

# Land Acquisition and Resettlement Framework

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Project Number: 47282-007  
Updated October 2019

## Afghanistan: Energy Supply Improvement Investment Program (Tranche 6)

## CURRENCY EQUIVALENTS

(as of 1 October, 2019)

Currency unit	–	Afghani (AF)
AF1.00	=	\$0.013
\$1.00	=	AFN78

## 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

## 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 United States dollars.

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## 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.

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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.<sup>1</sup> 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)<sup>2</sup> and power consumption was 3,700 gigawatt-hours (GWh).<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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 cofinancing options, (iii) continuity in combining investments in energy infrastructure and nonphysical components for integrated energy sector development will be ensured, and (iv) 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 its Tranches 1–6 have been categorized as involuntary resettlement (IR) category B with insignificant LAR impacts and all other subsequent tranches are also expected to be IR category B. 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 to guide the preparation of LARPs for subprojects and mitigate any impacts, should they arise. It was further updated in October 2017–2018. The latest update was done in October 2019 to apply sectional project site handover approach, where upon availability of final project design, LAR impacted and non-LAR impacted areas will be identified based on sectional due diligence reports (DDR)

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

<sup>2</sup> Unmet peak demand due to lack of power infrastructure and investment deficit is estimated close to 2,000 MW.

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

<sup>4</sup> 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).

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

and sectional implementation ready LARPs. This update of the LARF applies to all subprojects of this MFF.

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 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. General

5. This chapter discusses the national legislation of Afghanistan and the differences and/or gaps in relation to the ADB Safeguard Policy Statement 2009 (SPS). A synthesis of both systems of standards/safeguards is also provided in detail. A description of the various entitlements for different types of impacts and displaced persons is finally given.

### B. Afghanistan's Legal Framework on Land Acquisition and Resettlement

6. The following laws and policies regulate land acquisition and resettlement (LAR) activities in Afghanistan:

- i. The Constitution of Afghanistan (2004);
- ii. Afghanistan National Land Policy (2007);
- iii. Environment Law (2007);
- iv. Access to Information Law (2014);
- v. The National Policy for Internally Displaced Persons (2014);
- vi. National Regulations for Environmental and Social Impact Assessment (2017);
- vii. The Law on Land Acquisition (2017);
- viii. Land Management Law (2017), replacing the Law on Managing Land Affairs (2008);
- ix. Afghanistan National Land Policy (2018);
- x. Presidential Decree on the Registration of Properties in Urban Informal Settlements (2018).

7. **The Constitution of Afghanistan (2004)** enshrines ownership of land and protects lands from seizure by the state unless made for the public interest and the owner is provided with fair compensation. It guarantees equality of rights and duties for men and women.

8. **The Afghanistan National Land Policy (2007)** aims to provide every Afghan with access to land, promote and ensure a secure land tenure system, encourage the optimal use of land resources, establish an efficient system of land administration and ensure that land markets are efficient, equitable, environmentally sound, and sustainable to improve productivity and alleviate poverty. The policy addresses a multitude of issues relevant to land tenure such as tenure insecurity, competing systems for characterizing land, the lack of equity, transparency and accountability in the distribution and acquisition of land, problems of integration between formal and informal systems, land grabbing, informal and unplanned developments, property rights protection mechanisms, dispute resolution, proof of rights to land; and overlapping and uncoordinated land management systems.

9. Development of the **Environment Law (2007)** was supported by the United Nations Environment Program (UNEP). It is based on international standards and requires the active consultation and involvement of local communities in decision-making processes relating to the sustainable use, rehabilitation and conservation of land, forests and other natural resources. The law states that APs must be given the opportunity to participate during each phase of a project. Proponents of development projects are required to apply for an environment permit before implementation of the project by submitting an initial environmental impact assessment to the National Environmental Protection Agency (NEPA) to determine potential adverse effects and possible impacts. The law envisages a Board of Experts to review and assesses applications before a permit is issued.

10. **The Access to Information Law (2014)** is based on Article 50 of the Constitution of Afghanistan. It aims to increase the transparency and accountability of government and nongovernment institutions to citizens. It guarantees citizens' right of access to information, defines the responsibility of government and non-government organizations to provide information, and structures the public process of requesting information and the provision of information by government organizations. The law is based on the principle that all information held by the government is presumed to be public. The law does not apply to situations where access to information is harmful to others' rights or presents a risk to public security. The law stipulates that information disseminated by public authorities must be made in a way which is accessible to and useable by the public.

