

Land Acquisition and Resettlement Framework

August 2018

KGZ: Climate Change and Disaster-Resilient Water Resources Sector Project

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ABBREVIATIONS

ADB	Asian Development Bank
AH	Affected Household
APs	Affected Persons
C&P	Consultation and Participation
COI	Corridor of Impact
CSC	Construction Supervision Consultant
DP	Displaced Person
DWRM	Department of Water Resources Management under the Ministry of Agriculture, Food Industry and Land Reclamation
EA	Executing Agency
GRG	Grievance Redress Group
GRM	Grievance Redress Mechanism
IA	Implementing Agency
KR	Kyrgyz Republic
KGS	Kyrgyz Som (currency unit)
LAR	Land Acquisition and Resettlement
LARC	Land Acquisition and Resettlement Commission
LARP	Land Acquisition and Resettlement Plan
LARF	Land Acquisition and Resettlement Framework
LFP	Local Focal Point
MOA	Ministry of Agriculture, Food Industry and Land Reclamation
NGO	Non-Governmental Organization
PD	Preliminary Engineering Design
PIU	Project Implementing Unit
PPTA	Project Preparatory Technical Assistance
RIB	Resettlement Information Brochure
RPIR	Resettlement Planning Information Brochure
SES	Socioeconomic Survey
SPS	Safeguard Policy Statement
US\$	United States Dollar
WUA	Water Users Association

DEFINITION OF TERMS

- Compensation – This is payment given in cash or in kind to affected persons (APs) at replacement cost or at current market value for assets and income sources acquired or adversely affected by the project.
- Cut-off date – Is the date when the DMS was completed (19 June 2018). Anyone who occupies or encroaches into the defined boundaries of the Project area after this date is not entitled to compensation and other assistance for affected assets and incomes.
- Detailed Measurement Survey (DMS) – With the use of approved engineering drawings, this activity involves list of assets affected, severity of impacts, and list of APs done during the preparation of this draft Land acquisition and resettlement plan (LARP).
- Affected person (AP) – Refers to any person or persons, household, firm, private or public institution that, on account of changes resulting from the Project, will have its (i) standard of living adversely affected; (ii) right, title or interest in any house, land (e.g., residential, commercial, agricultural, and/or grazing land), water resources or any other fixed assets acquired, possessed, restricted or otherwise adversely affected, in full or in part, permanently or temporarily; and/or (iii) business, occupation, place of work or residence or habitat adversely affected, with or without physical displacement.
- Eligibility – Eligible APs may fall under any of the following groups: (i) Those who have formal legal rights to land lost including customary and traditional rights; (ii) Those who do not have formal legal rights to land lost as of the cut-off date but have claims to such land or assets that are recognizable under national laws; and, (iii) Informal settlers who satisfy the condition for eligibility to compensation as provided in the definition of “cut-off date for eligibility”. Non-eligible APs include those making claims based on subsequent occupation after the cut-off date for eligibility.
- Entitlements – Refers to a range of measures, such as compensation in cash or in kind, income restoration support, transfer assistance, relocation support, etc., which are provided to the APs depending on the type and severity of their losses to restore their economic and social base.
- Ethnic Minority – People with a group status having a social or cultural identity distinct from that of the dominant or mainstream society.
- Land acquisition – Refers to the process whereby an individual, household, firm or private institution is compelled by a public agency to alienate all or part of the land it owns or possesses to the ownership and possession of that agency for public purposes in return for compensation at replacement costs.
- Land Acquisition and Resettlement Plan (LARP) – This is a time-bound action plan with budget, setting out the resettlement objectives and strategies, entitlements, activities and responsibilities, resettlement monitoring, and resettlement evaluation.
- Relocation – This is the physical displacement of an AP from his/her pre- project place of residence and/or business.

- Replacement cost – Means the amount in cash or in kind needed to replace an asset in its existing condition, without deduction of transaction costs or depreciation and salvageable materials, at prevailing current market value at the time of compensation payment.
- Severely affected Households – This refers to AHs who that “are (i) physically displaced from their residences and have to relocate or (ii) losing from 10% or more of their income generating/productive assets.
- Vulnerable groups – These are distinct groups of people who might suffer disproportionately or face the risk of being further marginalized due to the project and specifically include: (i) female-headed households with dependents, (ii) household heads with disabilities, (iii) households falling under the generally accepted indicator for poverty, (iv) elderly households who are landless and with no other means of support, (v) landless households, (vi) ethnic minorities.

1. INTRODUCTION

1. This Land Acquisition and Resettlement Framework (LARF) has been prepared for the proposed Climate Resilience and Disaster Risk Reduction in Water Resources Management Project. The LARF (i) describes the project and its outputs; (ii) explains the general anticipated land acquisition and involuntary resettlement impacts of the subprojects to be financed under the proposed project; (iii) specifies the requirements that will be followed related to screening and categorization of subprojects, assessment, and planning, including meaningful consultation with affected people and other stakeholders and information disclosure requirements; and (iv) specifies the social safeguard criteria that are to be used in selecting/excluding subprojects, all with responsibilities of all parties involved. The LARF provisions shall guide the Project Implementation Unit (PIU) in the Ministry of Agriculture, Food Industry and Land Reclamation (MOA), the project executing agency, in selecting, screening, and categorizing of expected subprojects. This LARF includes Land Acquisition and Resettlement Plan (LARP) template to guide the executing agency to prepare LARP in case if such a need arises. The document is based on the Kyrgyz Republic applicable laws and regulations, as well as the ADB's Safeguards Policy Statement (SPS) 2009.

1.1. Project Overview

2. Consultations with Government of the Kyrgyz Republic and civil society stakeholders have identified improvements to climate change and disaster resilience in the water resources sector as a priority area for climate change adaptation. In this context, ADB launched a transactional technical assistance (TRTA) to develop and prepare a proposed investment project to strengthen the resilience of the water resources sector to floods, landslides, and droughts in Kyrgyz Republic. The project was called "Climate Resilience and Disaster Risk Reduction in Water Resources Management".

3. The sector modality is used for the project in light of the large needs for the adaptation to climate change and disaster risk reduction in water resources management of the country. The project develops a comprehensive approach that may be scaled up for additional locations. The key aspect of the Project will be to identify and prepare 'model' subprojects that will support the objectives and outcomes expected from a Sector Modality Project by progressively implementing replicable subprojects over an extended period.

4. The focus of the Project is on building climate resilience and enabling disaster risk reduction in the water resources sector to ease the burden on poor and vulnerable rural communities who are exposed to potentially significant impacts on water resource availability and damage to critical infrastructure (homes, roads, canals, land) from climate and natural hazards (particularly drought, flood, mudflows). It was outlined that a primary objective is to develop ways to address these key hazards, through the planning and design of 'model' subprojects. The project has three core outputs. These are:

- I. **Output 1: Irrigation infrastructure protected and modernized.** The project will modernize main (primary and secondary) canals, lower-level (intra-farm and on-farm) canals and associated infrastructure such as protective mudflow crossing structures, and cross-regulators and offtakes. A participatory planning, design, and management approach involving the DWRM, WUAs, and other key stakeholders will be mobilized to ensure equitable and sustainable outcomes. WUA and sub-WUA groups will be strengthened or established. Community-based contracting will be piloted for lower-level canal modernization in the core subproject, to be expanded to further subprojects if shown to be successful;
- II. **Output 2: Irrigation system and agricultural land management enhanced.** The project will strengthen management, and operation and maintenance (O&M) of target irrigation systems. In conjunction with output 1, the participatory planning approach will develop and implement joint DWRM-WUA irrigation system management plans including practical drought and climate risk management, water delivery scheduling, cropping patterns, and O&M financing and planning. WUA on-farm water management (OFWM) and agricultural management plans including irrigation scheduling, cropping patterns, and cultural methods will be developed, supported with capacity building including comparative field trials and farmer field days.
- III. **Output 3: National disaster risk management capacity improved.** The project will support capacity building and modernize equipment for national disaster risk management in the water resources sector. Heavy machinery and associated equipment for preventative and rehabilitation works will be purchased and installed in the Northern and Southern Emergency

Response Centers of the MOES. This will be accompanied by development of an asset management plan and capacity building on disaster risk management including project planning. Hydrological posts for Hydromet will be installed in 20 sites within the project area, and the information systems for data collection, processing, and flood warning will be enhanced for improved efficiency and accuracy.

