

Land Acquisition and Resettlement Framework

Updated October 2017

AFG: Energy Supply Improvement Investment Program

Prepared by the project preparatory consultant, on behalf of Da Afghanistan Breshna Sherkat of the Government of Afghanistan, for the Asian Development Bank.

CURRENCY EQUIVALENTS

(as of 1 October 2017)

Currency unit	–	Afghani (AFN)
AF1.00	=	\$0.0143
\$1.00	=	AFN68.10

ABBREVIATIONS

ADB	—	Asian Development Bank
APs	—	affected persons
DABS	—	Da Afghanistan Breshna Sherkat
DP	—	displaced person
GRM	—	Grievance Redress Mechanism
GRC	—	Grievance Redress Committee
IR	—	involuntary resettlement
LAR	—	land acquisition and resettlement
LAL	—	Land Acquisition Law
LAC	—	Land Acquisition Collector
MFF	—	Multitranches Financing Facility
M&E	—	monitoring and evaluation
PMU	—	project management unit
PVCC	—	provincial valuation and compensation committee
SPS	—	Safeguard Policy Statement

GLOSSARY

Affected person	Persons in the project's area of influence experiencing economic, social or environmental impacts
Compensation	Payment in cash/voucher or kind to which the affected people are entitled in order to replace the lost asset, resource or income.
Cut-off date	A cut-off date is a date of eligibility for entitlements, which is required to be disclosed. A person settling in the project affected area after this published date and claiming compensation will not be eligible to receive compensation. If a country's laws do not provide for such a cut-off date, generally the project level census start or end date is determined to be the cut-off date.

Displaced person	Person affected by involuntary acquisition of land or involuntary restrictions on land use resulting in physical or economic displacement.
Economic displacement	Loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Entitlements	All compensation, relocation and income restoration measures due to displaced persons, specified by their property status and particular losses.
Involuntary resettlement	Development project results in unavoidable resettlement losses that people affected have no option but to rebuild their lives, incomes and asset bases elsewhere.
Non-titled displaced person	Displaced persons without formal legal rights to land or claims to land recognized or recognizable under national law; eligible for compensation of non-land assets.
Replacement cost	Compensation for acquired land, structures and other assets, including (i) fair market value, (ii) transaction costs, (iii) interest accrued, (iv) transitional and restoration costs, and (v) other applicable payments, if any.
Socio-economic survey	Assessment of the social and economic conditions of the displaced persons through a combination of quantitative and qualitative research methods, providing a baseline and benchmark for monitoring and evaluation.
Vulnerable person	A distinct group of people who may suffer disproportionately from resettlement effects. The SPS defines vulnerable groups as households below the poverty line, the elderly, female headed households, and disabled headed households, those without legal title to assets, landless, women, children and indigenous people.

NOTES

- (i) The fiscal year (FY) of the Government of the Islamic Republic of Afghanistan and its agencies ends on 20 December. "FY" before a calendar year denotes the year in which the fiscal year ends, e.g., FY2015 ends on 20 December 2015.
- (ii) "\$" refers to US dollars

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I. INTRODUCTION

1. **Investment Program.** Afghanistan is globally among the lowest 10% in per capita energy consumption and is a net energy importer. In 2014, more than 80% of its total power demand was met from Iran (17%), Tajikistan (25%), Turkmenistan (12%), and Uzbekistan (27%), with remaining 19% met through indigenous sources.¹ Although significant renewable energy and fossil fuel resources exist, these need to be developed through public and private investments. In 2014, nearly 97% of country's oil needs were imported. Infrastructure deficit in gas sector restricts *identified reserves of 75 billion cubic meters within 150 square kilometers area only*. Power remains a growing portion of total energy consumption and connection rates have increased from 7% in 2003 to 30% in 2014 when demand was 750 megawatts (MW) ² and power consumption was 3,700 gigawatt-hours (GWh).³ Energy demand in major cities is growing by 25% every year and by 2032, demand is forecast to reach 3,500 MW and electric consumption at 18,400 GWh.⁴ Meeting this exponential increase in demand requires boosting all viable import options in parallel to harnessing domestic resources. The key challenges are: (i) lack of generation capacity, (ii) increasing constraints in transmission and distribution systems, (iii) weak financial management and sustainability of sector entities, and (iv) inadequate corporate governance structures.

2. In this context, the MFF investment program will augment energy trade and regional cooperation, strengthen country's energy infrastructure, increase energy supply to accelerate electrification rate, and improve operational efficiency in the sector. In the power subsector, generation (conventional and renewable), transmission (domestic and regional), and distribution (on- and off-grid) projects are proposed; while wells rehabilitation and gas to power conversion projects are proposed in gas subsector. Current lack of energy supply and demand-supply imbalance in Afghanistan constrains economic growth and opportunities; creates disparities in economic development; and fuels ethnic and regional tensions, insecurity, and discontent.⁵ An MFF instead of a stand-alone project is proposed for investment because (i) tranches will be programmatically aligned and sequenced with government's National Energy Supply Program (NESP), (ii) program will be showcased to explore and confirm co-financing options, (iii) continuity in combining investments in energy infrastructure and nonphysical components for integrated energy sector development will be ensured, and (iii) to allow neighboring countries to develop regional projects for transit and trade into Afghanistan and beyond.

