consultations, affected peoples will be explained of how compensations are determined and calculated.
17. ***What is a Resettlement Plan?*** The project has prepared a draft Resettlement Plan (RP) which will be updated during the detailed design. The RP will include detail land acquisition and compensation measures. The RP will identify all affected people, their affected assets, how much compensation they will be paid, and how that compensation was calculated and arrived at. It will also define how any grievances arising out of the Project will be resolved. The aim of the RP is to ensure that impacts of the Project are minimized if they cannot be avoided, and that any affected persons and their assets are properly compensated and assisted.
18. ***Will the Resettlement Plan be accessible to the public?*** These documents will be uploaded by ADB on their respective websites. The Government of Samoa will also make these documents available at the EPC, and the project village level. The EPC will ensure that the Project takes into account stakeholders' feedback during implementation and that relevant information about any major changes to project scope is also shared with the affected persons and other stakeholders.
19. ***How will the Project ensure that it is complying with the requirements for compensation of the resettlement plan?*** The EPC assisted by the project's safeguard specialists will monitor the implementation of the RP ensuring full compliance with the approved RP and ADB safeguard policy. The EPC will submit regular monitoring reports to ADB with evidence that it is complying fully with the requirements of the RP.

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RELATED TO

# **Due Diligence/ Social Compliance Audit Report**

## **Samoa Renewable Development and Power Sector Rehabilitation Project**

Prepared by Electric Power Corporation for  
the Asian Development Bank

**Revised October 2015**

## **CURRENCY EQUIVALENTS**

(as of October 19, 2015)

Currency unit	–	West Samoan Tala (WST)
WST1.00	=	\$0.4USD
US\$1.00	=	WST2.5

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
EA	–	Executing Agency
EPC	–	Electric Power Corporation
GoS	–	Government of Samoa
IA	–	Implementing Agency
IR	–	involuntary resettlement
MNRE	–	Ministry of Natural Resources and Environment
MOF	–	Ministry of Finance
RP	–	resettlement plan

## **WEIGHTS AND MEASURES**

kWh	—	kilowatt hour
GWh	—	Gigawatt hour
MWH	—	Megawatt hour
MW	---	Megawatt

## **NOTE**

In this report, "\$" refers to US dollars.

This due diligence and social compliance audit report is the document of the recipient. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

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## **I. INTRODUCTION**

1. The proposed project has been included in ADB's Country Operations Business Plan 2012–2014 and Country Partnership Strategy (2008–2012). The project will be financed through ADB grants from ADB's Asian Development Fund (ADF). The objective of the proposed project is to assist the government's efforts to reduce the country's heavy reliance on imported fossil fuels for power generation. To providing a secure, sustainable and environmentally-sound source of electricity for the consumers, the project proposes to construct 3small Hydropower Plants, (HPPs) and rehabilitation of the three existing HPPs - Samasoni, Fale ole Fee HPP, and Alaoa HPP damaged by the 2012 Cyclone Evans.

2. The due diligence/social compliance audit report has been prepared following ADB's Safeguard Policy Statement (SPS) to screen existing facilities that will be rehabilitated and expanded under the project. The screening and audit was undertaken to examine resettlement impacts, land ownership, and to identify any outstanding safeguard compliance issues. A separate resettlement plan (RP) has been prepared to manage impacts of the project components on land acquisition and resettlement impacts.

3. The Ministry of Finance (MOF) will be the Executing Agency (EA) for the project and the Samoa Electric Power Corporation (EPC) will be implementing agency of the project.

## **II. METHODOLOGY**

4. The preparation of the due diligence and social compliance audit involved discussions with the Project Management Unit (PMU) and PPTA Engineering Team to identify potential project components, lay out of each of the hydropower schemes; review of available documents to examine the land status, land acquisition, and resettlement impacts. In addition meetings were held with the Ministry of Environment and Natural Resources (MNRE) to examine land status and to discuss outstanding issues of complaint from the villages about the existing hydropower plants (Samasoni HPP, Alaoa HPP and Fale ole Fee HPP).