5. The LARF will cover expected civil works under the Output 1 - Protection and modernization of irrigation infrastructure and Output 3 - Improving the capacity of national disaster risk management.

6. **Screening Criteria.** The following types of subproject should not be eligible and not be included in the project framework: i) subprojects that are not *necessary* to improve irrigation¹ sub-systems.²; ii) subprojects to be financed by other donors; iii) subprojects in transboundary systems; iv) subprojects in pumped irrigation systems and v) require land acquisition for construction new canals: new irrigation systems or expansion of existing irrigation systems into new irrigable service areas and vi) subprojects with category A for land acquisition and involuntary resettlement safeguards in accordance with ADB SPS requirements.

7. **Subprojects Selection Criteria.** The following proposed ranking criteria will be used during the selection of subprojects:

- *Potential Economic Viability.* Proposed unit subproject cost (\$ ha⁻¹) is an indicator of potential economic viability.
- *Potential Economic Benefits.* The ratio of incremental (total – present) area to total area (%), is an indicator of potential economic benefits as well as viability.
- *Adequate Water Supply.* The unit design discharge (liters second⁻¹ hectare⁻¹ or lps/ha), at the headworks, is an indicator of the adequacy of the water supply.
- *Poverty Alleviation.* Poverty incidence (%) will be used instead of the number of poor households served.

8. Specific details of these subprojects, such as site specific and upgrading activities will be prepared after Board approval. Hence the need to prepare this LARF to ensure the subprojects implemented under this framework comply with ADB safeguard objectives, principles and requirements.

9. This LARF provides the framework to follow for Output 1 and Output 3 components. LARF also provides the necessary guidance for the PIU, as the PIU will be responsible to ensure all subprojects are compliant with ADB safeguard requirements and procedures.

10. The Department of Water Resource Management under the Ministry of Agriculture, Food Industry and Land Reclamation (MOA) is the “Executing Agency” while the daily administration of the project will fall to the newly established PIU of the DWRM under the MOA.

1.2. Defined Safeguard Responsibilities

11. The following are the main responsibilities for the PIU under Output 1 and Output 3:

- I. Screening of subprojects to ensure Category A for land acquisition and involuntary resettlement safeguards are excluded;
- II. Prepare safeguard documents according to ADB safeguard requirements, and get ADB clearance before public disclosure by ADB and PIU;
- III. In the case of unpredicted LAR impacts occurring during subprojects processing or implementation, immediately notify ADB, and prepare a corrective action plan;
- IV. Update screening checklists, categorization and safeguard documents if there are changes in scope, which must be prior approved by ADB;
- V. Monitor subprojects during implementation stage; and
- VI. Submit bi-annual monitoring reports to ADB.

¹ Herein, irrigation includes associated drainage and flood protection as well as agriculture and irrigation.

² Herein, irrigated sub-systems are inter-dependent, as they share common water source(s) or intake(s).

1.3. Potential Land Acquisition and Resettlement Impacts

12. Construction works under the Output 1 and Output 3 associated with rehabilitation of the existing water facilities and installation hydrological posts for Hydromet under the Ministry of Emergency Situations mainly will be carried out within the existing boundaries of rivers and river banks.

13. All the subprojects and/or civil works proposed under the project will be screened by PIU for LAR impacts and will exclude the sub-projects and/or civil works which have significant land acquisition and involuntary resettlement impacts (IR Category A equivalent).

14. Selected subprojects will be screened by PIU for LAR impacts and if necessary, a land acquisition and resettlement plan will be prepared. This LARF will guide the process of identification and addressing of LAR issues including compensation as per ADB SPS (2009) guidance.

2. OBJECTIVES, POLICY AND LEGAL FRAMEWORK

15. This LARF is a document of the Ministry of Agriculture, Food Industry and Land Reclamation and reflects the relevant national legal framework and requirements along with specific ADB's requirements under its Safeguard Policy Statement (SPS) 2009. The document is agreed between MOA and ADB and no changes shall be made to the LARF without prior approval from ADB.

16. The objectives of this Land Acquisition and Resettlement Framework (LARF) document are to guide PIU in defining the displaced people, conducting a socio-economic assessment of affected population, identifying types the extent of permanent and temporary impact, eligibility and compensation as well as assistance to Displaced People (DP).

17. Land Acquisition and Resettlement Plans (LARPs), when necessary, will be prepared in accordance with this LARF upon assessment, guidelines and recommendations by the social safeguards specialist, for the project. Projects that have no land acquisition or resettlement impacts will require preparation of a due diligence report. This LARF will also help PIU to prepare, implement and monitor the LARPs for the project when needed.

2.1. Country legislation

18. The following laws and Normative Acts regulate land/real property ownership rights and rules and procedures for obtaining state ownership right to privately owned land parcels based on the necessary public needs caused due to constructions activities:

- (i) Constitution of the Kyrgyz Republic (28 December 2016)
- (ii) Civil Code (08 May 1996, No. 16; last amended on 08 June 2017)
- (iii) Land Code (02 June 1999, No. 45; last amended 01 June 2017)
- (iv) Law on State Registration of Rights and Associated Transactions (22 December 1998, N 153, last amended on 10 February 2017)
- (v) Law on Grievances (dated 04 May 2007, last amended on 27 July 2016)
- (vi) Valuation Standards for Valuers (Government Resolution No.217, 03 April 2006, last amended on 15 November 2016)

2.1.1. Constitution

19. Constitution of the Kyrgyz Republic is the principal and supreme law to which all other Kyrgyz laws must conform. According to the Constitution, international agreements to which the Kyrgyz Republic is a party that have entered into force under the established legal procedure shall be the constituent part of the legal system of the Kyrgyz Republic. Enforcement of an international agreement may be done through its signing, exchange of notes and letters, ratification, approval, accession to an international agreement, or other way agreed by the parties of such international agreement. If an international agreement ratified by the Jogorku Kenesh (National Parliament) of Kyrgyz Republic establishes rules other than those envisaged by civil legislation, the rules of the international agreement shall be applied (Article 6, Civil Code 2017).

20. The Constitution of Kyrgyz Republic (28 December 2016), Article 12 also provides that:

- The Kyrgyz Republic recognizes diversity of ownership forms and guarantees the equal legal protection to private, state, municipal and other types of ownership (Clause 1).

- Ownership is inviolable and no one can be dispossessed of its property arbitrarily. The property can be acquired by the state against the person's (party's) will only based on the court's ruling (Clause 2)
- Land can be in private, municipal and other types of ownership with an exception of pasturelands that cannot be held in private ownership (Clause 5).
- Acquisition of property for the public purposes, as defined in the national laws, can be carried out only through the court's ruling and with the fair and prior payment of the compensation for the affected property as well as other costs (Clause 2).

2.1.2. Civil Code

21. The Civil Code (08 May 1996, No. 16; last amendment on 08 June 2017, No. 100) provides that: a party whose rights are violated can claim full loss reimbursement (full compensation for losses incurred), unless the national legislation or the agreements (contracts) prepared in line with the national legislation indicate the contrary. The relevant provisions include articles 14 and 15.

22. Article 14: Loss Reimbursement. Clause 1 of Article 14 defines the losses that subject to reimbursement (compensation):

- (i) A person, whose right is violated, may claim full compensation for losses incurred, unless the law and/or terms and conditions of agreement entered by the parties in compliance with the law provides the contrary.
- (ii) The losses are defined as follows:
 - a) A person, whose right was violated and who incurred or will have to incur costs to restore violated rights, losses or damage to his property (actual loss), and also
 - b) Un-received income, which a person would have received under normal conditions of civil turnover, if his right had not been violated (income loss),
 - c) If a person earned income through violating a law, a person whose rights were thus violated can claim loss reimbursement along with other costs, actual loss in the amount no less than income earned by a violator.

