

# Resettlement Framework

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September 2013

## MFF 0026-AFG: Energy Sector Development Investment Program – Tranche 5

Prepared by Fichtner GmbH for Da Afghanistan Breshna Sherkat of the Government of Afghanistan for onward submission to the Asian Development Bank.

## **CURRENCY EQUIVALENTS**

(as of 30 August 2013)

Currency Unit	–	afghani (AF)
AF1.00	=	\$0.01766
\$1.00	=	AF56.61

## **ABBREVIATIONS**

ADB	–	Asian Development Bank
AH	–	affected household
AP	–	affected person
DABS	–	Da Afghanistan Breshna Sherkat
DDT	–	due diligence team
IPSA	–	initial poverty and social assessment
LAR	–	land acquisition and resettlement
LARF	–	land acquisition and resettlement framework
LARP	–	land acquisition and resettlement plan
MFF	–	multitranchise financing facility
MOF	–	Ministry of Finance
NGO	–	non-government organization
PFR	–	periodic financing request
PMO	–	project management office
SPS	–	Safeguards Policy Statement

## **NOTES**

- (i) The fiscal year (FY) of the Government of Afghanistan ends on 21 December. FY before a calendar year denotes the year in which the fiscal year ends, e.g., FY2012 ends on 21 December 2012.
- (ii) In this report, "\$" refers to US dollars.

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## I. INTRODUCTION

1. The Islamic Republic of Afghanistan has requested financing from the Asian Development Bank (ADB) for Tranche 5 of the Energy Sector Development Investment Program. The land acquisition and resettlement framework (LARF) was prepared for the Investment Program and reviewed and updated in July 2013 during the Periodic Financing Request process for Tranche 5.

2. The executing agency for the Energy Sector Development Investment Program Project 3 is Da Afghanistan Breshna Sherkat (DABS). Tranche 5 of the Investment Program comprises the construction of the 500-kilovolt Dashte Alwan Substation Project, located in Dashte Alwan Khoja district of Baghlan province.

3. This LARF has been prepared by DABS. It has been prepared in reference to relevant Afghan laws and the ADB's Safeguards Policy Statement of 2009 (SPS 2009). The LARF details mechanisms, procedures and compensation entitlements for planning and implementing land acquisition and resettlement (LAR) tasks for relevant projects under the current tranche of the Investment Program. The LARF has been posted in English on the ADB website and it will also be translated into Dari and disclosed on DABS' website.

## II. LAND ACQUISITION AND RESETTLEMENT PROGRAM PROCESSING REQUIREMENTS

4. Based on ADB procedures for multitranche financing facilities (MFFs), the Investment Program appraisal is carried out, together with the appraisal of the first tranche of subprojects, collectively referred to as Project 1. The following tranches will be appraised once the executing agency sends to ADB a periodic financing request (PFR) accompanied by the final documents and technical studies for each subproject under the respective tranche.

5. LAR tasks involved in the approval and implementation of the MFF as a facility and for each tranche will require the preparation of the following documents:

- (i) A LARF for the MFF, as a facility, applicable to all subprojects implemented under the Investment Program. The LARF will be reviewed, updated if necessary, and submitted for ADB approval at least annually and at the start of preparing PFRs for each subsequent tranche under the MFF.
- (ii) An Initial Poverty and Social Assessment (IPSA) for each tranche indicating LAR impacts, magnitude, and type and likelihood of impacts on Indigenous Peoples.
- (iii) The land acquisition and resettlement plan (LARP) will include detailed compensation budgets and implementation schedules linking LAR tasks to the initiation of civil works.

6. Based on ADB policy and practice, the appraisal of the MFF and each tranche, and subsequent approval for subproject implementation, will be based on the following LAR-related conditions:

- (i) **MFF and Project 1 appraisal:** Conditional to the preparation and disclosure of (a) LARF acceptable to ADB and the government; (b) IPSA; and (c) LARPs acceptable to ADB and the government for Project 1 subprojects requiring LAR.
- (ii) **Approval of PFR for following tranches:** Conditional to (a) LARF review, update, re-disclosure; and (b) preparation and disclosure of LARPs consistent with the revised LARF and acceptable to ADB and the government for each tranche subproject with LAR.

- (iii) **Implementation – Start of Contract (construction) for subprojects with LAR impacts:** Conditional to the finalization and disclosure of LARP before implementation. LARPs acceptable to ADB and reflecting final impacts, affected person (AP) lists, and compensation rates.
- (iv) **Initiation of physical civil works in subproject sections with LAR Impacts:** Conditional to the full implementation of the relevant LARP including full delivery of compensation and rehabilitation. Such a condition will be clearly spelled out in the text of the civil works contract.

### III. INDIGENOUS PEOPLES AND VULNERABLE GROUPS

7. No impact on indigenous peoples is expected for the Investment Program. Special attention will be given to identifying and addressing the needs of disadvantaged groups such as the landless, the impoverished, and female-headed households through measures included in the LARP to try and improve (over and above cash compensations and restoration of) their livelihoods.

### IV. LARP PREPARATION AND IMPLEMENTATION

8. LARP preparation will be an integral part of the preparation of tranche subprojects with LAR impacts.

9. LARP preparation will entail the execution of (a) a detailed measurement survey of all land and non-land impacts; (b) a census of all affected households and APs; (c) a valuation of all affected assets and a LAR budget; and (d) a socio-economic survey of the affected households based on a 20% statistical sample.