## **III. PROJECT COMPONENTS AND SCREENING OF RESETTLEMENT IMPACTS**

5. The proposed project is located in the island of Upolu and Savaii. The project includes 2 components involving civil works: (i) the Component–1 includes rehabilitation of the following 3 existing hydropower plants (HPP): Samasoni HPP, Aloa HPP, and Fale Ole Fee HPP. These3 existing HPPs were damaged during the Cyclone “Evan” in December 2012. All three plants have been considerably damaged by the cyclone. Two are still inoperable and one is operating with 1/3 of its normal capacity. Repair of electro-mechanical and civil works have not been done. Civil work remaining to be repaired includes penstock pipe, steel works, concrete thrust blocks and supports, intakes, headpond, headrace channels or pipelines and penstocks. The Component–2comprises construction of 3 new HPPs: Faleaseela and Fausaga-Tafitoala (in Upolu), and Faleata (in Savai).

### **A. *Review of Rehabilitation Work Requirement:***

6. **Samasoni:** The Samasoni HPP is located downstream of Fale ole Fee and Alaoa HPPs. The plant was severely damaged by cyclone Evan and flood, in particular the intake, head pond, penstock and generating equipment inside powerhouse. The intakes in front of the head pond are fully blocked by bed load and sediment and pond is filled with logs and silt. The head pond is completely filled by fallen trees and sediment and the penstock was lifted by the floods and is destroyed at several locations. Bridge to access head pond and Fale ole Fee power station was completely washed out by flood. This needs to be replaced. The falling trees and flood have also caused damages of the penstock. The last approx. 100m of the penstock is laid underground. No damages have occurred to this section. This clearly shows that a penstock laid underground is a much more favorable solution in the long run. The PPTA consultant recommends laying a new penstock for Samasoni completely underground, also because of resettlement and environmental reasons. Cooling water for EPC diesel generators in Tanugamanono power station is fed off Samasoni penstock pipe. This connection was completely damaged including supply of cooling water for diesel generators. The EPC rigged up a temporary supply of cooling water for diesel generators until cooling system is rebuilt when penstock is restored.

7. **Alaoa:** Cyclone Evan and flood resulted in major landslides which caused heavy damages to the eastern headrace channel of the Alaoa HPP. Eastern headrace is the main source of source of water for Alaoa HPP. Heavy rainfalls during the cyclone have caused falling trees and landslides with slope erosion. This has destroyed and washed away a large section of the existing eastern headrace channel and intake is filled with rocks and silt. Currently, Alaoa HPP is operating only at 1/3 of its capacity as only the western or middle branch headrace channel is in operation.

8. **Fale Ole Fee:** Fale ole Fee HPP house is located on the Vaisiganoriver, upstream of Samasoni HPP intake and downstream of the Alaoa power house. Its eastern intake utilizes the water of the Vaivase Stream and the western Fale ole Fee intake that of the Vaisigano Eastern Branch. The plant was out of operation for maintenance before the cyclone hits the island and is still out of operation. The western intake and diversion pipeline and access road were considerably hit by the cyclone. The above ground laid pipeline has been destroyed at some locations and the intake has been damaged and filled with sand and sediment. Power house next to river was flooded up to 2 or 3 meters covering generators and turbine and auxiliaries and part of electrical switchgear and transformer with water and mud.

***B. The rehabilitation of the existing three facilities includes***

9. **Samasoni:** Rehabilitation work includes refurbishment or replacement of alternators, turbines and all associated electro-mechanical equipment, medium voltage switchgear, and refurbishment of the existing concrete intake, repairing and replacing of sections of penstock with new sections buried, access road, refurbishment of powerhouse and installation of measures to make power for flood proof, refurbishment of intake and clear sediments in the intake area.

10. **Fale Ole Fee:** Repairing of penstock, head race, speed valve, head pond attendant house, power house and clear sediments in the intake and access road, and refurbishment of generator, turbine, and all associated electro-mechanical equipment. In addition, refurbishment of powerhouse and the installation of measures to make power for flood proof and rehabilitation of turbine. No land acquisition is required for rehabilitation. It should be noted that penstock is built on land already taken by Government from way back. This has been confirmed by recent survey by EPC.

11. **Alaoa:** Repairing of existing eastern headrace, replacement of completely destroyed section of the channel and clearing and rehabilitation of intake. There will be construction of new intake in a form of a Tyrolean weir with sand trap and reconstruction of damaged channel. Construction of channel is very difficult because of steep rock face slope.

12. The rehabilitation work of the 3 HPPs only requirestaking of land for a legal about 50 meter long by 7 meter wide access road from public road to construction site of Samasoni penstock pipe. No resettlement is required because this land is currently used an access but not legally taken for public access. The Table 1 below summarizes the Hydropower Plants, Activities and Potential Resettlement Impacts which followed by Figure -1 presenting the maps of Samasoni and Aloa respectively.