3. **Purpose of the Resettlement Framework (LARF).** The investment program, including Tranche 1 and all other subsequent tranches, are expected to have Category B LARP impacts. Following ADB's Safeguard Policy Statement (SPS 2009), and the Afghanistan's amended Land Acquisition Law, this LARF was prepared by DABS in October 2015 and eventually updated in October 2017 to guide preparation of LARPs for future subprojects and mitigate any impacts, should they arise, for future subprojects.

4. The SPS 2009 recognizes that people in the project area are generally considered as 'vulnerable' population requiring special attention and assistance in case of losing property, access to common property, and socio-cultural identity due to an ADB supported project. Their

¹ 135 gigawatt hours/million people compared to 540 in Pakistan, 1,340 in India, and 1,300 in Papua New Guinea

² Unmet peak demand due to lack of power infrastructure and investment deficit is estimated close to 2,000 MW

³ Latent demand is estimated at 2,500 MW which remains unserved due to lack of power infrastructure.

⁴ ADB. 2010. *Technical Assistance to Afghanistan for the Power Sector Master Plan*. Manila (TA 7637-AFG, for \$1.5 million approved on 6 November 2010).

⁵ Asian Development Bank (ADB) provided project preparatory technical assistance for the *Multitranche Financing Facility II: Energy Development 2014-2023*. (TA 8509-AFG for \$1.5 million approved on 20 November 2013).

entitlements for the losses suffered are to be built into a resettlement plan for the project.

II. ASSESSMENT OF LEGAL FRAMEWORK AND INSTITUTIONAL CAPACITY

A. Afghanistan's Legislative Framework

5. Ratified in early 2004, the new Afghan Constitution has three articles closely related to compensation and LAR. The Cabinet approved a land policy in 2007 that provides the general framework for land management and administration. However, it is yet to be fully rationalized. A draft revision of this policy has been prepared to reflect the institutional changes in land sector, including the establishment of an independent land authority (ARAZI), and integration of resettlement and rehabilitation into the policy among others. For public interest purposes, such as the construction of public infrastructure and the acquisition of land with cultural or scientific value, land of enhanced agricultural productivity, or large gardens, the amended Land Acquisition Law (LAL) approved in 2017 provides that:

- Private lands will only be acquired for the purpose of pre-defined types of projects for public interest. (Article 5).
- Limitations in land acquisition: Lands with historic, cultural values and protected areas will not be expropriated. (Article 6, section 1). Expropriation of agricultural and orchard lands, forests, agricultural farms and green areas with environmental values will require state approval. (Article 6, section 2).
- In case parts of the private land is expropriated in a way that the remaining parts are useable by the owner, these remaining parts will not be expropriated. (Article 15, section 3).
- In case the remaining part is not usable by the owner, subject to owner's agreement, the expropriating agency will need to expropriate the remaining parts as well. (Article 15, section 4).
- The expropriating agency can acquire/purchase land, out of the city master plan area, upon settlement and in negotiation with the owner. (Article 18, section 1).
- The expropriating agency will need to pay the compensation for the expropriated assets to the affected person before commencement of the project. (Article 37, section 1).
- Resettlement: The expropriating agency will need to take necessary measures in accordance with the Law of Mines, Electricity provision law and other relevant laws, to resettle those families living out of the city master plan area losing houses in a collective manner and for this purpose a resettlement committee is proposed. (Article 38, sections 1 & 2).

B. ADB's Safeguard Policy Statement (2009)

6. ADB has adopted SPS in 2009 including safeguard requirements for environment, involuntary resettlement (IR) and indigenous peoples (IP). The objectives of involuntary resettlement safeguard policy is 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. Following are the basic policy principles of ADB's SPS on involuntary resettlement:

- 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 affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and 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 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.

- 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 affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected 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 subproject 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, and disclose monitoring reports.

C. Bridging Afghanistan's and ADB's Land Acquisition and Resettlement Requirements

7. The amended Land Acquisition Law (LAL) of Afghanistan and ADB policy diverge on some key points on compulsory acquisition of land. The amended LAL introduced a number of improvements that provide greater protection to people who are displaced by development projects. The LAL now requires consultation with affected parties on compensation options. Specific article on collective resettlement of people displaced by the project affecting an entire village has been articulated in this amended LAL. However, the amended LAL does not entitle to compensation DPs without title nor provides compensation for income losses caused by LAR. Table 0-1 summarizes the differences between the amended LAL and the ADB safeguards, and identifies the resolutions taken for the subprojects to reconcile the gaps.

Table 0-1: Gap Analysis between ADB's and the amended LAL's Requirements

ADB SPS 2009	Amended Land Acquisition Law (LAL)	Remarks/Agreed Reconciliation Measures
DPs should be compensated for all their losses at replacement cost.	Land acquisition and resettlement (LAR) for public interest is to be compensated based on equal/fair value according to current market rates. In case of residential land, land for land is offered. Affected crops and trees will be valued by the competent authorities.	Affected land will be compensated at replacement cost, free of transaction cost, while buildings/structures are compensated without deducting for depreciation. Crops or trees will also be compensated in cash at replacement rates.
Lack of formal title should not be a bar to compensation/rehabilitation.	Provides compensation to DPs with formal or traditional/customary rights to land. DPs without such rights on the land are not compensated for non-land assets	Compensation at replacement cost will be provided for titled and customary users, and rehabilitation for non-title holders.
DPs should be timely compensated.	Land owners/users rights on a plot will be terminated prior to commencement of project works. The termination of the owner/user rights will not affect the rights to collect the last harvest except in the case of an emergency.	Crops compensation whether they have been harvested or not will be provided to avoid civil works delays and pressures on land users to harvest a crop before it is fully ripe. Land users harvesting their crops after notification of the land occupation date will not lose any part of their due compensation.
DPs should be compensated and/or assisted to guarantee at least the maintenance of their pre-project livelihood level.	Compensation at market rate will be given for land, house, crops or trees losses. However, compensation for income losses/relocation costs are not considered.	General rehabilitation for income losses and for relocation costs will be given if these impacts occur.