10. **LARP preparation and implementation process.** LARPs for the following tranches will be prepared by the detailed design consultants. LARP preparation and implementation will be prepared by DABS with support from local nongovernment organizations (NGOs) and overseen by the supervision consultants. LARP preparation and implementation will follow the process detailed below:

- (i) **LARP preparation.** This phase will be carried out in parallel with the preparation of the subproject feasibility study (see Annex A for a standard LARP outline).
- (ii) **LARP review and finalization.** This phase will be carried out during detailed design preparation and will include eventual impacts updates (AP data) and compensation rates revision. Contracted construction activities will be initiated after LARP review and approval.
- (iii) **LARP implementation.** This phase will start after the final LARP is approved and will be concluded with the provision of due compensation to all affected households.
- (iv) **Civil works implementation.** In general, civil works will start only after all affected households are compensated and a compliance report is prepared by the external monitoring and evaluation agency.<sup>1</sup> However, if there are sections without impacts, civil works for these sections may be initiated immediately after the beginning of the construction phase of the contract. In these cases, the absence of impacts will have to be demonstrated by an ad hoc due diligence report.

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<sup>1</sup> A detailed measurement survey and census include: (i.) a full inventory/measurement of all land/other items losses including buildings, crops, trees, and income; (ii) an assessment of unit replacement values for each affected item/loss; and (iii) identification of each affected household/affected peoples by gender, age and ethnic affiliation.

## **V. OBJECTIVES, LEGAL AND POLICY FRAMEWORK AND ENTITLEMENTS**

### **A. Objectives**

11. This LARF combines existing legal framework and procedures for land acquisition in Afghanistan and the involuntary resettlement safeguards stipulated in ADB's SPS 2009. This chapter discusses Afghanistan's national legislation and the differences and/or gaps in relation to ADB safeguards. 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**

12. The 2004 Constitution of Afghanistan provides that property shall be safe from violation, that is, that no one shall be forbidden from owning and acquiring property except by law and private property can only be confiscated by legal order.

13. In 2007, the Cabinet of Ministers approved a new Land Policy that allows for the formalization of land rights in informal settlements and addresses bottlenecks in land rights administration, as well as the overlap in different institutions' authority over questions of land rights (USAID, 2010).

14. The 2008 Law on Managing Land Affairs sets out definitions for various land types and classifications, requirements for land deeds, and principles governing allocations of state land, land leasing, settlement of land rights, and restoration of lands. The law recognizes Shari'a, and defers to applicable principles of Shari'a in some areas. Issues that are not covered by the Law on Managing Land Affairs are governed by the country's Civil Code which, in large measure, also reflects the Shari'a. Islamic law governs when the Civil Code is silent on an issue (USAID, 2010).

15. Customary law dominates in Afghanistan, and the Civil Code recognizes its application with regard to land rights. The Ministry of Justice estimates that, due to lack of trust and confidence in formal judicial institutions, 90% of Afghans rely solely on customary law. The Constitution is silent on the authority of customary law but prohibits the adoption of laws that are inconsistent with the tenets of Islam (USAID, 2010). According to Chapter 16, Article 193 of the Customary Law (Draft February 17, 2005), if any provisions from this law are in conflict with the provisions of any other legislation, its provisions shall prevail.

16. The Land Expropriation Law (Official Gazette No. 849, published in 2005/04/20) addresses the land expropriation process and legal rights in relation to the process. For public interest purposes, such as construction of public infrastructure and acquisition of land with cultural or scientific values, land of higher agricultural productivity, or large gardens, the law provides that:

"The acquisition of a plot or part of it for public purpose is decided by the Council of Ministers and is compensated at fair value based on current market rates (Section 2).

The acquisition of a plot or part of it should not prevent the owner from using the rest of the property or hamper its use. If this happens, the whole property will be acquired (Section 4).

The right of a land owner or user will be terminated three months prior to start of civil works and after proper compensation to them has been made. The termination of the right of landlords and land users would not affect their rights on collecting their last harvest from the land, except when there is emergency evacuation (Section 6).

In case of land acquisition, the following factors shall be considered for compensation: value of land; value of houses and buildings; value of trees, crops and other assets on land (Section 8).

The value of land depends on the category and its geographic location (Section 11).

A person whose residential land is subject to acquisition will receive a new plot of land of the same value. He has the option to get residential land or a house on government property in exchange, under proper procedures (Section 13).

If a landowner so wishes his affected plot can be swapped with unaffected government land. If the new plot is worth less than the old the difference will be reimbursed to the owner (Section 15).

The values of orchards, vines and trees on land under acquisition shall be determined by the competent officials of the local body (Section 16).

When a property is evaluated at the current rate at the locality concerned, the owner or his representative must be present at the time of measuring and evaluation of the property.

It is Afghan practice to recognize traditional or informal land rights.

Compensation and rehabilitation is provided before the land is acquired.”

There is no country-specific resettlement policy in Afghanistan.