11. **The National Regulations for Environmental and Social Impact Assessment (2017)** indicate that the National Environmental Protection Agency (NEPA) is responsible for both social and environmental impact assessment. They set out the procedures for conducting environmental and social impact assessments (ESIAs). The regulations categorize projects according to their level of impact and detail the required processes for each category of project impact. The regulations require effective application of ESIA procedures and the monitoring of environmental and social management plans.

12. **The Law on Land Acquisition (2017)** replaced the Law on Land Expropriation (2009). Its objectives are to: (i) ensure fair compensation to of AP's properties; (ii) regulate the methods of determination of properties to be affected/acquired; (iii) Allow implementation of urban master plans and all other plans for projects of public interest; (iv) Determine the standards for appraisal of fair compensation for properties subject to acquisition; (v) Allow the transfer of government owned properties for the implementation of projects of public interest; (vi) Provide for resettlement of the owners of properties acquired as part of major national projects; (vii) Ensure that property owners and all other people affected by the process of expropriation are compensated; and (viii) Increase the positive impact of expropriation on people.

13. The law states that municipal authorities are responsible for enforcement of the law in areas covered by urban master plans, while the Afghan Land Authority (ARAZI), under the Ministry of Urban Development and Land (MUDL) is responsible for rural areas<sup>3</sup>. Article 5 defines 'public interest' projects for which property and assets may be expropriated. Articles 9-12 define the responsibilities of the Expropriating Authority, APs and valuation committee. The law requires the establishment of a panel tasked with developing a bill of valuation for expropriated properties, and a resettlement committee, which are both headed by the provincial governor. It defines how different types of assets are to be valued and compensated, the timing of compensation payments and the procedures and responsibilities of the resettlement committee.

14. **The Land Management Law (2017)** is intended to replace the Law on Managing Land Affairs (2008), although it is still under discussion by the National Assembly. The law aims to create a legislated unified, reliable land management system with a standardized system for land titling, subdivision, and registration. Its goals include the prevention of illegal land acquisition and distribution, ensuring access to land for the people, and defining the conditions for the appropriation of lands. The law confirms that government lands are regulated by MUDL (ARAZI deputy section) and that public welfare projects on government lands must be approved by MUDL.

15. **The National Land Policy (2018)** deals with land tenure and land acquisition. It indicates that compensation for expropriated land or revocation of rights over land must be

enforced by the law and conducted in accordance with the Constitution of Afghanistan. The law provides that property may only be expropriated through defined legal procedures for specific purposes and that no law may permit arbitrary deprivation of property rights. Monetary compensation for expropriated land is based on the value of the land prior to the announcement of the development project being pursued in the public interest.

16. **The Presidential Decree on the Registration of Properties in Urban Informal Settlements (2018)** provides an avenue for residents of informal urban areas to receive land occupancy certificates which legitimizes and guarantees residents' right to stay in their homes without the fear of eviction.

17. **Land:** All land in Afghanistan can be classified as privately owned, community owned, government owned, or publicly owned. These classifications are recognized by the 2007 National Land Policy. Properties owned by individuals, families or businesses are considered private land. Community land is property owned by communities which is equitably available for use by all its members. Government land includes registered government land which is used for the provision of public services, unregistered land which is "deemed public land" as well as land without proven individual ownership. Public land is land that belongs to the people of Afghanistan as a whole and is entrusted to the government for the benefit of all people.

18. **Land ownership** may be grounded in formal or customary law, and ownership rights can extend to all land classifications. Ownership confers the right of exclusive possession of land, and owners are entitled to use and dispose of land freely. The Law on Managing Land Affairs (2008) indicates that all land that has not been proven to be private is deemed government owned land. However, many disputes have arisen over government land because the definition of 'government land' remains unclear despite the various laws that have attempted to define it. A number of presidential decrees have expanded the type of land that the government can own and the distinction between government and publicly owned land has become unclear.

19. **Leaseholds** can be established between private parties, subject to requirements for written leases that detail the land and agreement of the parties regarding the length of the lease and payment terms. Private land leases are mostly governed by customary law. Landowners often contract with sharecroppers to cultivate land and the parties agree on terms regarding shares of the outputs and payment.