**Table–1. Hydropower Plants and Resettlement Impacts**

Name of HPPs	Rehabilitation Requirement	Remarks
2. Samasoni, HPP Rehabilitation	<ul style="list-style-type: none"> <li>Rehabilitation includes refurbishment of the existing concrete intake,</li> <li>Replace and bury penstock</li> <li>refurbishment of powerhouse;</li> <li>refurbishment of intaker and clear sediments in the intake area.</li> <li>build rock rip rap along river to protect sections of pipe too close to river</li> <li>replace two generators</li> <li>refurbish turbines and all electro-mechanical equipment</li> <li></li> <li>realign river bank at discharge from powerhouse to avoid water entering plant when river level is high</li> <li>remove debri and rehabilitate head pond and diversion weir.</li> <li>build a river crossing ford in Alaoa</li> </ul>	<p>The land for Samasoni HPP was acquired in 1921, and 1929; No land will be acquired, however complaint for past compensation has been made by Maagiagi villagers to Government. This also affects Fale Ole Fee (see detail below in the section below).</p> <p>Government confirmed that villagers were compensated when land was first taken for public purposes. There are other issues brought up by villages which are being resolved by government.</p> <p>About a 50 meter long by 7 meter wide land needs to be acquired for a public access to a section of penstock pipe construction site.</p>
3. Alaoa HPP	<ul style="list-style-type: none"> <li>Repairing of existing headrace, replacement of completely destroyed channel and clearing of Intake;</li> <li>Construction of new intake in a form of a Tyrolean weir with sand trap.</li> </ul>	<p>The land for Alaoa SHP was acquired in 1921, and 1929; No land acquisition is required, Same situation as Samasoni in terms of complaint made by Magiagi villagers.</p>
4. Fa le Ole Fee HPP	<ul style="list-style-type: none"> <li>Repairing of penstock, head race power house and clear sediments in the intake and access road;</li> <li>refurbishment of powerhouse and generating equipment.</li> <li>Replacement of damaged head pond attendant dwelling and speed valve and clean pond.</li> </ul>	<p>The land for FaleOle Fee was acquired in 1921, and 1929. No land acquisition is required;Simiar to Samasoni, the Maagiagi villagers made complaint about not having compensation to MNRE.</p>