### **C. The ADB Safeguard Policy**

17. ADB's SPS 2009 applies to losses due both to physical and economic displacement caused by involuntary acquisition of land and is based on the following basic principles:

- Involuntary resettlement should be avoided or wherever feasible.
- Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.
- Replacing what is lost: If individuals or a community must lose all or part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be compensated and assisted through replacement of land, housing, infrastructure, resources, income sources, and services, in cash or kind, so that their economic and social circumstances will be at least restored to the pre-project level. All compensation is based on the principle of replacement cost.
- Each involuntary resettlement is conceived and executed as part of a development project or program. ADB and executing agencies or project



sponsors, during project preparation, assess opportunities for APs to share project benefits. The APs need to be provided with sufficient resources and opportunities to reestablish their livelihoods and homes as soon as possible, with time-bound action in coordination with the civil works.

- The APs are to be fully informed and closely consulted. Aps are to be consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation. Pertinent resettlement information is to be disclosed to the Aps at key points, and specific opportunities provided for them to participate in choosing, planning, and implementation options. Grievance redress mechanisms for Aps are to be established. Where adversely APs are particularly vulnerable groups, resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning, and implementation.
- Social and cultural institutions: Institutions of the APs, and, where relevant, of their hosts, are to be protected and supported. Aps are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- No formal title. Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal legal rights, and others, who may have usufruct or customary rights to affected land or other resources, often have no formal legal title to their lands. The absence of a formal legal title to land is not a bar to ADB policy entitlements. APs who neither have formal legal rights nor recognized or recognizable claims to land should be compensated for all nonland assets and for other improvements to the land.
- Identification: APs are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cutoff date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.
- The Poorest: Particular attention must be paid to the needs of the poorest APs, and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females, the elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic status.
- The full resettlement costs are to be included in the presentation of project costs and benefits. This includes costs of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over the without project situation (which are included in the presentation of project costs and benefits). The budget also includes costs for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior

to approval of the loan. Similarly, resettlement plans should also reflect the timeframe for resettlement planning and implementation.

- Eligible costs of compensation: Relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and to ensure compliance with involuntary resettlement procedures during implementation.
- Compensation and rehabilitation is to be provided before the land is acquired.

#### **D. Identification of Gaps between ADB Policy and Afghanistan's Law**

18. Afghanistan's Land Expropriation Law (LEL) and ADB's policy diverge on some key points on compulsory acquisition of land. The LEL does not require adequate consultation with affected parties; it simply requires that declaration and notice be given about temporary use of land or acquisition or resumption of land (lease) and the purposes for which it is required. Nor does the LEL require preparation of a documenting timeline of the process, consultations undertaken with APs, or any specification of procedure for acquisition and compensation. Finally, the LEL does not entitle to compensation APs without title nor provides compensation for income losses caused by LAR. Table 1 summarizes the differences between LEL and ADB safeguards, and identifies the resolutions taken for this Program to reconcile the gaps.

**Table 1: Comparison of ADB's Safeguards Policy Statement of 2009 and the Land Expropriation Law of Afghanistan**

<b>ADB SPS 2009</b>	<b>Land Expropriation Law (LEL)</b>	<b>Remarks/Agreed Reconciliation Measures</b>
DPs are to be fully informed and consulted on compensation options.	National legislation does not provide for public consultation.	This Land Acquisition and Resettlement Framework (LARF) provides for consultation and information dissemination.
DPs should be compensated for all their losses at replacement cost.	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.	The LARF specifies that affected land will be compensated at replacement cost, free of transaction cost, while buildings/structures are compensated without deducting for depreciation. Crops or trees will also be compensated in cash at replacement rates.
Lack of formal title should not be a barrier to compensation/rehabilitation.	Provides compensation to DPs with formal or traditional/customary rights to land. DPs without such rights on the land are not compensated for non-land assets	This LARF provides compensation at replacement cost for titled and customary users, and rehabilitation for non-title holders.

DPs should be timely compensated.	Land owners/users rights on a plot will be terminated three months prior to start of civil works and after compensation is given. The termination of the owner/user rights will not affect the rights to collect the last harvest except in the case of an emergency.	This LARF provides for crops compensation whether they have been harvested or not to avoid civil works delays and pressures on land users to harvest a crop before it is fully ripe. Land users harvesting their crops after notification of the land occupation date will not lose any part of their due compensation.
DPs should be compensated and/or assisted, to guarantee at least the maintenance of their pre-project livelihood level.	Compensation at replacement rate will be given for land, house, crops, or trees losses. Compensation for income losses/relocation costs is not considered.	General rehabilitation for income losses and for relocation costs will be given if these impacts occur.

## E. LARF Principles for Entitlement and Eligibility

19. Based on the above analysis of national provisions and ADB's SPS 2009, the broad resettlement principles for this LARF shall be the following. DABS has drafted a specific framework detailing the compensation eligibility and entitlements for the Investment Program detailed below:

- The negative impact on AP must be avoided or minimized as much as possible.
- Where negative impacts are unavoidable, the persons affected by the project and vulnerable groups will be identified and assisted in improving or regaining their standard of living.
- Information related to the preparation and implementation of resettlement plan will be disclosed to all stakeholders and people's participation will be ensured in planning and implementation. All RP prepared will be disclosed to the APs;
- Land acquisition for the project would be done as per the Land Acquisition Law of Afghanistan. The Act specifies payment of adequate compensation for the properties to be acquired. Additional support would be extended for meeting the replacement value of the property, that includes all transactions costs and without deduction for depreciation, and salvageable materials. APs who neither have titles nor recognized or recognizable claims to land will be compensated for their structures and for other improvements to the land.
- Widening and strengthening work will take place mostly on the existing alignment except at locations where the existing alignment may require shifting to accommodate bridges reconstructed in new locations adjacent to existing structures;
- Before taking possession of the acquired lands and properties, compensation and resettlement and rehabilitation (R&R) assistance will be paid in accordance with the provision described in this document;
- An entitlement matrix for different categories of people affected by the project has been prepared and provisions will be kept in the budget for those who were not present at the time of census survey. However, people moving in the project area after the cut-off date will not be entitled to any assistance. In case of land acquisition the date of notification for acquisition will be treated as cut-off date. For non-titleholders such as squatters and encroachers the date of project census survey or a similar designated date declared by the