20. **Pasture land use.** The Law on Managing Land Affairs (2008) provides that lands such as pastures are public land which neither the state nor individuals can possess (except as otherwise provided by Sharia) and which must be kept unoccupied to allow activities such as grazing. Customary law allows individuals and communities to obtain exclusive or non-exclusive access to such lands; however, such lands do not belong to them. Pasture lands are the most controversial type of land in Afghanistan and up to 70% of lands in the country are used for this purpose.

21. **Occupancy Rights.** In general, landholders in formal settlements have formal rights to the land they occupy. Occupants of informal settlements, including squatters, usually have some type of informal rights that are based on principles of customary law, the nature of the land, and the means by which the occupants took possession of the land, although these are limited. The 2007 Land Policy permits the regularization of rights to informal settlement holdings.

22. **Mortgage.** Formal and customary law recognize two types of land mortgage: (i) debt secured by the land, and (ii) a mortgage in which the lender remains the landowner until the borrower repays the debt. The latter is the most common type of mortgage in Afghanistan.

23. **Land Registration.** Land is registered by deeds which are formal legal documents that certify a person's ownership of a piece of land. A deed can be a court-registered proof of land ownership document, a government decree proving purchase of the land from the government, tax payment documents, water rights documents, registered customary deeds and formal titles. Court judges draft and archive deeds. Immovable property is also registered in land registration and taxation books. People can use land as collateral if they have a legal title or use it to prove ownership when claims or disputes arise.

24. While authorities have made a number of efforts to introduce a formal registration system in Afghanistan, only a third of the country's land has been surveyed. Only 10% of rural properties are covered by deeds, and archives are often outdated and inaccurate. As earlier systems were based on self-report rather than a cadaster, land is often underestimated or overestimated for tax reasons. The switch to a cadastral system with the 2008 Law on Managing Land Affairs did not resolve these problems as cadastral records and court-based records sometimes do not match.

25. Authorities have had difficulty with registering community owned lands and distinguishing between people who own and lease a particular land plot. As the land registration system has evolved over time, other ways have emerged apart from deeds to prove ownership. Ownership may also be proved through community certification, cadastral records, records from previous governments and customary documents such as bills of sale and purchase, wills, pawn agreements, plot subdivisions and witness accounts. Even if no documentary evidence of ownership exists, a person may claim land if they are putting it to productive use.

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

26. The Constitution of Afghanistan (2004), the Law on Managing Land Affairs (2008) and the Law on Land Acquisition (2017) entitle the Government of Afghanistan to acquire private or government- owned land for public purposes upon payment of fair market value. According to these laws, compensation is based on rates determined by the legally constituted resettlement committee. If a land and property are acquired by the government for public purposes, the owner is entitled to receive (i) the value of land; (ii) the value of residential houses and buildings; and (iii) the value of trees and orchards and other assets on the land. 55. A person, who loses his /her residential land plot, is entitled to receive a new plot of land of the same value. If they wish, they can receive a residential plot on government property in exchange under proper procedures. Under current law, when private landholdings are acquired for public purposes, compensation is paid to the owner based on the category and location of the land and the value of land for compensation is determined by a valuation committee consisting of the following members:

- i. The Provincial Governor, head of the Committee;
- ii. The Mayor, deputy head of the Committee;
- iii. Director of MUDL; (iv) Representative of cadaster survey Department of MUDL;
- iv. Representative of Directorate of Agriculture, Irrigation and Livestock;
- v. Representative of Directorate of Urban Development and Housing;
- vi. Representative of Directorate of Justice;
- vii. Representative of Directorate of Public Works;

- viii. Representative of Mastofiat;
- ix. Representative of Expropriating Authority; and
- x. Representative of Afghanistan Chamber of Commerce and Industries.

27. The land acquisition process is initiated with the constitution of the committee by the provincial governor at the request of the IA. If APs and their legal representatives are not satisfied with the compensation for an expropriated property, they can present their objection to the Expropriating Authority within 60 days of being notified about their compensation, and the Expropriating Authority shall assess the appeal within 30 days. If the AP is still dissatisfied, the matter is referred to a jury consisting of (i) a representative of the relevant union of engineers; (ii) a representative of the Afghanistan Chamber of Commerce and Industries; and (iii) a representative of the people of the area subject to expropriation. The decision of the jury is final if the parties agree; otherwise the matter is referred to a competent court.