D. Land Acquisition and Resettlement Management Capacity of EAs

8. The EA, Da Afghanistan Breshna Sherkat (Afghanistan Electricity Corporation), has established Safeguard Unit within its PMO which has been dealing with ADB funded projects for the last 4-5 years and has a reasonable knowledge of ADB policy. This unit is further supplemented with project implementation consultant support for the MFF 1. The EA has been submitting internal monitoring reports regularly for the tranches in implementation under MFF1.

III. LAND ACQUISITION AND RESETTLEMENT POLICY FOR THE INVESTMENT PROGRAM

A. Scope of Tranches and projects

9. The investment program will involve projects in power generation (conventional and renewable), transmission lines (domestic and regional), and distribution networks (on- and off-grid) projects; gas wells rehabilitation and gas to power conversion projects. These activities will be carried out in greenfield sites as well as within the existing neighborhoods, and could involve major civil works.

B. Involuntary Resettlement Categorization

10. Tranche 1 is classified as category B for involuntary resettlement (IR) as defined in ADB's Operational Manual Section F1/OP. A land acquisition resettlement plan (LARP), is required. This Land Acquisition and Resettlement Framework (LARF) is prepared to provide guidance for preparing a LARP for Tranche 1 as well as for addressing the impacts under subsequent tranches of the MFF. Tranches 2 and 4 were also categorized as B for IR and for which draft LARPs have been prepared. Tranche 3 has no IR impacts as documented in a due diligence report and was categorized as C for IR.

11. Future Tranches under the investment program will be screened by ADB for expected LAR impacts at appraisal using ADB's involuntary resettlement categorization form, the subsequent tranches will be classified based on the significance of the impacts, and planning measures will be prepared accordingly. A Summary Poverty Reduction and Social Strategy, indicating, among others, LAR issues, impact severity, and planning actions will also be submitted.

C. Requirements for Subprojects with Land Acquisition and Resettlement

12. All the projects sites will be selected with due consideration to avoid impact on settlements and there will be a compromise on the accessibility of the planned transmission line. To meet ADB requirements, efforts will be made to avoid/minimize negative impacts as much as possible. The following measures will be adopted to minimize project impacts: non-agricultural government-owned land is used wherever possible; if the HVTL has to traverse agricultural land, the shortest feasible crossing distance is sought; where tower placement allows, suitable land is sought from a land user with a large plot to minimize the number of Affected People (AP) and impact magnitude on any single AP, and built-up areas are avoided wherever possible. Subprojects with LAR impacts will meet the following LAR-related implementation conditions:

- a. signing of contracts awards for the subproject's civil works will be contingent to the preparation of a draft LARP prepared according to the LARF and ADB's relevant polices⁶;
- b. ADB no-objection for issuing notice-to-proceed for the implementation of the subprojects' civil works will be contingent upon the full implementation of the compensation and

⁶ For "design and build" or "turnkey" type of contracts, the detailed design must be completed and transmission line route is fixed before the LARP is finalized. Such contracts should expressly provide that the installation and construction phase (and commencement thereof) is strictly conditional upon the final LARP based on the Project's detailed design having been submitted to, and cleared by ADB; and (ii) DABS having notified the contractor and ADB in writing that due consultation, compensation payments and other entitlements have been provided to affected people fully in accordance with the final LARP.

rehabilitation programs detailed in this LARF and preparing and submitting to ADB a compliance report⁷.

13. Based on ADB's OM section F1/OP (2013) impacts are considered significant when ≥ 200 DPs are physically displaced and/or lose $\geq 10\%$ of their productive assets (income-generating). In these cases, a project is classified as category "A" for the involuntary resettlement safeguard, for which a LARP is to be prepared. Conversely, when losses are minor or non-significant i.e. < 200 DPs are to be physically displaced or lose $< 10\%$ of productive assets, a subproject is classified as category "B" and a LARP is to be prepared. The Tranches 1,2 and 4 have been classified by ADB as **category "B"** for IR and for which a LARP has been prepared. The LARF provides guidance to the elaboration of the LARP. A standard outline of a LARP comprises the following aspects:

- a. Executive Summary;
- b. Introduction;
- c. Scope of Land Acquisition and Resettlement;
- d. Socio-Economic Profile of Affected People;
- e. Legal Policy Framework, Eligibility and Entitlements;
- f. Consultation and Disclosure;
- g. Grievance Redress Mechanism;
- h. Income Restoration and Rehabilitation;
- i. Relocation (if any)
- j. Resettlement/Compensation Budget;
- k. Organizational structure
- l. Implementation Schedule;
- m. Monitoring and Evaluation.

14. **LARP preparation.** If exact alignments are not yet known, a draft LARP will be prepared using the outline in Appendix 1. Otherwise, if a detailed engineering design is available, comprehensive and accurate measurements of actual impacts will be undertaken, and a final LARP will be prepared. Each draft, final or updated LARP will be submitted to ADB for review/approval, endorsed by the borrower/client and disclosed on the ADB website.