- executing agency will be considered as cut-off date;
- Appropriate grievance redress mechanism will be established at the district level to ensure speedy resolution of disputes;
- All activities related to resettlement planning, implementation, and monitoring would ensure the involvement of women and other vulnerable groups; and
- Consultations with the APs will continue during the implementation of resettlement and rehabilitation works.
- Compensation and rehabilitation is to be provided before the land is acquired.

## F. Eligibility to Compensation and Rehabilitation

20. APs entitled to compensation or rehabilitation under the Investment Program are:
- (i) all APs with formal title, formal or customary deed, or traditional land right as vouched by the local Jirga, elders or Community Development Council;
  - (ii) leaseholders, tenants and sharecroppers, whether registered or not;
  - (iii) owners of buildings, crops, plants, or other objects attached to the land (including those with no legal rights to the land); and
  - (iv) APs losing business, income, and salaries (including those with no legal rights to the land).
21. Compensation eligibility will be limited by a cut-off date to be set on the completion day of the impacts assessment and AP census. All APs settling in affected areas after that date and who cannot prove that they are displaced users of affected plots will not be eligible for compensation.

## G. Entitlements and Valuation

22. APs are entitled to various types of compensation and resettlement assistance as detailed below:

***“Acquisition of land*** will be compensated at replacement cost either through replacement plots of similar value<sup>4</sup> and condition or in cash based on replacement/current market to be approved by the council of ministers. DABS will shoulder all fees, taxes, and other charges, as applicable under relevant laws incurred in the acquisition and resource establishment.

***Loss of leased agricultural land*** will be compensated by either renewal of lease in other plots of equal value/productivity of plot lost or cash equivalent to the market value of gross yield of affected land for the remaining lease years (up to a maximum of 3 years).

***Houses, Structures and Buildings*** will be compensated in cash at replacement cost free of depreciation or transaction costs. Replacement costs are calculated in consultation with local governments, provincial DABS engineers and AP and will not include depreciation or salvaged materials which can be used for free by the AH. A lump sum shifting allowance of AF5,000 will be paid for each resettled AH in addition to building compensation.

***Loss of crop*** will be compensated at market rate along with additional assistance for purchase of seeds and restoration of future crop activities.

***Loss of trees:*** Fruit bearing trees will be compensated at the value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same productive

level of the tree lost. Non–fruit bearing/timber trees will be valued based on the market value of their dry wood volume. The compensation for the tree will be free of deduction for the value of the wood left to the AH.

**Loss of business** will be compensated based on tax receipts/other valid documents or, if these are not available, based on the average net income of similar typical businesses in project areas as determined by surveys. Compensation<sup>2</sup> for permanent business losses will amount to six month of actual income or of the monthly allowance. Compensation for temporary business losses will cover income losses during the interruption period.

**Income losses for workers and employees** — Indemnity for lost wages for the period of business interruption up to a maximum of three months.

**Sharecroppers and agricultural workers** — Sharecroppers will receive their share of harvest at market rates plus one additional crop compensation. Agricultural workers, with contracts to be interrupted, will get a cash indemnity corresponding to their salary in cash up to a maximum of three months.

**Vulnerable Households** – Vulnerable people (APs below the poverty line, women household heads, mentally-challenged headed households, etc.) will be provided an additional three months of average household income allowance (Afs28,500) as assistance and will be given priority in employment in project-related jobs.

**Severe agricultural land impacts** – When greater than 10% of an AP's agricultural land is affected, the AP will get an additional allowance for severe impacts equal to the market value of a year's net income crop yield of the land lost.

**Transitional livelihood allowance**<sup>6</sup> — AHs forced to relocate will receive a livelihood allowance of AF5,200 a month for 3 months.

**Community structures and public utilities** — Will be fully replaced or rehabilitated so as to satisfy their pre-project functions.

**Impacts on irrigation channels** — The project will ensure that irrigation channels are diverted and rehabilitated to previous standards.

23. The determination of replacement cost will be based on a detailed assessment undertaken to verify local market rates from local people (based on land transactions done in the area in the last three years) and government rates (if any) prevalent in this region. The government-registered price will be ascertained from the revenue papers. However, in Afghanistan there may be situations where land or building markets are insufficiently developed and land sales prices are not systematically recorded. In these cases, valuation will be based on local government revenue rates and will then be negotiated with the local communities. The replacement value rates payable to the affected households will be determined based on extensive consultations with the local Jirgas and the affected households. These negotiated rates will be adopted once endorsed by the Governor's Office. The LARPs will detail the consultation and negotiation activities that led to the definition of the final land rates so as to document the fairness and transparency of the land valuation process and the final agreement of the APs.