28. The whole process is based on a negotiated approach and the AP is included as a member of this legally constituted committee. The committee thus also performs the tasks of a Grievance Redress Committee (GRC).

29. Overall, the above laws/regulations provide that the principle of compensation at full replacement cost is reasonable and legally supported. The laws also identify the types of damages eligible for compensation and indicate that compensation is to be given both for loss of physical assets and for the loss of income.

#### **D. Absent Affected People**

30. Due to decades of fragile and conflict situation (FCAS) in Afghanistan, some APs may not be found and considered to be absent. For such cases, the LAL article 36 refers the expropriating agency to the relevant court to assign his/her trustee. Upon assignment of the trustee by the court, the valuation committee can proceed with the valuation process and the expropriating agency can proceed with expropriation. The expropriating agency is required to deposit the compensation amounts of these absentees in a government bank so that once they refer, they can receive their compensation.

31. The national legislation does not provide specific requirements on procedures for finding absent affected people. In this regard, as per local practice, executing agencies will undertake all reasonable and substantive efforts to find absentees/missing affected people, including announcements through local newspapers, radios, mosques, CDCs and all other viable sources.

32. Fair and replacement value compensation will be calculated based on market value on each case. Escrow account will be opened under each absent person's name or his/her representative's name and funds will be allocated prior to physical or economic impact. Escrow accounts will be kept active at least two years upon closure of this project.

#### **E. Absence of Data on Affected Land**

33. Transmission lines routes' often pass through remote areas where the government's control was not restored for several decades. This caused uncertainty in identification of state, private or other status of affected land within central land acquisition authorities (ARAZI/MUDL), local governments or communities residing near such affected land.

34. These land parcels will be registered at MUDL as per Afghanistan legislation and parcel number will be provided. Fair and replacement value compensation will be calculated based on market value on each case. Escrow account will be opened under each land parcel number and compensation funds will be allocated prior to physical or economic impact. Escrow accounts will be kept active at least two years upon closure of this project.

#### **F. ADB's Safeguard Policy Statement (2009)**

35. 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. 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.
  - vii. 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.
  - viii. 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.
  - ix. 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.
  - x. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout subproject implementation.
  - xi. 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.

## **G. Bridging Afghanistan's and ADB's Land Acquisition and Resettlement Requirements**

36. Land Acquisition Law (LAL) of Afghanistan and ADB policy diverge on some key points on compulsory acquisition of land. The amended LAL introduced 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 APs without title nor provides compensation for income losses caused by LAR. by LAR.

37. Table 2-1 summarizes the differences between the amended LAL and the ADB safeguards, and identifies the resolutions taken for the subprojects to reconcile the gaps.

Table 2-1: Gap Analysis between ADB's and the amended LAR's Requirements

ADB SPS 2009	Amended Land Acquisition Law (LAL)	Remarks/Agreed Reconciliation Measures
<b>DPs are to be fully informed and consulted on compensation options.</b>	The amended LAL provides for full information and compensation options to be discussed with the AHs.	No reconciliation required.
<b>DPs should be compensated for all their losses at replacement cost.</b>	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.
<b>Lack of formal title should not be a bar to compensation/ rehabilitation.</b>	The amended LAL provides for compensation to the users without any legal/formal documentation.	No Reconciliation required.
<b>DPs should be timely compensated.</b>	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 construction 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.
<b>DPs should be compensated and/or assisted to guarantee at least the maintenance of their pre-project livelihood level.</b>	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.
<b>Compensation amounts of the absentee DPs need to be deposited into escrow accounts and efforts rendered to locate them</b>	Expropriation of the absent person's property should be ensured upon relevant court's designation of a trustee to the absent person and the compensation amount should be deposited in a government bank for the absent person to receive upon return.	Accounts will be established for the absentee affected persons (either in a government or a commercial bank) with the cadastral details of the lands/other assets, in case person's own details are not available) and the compensation amounts for their losses will be kept in that account. DABS will continue efforts in order to locate those absentee persons and will pay them their compensations as soon as they are located.