23. Article 15: Compensation for Losses Caused by the State Agencies and Local self-government. Losses incurred on a citizen or legal entity as a consequence of illegal actions (or inactivity) of state agencies, bodies of local self-government or officials of these bodies, including issuance by a state body of an act that does not comply with legislation, are subject to compensation by the state, as well as local self-government authorities in the cases foreseen under the law.

2.1.3. Land Code

24. Article 68 of the Land Code (02 June 1999 N 45, last amended on 01 June 2017, No. 95) defines withdrawal of land plot for state and public needs.

25. Article 68: Withdrawal (Redemption) of the Land for State and Public Needs:

- Acquisition (purchase) of a land plot for state and public needs may be exercised on the grounds of an agreement between the authorized agency and landowner or land-user. If no agreement is achieved with the land owner/land-user, the authorized agency has the right to apply to the court within two months from the date of official denial of landowner/land-user.
- During price calculation, the purchase (redemption) price of a given land plot, shall include market value of the land and buildings and structures attached to the given land plot, as well as losses incurred to landowner/land-user as a result of termination of rights to a land plot, including the damages/losses related to the earlier termination of liabilities with third parties.
- In the event of withdrawal of the land plot for the state or public needs another land plot may be allocated to a land owner/user, subject to his consent and the value of the right to it shall be credited to the redemption price.

26. The Land Code specifies that the right to the land and associated structures can be terminated, among others, when land is needed for state or public purposes. A court decision is required to officially terminate the rights to land and associated structures. The acquisition of the land can be effected only after compensating the costs of the rights termination and associated costs (Article 49).

27. According to Article 49, unless the legislation, land title or lease contract indicates the contrary, the land owners or user can have the right to:

- Use land based on owner's/user's own discretion and in accordance with the targeted purpose of the land;
- Build structures on the land, according to its targeted purpose, following established procedures and meeting architectural, construction, environmental, sanitary, fire safety and other requirements
- Claim compensation for losses suffered, as specified by the Kyrgyz Republic legislation.

28. Finally, the Land Code (Article 78) specifies the use regime with regards to the lands of common use. It particularly indicates that lands of common use in settlements/towns/villages (e.g. roads, streets, squares, sidewalks, driveways, park bands, boulevards, mini parks, water bodies, etc.) cannot be in private ownership, and only in exceptional instances can be rented by the authorized state body to legal entities and individuals for maximum of 5 years. The authorized state body may permit construction of light (not capital) structures on lands of common use.

2.1.4. Provisions

29. The Law on State Registration of Rights of Immovable Properties and Associated Transactions (hereinafter - state registration of rights) is a legal act of recognition and confirmation of rights to immovable properties and their encumbrances (restrictions), as well as real estate transactions, providing protection for the rights and encumbrances (restrictions), except as provided in this Law (Article 1).

30. Any other document or entitlements and their limitations, are subject to mandatory registration in accordance with Article 4 of this Law, submitted to the registration authority not later than thirty days from the date of the (drafting) of the above document (Article 7).

31. The property rights, which are not subject to the registration, but are recognized and protected by the State include (Chapter 1, Article 6):

- Access rights to the communication lines, pipelines, geodesic localities, and other pieces of infrastructure meant for public use;
- Rights of spouses, children, and other individuals;
- Temporary rights, lease or sub-lease for a period of under 3 years;
- Actual use rights for the primary or preferential use of the property;
- Rights arising from the taxation requirements;
- Encumbrances arising from the common rules on healthcare, public safety, environmental protection etc.

2.1.5. Law on Grievances

32. The Law on Grievances (23 March 2007, last amended on 27 July 2016, No. 151) provides that the grievance from Kyrgyz Republic citizens should be registered, given due consideration, and addressed in an equitable, timely and accountable manner (Article 2 and 4). The grievance registered with the state agency or the local government should be processed within no more than 30 days (Article 8). For the grievance to be given due consideration, it should be filed in written, showcasing the substance of the complaint and, if necessary, supported by the relevant documentation (Article 4 and 5). The grievance submitted should be processed and resolved strictly following the relevant national laws and regulations (Article 11).

2.1.6. Provisions on Asset Valuation

33. The valuation of assets is based on the Interim Rules of activities of appraisers and appraisal organizations in the Kyrgyz Republic (Government Resolution No. 537 of 21 August 2003, last amended on 03 December 2012, No. 807) as well as property valuation standards, mandatory for all the subjects of valuation activity in the Kyrgyz Republic (Government Resolution No. 217 of 03 April 2006, last amended on 15 November 2016, No. 593) and other provisions of national legislation.

2.2 Safeguard Policy Statement of ADB

34. For any ADB operation requiring involuntary resettlement, resettlement planning is an integral part of project design, to be dealt with from the earliest stages of the project cycle. The SPS (2009)³ of ADB sets guidance and requirements for resettlement planning, as well as the follow-up implementation.

35. The objectives of ADB's safeguard policy on involuntary resettlement are: to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

36. The three important elements of ADB's involuntary resettlement policy are: (i) compensation to replace lost assets, livelihood, and income; (ii) assistance for relocation, including provision of relocation sites with appropriate facilities and services; and (iii) assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.

37. The policy principles for involuntary resettlement are:

- (i) 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.
- (ii) Carry out meaningful consultations with displaced persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the displaced persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- (iii) Improve, or at least restore, the livelihoods of all displaced persons through (a) 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, (b) prompt replacement of assets with access to assets of equal or higher value, (c) prompt compensation at full replacement cost for assets that cannot be restored, and (d) additional revenues and services through benefit sharing schemes where possible.
- (iv) Provide physically and economically displaced persons with needed assistance, including the following: (a) 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; (b) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (c) civic infrastructure and community services, as required.
- (v) 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.
- (vi) 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.
- (vii) 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.

³ SPS (English) available at: <https://www.adb.org/documents/safeguard-policy-statement>; and SPS (Russian): <https://www.adb.org/ru/documents/safeguard-policy-statement>

- (viii) 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.
- (ix) 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 displaced persons and other stakeholders. Disclose the final resettlement plan and its updates to displaced persons and other stakeholders.
- (x) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- (xi) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xii) 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.

38. The ADB SPS (2009) distinguishes three categories of affected persons (APs) or displaced persons, with variable compensation needs:

- (i) APs with formal rights: APs with formal legal rights to land lost in its entirety or in part;
- (ii) APs with semi-formal rights: APs without formal legal rights to land lost in its entirety or in part but who have claims to such lands that are recognized or are recognizable under national law; and
- (iii) APs with non-formal rights: APs who have neither formal legal rights nor recognized/recognizable claims to land lost in its entirety or in part.

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

40. Compensation for lost land may be in the form of replacement land (preferable if feasible) or in cash. When "land for land" compensation is not feasible cash compensation can be valued based on market rates or, in absence of land markets, through other methods (i.e. land productivity or reproduction costs). Independently from the valuation method used, compensation is to be provided at "full replacement cost" including: (i) transaction costs; (ii) interest accrued; (iii) transitional and restoration costs; and (iv) other applicable payments, if any. Compensation for all other assets is to be provided in cash at replacement cost without deductions for amortization, salvaged materials and transaction costs.

2.3 Comparasion Kyrgyz Republic legislation and ABD Resettlement Policy

41. Table 1 presents the gaps between the policy requirements of the SPS (2009) and of the Kyrgyz laws and regulations, as well as practices of ADB financed projects and the reconciliation provisons.