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<sup>2</sup> The value of the land will be determined by the Agricultural Department

24. The above-described entitlements are summarized in the Entitlements Matrix provided in Table 2 below.

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land affected by right-of-way (ROW)	AP with title, formal/customary deed, or traditional land right as vouched by local Jirga, elders or Community Development Council.	- Compensation at replacement cost either through replacement plots of similar value or in cash based on replacement/current market to be approved by the council of ministers. All fees, taxes, or other charges, as applicable under relevant laws are to be borne by the project
Loss of leased land	Agricultural Land	Leaseholders (registered or not)	renewal of lease in other plots of equal value/productivity of plot lost or cash equivalent to the market value of gross yield of affected land for the remaining lease years (up to a maximum of 3 years)
Structure loss	Residential/commercial or auxiliary structures affected	Owners of structures (including informal settlers)	- Cash compensation for affected structure and other fixed assets at replacement cost of the structure free of depreciation, taxes/fees and salvaged materials. - In case of partial impacts full cash assistance to restore remaining structure. - Right to salvage material from demolished structure
Crops losses	Crops on affected land	Owners of crops / sharecroppers	- Cash compensation equal to replacement cost of crop lost plus cost of replacement seeds and restoration of future crop activities.
Trees Loss	Trees on affected land	Owner of trees (including informal settlers)	- Fruit bearing trees will be compensated at the value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same productive level of the tree lost. - Non-fruit bearing/timber trees will be valued based on the market value of their dry wood volume. - The compensation of the tree will be free of deduction for the value of the wood left to the AH.

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Item	Application	Eligibility	Compensation Entitlements
Business losses	Permanent / temporary	Business / shop owners (including informal settlers)	- Owners: Business compensation based on monthly income from that business by month of business stoppage. The compensation for business loss will be calculated based on tax receipts or when these are not available based on fixed rates <sup>3</sup> . -Employees: indemnity for lost wages up to 3 months income
Transitional Allowance	Relocating households	All relocating households (including renters and informal settlers)	-transitional allowance per household for livelihood losses at AF5,200 multiplied by 3 months
Relocation Allowance	Relocating households	All relocating households (including renters and informal settlers)	-Relocation allowance per household of AF5,000
Assistance to Vulnerable Affected Households	Affected by land acquisition, resettlement, etc.	AH which are: female-headed; poor (below poverty line) or headed by handicapped/disabled persons	-Additional cash assistance equivalent to 3 months average household income (AF28,500) -Preferential employment in project related jobs.
Severe Loss of Agricultural Land	Agricultural land		-Allowance for severe land impacts equal to replacement cost of a year's net income from crop yield of land lost.
Temporary land occupation		Title holders (formal and informal) lease holders	-Rent for duration of use equal to potential crop loss plus plot rehabilitation. Tenants to share the lump-sum with land-use certificate holders as per their contract
Unidentified Impacts			-Unforeseen impacts compensated based on above entitlements during project implementation by EA.
Loss of Community, Cultural, Religious, or Government Sites	Temporary or permanent loss due to the transmission line component activities		-Conservation, protection and cash compensation for replacement (schools, communal centres, markets, health centres, shrines, other religious or worship sites, tombs. Cash compensation for affected structures based on the above structures entitlements
Impact on irrigation channels	Temporary or permanent loss due to the Project activities	Community/affected households	-Irrigation channels are diverted and rehabilitated to previous standards

<sup>3</sup> The fixed rate will be based on the average net income of similar businesses in the project areas as determined by the surveys conducted during LARP preparation.

## **VI. INSTITUTIONAL ARRANGEMENT RESPONSIBILITIES AND IMPLEMENTATION**

### **A. The Executing Agencies**

25. DABS is the agency responsible for LAR planning, implementation and financing. Within DABS, the Project Management Office (PMO) will have day-to-day responsibility for LAR and, within it, a due diligence team (DDT). The PMO has overall responsibility for planning, implementation and monitoring of LAR activities in projects under the MFF. It is tasked to:

- ensure availability of a budget for LAR activities;
- select and appoint organizations and consults for specific activities;
- coordinate with line departments, implementing organization and the project supervision consultant;
- train resettlement teams and manage tasks involving local or central government or the affected communities shuras.

26. The DDT will work closely with other PMO staff and will specifically look at safeguards issues. The DDT will assist the PMO for getting all the necessary clearances and implementation of the resettlement activities prior to start of any civil work. The DDT will be supported by an international resettlement specialist and a domestic resettlement specialist. Similarly, there will be an international environment specialist who will be assisted by a domestic environmental specialist. Both the international and domestic resettlement specialists will work closely with the PMO. The domestic resettlement specialist will work closely with the PMO engineers and implementing NGO at the project site level. The candidate to be selected as IRS is desired to have similar earlier experience in resettlement and social development planning and implementation.

27. The executing agency staff dealing with LAR impacts will require training on safeguards issues. This will be provided by the IR. Training will be budgeted in the LARP.

### **B. The Construction and Supervision Consultant**

28. LARP implementation will be monitored by the construction supervision consultants who, as the external monitoring agency, will also provide for the required compliance reports. The construction supervision consultants will have local and, if needed, international staff to carry out LAR-related monitoring tasks.