## H. Land Acquisition and Resettlement Management Capacity of ABS

38. The IA, Da Afghanistan Breshna Sherkat (DABS 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.

### **III. LAND ACQUISITION AND RESETTLEMENT POLICY FOR THE INVESTMENT PROGRAM**

#### **A. Scope of Tranches and projects**

39. 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**

40. As of 31 October 2019, preliminary design of tranches 1–6 has been reviewed, where:

- Tranche 1: category B, two Engineering, Procurement and Construction (EPC) contracts awarded for: (i) Sheberghan-Andkhoy 220kV TL (draft LARP was disclosed); (ii) Sheberghan – Dashte Alwan 500kV TL (draft LARP was disclosed);
- Tranche 2: Category B, three EPC contracts awarded for: (i) Bamyan and Doshi Substations (DDR was disclosed); (ii) Bamyan Distribution Network (DDR was disclosed); (iii) Doshi – Bamyan 220kV TL (draft LARP was disclosed);
- Tranche 3: Category C;
- Tranche 4: Category B, two bidding packages for EPC contracts: (i) Kabul – Jalalabad 220kV TL (draft LARP was disclosed); (ii) Shaikh Mesri camp substation (DDR to be submitted);
- Tranche 5: Category B, four bidding packages for EPC contacts; (i) Jalalabad – Kunar 220Kv TL; (ii) Sharana – Ghazni 220 Kv TL; (iii) Ghazni/Sharana substation; (iv) Kunar substation;
- Tranche 6: Category B, two bidding package for two EPC contracts: (i) 500kV Surkhan-Pul Khumri (Khwaja-Alwan) TL (draft LARP disclosed).

41. Upon availability of final design, draft LARPs for transmission lines of the above listed tranches and future tranches under this MFF will need to be updated into final (implementation ready) LARPs and disclosed. If during finalization of the detailed design, larger subsections of TL with no-LAR impacts will be identified, detailed design due diligence report on non-LAR impacted project site subsections of TL will be prepared in accordance with the procedures described in this LARF.

#### **C. Requirements for Subprojects with Land Acquisition and Resettlement**

42. 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 this LARF and ADB's relevant polices<sup>6</sup>;
- b. ADB no-objection for issuing notice-to-proceed for the implementation of the subprojects' civil<sup>7</sup> works will be contingent upon the full implementation of the compensation and rehabilitation programs detailed in this LARF and preparing and submitting to ADB a compliance report<sup>8</sup>.

43. The Tranche 3 has been categorized as "C" and Tranches 1, 2 4, 5 and 6 have been categorized as "B" for Involuntary Resettlement based on draft LARPs prepared and disclosed at project processing stages of each tranche when preliminary project design was available.

44. If, due to a detailed design of a tranche, section would cause 200 or more APs' physical displacement or adverse impact on more than 10% of their (income-generating) productive assets of, such tranche shall be re-categorized as "A" for the involuntary resettlement impacts.

45. This updated LARF provides arrangements for a sectional approach. As part of the sectional arrangements, in Afghanistan context, where limited access to sites is available due to security, third party/external monitors will be included in the institutional arrangements.

46. **A standard outline of a LARP** comprises the following sections:

- 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;

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<sup>6</sup> 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.

<sup>7</sup> Effective date of a turnkey contract is a commencement date of all works/project activities such as: (i) preliminary activities (contractor mobilization and other activities); (ii) design, (iii) procurement; and (iv) construction. Construction works are considered to be the civil works causing adverse physical and/or economic impact on APs. In this regard, notice to proceed with the construction works on the specific section or subsection based on ADB accepted due diligence report of LARP compliance report.

<sup>8</sup> 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.

- k. Organizational structure
- l. Implementation Schedule;
- m. Monitoring and Evaluation.

47. **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.

48. **Establishment of Right-of-Way (RoW) and Corridor of Impact (Col).** For the purpose of preliminary LAR impact assessment and as per details of projects available at the preliminary design stage, the executing agency will establish the right-of-way (RoW) requiring land acquisition and resettlement impacts based on the corridor of impact (Col), typically identified as 50 m (25 m on both sides of the center line), including the footage area required for building towers, the area required for works planned and size of equipment to be used to allowing for stringing of conductors. Outside this strip but still inside the RoW vegetation above 7 m height needs to be cleared, including possible tall trees outside but nearby the RoW corridor. The compensation of affected land, structures, businesses, crops and trees within the RoW/Col as defined will be assessed in accordance with this LARF.