TABLE 1: Gaps And Reconciliation Provisions

Area/Impact/Issue	ADB SPS (2009)	Kyrgyz Legislation and Practice with ADB Financed Projects	Comments on Gaps	Reconciliation Measures
LAR planning and documentation	When an ADB financed project causes LAR impacts, a LARP is to be prepared. The LARP shall be based on DMS, SES, consultations and valuations, etc.	Appropriate documentation on impact and valuation is to be prepared but such a documentation does not have the format of a LARP	Gap exists.	The LARP will be prepared and it will be based on DMS, SES, C&P, and independent valuation
Title status and compensations	APs with formal titles: compensation for lost land and non-land	Land loss: compensation at replacement costs or replacement land or market	No difference	

Area/Impact/Issue	ADB SPS (2009)	Kyrgyz Legislation and Practice with ADB Financed Projects	Comments on Gaps	Reconciliation Measures
	assets at full replacement costs or market values	values		
		Structures: compensation but depreciation counted	Minor difference	Compensations at full replacement costs will be included in the LARP
		Crops & trees: mandated but selectively applied	Minor difference	Compensations at valuated prices will be included in the LARP
	APs with formalizable title: compensation for lost land and non-land assets at full replacement costs or market values, yet EA shall help them in legalizing their assets.	APs with formalizable titles: legalization is not distinguished and considered.	Gap exists	Legalization of formalizable titles by the Gosregister during the LARP implementation, if any.
	APs with no legal title: to be compensated for lost non-land assets	Non-legal APs have no right to be compensated for land and non-land assets.	Gap exists	Lost assets, other than land will be compensated at valuated replacement costs or market values will be included in the LARP.
Loss of business	Reimbursement of actual losses plus business reestablishment costs. For application based on tax declared income for period of business interruption. In absence of tax declaration based on maximum non-taxable salary.	Cash compensation at market value for all damages/opportunity costs incurred. Burden of proving opportunity costs rest on the AP based on recognized/documentated evidence but no clear methodology.	Minor difference	Valuation of losses will be carried out by independent valuator; Compensation for business interruption and rehabilitation assistances will be included in the LARP.
Information disclosure	Resettlement-related documents to be timely disclosed in the APs' language.	No disclosure requirement exists.	Gap exists	The final LARP, in Kyrgyz and Russian languages, will be disclosed in affected villages and various government agencies The final LARP, in English, Russian and Kyrgyz languages will be disclosed on ADB and MOA websites.
Consultation	Meaningful public consultations are to be held with the APs. APs should be informed about their entitlements and options, as well as resettlement alternatives	Matters of local importance to be publicly discussed with local authorities. But no requirement to consult directly the APs	Gap exists	Formal public consultations will be carried out in the affected villages in the process of preparing the LARP.
Grievance	A GRM is to be established for each project. Information on GRM is to be	Each state agency/ministry should define a process for registering and reviewing the concerns and claims from	Minor difference	Structured GRM will be established and details will be included in the

Area/Impact/Issue	ADB SPS (2009)	Kyrgyz Legislation and Practice with ADB Financed Projects	Comments on Gaps	Reconciliation Measures
	communicated to the APs	citizens		LARP.
Monitoring	Implementation of LARP is subject to monitoring, and monitoring reports shall be disclosed.	Not required	Gap exists	Monitoring will be planned in the LARP.
Asset acquisition conditions	Property can be acquired only after full compensation is paid to the APs	Property can be acquired only after full compensation is paid to APs	No difference	Notice to contractors to proceed construction works in LAR impacted segments cannot be given until ADB has approved the LARP implementation report.
Assistances to vulnerable and severely affected APs	These APs are to be identified and special assistances shall be provided to restore/improve their pre-project level of livelihoods	No special consideration is given to these APs.	Gap exists	Assistances will be included in the LARP

42. The MOA has drafted this LARF for the Project in order to bridge the gaps between the legislation of the Kyrgyz Republic and ADB's Safeguards policy. It will be endorsed by the and serve as a guiding tool for planning and implementing LAR in compliance with the ADB SPS.

3. COMPENSATION ELIGIBILITY AND ENTITLEMENTS

43. All LAR impacts under the Project will be identified and compensated according to the eligibility criteria and entitlement matrix conforming to the legislation of the Kyrgyz Republic as well as ADB's safeguards policy. Summary of the entitlements for this Project is included in the Table 2 below.

TABLE 2: COMPENSATION ENTITLEMENT MATRIX

	Type of Impact	Application	Type of DPs	Compensation Entitlements
1. Agriculture Land Loss				
1.1	Agricultural Land Loss permanently affected	AH losing permanently or temporary agricultural land regardless of impact severity	Legal Owners	- Compensation at replacement value.
			Legalizable Owner	- DPs with legalizable title have right to be compensated for lost land and assets after the EAs helps them to legalize their assets.
			Leaseholder (private/municipal/state)	- Legal Leaseholder will be compensated for loss of produce for the number of years remained in the lease or will be given a new lease.
				- Legalizable user of land (some confirming documents are missing but can be restored/obtained) will be legalized and compensated as a legal Leaseholder.
Non-legalizable DPs	- Compensation will be paid only for the loss of structures, improvements on land and agricultural produce. No compensation for land.			
2. Residential/Commercial Land Loss				
	Residential/Commercial land	AH losing their commercial/residential land	Owner	- Replacement cost at market value
			Legalizable Owner	- After legalization, compensation at replacement cost
			Leaseholder (private/municipal/state)	- Legal Leaseholder will be compensated for loss of produce for the number of

	Type of Impact	Application	Type of DPs	Compensation Entitlements
2.			tate)	years remained in the lease or will be given a new lease.
			Non-legalizable AHs	– Compensation will be paid only for the loss of structures and improvements on land (see items 3 and 4.
3. Compensation for Affected Houses and Structures				
3.1	House/structure partly affected (the remaining parts just require repairs)	All AHs regardless of their legal status	Owner/user	<ul style="list-style-type: none"> – Compensation at replacement cost for the affected portion, without deduction for depreciation or salvageable materials; – Allowance to rebuild or repair the remaining portion; level of allowance will be determined by the EA.
3.2	House/Structure totally affected	All AHs regardless of their legal status	Owner/user	<ul style="list-style-type: none"> – Compensation at replacement cost for the entire affected structures, without deduction for depreciation or salvageable materials. – Cash compensation for expenses for execution of documents; – Assistance for severe impacts and for relocation (see items 5.1 and 5.2)
4. Affected Crops and Trees				
4.	Affected crops and trees	Productive trees loss	All AHs irrespective of legal status of land use	– Compensation for the loss of productive trees on the basis of the value of the annual harvest from the tree (s) over a number of years necessary to replace the tree (s) to achieve an equivalent productivity + cost of the seedling.
		Unproductive trees loss		– Compensation for loss of unproductive trees based on value of the wood volume.
		Decorative tree/bushes losses		– Compensation based on market value.
		Agricultural crops		– Compensation based on the harvest value for one year at market rate.
5. Other Support and Assistance				
5.1	Business and employment (temporary and permanent)	All AHS (including workers of affected businesses)	Owners of shops/ commercial establishments	<ul style="list-style-type: none"> – In case of permanent loss, compensation equal to (up to) 1 year's net income (lost profits) plus cost of lost certificates/ licenses/ patents. The income is based on the official tax declaration, or (if tax declaration is unavailable) it is accepted as the official monthly average wage multiplied by (up to) 12. – In case of the temporary loss if a business, compensation equal to the net income for the period of disruption (<1 year). The income is based on the tax declaration, or it is calculated based on the monthly average wage multiplied by the number of months since the operation was disrupted (less than 12 months).
			Workers of affected businesses	– Workers indemnity for lost wages equal of 3 months' income. For temporary loss of employment, indemnity for lost wages for the duration of impact if less than 3 months.
	Allowances for	All severely affected	All AHs including	– A rehabilitation allowance of 6 months