### **C. Implementing Organization**

29. DABS will engage a local organization (NGO or consultant) to assist in the preparation and implementation of LARP. The Implementing organization (IO) will play the role of facilitator and will work as a link between PMO and the APs. The IO will educate the APs on the need to implement the Project, on aspects relating to land acquisition and LAR measures, and ensure proper utilization of various compensations extended to the APs under the entitlement package. Specific tasks of the IO are as follows:

- Work under close coordination of the PMO, and DDT to implement the LARP.
- Involve the shura and local leaders, wherever necessary, to implement the LARP to facilitate transparency in the process and public participation.

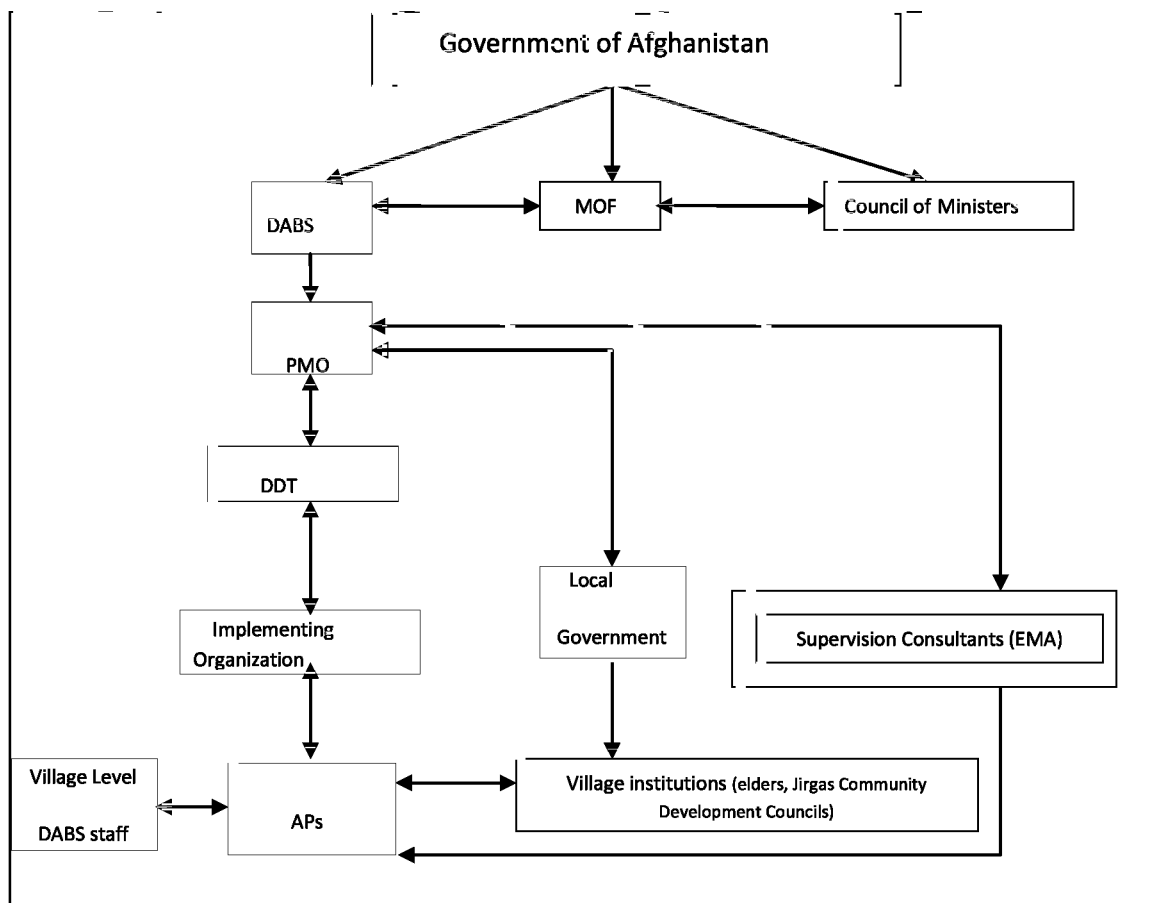


- Assist the PMO in dissemination of the LARP and other resettlement-related information.
- Take the lead in joint verification and identification of APs.
- Identify AHs whose lands which can be acquired through negotiated purchase or through expropriation.
- Identify absent AHs.
- Carry out a census of the APs and identify the vulnerable households (if required).
- Identify training needs of APs for income generation activities and ensure that they are adequately supported.
- Counsel, generate awareness and resolve the grievances of the affected persons.
- Put forth the unresolved grievances of the APs to the GRC.
- Generate awareness about the livelihood restoration activities, and help the APs to make informed choices, including assisting APs in participating in government development programs.
- Prepare subproject level plans for implementation of LARP and issue ID cards. Assist in disbursement of compensation checks.
- Participate in public meetings as and when required.
- Submit periodic LARP implementation report to the PMO.

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

- **Community Shuras, Local Jirgas and Community Development Councils.** These local entities will assist in various ways the communication between DABS and the affected communities. This includes 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.
- **Provincial Governments.** This entity will ensure government functions at the provincial level, and following the land valuation survey or negotiation, will provide official endorsement of land compensation rates
- **Ministry of Finance (MOF).** The MOF will be responsible to coordinate the approval of the LARP by the Cabinet of Ministers and, once the LARP is approved, deploy the finances needed for LARP implementation.
- **ADB.** ADB will be responsible to provide approval of LARPs and of action related to the satisfactory implementation of this LARF.

31. The institutional arrangement for planning and implementing resettlement and rehabilitation activities will follow the general envisaged structure as depicted in Figure 1 below. The LARP will include a section on scheduling of LAR activities with clear indication of tasks, roles and responsibilities.