49. **Sectional Approach for linear subprojects.** For the transmission line subprojects under this MFF, due to turnkey nature of these contracts, the overall potential TLs alignment will be divided into a number of sections to be defined during the detailed technical surveying. Based on such sectioning, final implementation-ready LARPs for each section will be prepared and submitted for ADB review and approval, before implementation and before the start of civil works on each section.

50. The following describes a sectional handover procedure to be applied for the purposes of LARP implementation:

(i) After determining the number of sections along the TL alignment based on detailed technical surveying, DABS will prepare a sectional implementation-ready LARP based on DED for a corresponding section. DABS will advise ADB on the number of sections for each TL alignment/component. The DED will establish a corridor of impact for a section or apply a standard 50m ROW (whichever is larger) to be applied for identifying all entitled affected persons for the purposes of LARP compensation. DABS will ensure that contractor's terms of engagement and work schedule will reflect the sectional site handover procedure. DABS include mandatory safeguards benchmarking as part of contractor's monthly progress report.

(ii) DABS will seek ADB's acceptance for each implementation-ready sectional LARP;

(iii) DABS will implement a sectional LARP and commission a LARP compliance report for the corresponding section.

(iv) DABS will issue notice to proceed with civil works within a section on the basis of ADB's acceptance of due diligence report on non-LAR-impacted areas or a sectional LARP compliance report on LAR-impacted area.

(v) Issuance of the notice to proceed with civil works on the subsequent sections will follow the same procedure for LARP preparation, implementation and clearance of a LARP compliance report.

(vi) DABS will procure services of a qualified external/third party monitor to validate LARP implementation on all sections and prepare LARP compliance reports, for further submission to ADB in order to obtain ADB's no objection for issuance of a notice to proceed to contractor.

51. **Social impact assessment.** A comprehensive assessment of social impacts, involving (i) census of all displaced persons, and an inventory of their lost assets;<sup>9</sup> (ii) socioeconomic 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.

52. **Eligibility cut-off date.** An eligibility cut-off date will be declared through notice boards, announcements in consultation sessions and Shuras and formalized when the social impacts assessment survey and census of DPs are completed. Additional cut-off dates will apply for currently unassessed areas upon completion of sectional implementation-ready LARPs.

#### **D. Compensation at replacement value**

53. 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.

54. 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.

55. All affected crops located within the RoW/Col as defined above will be compensated at replacement cost of the crop lost, plus the cost of replacement seeds. All affected fruit bearing trees will be compensated at the market value of 1 harvest multiplied by the number of years needed to re-grow a tree to the same production level, plus the replacement cost of saplings. All affected timber and non-fruit bearing trees will be compensated at the market value of their dry wood volume.

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<sup>9</sup> At the beginning of census and inventory of lost assets, the IA 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, IA and project implementation consultant will undertake the census and inventory of lost assets, in consultation with DPs at each affected property.

56. In addition to the above listed compensation for crops and trees, a temporary impact allowance will be afforded to all APs with crops and trees within the ROW/COI. The allowance is equal to 1 additional harvest (based on crops and productive tree yields).

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

58. Detailed requirements for the compensation of losses and impacts are specified in the entitlement matrix provided in Table 3-1.

**Table 3-1: Entitlement Matrix**

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land affected by right-of-way (RoW) corridor of impact (Col) and tower locations	AP with title, formal/customary deed, or traditional land right as vouched by local Jirga, elders or Community Development Council <sup>10</sup> .	<ul style="list-style-type: none"> <li>- Compensation at replacement cost either through replacement plots of same value or in cash based on full replacement cost based on fair market value to be negotiated and agreed with the AP and approved by the council of ministers.</li> <li>- Replacement cost based on fair market value at a valuation date will be updated/adjusted as per market rate at compensation payment date.</li> <li>- All fees, taxes or other charges, as applicable under relevant laws, are to be borne by the project.</li> </ul>
Structure loss	Residential/commercial or auxiliary structures affected	Owners of structures (including informal settlers)	<ul style="list-style-type: none"> <li>- Cash compensation for affected structure and other fixed assets at replacement cost of the structure free of depreciation, taxes/fees and salvaged materials.</li> <li>- Compensation for partial impact may be allowed if complied with building safety requirements and AP's will to keep the remaining structure, where replacement cost compensation will be provided for affected part of structure and replacement cost required to restore remaining structure, all free of depreciation, taxes/fees and salvaged materials.</li> <li>- Right to salvage material from demolished structure</li> <li>- Rental allowance of 6 months for loss of residential building</li> </ul>
Crop losses	Crops on affected land	Owners of crops / sharecroppers	<ul style="list-style-type: none"> <li>- Cash compensation equal to replacement cost of crop loss plus cost of replacement seeds and restoration of future crop activities (including any forgone harvests)</li> <li>- Compensation is provided for all crops located within ROW/COI.</li> </ul>