Figure - 1 Alaoa and Fale Ole Fee HPPs

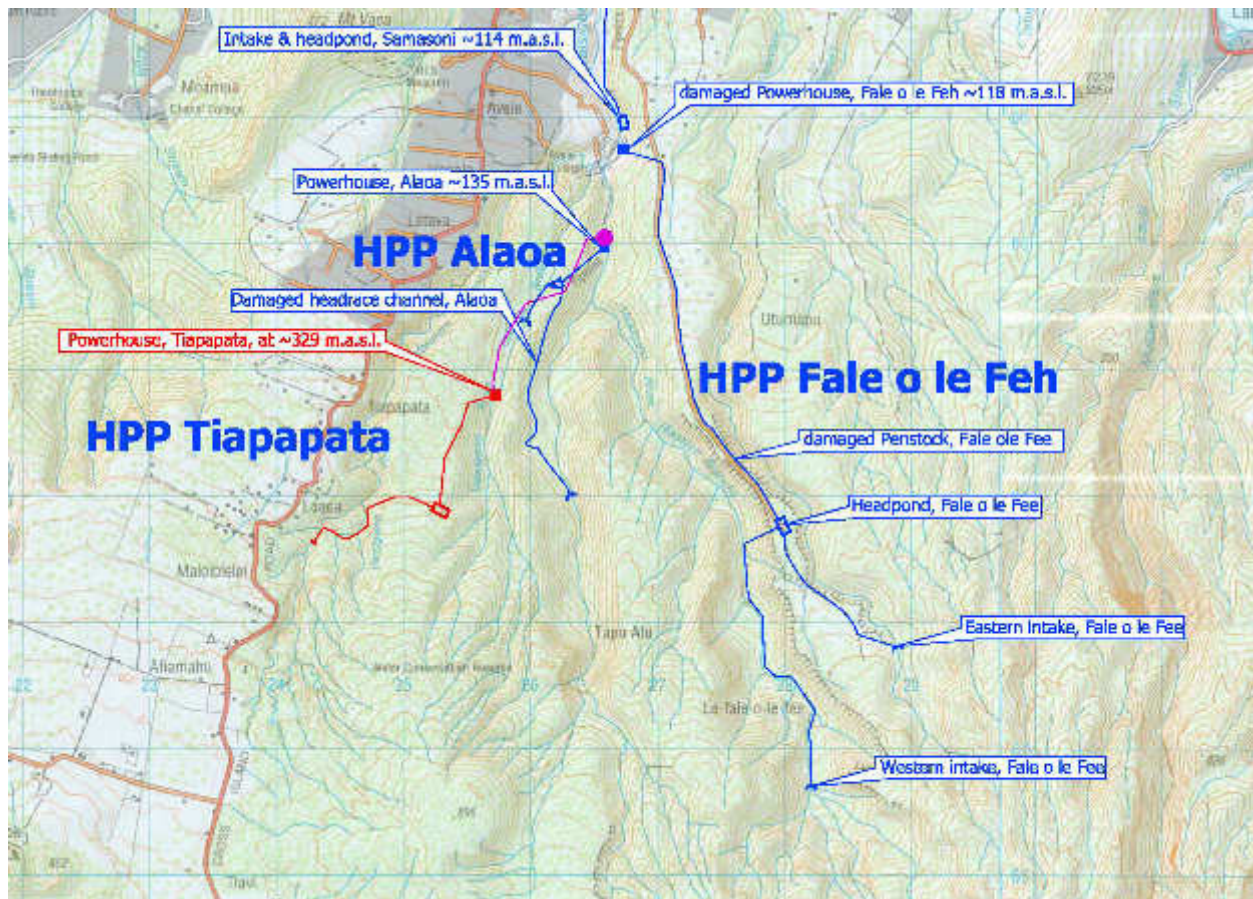
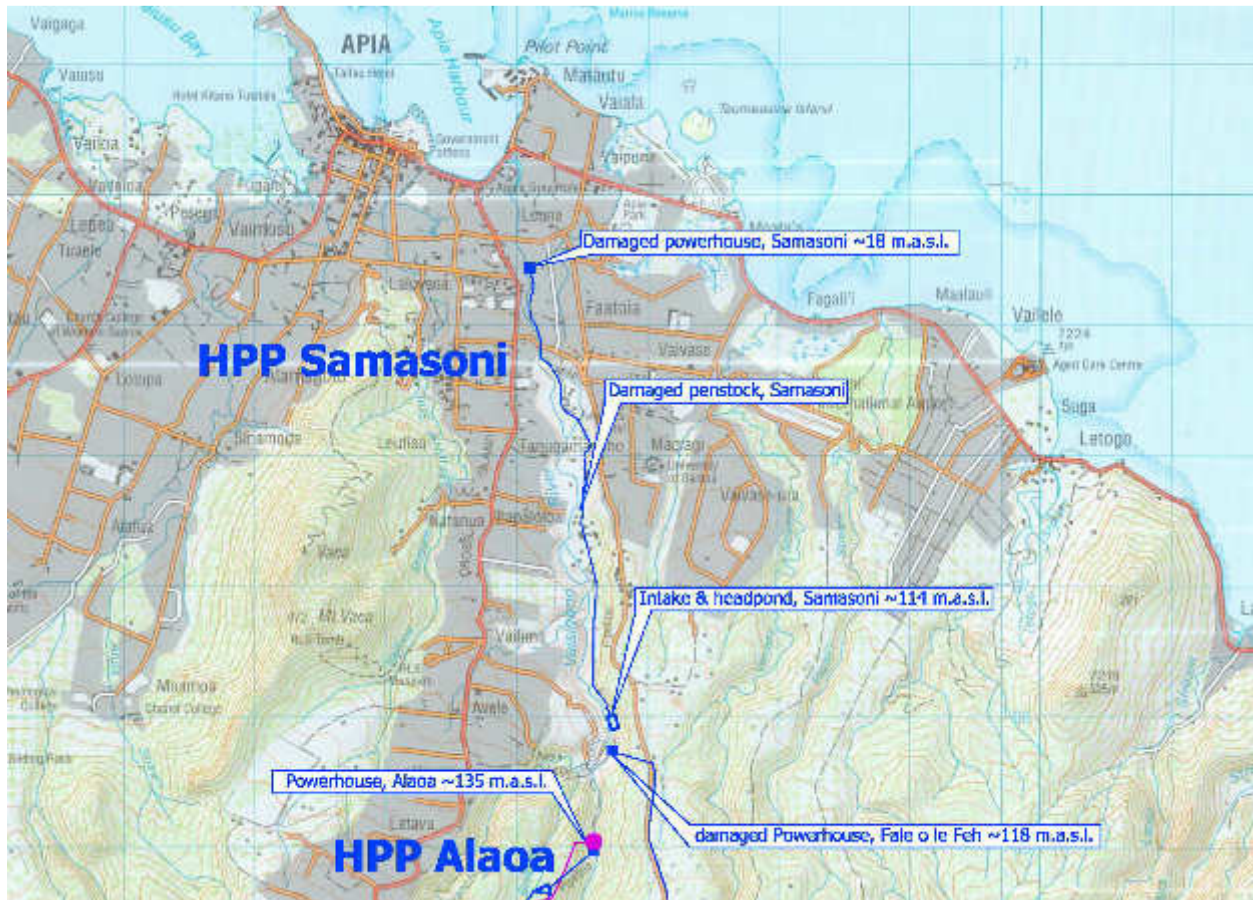