**Figure 1: LARP implementation arrangement**

## VII. CONSULTATION AND INFORMATION DISCLOSURE

32. LARP preparation and implementation will be accompanied by an intensive public information and consultation program involving the APs, local institutions and village officials. The objective of these tasks will be to ensure that the APs can play a role in the definition of LAR compensation options and that their needs are reflected in the compensation program detailed in the LARPs. Information and consultation will be carried out through individual meetings, community meetings and through pamphlets and questionnaires. The date, location, number of participants and matter discussed will be documented in the LARPs.

33. As a condition to the Investment Program appraisal, the LARF in Dari will be disclosed at the DABS office. It will be posted on the ADB website. The required LARP in Dari and English will be prepared and disclosed in the same locations as a condition of a contract award. A LAR information leaflet with information including measurement of losses, detailed asset valuations, entitlements and special provisions, grievance procedures, timing of payments and displacement schedule will be made available in Dari and distributed to all APs.

## VIII. GRIEVANCE REDRESS MECHANISM

34. A grievance redress mechanism will be available to allow an AP appealing any disagreeable decision, practice, or activity arising from land or other assets compensation. APs will be fully informed of their rights and of the procedures for addressing complaints during consultation, surveys, and time of compensation.

35. The various queries, complaints and problems that are likely to be generated among the APs and that might require mitigation, include the following:

- APs not listed;
- losses not identified correctly;
- compensation/assistance considered inadequate or not as per entitlement matrix;
- dispute about ownership;
- delay in disbursement of compensation/assistance; and
- improper distribution of compensation/ assistance in case of joint ownership.

36. The grievance redress mechanism entails four stages as follows:

- (i) Complaints are to be filed at the district governor offices. The district government with the help from Shura, IO and PMOs resettlement team is obliged to reply and explain the decision within 30 days from the date the complaint was received. The Grievance Redress Committee (GRC) will assist the district governor offices in the mediation and resolution of conflict.
- (ii) If AP is unsatisfied or has no reply from the district governor office, grievances can then be lodged with the Province Governor offices. The Governor office will issue the final decision within 45 days.
- (iii) If AP is unsatisfied or has no reply from the province governor office, grievances can then be lodged with General Governor office in Kabul. The General Governor office will issue the final decision within 60 days.
- (iv) The AP always has final recourse through Afghanistan's legal channels and referred to the appropriate courts; however, every effort will be made to avoid this since the system is presently critically weak. Should the AP want to pursue legal recourse, however, DABS through its DDT and IO will ensure that support is given to the AP to prepare a case.

37. The PMO will design a pro-forma letter to be used for filing complaints. Literate local leaders and representatives of the APs will be identified for each project to form a Grievance Committee. The Grievance Committee will help the APs in filling the form and transmitting it to the appropriate authority and will assist them at every stage of the complaint process.

38. If grievances cannot be resolved at the local level, the DABS will hold the compensation amounts in escrow or trust account. Compensation will be paid in full upon final resolution of the case in the courts or other forum, in accordance with the entitlements of the AP.

39. A GRC will be established at the district level with the primary objective of providing a mechanism to mediate conflict and cut down on a lengthy litigation process. It will also provide people, who might have objections or concerns about their assistance, a public forum to raise their objections and through conflict resolution, address these issues adequately. The GRCs will continue to function, for the benefit of the APs, during the entire life of each project under the MFF including the defects liability periods. The GRC will comprise of district government with

representatives from DABS, PMO, APs and NGO etc. The specific functions of the GRC are as follow:

- provide support for the APs on problems arising out of land/property acquisition like award of compensation and value of assets;
- record the grievances of the APs, categorize and prioritize the grievances that need to be resolved by the Committee and solve them within a month; Inform PMO of serious cases within an appropriate time frame; and
- report to the aggrieved parties about the development regarding their grievance and decision of PMO.

## **IX. BUDGET AND FINANCING**

40. Land acquisition funds for land affected by a subproject under the Investment Program will be financed by the government using counterpart funds. The budget for such activities will be allocated by MOF based on the costs assessment provided in the LARPs. MOF will authorize disbursement of these funds following the approval of the LARPs by the Council of Ministers.

41. Non-land compensation costs for assets affected by a subproject under the Investment Program or for livelihood assistance (cost of compensation of buildings, crops, trees, income losses and rehabilitation/location allowances) may be directly allocated from the grant or loan based on the costs assessment provided in the LARPs. MOF will authorize disbursement of these funds following the approval of the LARPs by the Cabinet of Ministers.

42. LARPs for subprojects under the Investment Program will provide detailed compensation and rehabilitation costs assessments and will clearly describe the methodology followed to identify the replacement rate for each affected asset. The LARP budgets will include LARP implementation costs including: administration charges, contingencies, and monitoring expenses.