<sup>10</sup> In case the users/possessors of lands do not have any valid paper evidence of ownership of the affected lands (traditional users), the AFG land management law requires that in such circumstance these lands of up to 0.2 hectares (5 Jeribs, 2,000sqm) of quantity will be considered the possessor's property and official deeds shall be issued to him/her provided that it meets the conditions such as: (i) the land is not registered as government land in the government records, (ii) there is no valid documents of ownership with any other person of that land (iii) there are visible agricultural and residential construction signs of the possessor and, (iv) neighboring plot owners confirm possession by the person for at least 15 years prior to 30 April 1978.

Tree Losses	Trees on affected land	Owner of trees (including informal settlers)	<ul style="list-style-type: none"> <li>- Fruit bearing trees or perennial crops will be compensated at the market value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same production level of the tree/perennial crop lost and full replacement cost of a saplings for each grown tree/perennial crop seed.</li> <li>- Non-fruit bearing/timber trees will be valued based on the market value of their dry wood volume.</li> <li>- The compensation of the tree will be free of deduction for the value of the wood left to the AH.</li> <li>- Compensation is provided for all affected trees located within ROW/COI.</li> </ul>
Business losses	Permanent / temporary	Business / shop owners (including informal settlers)	<ul style="list-style-type: none"> <li>- 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 as per the average monthly income.</li> <li>- Employer: indemnity for lost wages of 3 months income</li> <li>- Employees: indemnity for lost wages of 3 months income to be paid directly to employee.</li> </ul>
Transitional Allowance	Relocating households	All relocating households (including renters and informal settlers)	<ul style="list-style-type: none"> <li>- Transitional allowance per household for livelihood losses at AF7,500 multiplied by 3 months = AF22,500</li> </ul>
Relocation Allowance	Relocating households	All relocating households (including renters and informal settlers)	<ul style="list-style-type: none"> <li>- Relocation allowance per household of AF7,500</li> </ul>
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	<ul style="list-style-type: none"> <li>- Additional cash assistance equivalent to 3 months average household income at district level as per the national statistics data (AF45,000)</li> <li>- Preferential employment in project related jobs, if qualified for the position.</li> </ul>
Severe Impact	Physical displacement 10% or higher loss of productive income source (e.g., land, structure, rental income, etc.)	All severely affected AHs including informal settlers	<ul style="list-style-type: none"> <li>- Agricultural land impact: Additional crop compensation equal to one year yield from the affected land;</li> <li>- For other formalized non-agricultural impacts: an allowance covering 12 months net formalized income (tax or equivalent reports); or</li> <li>- For other non-formalized non-agricultural impacts: a fixed amount on the average 12 months net income of people residing in the relevant project areas.</li> </ul>
Temporary land occupation/Temporary impacts on land		Title holders (formal and informal) lease holders and/or crop owners	<ul style="list-style-type: none"> <li>- Additional compensation for 1 season harvest (crops and trees) for all crops and productive trees within ROW/COI</li> <li>- Complete plot rehabilitation/reinstatement</li> <li>- Cost of one season lease to formal/semi-formal lease holders.</li> </ul>
Unidentified Impacts			<ul style="list-style-type: none"> <li>- Unforeseen impacts compensated based on above entitlements and in accordance with SPS 2009 during project implementation by EA.</li> </ul>

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
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 centers, shrines, other religious or worship sites, tombs). - Cash compensation for affected structures based on the above structures entitlements.