Figure 2: Samasoni



#### **IV. DUE DILIGENCE AND COMPLIANCE AUDIT OF THE EXISTING HYDROPOWER PLANTS**

13. The social compliance audit was undertaken for the existing hydropower plants based on the field visits and review of available information, maps, minutes of meetings. Meeting was held with the Ministry of Natural Resource and Environment and Assistant Chief Executive Officer (ACEO) to discuss land acquisition issue and compensation for the land acquired for the Samasoni, Alaoa and Fale Ole Fee HPPs. The objective of the social compliance audit was to see whether there are any concerns in the past and present and resettlement related impact and whether actions were in accordance with ADB's safeguard principles and requirements. It should be noted that there were not many documents available for review with regard to compensation and complaints except the Ordinances, survey plan maps of land acquisition by the Government of New Zealand. Since available information and documents were not adequate during the PPTA, the due diligence will be updated during the detailed design in a systematic manner with further review and consultation with concerned stakeholders.

##### **A. Samasoni, Alaoa, Fale Ole Fee**

14. The land for Alaoa, Samasoni and Fale Ole Fee HPPs was acquired in 1921, and 1929 by the Colonila Administrator - Government of New Zealand under the Ordinance number 18, and Ordinance 3 respectively (see Survey Plan Map and the Ordinances in Appendix 2). The land was customary land. However, the Ordinances do not indicate compensation payment. The Alaoa plant was built in 1949. The Fale ole Fee and Samasoni were built on 1979 - 82 on the land acquired in 1921 and 1929.

##### **B. Issues: Samasoni, Alaoa and Fale Ole Fee Hydropower Plants**

15. Approximately 25 families from the Maagiagi village were living by the penstock and dam area of Samasoni until the Cyclone Evan and flood, in December 2012. Some of the Maagiagi villagers had cultivated land in the catchment area of Alaoa and next to the power station of Fale Ole Fee. During the flood all the houses by the Samasoni penstock have been damaged and washed away and the households moved out from the area and spread around outside the Maagiagi village and their addresses were not readily available. During the field visits, therefore, it was not possible to interview the households those were living by the penstock before the cyclone. According to EPC staff, the villagers were concerned that the flooding during the cyclone was severe because of the dam and due to this severe flooding their houses have been washed away.

16. According to the ACEO, of MNRE, the Maagiagi village have made a complaint to MNRE that the families did not receive compensation for the land used for these 3 hydropower plants (penstock, dam and catchment) and the 100 acres of land is not allocated to the Maagiagi villagers. During the construction of penstock of Fale Ole Fee in 1981, the Maagiagi villagers had complained that crops were destroyed and compensation was not paid.

17. A meeting between the Prime Minister, EPC, and the Maagiagi villagers was held on January 28, 1981. During this meeting the Prime Minister asked the Ministry of Land to allocate 100 acres of land to the Maagiagi villagers. However, the allocation of 100 acres of land has not been materialized.