	Type of Impact	Application	Type of DPs	Compensation Entitlements
5.2	Severe Impacts	households	informal settlers and relocated renters.	at minimum national salary for relocated AHs.
5.3	Relocation Allowances	Transport costs for relocation	All relocated AHs including relocated renters and movable businesses.	– Relocation under the Project arrangement or market-based cost of transport for self-relocation within the village/settlement.
5.4	Assistance for vulnerable households	All vulnerable households;	Vulnerable HH as per definition in the LARP/LARF.	– In addition to any other entitlement, a cash allowance equivalent to 6 months per HH of a minimum salary and employment priority in Project-related jobs.
5.5	Compensation for registration of documents	ALL HH who have to buy a new land and register new properties	All AHs with land acquired.	– Compensation for real costs of registration;
6.	Temporary and Unforeseen Impacts			
6.1	Temporary Impacts during construction	Temporary impacts on land	Legal and legalizable HH	– Pay a rent to AHs. The rent will be negotiated with affected households. – The land will be restored to its pre-project condition
		Temporary impacts on access	All HH	– The contractor will have to ensure access to shops and residences; – Construction period will be minimized;
6.2	Unforeseen LAR Impacts, if any	GRM Committee makes decisions on an individual basis	All AHs	– Rehabilitation will be based on the above provisions and in compliance with the Land Acquisition and Resettlement Framework (LARF) and applicable laws of the Republic of Kyrgyzstan.

3.1 Eligibility

44. The displaced persons eligible for compensation or rehabilitation provisions shall include line the following:

- (i) All land owning displaced persons losing land or non-land assets, i.e., crops and trees whether covered by legal title or traditional land rights, whether for temporary occupation or permanent acquisition;
- (ii) Tenants and sharecroppers, whether registered or not; for all non-land assets, based on prevailing tenancy arrangements;
- (iii) Displaced persons losing the use of structures and utilities, including titled and non-titled owners, registered, unregistered, tenants and leaseholder's plus encroachers and squatters;
- (iv) Displaced persons losing business, income and salaries of workers, or a person or business suffering temporary effects, such as disturbance to land, crops, and business operations both permanently and also temporarily during construction;
- (v) Loss of communal assets and public infrastructure;
- (vi) Vulnerable displaced persons identified through the social impact assessment (SIA); and
- (vii) In the event of relocation, all displaced persons will receive transitional and other support to re-establish livelihoods.

45. Compensation eligibility will be limited by a cut-off date for each subproject on the day of the beginning of the DP Census and DMS. The MOA will announce the cut-off date through the appropriate channels (local and national mass media). Anyone who occupies or encroaches into the defined boundaries of the subproject area after this date is not entitled to compensation and other assistance for affected assets and incomes.

3.2. Entitlements

46. The project entitlements developed and presented in the entitlement matrix are based on regulations of the Kyrgyz Republic and ADB Social Safeguard policies. Entitlements for each type of AHs

are based on the types and levels of losses. The entitlements also provide various measures aimed at providing opportunities for AHs to obtain development benefits from the project as well as assisting vulnerable AHs to improve their living standards

47. All compensations will be based on independent valuation results, while the valuation itself followed the LAR principles and the above mentioned entitlements.

3.3. Unforeseen Impacts

48. If during project implementation, additional adverse social impacts are identified and/or additional AHs are found, these persons and households are entitled to receive Project entitlements as the others on condition that it can be ascertained that they have actually been in the Project area before the cut-off date for eligibility. New AHs that will emerge due to changes in Project design or alignment prior to or even during construction works are likewise entitled to the same entitlements as those of the other AHs, consistent with the Project LARF.

4. SURVEYS, IMPACTS ASSESSMENT, AND RESETTLEMENT PLANNING

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

4.1. Socioeconomic Survey, Census, Inventory of Losses

50. The MOA with the assistance of the social safeguard consultants will conduct a census and inventory of all losses (IOL) due to the project works based on detailed engineering design. Details on the scope and methods of carrying out the census, Socioeconomic Survey (SES) and Detail Measurement Survey (DMS) are provided below.

- I. **Inventory of losses (IOL) and assessment of land losses.** Based on final engineering design, IOL will be conducted in areas identified where there is a potential risk of a household(s) being adversely affected by the proposed project. Specific data that needs to be gathered includes (i) type or nature of landholding that will be affected by the project, (ii) size; (iii) type and extent of possible project impacts; and (iv) name of owner/tenant of the property that will be affected. It will include all types of losses incurred by affected persons such as area of land to be acquired, type and area of affected structures (houses, shops, fences, sheds, toilets, wells, etc.) damaged infrastructure (drainage, electricity, sewer lines, cable, etc. if any) heating, number of affected trees by type, area of crop production, loss of income and/or livelihood, loss of employment, permanent or temporary impacts, etc.
- II. **Detail Measurement Survey and Census.** PIU and resettlement specialists of Supervision Consultants will undertake surveys for each identified subproject, based on detailed/final technical design. Detailed measurement survey (DMS) includes the following: (i) a full inventory/measurement of all land/other assets losses including buildings, crops, trees, and income; (ii) describing the type of (construction) materials used, i.e. concrete, brick, mud/mud-brick etc.; (iii) an assessment of unit replacement values for each affected item/loss will be conducted to ascertain the value of losses and identify rehabilitation measures to mitigate impacts. A valuation company/individual licensed valuator will be contracted to provide valuation report and define the replacement value per item per AP. Valuation report will serve as a basis for defining compensation package along with other entitlements.
- III. The census of affected persons will be conducted to document the status of potentially affected people within the subproject impact area and identify vulnerable affected persons. It shall cover 100% of affected households/entities, and should identify and record all affected persons. The census will include a socio-economic profile of affected households and entities, especially their assets and main sources of livelihood. These resettlement investigations will be the basis to prepare a detailed inventory of losses for each affected person in terms of type and extent of impact with respect to land, structure, livelihoods and access to common property resources, if any.

- IV. Socio-economic sample survey. The socio-economic sample survey to be conducted for the final LARPs prior to contract award will supplement additional information gathered during the project impact assessment. The survey will provide general socio-economic profile for all the affected households with the focus on severely affected households and affected households/entities. The survey will also collect sex-disaggregated data to address gender issues in resettlement and analysis of social structures and income resources of the population.
- V. **Database.** All information concerning resettlement issues related to land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual affected persons, compensation and entitlements, payments and relocation will be entered onto a computer database. This database will form the basis of information for preparation and implementation of LARP, monitoring and reporting purposes and facilitate efficient management and monitoring of compensation distribution. The collected data and the analysis shall quantify the degree of losses and implications for the affected households in terms of living conditions, livelihoods, income loss, intangible loss and other impoverishment risks.

4.2. Compensation, Income Restoration and Relocation

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

- Compensation for land, structures, and all other lost assets is paid in full before construction activity begins;
- DPs losing entire structures are entitled to shifting and reconstruction allowance (cash) for moving to alternative premise for re-establishing house/business;
- Shifting allowance for households based on actual cost of moving/unloading;
- Compensation for business and employment (temporary and permanently) ;
- Assistance during the transition period (ie. accommodation rental during the house construction);
- Allowances to seriously affected and vulnerable persons, relocation allowances;
- As a gap-filling measure, special permit will be given for physically displaced Aps to construct new house/buildings on the replacement land, while the procedure of earmarking the land plot is done and registration of the land use rights is on-going. Having done that, the MOA will ensure the registration of land use rights is reasonably speed-up and DPs do not face difficulties getting their land use certificates. This issue will be one of the focus areas for the resettlement monitoring task.
- Compensation of any temporary impact envisaged during the construction period.

5. PUBLIC CONSULTATION, PARTICIPATION AND DISCLOSURE

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

53. The Constitution of Kyrgyz Republic guarantees the right of the people to access information on activities of state and municipal authorities in the manner prescribed by the Constitution.⁴ In addition, it confers citizens the right to receive information on the disbursement of funds from the state budget, as prescribed. The Law of the Kyrgyz Republic on access to information held by state bodies and local self-government bodies requires maximum openness of information, publicity and transparency of the activities of the state and local authorities.