59. **DP entitlements.** DPs entitled to compensation or rehabilitation under the Investment Programs are:

- All DPs with formal title, formal or customary deed, or traditional land right as vouched by the local Jirga, elders or Community Development Council;
- Tenants and sharecroppers, whether registered or not;
- Owners of buildings, crops, plants, or other objects attached to the land (including those with no legal rights to the land) and,
- DPs losing business, income, and salaries (including those with no legal rights to the land).

60. 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.

61. 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.

62. 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.

63. **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 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.

64. 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).

65. 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.

66. 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.

67. 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.

68. **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.

69. 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.

70. 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:

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

- i. 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;
- ii. One representative of the district governor with juridical experience;
- iii. One representative of the district DABS office concerned, and one representative of a regionally active NGO, preferably with experience in mediation/conflict management.
- iv. Subject to agreement of the local communities, the GRC will include a few female representatives in order to ensure full access of the women to the GRC and convenient resolution of their grievances.

72. 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.

73. **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.

74. 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.

75. **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. DABS will appoint an independent external/third party monitor (EM) for external/third monitoring of sectional LARP implementation and preparation of sectional LARP compliance reports as well as routine bi-annual safeguards reports. External/third party monitoring will cover all aspects of LARP implementation. For external/third party monitoring an independent company or individual will be engaged. **Notice to Proceed to Contractor** will be conditional upon implementation of sectional LARPs as verified by a

compliance report submitted by the External/third party Monitor. ADB will review such compliance reports to provide its no objection for issuance of Notice to Proceed.

76. The IA 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.

77. 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.

78. **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

### A. DABS

79. Da Afghanistan Breshna Sherkat (DABS) is the implementing agency (IA) 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:

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

80. 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.

81. 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.

82. DABS will ensure that contract with CSC and contractor will include all necessary provisions ensuring CSC and contractor's compliance with ADB Safeguards Policy Statement 2009 requirements.

### B. The Construction and Supervision Consultant

83. LARP preparation, updating and implementation will be assisted 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.

### C. Contractor:

84. 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.

85. For “civil works” type of contract: (i) no civil works contract will be awarded prior to acceptance of LARP by ADB, and (ii) no civil works will commence prior to submission and acceptance of LARP compliance report by ADB, confirming that compensation payments and other entitlements have been provided to affected persons as per final disclosed LARP.

86. For “design and build” or “turnkey” type contract, where contractor is also responsible for finalizing project design, DABS will ensure that such contract expressly provides that the commencement of the installation and construction phase for any section or part of project site works is strictly conditional upon issuance by DABS of a notice to commence such section or part of such works.

87. Sectional project site handover for commencement of works will be adopted and reflected in bidding documents with a preliminary schedule of works commencement. Final schedule of sectional project site works commencement will be agreed between engineering, resettlement and other teams of DABS, PMO, CSO and contractor upon mobilization of CSO and contractor. Schedule dates for works commencement will reflect timelines required for: (i) finalizing project design and conducting meaningful project consultations; (ii) allocating funds for LARP implementation and updating LARP as per final project design, its acceptance by ADB and disclosure; (iii) submission and acceptance of compliance report by ADB, confirming that compensation payments and other entitlement have been provided to affected persons in accordance with the LARP.

#### **D. Provincial Valuation and Compensation Committee**

88. 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.

#### **E. Other Agencies and Institutions**

89. 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.

90. 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**

91. 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.

92. The IA 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

93. 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. Subprojects under the MFF with land acquisition and resettlement impacts will carry out both internal and external/third party monitoring.

94. **Internal monitoring.** Internal monitoring will be conducted by the PMO. 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.

95. Internal 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 quarterly 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.

96. **External or Third party monitoring:** DABS will appoint an independent external / third party monitor (EM) for external monitoring of sectional LARP implementation and preparation of sectional LARP compliance reports as well as routine bi-annual safeguards reports. External monitoring will cover all aspects of LARP implementation. For external monitoring a third party firm or individual consultants will be engaged. Notice to Proceed to Contractor will be conditional upon implementation of sectional LARPs as verified by a compliance report submitted by the external or third-party monitor. ADB will review such compliance reports to provide its no objection for issuance of Notice to Proceed.

## **Appendix 1: 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.

## **Appendix 2: 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**

<b>Party</b>	<b>Responsibilities</b>
<b>National Level</b>	
DABS PMO	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
<b>Project Level</b>	
Project Implementation Consultant	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	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	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**

<b>Level</b>	<b>Members</b>
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)