18. A meeting was held on August 2012 between the village committee of Maagiagi, Chairperson of Land Board Management, Attorney General, Police commissioner and Assistant Chief Executive Officer (ACEO) of MNRE to address the complaint of the Maagiagi villagers on the past compensation including the complaint about not allocating the 100 acres of land that was discussed in the meeting on January 28, 1981. In this meeting the ACEO explained that 8 acre of land was acquired for the Hydropower Plant schemes by Colonial Administrator - the Government of New Zealand and compensation was paid (refer to Minutes August 2012, Appendix - 3). However, no record of this compensation is available during the compliance audit. The Minutes of the August 2012 also indicates that Attorney General Office explained to the village committee that according to the Act Taking of Land 1964, there is five years period to lodge a complaint after land acquisition and compensation payment, if no complaint was made within this period, then the land acquisition and compensation issues are final and no complaint is valid (Minutes of the Meeting August 2012, Appendix -2). The issue of 100 acres of land has not been resolved since EPC did not agree to the allocation of 100 acres of land

19. The part of Samasoni penstock's original alignment has been changed and passed through different route and one family (TuiletufugaSiaosi family) at Lelata claimed compensation for this land. The EPC has paid cash Tala 45,000 in 2010 to this Tuiletufuga Siaosi family by three installments and Tala 2, 302. 69 to the Samoa Public Trust in 2011(records of payment by EPC in Appendix – 4). Some members of the family clan claimed that the land owned by the family members not by one family. Same family owns about 50 meters by 7 meters wide customary land currently being acquired by Government as public access to construction site of Samasoni penstock. EPC has also paid compensation to family for this land.

*Potential Risks involved In Samasoni, Fale ole fee and Alaoa:*

20. Given that the land was acquired for Samasoni, Fale Ole Fee and Alaoa in 1921 and 1929 and the record of compensation is not available, it is difficult to measure whether the actions were in compliance with ADB's Safeguard Policy. According to EPC, building of the 3 HPPs indicates that compensation was in fact paid by Government otherwise villagers would never have agreed to build these plants. Villagers claiming that no compensation was paid are not aware about the compensation paid during the colonial administration. However, there was not much information and record available during the social compliance audit from EPC and MNRE showing whether the complaint made by the Maagiagi in recent years has been resolved or not. Within this context, it is expected there could be some risks that villagers might not allow the EPC to do rehabilitation work.

## **V. CONSULTATIONS, DISCLOSURE AND GRIVANCE REDRESS**

21. The EPC has consulted local community and other stakeholders during the preparation of the proposed project during the preparation of feasibility study. The PPTA consultant met with the relevant agencies, MNRE, Samoa Water Association and Samoa Land Development Authority.

22. The EPC will organize further consultation during implementation with the village Fonos (local government), council of chiefs, Matai (clan chief), Women's council, villagers and other relevant interested groups in the community about the detail rehabilitation work and to continue to address the concerns and outstanding issue of compensation by the Maagiagi village. The outcome of the further consultation will be reported in detail in the updated due diligence and social compliance audit report and the updated resettlement plan during the implementation of the project.

23. The project will establish a grievance readdress mechanism (GRM). The GRM is described in the resettlement plan. The same GRM will be used to address any grievances related to the existing hydropower plants as well.

24. In compliance with ADB requirements, EPC will publicly disclose draft and the final due diligence compliance audit report and it will be also disclosed on the ADB website upon submission by EPC.

## **VI. FOLLOW-UP ACTION**

25. Given that the rehabilitation work of the existing 3 HPPs will not require any land acquisition and relocation and therefore no resettlement impact. However, the project will include an assurance to address concerns of the villagers on past compensation by the EPC. A Coordination Committee will be formed with representatives of MNRE, the Attorney General Office, EPC, the Ministry of Finance, the Ministry of Women, Community and Social Development and other relevant agencies to address concerns during implementation of the project. The EPC will coordinate with MNRE to develop and implement an action plan in this regard. The objective of the action plan is to develop systematic consultation process with the Maagiagi villagers and identify measures to address the outstanding issues on past compensation and to address the risk involved in terms of potential opposition from Maagiagi villagers to rehabilitate the HPPs. The consultation and measures to address compensation issue will ensure support from the villagers to the project, no disturbance and to minimize other risks during the project implementation. The following is an outline of the action plan and its details will be finalized during the detailed design (i.e. during project implementation).