54. Following the above requirements, information disclosure, consultation and participation (C&P) activities should be timely carried out in the process of preparing the LARP. C&P plan will be prepared and will be implemented during LARP and project implementations, further information disclosure.

⁴ Article 33, Chapter II of the Constitution of Kyrgyz Republic.

55. This LARF in Kyrgyz and Russian languages will be disclosed to the public on the MOA website. It will be also disclosed to the affected communities. LARF in English will also be disclosed on ADB website after being endorsed by the MOA and ADB. Consultation with the affected communities will be held throughout the Project cycle.

56. During the LARP preparation SES with the inclusion of gender disaggregated data and consultations with communities, in addition to the information about the Project, LAR processes, bidding process and expected time for the beginning of the works, the MOA Decree on the GRM and information about the cut-off date will be provided to the APs. In addition, where necessary, consultation with and feedback from different groups within the affected communities will be carried out through focus group discussions.

57. During the LARP implementation, the following information disclosures are planned:

- uploading of the draft LARP in English on the ADB website; distribution of copies of the LARP in the Kyrgyz and Russian language in the local authorities' offices
- posting of the approved draft LARP in the Russian language on the MOA website;
- in case of changes in project design, which may result in changes of resettlement impacts, measurement of additional impact, valuation and updating of the LARP will be undertaken. Consultations with DPs and information disclosure will be ensured as per the established LAR consultations procedure. The updated LARP will be disclosed to the displaced persons, and submitted to the PIU and ADB for approval prior to the commencement of construction in the section(s) where the design has been changed. The updated and approved LARP will be uploaded on the ADB and MOA websites.

6. INSTITUTIONAL FRAMEWORK

58. The planning, preparation and implementation of the LARP involves distinct processes and different parties, including ADB, MOA, Ministry of Finance, LARC, etc.

59. The project executing agency will be MOA, with responsibility overall project progress and implementation of outputs 1 and 2. MOES will be the implementing agency, responsible for implementation of output 3. A project implementation unit (PIU) within MOA will be established to implement the project on behalf of MOA and MOES, supported by a project implementation consultant led by international specialists.

6.1. ADB

60. ADB will be the funding agency of the project, including LAR activities except land acquisition costs. In addition to funding; ADB will periodically review project and LARP implementation status as well as provide clearance for contract awards and the signing/initiation of civil works on the project.

61. Main responsibilities of ADB at loan implementation stage are:

- (i) Selection and mobilization of a design consultant with approved national and international resettlement specialists and inclusion of costs and requirements for resettlement related activities in the tender/contract documents;
- (ii) Approval of the Action Plan of LARP processes;
- (iii) LARP submission, approval and endorsement;
- (iv) Disclosure of LARP;
- (v) ADB reviews and approves Compliance report; ADB issues No objection to construction.

6.2. MOA/PIU

62. The Ministry of Agriculture, Food Industry and Land Reclamation (MOA) is the Executing Agency (EA). As the EA, MOA has the overall responsibility for project implementation, as well as the LARP implementation.

63. Main responsibilities of MOA/PIU at loan implementation stage are:

- (i) Selection and mobilization of a design consultant with approved national and international resettlement specialists and inclusion of costs and requirements for resettlement related activities in the tender/contract documents;
- (ii) Approval of the Action Plan of LARP processes;
- (iii) Agreeing on key implementing mechanisms for the final LARP;
- (iv) Engaging LARC;
- (v) Selection of the Consultant for DMS, Census, SES and Valuation; Training LARC on ADB SPS (2009) and LAR;
- (vi) Community Consultations;
- (vii) Re-activate GRM. Establish GRCs and appoint Focal Persons;
- (viii) Approval of the Valuation Report by the relevant authority;
- (ix) Assisting in legalization processes;
- (x) Disclosure of compensation amounts to APs;
- (xi) LARP submission, approval and endorsement;
- (xii) Disclosure of LARP;
- (xiii) Implementation of LARP;
- (xiv) Monitoring and reporting on LARP implementation;
- (xv) Preparation of LARP Compliance Report for ADB revision and approval;
- (xvi) Handing over LAR impacted subsection for construction.

6.3. Consultant

64. Tasks and responsibilities of the Consultant at detailed design stage include:

- (i) Selection and mobilization of a design consultants with approved national and international resettlement specialists and inclusion of costs and requirements for resettlement related activities in the tender/contract documents;
- (ii) Development of Action Plan for LARP preparation;
- (iii) Agreeing on key implementing mechanisms for the final LARP;
- (iv) Selection of the Consultant for DMS and Valuation;
- (v) Training LARC on ADB SPS (2009) and LAR;
- (vi) Community Consultations;
- (vii) Preparation of Implementation Ready LARP and its submission for approval to MOA/ADB.

65. At project implementation, consultant will be engaged to assist MOA/PIU to implement the LARP and to carry out monitoring and reporting

6.4. Ministry of Finance

66. The Ministry of Finance has the overall financial responsibility for the Project.

6.5. LAR Commission

67. Main responsibility of the LARC is to assist MOA to implement the LARP. Roles of the LARC include:

- (i) Participation in public consultations
- (ii) Assisting PIU to carry out internal monitoring
- (iii) Participation in GRM, facilitating resolution

- (iv) Facilitating land surface clearance of ROW after LAR being implemented

6.6. GRGs

68. Any complaints during LARP implementation and construction period will be registered and addressed by the GRGs. Functioning of GRGs are detailed in the following subsection.

7. GRIEVANCE REDRESS MECHANISM

7.1. Grievance Redress Mechanism

69. The Grievance Redress Mechanism (GRM) is a process and forum through which the affected people need a trusted way to voice and resolve concerns about LAR and the project also finds an effective way to address affected people's concerns.

70. APs and local people have the right to file complaints and/or queries on any aspect of the project, including LAR, environmental and other safeguard issues. Under the GRM, people may appeal any decision, practice or activity related to the project. All possible avenues will be made available to the affected persons and others to voice their grievances. The PIU will ensure that grievances and complaints on any aspect of the project are addressed in a timely and effective manner.

7.1.1. Objectives

71. Objectives of the GRM are:

- To reach mutually agreed solutions satisfactory to both the project and the APs, and to resolve any grievances locally, in consultation with the aggrieved party;
- To facilitate the smooth implementation of the LARP, particularly to cut down on lengthy litigation processes and prevent delays in project implementation; and
- To facilitate the development process at the local level, while maintaining transparency as well as to establish accountability to the affected people.

72. The mechanism will consist of grievance resolution of two levels, the local and central levels. At each level, a grievance redress group (GRG) will be established. The role and responsibility of the GRGs is to accept claim and complaints, assess its validity, determine the scope of eventual impacts, and timely resolve the issue, including the claims regarding the compensation and maintain GRM as flexible and efficient to address and resolve the claims as raised during LARP and project implementation.

73. The GRM covers issues related to social, environmental and other safeguard issues under the ADB safeguard covenants and Kyrgyz laws.

7.1.2. Grievance Redress Groups

74. The Grievance Redress Groups (GRGs) will be established at both local and central levels. The GRGs will function for the duration of both LARP and project implementation. The local GRGs include one in each affected Ayil-Okmotu (village) and the central GRG is set at MOA in Bishkek.

75. The contact information of GRGs will be included in the RIB that will be distributed among affected households prior to LARP implementation.

76. At each level of appeal, the GRG will be assisted as needed by the professional capacity to solve specific case. They include:

- (i) Representatives of State Rayon Administration
- (ii) Representatives of the Rayon Branch of the State Agency for Architecture and Construction
- (iii) State Registration Services of the Rayon
- (iv) State Agency for Environment and Forestry
- (v) Ministry of State Property
- (vi) Ministry of Emergency

- (vii) Technical expertise from professional engineers, and consultants with relevant experience in social safeguards and resettlement.