15. **Social impact assessment.** A comprehensive assessment of social impacts, involving (i) census of all displaced persons, and an inventory of their lost assets;⁸ (ii) socio-economic survey of a sample of at least 10 percent of severely affected persons; and (iii) detailed measurement survey (i.e. exact description and quantification of all lost assets), and valuation of all lost assets as well as an assessment of lost incomes will be carried out. An eligibility cut-off date will be

⁷ This should include a written notification from DABS to the contractor and ADB confirming that due consultation, compensation payments and other entitlements have been provided to affected people fully in accordance with the final LARP.

⁸ At the beginning of census and inventory of lost assets, the EA and project implementation consultant will work closely with the design engineers to minimize LAR impacts as much as technically feasible and document such efforts in the LARP. In cooperation with the concerned land administration officials, they will also prepare LAR impact maps showing the alignment of project facilities and, based on cadastral maps, boundaries of properties so the affected land and structures can be identified. These maps will also be included in the LARP. The land administration officials will also be requested to provide existing records for the DPs and lost assets. Based on these records and the LAR impact maps, EA and project implementation consultant will undertake the census and inventory of lost assets, in consultation with DPs at each affected property.

declared through notice boards, announcements in consultation sessions and Shuras and formalized when the social impacts assessment survey and census of DPs are completed.

16. **Compensation for and restoration of lost assets.** Negotiated land acquisition will be preferred. The ADB SPS 2009 requirements will NOT apply to such negotiated settlement if the conditions are met. If negotiated settlement fails, the land will be acquired through LAL but with the replacement costs awarded for compensation to the DPs, following the requirements of the SPS (Safeguard Requirements 2).

17. Qualified valuation experts will be engaged to assess the value of all lost assets following legally sanctioned principles of LAL and the ADB involuntary resettlement safeguard norm of replacement cost and value as stipulated in ADB's LAR policy principle 10.

18. Compensation of land and structures will be done at replacement value, either through the replacement of land or structures of equivalent or higher value and quality, or through cash compensation at replacement cost. Replacement costs include fair market value, transaction costs, interest accrued, transitional and restoration costs, and other applicable payments without depreciation. For replacement of land or structures, all transaction costs will be paid by the project or included in compensation payments to the DPs. The value of structures will not be depreciated for age. Incomes and livelihood sources lost, including but not restricted to crops and trees or interruption of business activities and employment, will be fully compensated at replacement cost.

19. All lost civic infrastructure and community services will be either restored or newly provided at relocation sites.

Entitlements Matrix

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land affected by right-of-way (ROW)	AP with title, formal/customary deed, or traditional land right as vouched for by local Jirga, elders or Community Development Council.	Compensation at replacement cost either through replacement plots of similar value or in cash based on replacement/current market to be approved by the council of ministers. All fees, taxes or other charges, as applicable under relevant laws, are to be borne by the project.
Structure loss	Residential/commercial or auxiliary structures affected	Owners of structures (including informal settlers)	Cash compensation for affected structure and other fixed assets at replacement cost of the structure free of depreciation, taxes / fees & salvaged materials. In the case of partial impacts full cash assistance to rest or remaining

Item	Application	Eligibility	Compensation Entitlements
			structure. Right to salvage material from demolished structure
Crop losses	Crops on affected land	Owners of crops/share-croppers	Cash compensation equal to replacement cost of crop lost plus cost of replacement seeds and restoration of future crop activities.
Tree Losses	Trees on affected land	Owner of trees (including informal settlers)	Fruit-bearing trees will be compensated at the value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same productive level of the tree lost. Non-fruit bearing/timber trees will be valued based on the market value of their dry wood volume. The compensation of the tree will be free of deduction for the value of the wood left to the AH.
Business losses	Permanent/temporary	Business / shop owners (including informal settlers)	Owners: Business compensation based on monthly income from that business by month of business stoppage. The compensation for business loss will be calculated based on tax receipts or, when these are not available, based on fixed rates. Employees: indemnity for lost wages up to 3 months' income
Transitional allowance	Relocating households	All relocating households (including renters & informal settlers)	Transitional allowance per household for livelihood losses at AF5,200 ⁹ multiplied by 3 months

⁹ This fixed rate is based on average household income in the affected areas

Item	Application	Eligibility	Compensation Entitlements
Relocation allowance	Relocating households	All relocating households (including renters & informal settlers)	-Relocation allowance per household of AF5,000
Assistance to vulnerable affected households	Affected by land acquisition, resettlement , etc.	AH which are: female-headed; poor (below poverty line) or headed by handicapped/ disabled persons	Additional cash assistance equivalent to 3 months' average household income (AF28,500) Preferential employment in project-related jobs.
Severe loss of agricultural land	Agricultural land		Allowance for severe land impacts equal to replacement cost of a year's net income from crop yield of land lost.
Temporary land occupation		Title holders (formal & informal) lease holders	Rent for duration of use equal to potential crop loss plus plot rehabilitation. Tenants to share the lump sum with land-use certificate holders as per their contract
Unidentified impacts			Unforeseen impacts compensated based on above entitlements during project implementation by EA.
Loss of community, cultural, religious, or Government sites	Temporary or permanent loss due to the transmission line component activities		Conservation, protection & cash compensation for replacement (schools, communal centers, markets, health centres, shrines, other religious or worship sites, tombs. Cash compensation for affected structures based on the above structures entitlements