<b>S.N.</b>	<b>Activities</b>	<b>Responsibility</b>	<b>Time Frame</b>
1	Formation of a coordination committee comprising representatives of EPC, MNRE and other relevant agencies	EPC	Month 1
2	Conduct consultation with Maagiagi villagers and agree on the process	EPC + the committee	Month 2
3	Update the due diligence/audit through further investigation on past acquisition and compensation (document search, review and interviews).	EPC+ the committee	Months 3-4
4.	Prepare with and disclose the draft investigation report to stakeholders	EPC	Month 4
5.	Discuss and agree on measures to resolve outstanding issues with the villagers.	EPC + stakeholders	Month 4
6.	Submit to ADB the final report together with agreed measures.	EPC	Month 5

## **VII. IMPLEMENTATION ARRANGEMENT**

26. The EPC, as the Implementing Agency of the project will have overall responsibility of planning, implementation and monitoring of activities related to the outstanding issues of compensation raised by the Maagiagi villagers and any other compensation issues arise during the rehabilitation and expansion of the Samasoni, Alaoa and Fale Ole Fee HPPs. The EPC has the responsibility of day to day activities related to the project. Implementation of project activities will be added to the existing Project Management Unit that was established for Power

Sector Expansion Project within EPC. The EPC will provide full time EPC staff including women staff (Engineers) to implement the project activities. The project will finance a consultant team to support PMU to implement the project activities. The consultant team includes international and national resettlement specialists, land surveyors, land, crops, asset valuation specialist who will update the Resettlement Plan.

#### **VIII. MONITORING and REPORTING**

27. The EPC will monitor project activities and the scope of monitoring includes: (i) monitoring of implementation of the action plan related to concerns of Maagiagiand affected villagers for the Samasoni, Alaoa, and Fale Ole Fee HPPs; (ii) remedial actions as required; (iii) approval allocations and disbursement of funds.

## Appendix1

### List of People Met and Reviewed Documents

#### **List of People Consulted:**

- Ms. Filisitalkenasio-Heather, Assistant Chief Executive Officer, Land Management Division, Ministry Of Natural Resource & Environment ( MNRE);
- Mr. Jude Kolhase, ACEO, PUMA, MNRE;
- Manager Samoa Land Corporation; & Manager Golf Course Management;
- Tafeamaalii Philip Kerslake – Manager –Technical Division, Samoa Water Authority ( SAW);
- Mr. FonotiPerelini S. Perelini, Project Manager of EPC PMU Team
- PPTA Consultant Team, Samoa Renewable Energy Development and Power Rehabilitation Project

#### **List of Documents Reviewed:**

- Asian Development Bank, Safeguard Policy Statement, 2009, Manial;
- The Land for Water Supply Purposes Ordinance 1921, Western Samoa. No. 18, 1921.
- Alaoa Catchments Maps (2) related to Ordinance number 18.
- Land Registry Ordinance No. 18, 1921 (Record of registration of the land acquire),
- The Land for Hydro Electric and Water Supply 1929, Western Samoa, No. 3, 1929
- Map for Ordinance No. 3, 1929
- (Both of the Ordinances and the Maps are related to Land Acquisition for Alaoa; Fale ole Fee Hydro; Samasoni Hydro HPPs);
- Bank Record- Payment Voucher to One Affected household by penstock of Samasoni, for the amount of Samoan Tala 45,000 on 2009 and 2010 to Mr. Tuiletufuga Siaosi & the payment to Public Trust for the same penstock land ( disputed by families) for the amount of Tala 230278.69 in 2011.
- Internal Memo of EPC on the Meeting between the Minister's Office, EPC and the Maagiagi Villagers on compensation issue of damaged crops in 1981;
- Minutes of the meeting between the Village Committee of Maagiagi, Chairperson of Land Board Management, Attorney general Office, Police Commissioner and Assistant Chief Executive of MNRE.
- Fuluasou HPP
- Survey Plan – penstock & power station site – Land acquired 1947 – 1949 for the old penstock route and the old power site. This land was acquired in 1929 by the New Zealand Government for the HPP. Survey Plan 2178 – penstock & road– Land acquired 1947 – 1949; Fuluasou old penstock and road route survey plan;
- Survey Plan 2179 – penstock & road– Land acquired 1947 – 1949; Fuluasou old penstock and road route survey plan;
- Survey Plan 2218 – penstock, road & catchment reserved– Land acquired 1947 – 1949; Fuluasou old penstock, road route and dam site survey plan;
- Fuluasou Land for Public Purposes – Order in Council 6 October 1949; Land Registry Volume 2 Folio 75
- Vaipu Scheme HPP
- Survey Plan 240 includes the road and Richardson track to Afulilo Dam.