## **X. MONITORING AND EVALUATION**

43. Internal monitoring will be carried out routinely by the PMO either directly or through the services of a consultant. The results will be communicated to ADB through the quarterly project implementation reports. Indicators for the internal monitoring will be those related to process and immediate outputs and results. This information will be collected directly from local DABS offices and reported monthly to the PMO to assess the progress and results of LARP implementation, and to adjust the work program, if necessary. The monthly reports will be quarterly consolidated in the standard supervision reports to ADB. Specific monitoring benchmarks will be:

- (i) Information campaign and consultation with APs;
- (ii) Status of land acquisition and payments on land compensation;
- (iii) Compensation for affected structures and other assets;
- (iv) Relocation of APs;
- (v) Payments for loss of income;
- (vi) Selection and distribution of replacement land areas (if any); and
- (vii) Income restoration activities

44. **External Monitoring.**<sup>8</sup> External monitoring will be carried out in parallel with the implementation of each LARP and, at the end of LARP implementation, will result in a final compliance report indicating whether the compensation program has been carried out based on the LARP provisions and ADB policy and with the APs' satisfaction. The compliance report will be transmitted to the PMO and ADB. A satisfactory Compliance Report will be a condition to start civil works where LAR issues are present. External monitoring tasks will include:

- (i) review and verify internal monitoring reports prepared by the PMO;
- (ii) review of the socio-economic baseline census information of pre-displaced persons;
- (iii) identification and selection of impact indicators;
- (iv) impact assessment through formal and informal surveys with the affected persons;
- (v) consultation with APs, officials, community leaders for preparing review report; and
- (vi) assessment of the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement policy formulation and planning.

45. As part of the final compliance report, the EMA will also assess the status of project affected vulnerable groups such as female-headed households, disabled/elderly and families below the poverty line. The following will be considered as the basis for indicators in monitoring and evaluation of the project:

- (i) socio-economic conditions of the APs in the post-resettlement period;
- (ii) communications and reactions from APs on entitlements, compensation, options, alternative developments and relocation timetables, etc.;
- (iii) changes in housing and income levels;
- (iv) rehabilitation of informal settlers;
- (v) valuation of property;
- (vi) grievance procedures;
- (vii) disbursement of compensation; and
- (viii) level of satisfaction of APs in the post resettlement period.

46. EMA will carry out a post-implementation evaluation of the LARP about a year after completion of its implementation. The compelling reason for this study is to ascertain if the objectives of the RP have been attained or not. The benchmark data of socioeconomic survey of severely affected APs conducted during the preparation of the LARP and IPSEA will be used to compare the pre- and post-project conditions. EMA will recommend appropriate supplemental assistance for the APs should the outcome of the study show that the objectives of the LARP have not been attained.

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<sup>4</sup> ADB SPS (2009) only required the involvement of the external experts for a category "A" project. However, due to the sensitivity of the project areas an external monitoring will be required to prepare the compliance report for all the subprojects with IR impacts under the current tranche.

## APPENDIX 1: OUTLINE OF A LAND ACQUISITION AND RESETTLEMENT PLAN

A LARP is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

1. **Introduction:** This chapter describes the scheme activities and items requiring LAR; alternative options, if any, considered to minimize land acquisition and its effects; and why remaining effects are unavoidable.
2. **Scope of land acquisition and resettlement:** This chapter describes the preparation of the impacts (who carried it out and when it was initiated) and provides a full assessment of each type of impact and a census and APs. The chapter also includes a description of the methodology followed to determine unit-compensation rates for each affected item and subsidy/allowance and will elaborate on the relocation strategy chosen.
3. **Socio-Economic Survey:** This chapter will provide a general assessment of the main socio- economic features of the affected population based on a 20% sample survey
4. **Objectives, policy framework, and entitlements:** Based on the LARF, this chapter outlines the eligibility and compensation framework for the scheme.
5. **Consultation and grievance redress participation:** This chapter summarizes procedures for redress of grievances by people affected described in LARF and describes the consultation/participation process and grievance redress that occurred in the subproject at hand.
6. **Compensation, relocation, and income restoration:** This chapter outlines the income restoration measures to be implemented.
7. **Institutional framework:** This chapter outlines the institutional arrangements for the scheme based on this LARF. It includes the following issues: responsibilities for main tasks and for planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement.
8. **Resettlement budget and financing:** This chapter provides the unit compensation rate for each affected item and assesses the LAR budget for the scheme. The LAR budget will include land acquisition and eventual land acquisition costs, amounts due for crop compensation and for the subsidies and allowances, monitoring and evaluation costs, and administrative costs and will be adjusted for inflation and applicable taxes.
9. **Implementation schedule:** This chapter provides a time schedule showing the LAR process and linking LAR tasks with civil works implementation.
10. **Monitoring and evaluation:** This chapter specifies arrangements for routine and independent monitoring and evaluation activities.





Ref: 460

Date: 31 August 2013

Mr. Rune Stroem,  
Director Energy Division,  
Central and West Asia Department,  
Asian Development Bank,  
Manila. – Philippines  
Tel (632) 632-6457

**Sub: MFF 0026-AFG: Energy Sector Development Investment Program -  
Project 5 (500 kV Dashte Alwan Substation Project)**

Dear Mr. Stroem,

DABS endorses the following documents related to social safeguards  
prepared for the subject Project:

1. Land Acquisition and Resettlement Framework (LARF)
2. Draft Land Acquisition and Resettlement Plan (LARP)
3. Environment Assessment Review Framework (EARF)
4. Initial Environment Examination (IEE)

We also attach the mentioned documents in softcopy for your review and  
approval.

Thanking you,

Yours Sincerely,

  
**Abdul Razique Samadi**  
CEO, DABS

CC

Dr. Waheedullah Popalzai- PMO Director, DABS  
Mr. Alex Culver – FICHTNER Team Leader