Item	Application	Eligibility	Compensation Entitlements
Impact on irrigation channels	Temporary or permanent loss due to the project activities	Community/ affected households	Irrigation channels are diverted and rehabilitated to previous standards

20. **DP entitlements.** All titled and non-titled DPs occupying land to be acquired by the project before the cut-off date¹⁰ will be eligible for compensation, relocation and rehabilitation measures, as applicable, regardless of whether the impacts are permanent or temporary, full or partial. Non-titled DPs without legally recognizable claims to land will be eligible for all compensation, relocation and rehabilitation measures, except land. The full eligibility of non-titled DPs with legally recognizable claims to land will be recognized.

21. DPs permanently losing incomes and livelihood sources, as well as poor and vulnerable DPs, are entitled to credit, training and employment assistance to maintain or improve their livelihoods. All DPs will be provided opportunities to share development benefits of the project, if feasible.

22. DPs will not be physically or economically displaced before compensation has been paid, other entitlements have been provided and an income and livelihood program is in place. Relocated DPs will receive secure tenure to replacement land, better housing, transitional support and access to civic infrastructure and services.

23. The above and other entitlements are in the entitlement matrix in Appendix 2. The entitlement matrix indicates each type of loss, and the corresponding entitlements applicable to the specific condition and impact on displaced households, including indigenous peoples.

24. For unanticipated impacts during subproject implementation which are not covered under the eligibility and entitlement provisions, additional eligibility and entitlement provisions will be determined following LAL and SPS 2009. The LARP will be updated with these new provisions, and the DPs will be consulted. The standards for the eligibility and entitlement provisions shall be maintained, and may be raised.

25. **Consultation, participation, and information disclosure to DPs.** The DPs (if any) will be given an opportunity to participate in LAR planning in a form accessible and understandable to them. The DPs' concerns will be fully taken into account, and appropriate steps will be taken to resolve them. The consultations will involve relevant stakeholders, including community

¹⁰ Such eligible DPs include the following: (i) owners of land and/or structures, including those recognized as legally titled or legalizable on the basis of claims recognizable under national law; (ii) lessees (leaseholders) of state or private land, whether long-term or short-term; (iii) sharecrop tenants with or without formal legal registration according to national law; (iv) non-titled occupants of land, such as squatters or encroachers; (v) business owners, whether registered under national law or informal; (vi) employees of private or public businesses or enterprises, whether registered under national law or informal; (vii) cultivators of crops and/or trees, irrespective of legal status of property relation to land; (viii) vulnerable persons, including households headed by women, elderly and/or disabled persons, and households (in local context) with per capita incomes at or below the official poverty line.

leaders, host communities, civil society organizations, NGOs, and the district government. Such consultation will be an ongoing process starting with field investigations for the design of the project alignment, until after the final evaluation of LARP implementation.

26. Formal consultation meetings will be held with all DPs. In particular the DPs will be informed about their rights and obligations under the LARP, institutional arrangements, procedures, and the grievance redress mechanism (GRM). During LARP preparation, the official eligibility cut-off date for the subproject will be announced at every meeting with DPs. Every revision and update of the draft LARP shall require a new disclosure and consultation meeting with DPs. Any critical issue and complaint will be raised, discussed and resolved (if possible).

27. LARP preparation and implementation will be subject to intensive public information and consultation involving the affected persons (AP), local institutions and village officials. The objective of these tasks will be to ensure that the AP can play a role in the definition of LAR compensation options and that their needs are reflected in the compensation and rehabilitation program detailed in the LARP.

28. Information disclosure and consultation is an ongoing process and will continue in LARP updating and implementation. Information and consultation will be carried out through individual meetings, focus group discussions, community meetings and through pamphlets. The date, location, number of participants and matter discussed as well as how the project is addressing the relevant issues will be documented in the LARP. The consultation process will be carried out with the potentially displaced persons /public to share information related to the project planning and execution activities. The information shared will include project activities and their expected impacts on physical, biological and socio-economic conditions.

29. After agreement of the LARP between DABS and ADB, the reports will be disclosed in the respective homepages. DABS will in parallel also provide a translation of the summary of the principles of the LARP, the land acquisition and compensation process to the district administrations concerned for further distribution to the communities possibly affected. Furthermore, a LAR information leaflet with information including measurement of losses, detailed asset valuations, entitlements and special provisions (e.g. regarding vulnerable households), grievance procedures, timing of payments and displacement schedule will be made available in regional languages, and distributed to the population which might be affected by the project.

30. **Grievance redress mechanism.** A project level grievance redress mechanism with representation of all stakeholders will be established at the time of project inception. Details are in Appendix 3.

31. According to the ADB safeguards requirements, great care will be taken in the project to prevent grievances. The situation in the conflict-marked Afghanistan requires special attention in order to avoid any additional development of conflicts. Prevention of grievances will mainly be effected through careful land acquisition design and implementation, by ensuring full DP participation and consultation and by establishing extensive communication and coordination between the community, the PMO and their consultants and coordinators and the local governments. In order to include women, the team for the implementation of the land acquisition and resettlement (and compensation) process will be gender-sensitive and culturally-adapted.