7.1.3. Grievance Resolution Process

77. The complaints and grievances from the AHs will be addressed through the procedure described in Table 3 and Figure 1 further illustrates it.

TABLE 3: GRIEVANCE REDRESS PROCEDURE

Step	Action Level	Process	Timeline
1	Resolution by LFP	At initial stage, the LFP will give hearing to the aggrieved person and try to give acceptable solutions. If an aggrieved person is not satisfied with the solutions, then she/he will lodge grievances in written to the local GRG within 3 days.	3 days
2	Resolution at local level	After receiving written complaint, the LFP will review and prepare a Case File (see Appendix 8) for GRG hearing and resolution. A formal hearing will be held with the GRG on a date fixed by the LFP in consultation with the aggrieved person. On the date of hearing, the aggrieved person will appear before the GRG and present proofs in support of his/her claim. The LFP will note down the statements of the complainant and document all proofs. The decision from majority of the members will be considered final from the GRG and will be issued by the LFP and signed by other members of the GRG. The case record will be updated and the decision will be communicated to the aggrieved person by the LFP within 10 days. If aggrieved person is not satisfied with the solution, the LFP will lodge grievance in written to the central GRG at MOA with conclusion and supporting documents prepared at local level.	10 days
3	Resolution at central level	After receiving written complaint, the central GRG Chairperson will review and prepare a Case File for GRG hearing and resolution. A formal hearing will be held on a date fixed by the GRG Chairperson and the aggrieved person. GRG members will contact the complainant and visit his/her village. The safeguard specialist/sociologist of PIU will note down the statements of the complainant and document all proofs. The decisions from majority of the members will be considered final from the central GRG and will be issued by the Chairperson and signed by other members. The case record will be updated and the decision will be communicated to the aggrieved person by the safeguard specialist/sociologist of PIU within 7 days of submission.	7 days

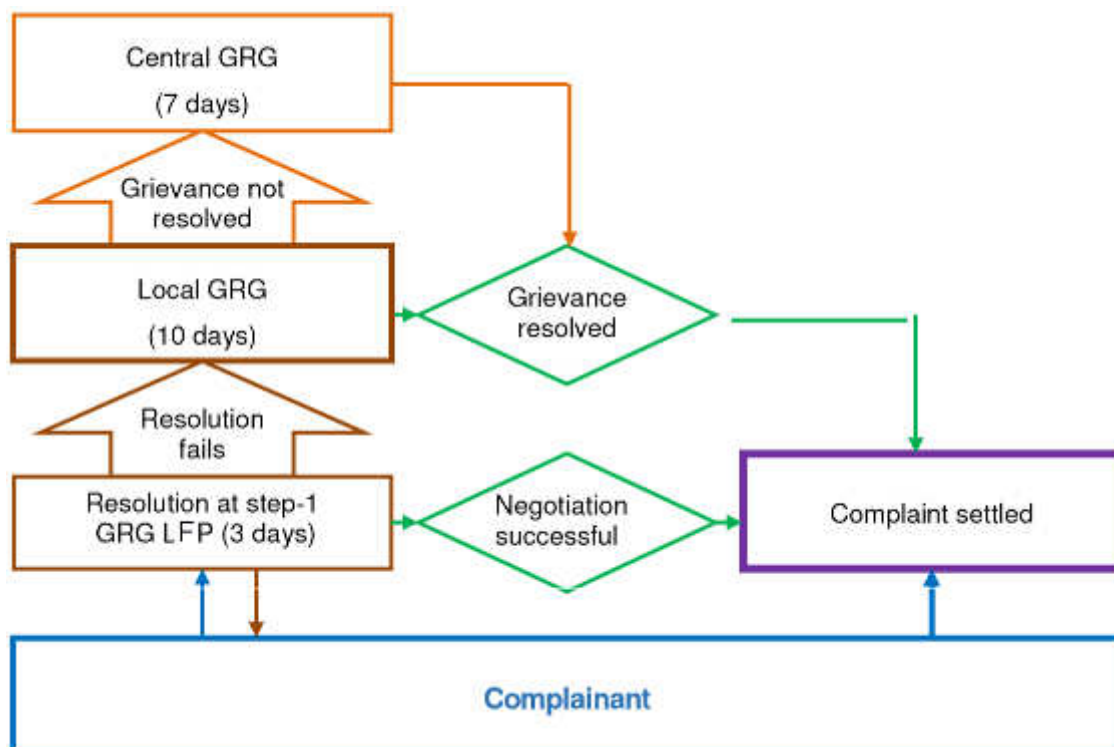


FIGURE 1: GRIEVANCE REDRESS PROCEDURE

7.1.4. Additional Mechanisms

78. Any physical and legal person, any appellant can communicate his/her concern to the court at any stage of grievance redress. The GRGs will not restrict or influence the AP from applying to court for legal remedies.

79. If the complaint is found invalid, the GRG will formulate a response and send a written letter to the complainant, explaining the reasons of rejection.

80. In addition, ADB has its Accountability Mechanism Policy (2012)⁵ that is to be accountable to people for ADB-assisted projects as a last resort mechanism. The accountability mechanism provides a forum where people adversely affected by ADB-assisted projects can voice and seek solutions to their problems and report alleged noncompliance of ADB's operational policies and procedures.

81. The complainant, if not satisfied with GRG's decision or even the court's decision, can appeal the case to Office of the Special Office Facilitator of ADB⁶. The GRGs will not in any way impede APs' access to the ADB Accountability Mechanism.

82. All expenses incurred by affected households in grievance/complaint filing and its resolution will be covered by the project.

7.1.5. Complaint Documentation

83. The PIU of the MOA will document all grievances in both written and electronic forms.

8. CAPACITY BUILDING FOR LARP IMPLEMENTATION

84. To ensure satisfactory and smooth implementation of potential LAR issues under the Project and to further develop capacity of the EA to handle LARPs, MOA/PIU will need to recruit a social safeguard consultant to manage all relevant issues. 1-2 days' awareness raising sessions on ADB social

⁵ <https://www.adb.org/site/accountability-mechanism/main>.

⁶ www.adb.org/site/accountability-mechanism/contacts

safeguards, including land acquisition and involuntary resettlement, compensation entitlements, public consultation, Grievance Redress Mechanism, internal and external monitoring of resettlement plans will be carried out for Central and local level stakeholders, involved in LARP preparation and implementation, when the Project starts.

9. RESETTLEMENT BUDGET AND FINANCING

85. All the costs associated with LAR administration, compensation of DPs and LARP implementation will be financed by the Project.

86. Ministry of Finance of the Kyrgyz Republic will allocate funding based on the submitted request from MOA with details of the DPs and compensation amounts based on the LARPs. The funds will be transferred to the special account in every concerned district and DPs will pick-up their compensation amount in person when verified against their passports/IDs. MOA/PIU together with the internal monitor/resettlement Consultant will observe compensation payment and carry out sample survey of DPs who received compensation. The results of the monitoring will be reflected in the periodic Social Safeguards Monitoring Reports to the ADB.

87. MOA will ensure compensation funds are made timely available and DPs are compensated prior to acquiring their land and private assets. It will estimate detailed LARP budget, which will include: (i) detailed costs of land acquisition, structures, trees, relocation, and livelihood and income restoration and improvement; (ii) administrative costs; (iii) LARP implementation costs.

10. IMPLEMENTATION SCHEDULE

88. MOA will make sure resettlement planning is carried out before the award of the civil works contract. Any LARPs, if required, shall be implemented before the commencement of the civil works. The implementation schedule for LAR tasks will depend on the design of the sub-projects.

89. Extensive preparatory activities and tasks are planned and will be taken to ensure a successful implementation of the LARP. MOA/PIU, with assistances of the Consultant, will implement the LARP. MOA/PIU will be responsible for the internal monitoring and reporting. The LARP implementation action plan is illustrated in Table 4.