32. This notwithstanding, complaints are sometimes unavoidable if, for example, a different understanding of the value of losses and consequently of compensation payment arises. Therefore, a grievance redress mechanism is being adopted for the project to allow the DP the

opportunity to appeal against any contested decision, practice or activity arising from the valuation of losses and the compensation/rehabilitation process. Efforts to make DPs fully aware of their rights and of the procedures for addressing complaints will continue during the updating of the LARP and at the time of compensation. Complaints and grievances will be addressed through the following steps and actions. However, such steps shall not prevent a complainant to seek redress of her or his complaint directly in a law court. These are only offered as an alternative complaint resolution:

33. **First Step:** A Grievance Redress Committee (GRC) will be established for each district concerned. It includes:

- a. Two members of the community along the HVTL corridor (preferably one DP and one non-directly affected person from two different villages concerned) to be elected by the regional jirga;
- b. One representative of the district governor with juridical experience;
- c. One representative of the district DABS office concerned, and one representative of a regionally active NGO, preferably with experience in mediation/conflict management.

34. The committee is to be chaired by the representative of the concerned district governor and will receive complaints. Grievances should be sent in writing to the committee and must be heard and resolved within 21 days of submission of the complaint.

35. **Second Step:** If the district-level GRC is not able to resolve the grievance within a 21-day period, the complaints should be presented via the local DABS representative to the DABS General Manager at the central level. The elected representatives of the DP at provincial level will have the opportunity to mediate by providing their written comments and proposals to the manager. A final decision will be made by the Director of DABS after the assessment of the case and a careful preparation of the decision by the PMO/Due Diligence Unit representative. Grievances should be sent in written form and must be heard and resolved within 14 days of submission of the complaint.

36. Should the cause of grievance be a contradiction between traditional law and modern legislation, the DP may also seek support from the local jirga and/or from elders who may hear the position of the DP. Should the issue or complaint remain unresolved through the grievance redress mechanism, the case can be referred to the appropriate court for resolution. The PMO will design a pro-forma letter to be used for filing complaints. A representative of the coordinator or a member of the construction supervision consultant will help filling in the form and forwarding it to the appropriate committee/authority and will assist the DP at every stage of the complaint process. If grievances cannot be resolved at local level, the DABS will nevertheless pay the amount laid down by the PVCC (Provincial Valuation and Compensation Committee) to the DP. Additional compensation may be paid later upon decision of the DABS general manager or the court appealed to in accordance with the final entitlements of the DP

37. **LARP implementation monitoring, evaluation, and reporting.** The effectiveness of LARP implementation, particularly the impacts on the DPs' livelihood, will be monitored during and evaluated after the subproject. LARP tasks will be monitored internally until the subproject is completed. The extent of monitoring activities, including their scope and timing, will be commensurate with the subproject risks and impacts. Monitoring reports will need to be prepared monthly, quarterly and annually.

38. The EAs will carry out internal monitoring at the PMU level. Internal monitoring indicators will relate to process, and outputs and results. Information will be collected directly from the field, and reported monthly to the PMU to assess the LARP implementation progress and adjust the work plan if necessary. Specific benchmarks will be based on the approved LARP, including the (i) status of land acquisition and payments on land compensation; (ii) compensation for affected structures and other assets, and loss of income; (iii) relocation of DPs; (iv) selection and distribution of replacement land areas; and (v) income restoration activities.

39. Gender mitigation measures in the LARP will also be monitored and reported. Gender-disaggregated information versus the internal monitoring indicators will be collected by the PMU through (i) review of project information for all DPs, (ii) consultation and informal interviews with DPs as well as focus group discussions; (iii) key informant interviews, and (iv) community meetings.

40. **Land acquisition and resettlement budgeting.** Each LARP will present a budget for the full cost of LAR implementation, including for compensation, relocation and rehabilitation, administration, monitoring and contingency. Each LARP will include and observe the arrangements for financing and disbursement stipulated in this LARF. DABS is responsible for timely allocating the funds to implement the LARPs. The allocations will be reviewed bi-annually.

IV. INSTITUTIONAL RESPONSIBILITIES

DABS

41. Da Afghanistan Breshna Sherkat (DABS) is the executing agency (EA) for the project and the primary responsible for LAR planning, implementation and financing. Within DABS, the project Management Office (PMO) will have day-to-day responsibility for LAR and it will be assisted by each subproject supervision consultant. The PMO has overall responsibility of planning, implementation and monitoring of LAR activities in projects under the MFF. Its task is to:

- a. Ensure availability of a budget for LAR activities;
- b. Select and appoint organizations and consultants for specific activities;
- c. Coordinate with line departments, implementing organization and the construction;
- d. Capacity building of the PMO and project supervision consultant local resettlement team through on-the-job coaching under ADB RETA 7433
- e. Manage tasks involving local or central government or the affected communities' shuras.

42. The PMO will work closely with each subproject's construction supervision consultant's national and international safeguards staff and will specifically look at safeguards issues. The

43. The draft LARP will be finalized by the PMO (through the construction supervision consultant) and the turnkey contractor based on the detailed design of the transmission line component. DMS and DP census will be conducted based on specific tower spotting. The DMS and DP census and surveys including consultations will be conducted by the construction supervision consultant's national safeguards staff and the LARP will need to be formulated/updated by the consultant's international staff.

The Construction and Supervision Consultant

44. The LARP preparation and implementation will be conducted by the construction supervision consultants (CSC) who will also provide for the compliance reports required. The CSC will have local and international staff to carry out LAR-related field works, LAR planning, implantation, monitoring, reporting and capacity building tasks.