TABLE 4: LARP IMPLEMENTATION STEPS

	Tasks	Responsibility
1	Preparations	
1.1	MOA's approval of LARP	PIU
1.2	ADB's approval of LARP	PIU
1.3	Review and approval of LARP by Ministry of Finance, Ministry of Justice, and others	MOA
1.4	Approval and endorsement of LARP by Government of Kyrgyz Republic	MOA
1.5	MOA orders to approve GRM and establish GRGs	PIU
1.6	Distribution of LARPs among affected villages	PIU
1.7	Distribution of RIBs among AHs	PIU
2	LARP Implementation	
2.1	Develop LARP implementation action plan in order to update the draft LARP based on the final design. Additional DMS and SES might be required depending on the changes in the final design. LARP implementation action plan send to ADB	PIU
2.2	Negotiations between the Ministry of Finance and the Bank about the issue of commission	PIU
2.3	Order of the Minister of MOA about compensations	PIU
2.4	Update the order of GRM	PIU
2.5	Update information about GRM for local contact persons	PIU
2.6	Preparation and approval of agreements on the land acquisition for all Project APs	PIU
2.12	Processing LAR agreements between MOA & AHs	PIU
2.13	Payment of compensations to AHs	PIU, MOA
3	Monitoring and Reporting	
3.1	Submission of monthly, quarterly, semi-annual and annual progress report	PIU

3.2	Submission of LARP implementation report	PIU
3.3	Approval of LARP implementation report and issuance of a NOL to start civil works	ADB

11. MONITORING AND REPORTING

90. The implementation of the LARP will be subjected to internal monitoring. Internal monitoring will focus on LARP implementation progress and will be conducted by MOA/PIU with assistance from Consultant.

91. The objectives of the monitoring are to:

- (i) monitor LARP implementation progress and check whether or not the time lines are being met;
- (ii) assess if compensation, rehabilitation measures and social development support are sufficient;
- (iii) identify problems or potential problems;
- (iv) identify immediate/rapid response methods to mitigate problems or potential problems;
- (v) ensure that the GRM is functioning and grievances, if any, are being addressed timely and effectively; and
- (vi) ensure that the standard of living of AHs is restored or improved.

71. The project will not include any category 'A' subproject in accordance with ADB SPS (2009). For that reason, external monitoring of LARP implementation will not be necessary.

72. Upon completion of land acquisition and resettlement, PIU will prepare a LARP implementation report for ADB's review and approval. Besides, PIU will report the progress of LARP implementation through semiannual resettlement monitoring reports (SRMR). The SRMRs will be posted on the ADB website upon approval by ADB.

APPENDIXES

Appendix 1: Outline of land acquisition and resettlement plan

A. Executive Summary

This section provides a summarized information of project scope, key survey findings, entitlements and recommended actions.

B. Project Description

- (i) General description of the project, including project objectives, scope, implementation timelines, institutional arrangements. Discusses project components that result in land acquisition, involuntary resettlement, or both, and identifies the project area.
- (ii) LARP preparation rationale, including the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.
- (iii) Objective and scope of the LARP.
- (iv) Project cut-off date, including a concept of the cut-of-date, its legal consequences, approach to the definition and mechanisms of communication to APs.
- (v) LAR related project implementation conditions.

C. Scope of Land Acquisition and Resettlement

- (i) discusses the projects impacts;
- (ii) describes the scope of land acquisition;
- (iii) key effects in terms of assets acquired and displaced persons; and
- (iv) provides details of any common property resources that will be acquired.

D. Socioeconomic Information and Profile

- (i) defines, identifies and enumerates the people and communities to be affected;
- (ii) describes the impacts of land and asset acquisition on the people and communities;
- (iii) discusses the project's impacts on the poor, and/or ethnic minorities, and other vulnerable groups; and
- (iv) identifies gender dimension of LAR

E. Information Disclosure, Consultation, and Participation

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms;
- (iii) describes the activities on project and resettlement information;
- (iv) summarizes the results of consultations;
- (v) confirms disclosure of the draft resettlement plan; and
- (vi) describes the planned information disclosure measures.

F. Grievance Redress Mechanisms

Please see guidance notes GRM, for additional information

G. Legal Framework

- (i) describes national and local laws and regulations;
- (ii) describes the legal and policy commitments;
- (iii) outlines the principles and methodologies used for determining valuations and compensation rates;
- (iv) describes the land acquisition process.

H. Entitlements, Assistance and Benefits

- (i) defines displaced persons' entitlements and eligibility;
- (ii) specifies all assistance to vulnerable groups and
- (iii) outlines opportunities for affected persons.

See Guidance Notes on Compensation for additional information

I. Relocation of Housing and Settlements

- (i) describes options for relocating housing and other structures;
- (ii) describes alternative relocation sites considered;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure;
- (v) outlines measures to assist displaced persons;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

- (i) describes income restoration programs;
- (ii) outlines measures to provide social safety net through social insurance and/or
- (iii) project special funds;
- (iv) describes special measures to support vulnerable groups;
- (v) explains gender considerations; and
- (vi) describes training programs.

K. Resettlement Budget and Financing Plan

- (i) includes budget for all resettlement activities;
- (ii) describes the flow of funds;
- (iii) includes a justification for all assumptions;
- (iv) information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

- (i) describes institutional arrangement responsibilities and mechanisms;
- (ii) includes institutional capacity building program;
- (iii) describes role of NGOs; and
- (iv) includes a gender sensitive description of all arrangements

M. Legalization of Displaced Persons' Rights

Action plan on assistance required for the legalization process of DPs' rights shall be provided with specific timelines and responsible parties identified. This action is a country specific and includes requirements of national laws and regulations on legalization of DPs' assets in order to make DPs eligible for compensation. For more details, please refer to GN 9 – Legalization of DPs.

N. Implementation Schedule

The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

O. Monitoring and Reporting

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

P. LIST OF APPENDIXES

The following appendixes should be attached to the LARP:

1. List of DPs with respective impacts and losses
2. Survey and Valuation Methodology
3. All survey instruments (for example, assets inventory checklist, Census survey questionnaire etc.);

4. Template of assets description protocol(s);
5. Sample of acquisition contract and/or agreement;
6. Documents, brochures disclosed and to be disclosed to APs (for example, project information brochure, LARP information brochure, notification letters, GRM etc.);
7. Documentation related to public consultations, including minutes of meetings, list of participants, photos etc.;
8. TOR for different participants/entities involved in the LARP implementation – such as the LARP implementation team, External Monitoring Agency, GRM implementers etc;
9. Other relevant documents.

For more details, please see the ADB SPS 2009, Annex to Appendix 2: Outline of a Resettlement Plan.

Appendix 2: Involuntary Resettlement Impact Screening Checklist

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

Are any displaced persons from indigenous or ethnic minority groups?

No Yes

If yes, how many? _____

Appendix 3: List of all dwrm moa preliminary proposed suprojects

#	Site Name	Oblast	Rayon	Estimated cost, \$ '000
1	Kydyrally Canal	Talas	Manas	10 000
2	Uzgen Canal	Osh	Uzgen	676
3	Sawai Canal	Osh	Kara-Suu	3 000
4	Ylai-Talaa Canal	Osh	Kara-Kuldja	500
5	Saparbayeva - 1 Canal	Osh	Nookat	403
6	Jany-Jogorku Akman Canal	Jalal-Abad	Bazar-Korgon	3 000
7	Pravaya Vetka (Right Arm) Kara-Ungur-Say Channel (KUS)	Jalal-Abad	Nooken	2 500
8	Zernovoi Kok-Art Canal P1, P-2	Jalal-Abad	Suzak	4 500
9	Construction of a sump on the Burana River to protect the Osmon Canal	Chui	Chui	1 611
10	Ajydaar Mudflow diversion Canal	Chui	Ysyk-Ata	86
11	Karandy-Bolot Mudflow diversion Canal	Chui	Ysyk-Ata	58
12	Stepninskoe Reservoir (catastrophic discharge)	Chui	Jayil	107