Contractor:

45. The contractor will be required to closely liaise with the construction supervision consultant's safeguard staff in final route selection and assist in exact identification of final tower locations based on detailed design. The contractor should ensure that no physical works in sections with LAR impacts until compensation of DPs have been completed in such sections as confirmed by DABS.

Provincial Valuation and Compensation Committee

46. The assessment of all damage and losses will be made and valuation of compensation decided by the Provincial Valuation and Compensation Committee (PVCC). The Committee consists of the following members: 1) one representative of the Province governor responsible for land affairs, 2) one representative of the PMO (preferably a member of Due Diligence Team), 3) one representative of the coordinator/facilitator, 4) one representative of the land users to whom

lands are taken permanently or temporarily, 5) one representative of the District's Jirga, preferably coming from the most relevant District regarding land acquisition of the respective Province, and 6) one representative of the contractor, responsible for the identification of losses and who is also a member of the sub-commission without voting rights.

Other Agencies and Institutions

47. Several other agencies and institutions will have a role in the preparation and implementation of the LARP. These are:

- a. **Community Shuras, Local Jirgas and Community Development Councils:** These local entities will assist in the communication between DABS and the affected communities in a variety of ways, including facilitating public consultation, monitoring the management of complaints and grievances, vouching as needed for the land occupation status of the APs and assisting in the definition of land compensation rates where no clear land markets are established.
- b. **Provincial Governments:** This entity will ensure government functions at provincial level and, following the land valuation survey or negotiation, will provide official endorsement of land compensation rates.
- c. **Ministry of Finance (MOF):** The MOF will be responsible for coordinating the approval of the LARP by the Cabinet of Ministers and, once the LARP is approved, deploying the finances needed for LARP implementation.
- d. **Women groups:** Women groups may be an additional stakeholder if present in the districts. They may support the team of the coordinator and the constructor in direct information, consultation, and negotiations with women. This will only be applied if such women's groups exist in the neighborhood of the women affected by the project so that they know their situation and have close contact with them.

48. The institutional arrangement for planning and implementing resettlement and rehabilitation activities will follow the general envisaged structure as depicted. The LARP will include a section on the scheduling of LAR activities with a clear indication of tasks, roles and responsibilities.

V. CAPACITY SUPPORT AND TRAINING REQUIREMENTS

49. The capacity of DABS, and especially PMO and the Due Diligence Task unit, regarding three key components of adequate project planning and implementation is relatively low: (i) Participatory planning, implementation and monitoring of projects has, so far at least, little relevance in the day-to-day business; (ii) communication channels are poor; and (iii) The involvement of women in projects does not play a major role. In particular, a gender-sensitive implementation would require inputs on the part of the international consultant and his resettlement specialist and their national counterparts. Some training should be carried out for the PMO field staff with regard to understanding the particular disadvantages of women as heads of households in the land acquisition and resettlement process, and for the DABS management concerning the long-term challenge to recruit women for administrative and managing functions within their organization.

50. The EA staff dealing with LAR and LAR impacts will also require training on safeguard issues. This training will be provided by the IRS prior to the final line routing by the contractor for

civil works. In parallel to this final line routing, intensive training measures will be provided to the coordinating NGO/consultant. Training will also be provided for the staff members assigned for land acquisition and identification of other types of losses, compensation and resettlement of the contractor immediately following completion of the final routing. Prior to the valuation and compensation process for all losses, three training courses will be held for the PVCC in each of the three provinces concerned. Training costs will be budgeted adequately in the final LARP.

VI. MONITORING AND EVALUATION

51. The implementation of the LARP will be monitored regularly to help ensure that it is implemented as planned and that mitigation measures designed to address the project's adverse social impacts are adequate and effective. None of the tranches/projects in the MFF are expected to have significant impacts. Hence, internal monitoring by the project construction supervision consultants is deemed sufficient.

52. **Monitoring.** Monitoring will be conducted by the PMO internally. Monitoring and Evaluation (M&E) reporting will cover the following:

- a) Compliance with land acquisition and resettlement compensation policies;
- b) Adequacy of the organizational mechanism for implementing the LARP;
- c) Fair and judicious handling of complaints and grievances;
- d) Compensation payments to AP made as mandated by the LARP;
- e) Success in restoring the APs incomes to pre-project levels.

53. Monitoring will be carried out on a monthly basis by the PMO through the construction supervision consultant and will be reported to ADB on a semi-annual basis until the end of the compensation and rehabilitation process. The PMO will be responsible for determining if any follow-up actions are necessary and for ensuring that these actions are undertaken. Prior to the delivery of compensation payments to the AP, the PMO will announce the compensation dates, including a detailed compensation schedule, community by community. The construction supervision consultant will monitor to ensure that no construction in the affected areas commences until the payment of compensation has been fully completed and that DPs' concerns are identified timely and addressed effectively.

OUTLINE OF LAND ACQUISITION AND RESETTLEMENT PLAN

1. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

A. Executive Summary

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

B. Project Description

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

C. Scope of Land Acquisition and Resettlement

- (i) Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities.
- (ii) Describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project.
- (iii) Summarizes the key effects in terms of assets acquired and displaced persons.
- (iv) Provides details of any common property resources that will be acquired.

D. Socioeconomic Information and Profile

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

- (i) define, identify, and enumerate the people and communities to be affected;
- (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
- (iii) discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
- (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

- (i) Identifies project stakeholders, especially primary stakeholders.
- (ii) Describes the consultation and participation mechanisms to be used during the different stages of the project cycle.
- (iii) Describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders.

- (iv) Summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan.
- (v) Confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans.
- (vi) Describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

F. Grievance Redress Mechanisms

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

G. Legal Framework

- (i) Describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
- (ii) Describes the legal and policy commitments from the executing agency for all types of displaced persons.
- (iii) Outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.
- (iv) Describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

- (i) Defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix).
- (ii) Specifies all assistance to vulnerable groups, including women, and other special groups.
- (iii) Outlines opportunities for affected persons to derive appropriate development benefits from the project.

I. Relocation of Housing and Settlements

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

- (vi) Describes plans to provide civic infrastructure.
- (vii) Explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

- (i) Identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources.
- (ii) Describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets).
- (iii) Outlines measures to provide social safety net through social insurance and/or project special funds.
- (iv) Describes special measures to support vulnerable groups.
- (v) Explains gender considerations.
- (vi) Describes training programs.

K. Resettlement Budget and Financing Plan

- (i) Provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) Describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) Includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.
- (iv) Includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

- (i) Describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan.
- (ii) Includes institutional capacity building program, including technical assistance, if required.
- (iii) Describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management.
- (iv) Describes how women's groups will be involved in resettlement planning and management.

M. Implementation Schedule

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

N. Monitoring and Reporting

7. This section 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.

GRIEVANCE REDRESS MECHANISM

A. Background

1. People adversely affected (or about to be affected) by a subproject, if they have any issues, will raise their grievances and dissatisfactions about actual or perceived impacts in order to find a satisfactory solution. These grievances influenced by physical, situational and social losses can surface at different stages of the project cycle. Some grievances may arise during the project design and planning stage, while the others may come up during project implementation. Not only should affected persons (APs) be able to raise their grievances and be given an adequate hearing, but also satisfactory solutions should be found that mutually benefit both the APs and the project. It is equally important that APs/DPs have access to legitimate, reliable, transparent and efficient institutional mechanisms that are responsive to their complaints. The persons interested are also entitled to file reference before the Civil Court. Against the decision of the Civil Court, they can seek their remedy before the Higher Courts.

B. Requirements of the Grievance Redress Mechanism for a Project

2. The grievance redress mechanism (GRM) should (i) provide a predictable, transparent and credible process to all parties, resulting in outcomes that are seen as fair, effective and lasting; (ii) provide a forum for resolving grievances and disputes relatively quickly before they escalate to an unmanageable level; (iii) mitigate or prevent adverse impacts of the project on communities, and facilitate appropriate corrective or preventative action; (iv) helps avoid project delays and cost increases, and improve the quality of work; and (v) facilitate the access of DPs to information.

3. A set of procedures for receiving, recording and handling complaints should be available in the GRM, include procedures for

- (i) Recording, registering and sorting grievance;
- (ii) Conducting an initial assessment of grievance;
- (iii) Referring grievance to appropriate units or persons;
- (iv) Determining the resolution process;
- (v) Making decisions, including parameters and standards for accurate and consistent decision making;
- (vi) Directing relevant agencies responsible for implementing decisions;
- (vii) Notifying complainants and other affected parties of eligibility, the resolution process, and outcome; and
- (viii) Tracking, monitoring, documentation and evaluation

C. Grievance Redress Mechanism Structure

4. The GRM should have a clear structure that explicitly spells out how it functions (Table 1). The GRM should also fit into the existing national system to make sure it does not have duplicate functions

Table 1: Grievance Redress Roles

Party	Responsibilities
National Level	
DABS PMO	<ul style="list-style-type: none"> • Establish GRM via circular • Provide operational guidelines for GRM • Provide necessary funds and staff to facilitate the GRM operation • Monitor grievance handling process by GRM • Coordinate the function of GRM • Provide the capacity building training to GRC members
Project Level	
Project Implementation Consultant	<ul style="list-style-type: none"> • Maintain database on the status of grievance handling by the contractor • Monitor the progress of grievance handling by the contractor • Report the progress of grievance handling to the DISCO
Resettlement Expert	<ul style="list-style-type: none"> • Identify the LAR impact and taking steps to mitigate them • Assist the APs in land acquisition and compensation process including the relocation to new sites • Maintain good relation with APs, responding to their concerns and providing assistance to them as required. • Participate in GRC as a facilitator • Functioning as lowest level receiver of grievances
Grievance Redress Committee	<ul style="list-style-type: none"> • Address grievance from APs, including issues related to land acquisition and compensation • Address installation-related grievance of APs

5. The Grievance Redress Committee (GRC) should be established at the village, project, and PMU levels to assure the accessibility for APs. The GRC is mandated to deal with compensation for the lost land and other assets, and cases pending in courts. GRC meetings will be held periodically with the APs. A complainant has the right to appear in person, be accompanied by a family member, and/or be represented by a village elder.

6. The proposed members of the GRC are in Table 2.

Table 2: Grievance Redress Committee Structure

Level	Members
Program Management Office	Director Deputy Director Environment and Social (E & S) Environment Specialist, Member Resettlement Specialist, Member
Village	APs representatives Social Mobilizer (Male) Social Mobilizer (Female)