

# Land Acquisition and Resettlement Plan

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## Islamic Republic of Afghanistan: Energy Sector Development Investment Program (Tranche 5) - 500 kV Dashte Alwan Substation Project

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

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## CURRENCY EQUIVALENTS

(as of 26 June 2013)

Currency unit	–	Afghani(AF)
AF1.00	=	\$0.01772
\$1.00	=	AF56.41

## LIST OF ABBREVIATIONS

ADB	– Asian Development Bank
AFG	– Afghanistan
AH	– affected household
cf.	– see quoted sources
PSC	– Construction Supervision Consultant
DABS	– Da Afghanistan Breshna Sherkat (Afghanistan Electricity Company)
DDT	– due diligence team
DES	– Domestic Environment Specialist
DMS	– detailed measurement survey
DP	– displaced person
DRS	– Domestic Resettlement Specialist
EA	– executing agency
EMA	– external monitoring agency
EPC	– engineering, procurement and construction
GDP	– gross domestic product
GoA	– Government of Afghanistan
GRC	– grievance redress committee
IR	– involuntary resettlement
h	– hour
ha	– hectare
hh	– households
HIV/AIDS	– human immunodeficiency virus/acquired immune deficiency syndrome
HVTL	– high voltage transmission line
IDP	– internally displaced person
IES	– International Environment Specialist
IRS	– International Resettlement Specialist
IOL	– inventory of losses
IPSA	– initial poverty and social assessment
<i>jalasa</i>	– public meeting for solving conflicts on local level
<i>jerib</i>	– Afghan-Arabic square measure of 0.2 hectare
<i>jirga</i>	– traditional Afghan local and regional council
kg	– kilogram
<i>khadim</i>	– traditional women’s leader
<i>khan</i>	– clan or tribal leader
kV	– kilovolt
LA	– land acquisition
LAL	– Land Acquisition Law of Afghanistan
LAR	– land acquisition and resettlement
LARF	– land acquisition and resettlement framework

LARP	– Land Acquisition and Resettlement Plan
LC	– Land Code
MAIL	– Ministry of Agriculture, Irrigation, and Livestock
M&E	– monitoring and evaluation
<i>malik</i>	– king; village elder
MFF	– multitranche financing facility
<i>mir</i>	– traditional leader
<i>mirab</i>	– Supervisor of an irrigation system
MoF	– Ministry of Finance
<i>mullah</i>	– religious dignitary
MW	– Megawatt
NGO	– non-government organization
OHL	– Overhead Line
PMO	– project management office
PVCC	– provincial valuation and compensation committee
<i>qaum</i>	– solidarity group; clan
ROW	– right of way
RS	– Resettlement Specialist
SES	– socio-economic survey
<i>shura</i>	– modern councils on various levels
<i>spingir</i>	– village elders among the Pashtuns
SPS	– Safeguard Policy Statement
TKM	– Turkmenistan
TND	– transmission and distribution
ToR	– terms of reference
USSR	– Soviet Union
<i>wali</i>	– provincial governor; also, legal representative of a woman
<i>woluswals</i>	– district governor
<i>zagher</i>	– oilseeds

## 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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# 1. Executive Summary

1. The Asian Development Bank (ADB) has supported the Energy Sector of Afghanistan since 2001. The proposed 500 kV Dashte Alwan Substation project (the Project) in north eastern Afghanistan in Baghlan province is being financed as the only project under Tranche 5 of the AFG: MFF Energy Sector Investment Program (MFF). The project is part of a pool of several projects which have the objective of importing electricity from Central Asian countries to Afghanistan (AFG). The Project Executing Agency (EA) is Da Afghanistan Breshna Sherkat (“DABS”), Kabul. The project implementation will be managed by the Project Management Office within DABS, and at the substation site by the Project Supervision Consultants.

2. The Project has been classified for Involuntary Resettlement, in accordance with ADB SPS (2009), as a Category B Project for which a Land Acquisition and Involuntary Resettlement Plan (LARP) has to be carried out.

3. The 500 kV Dashte Alwan Substation Project consists of construction of a new 500/220 kV substation at Dashte Alwan. The proposed site is located some 25 kilometres (km) North West of Pul-e-Khumri, in Dashte Khoja Alwan district of Baghlan province. This project will require no involuntary land acquisition of private land since the land proposed for the construction of the substation and installing necessary equipment is government owned. However, **the project will affect 10 households involving a total of 60 affected persons growing rain fed wheat on a part of the proposed site.** The five year lease of these 10 household from the District Government for rain fed cultivation of the impacted land does not expire before another two years.

4.

5. The 10 Affected Households will be fully compensated in accordance with provisions of the laws in Afghanistan, the ADB Safeguard Policy Statement (2009) and the entitlements provided for in the Land Acquisition and Resettlement Framework of the overall MFF Program updated in July 2013 (LARF)<sup>1</sup>. **The EA will not proceed with any construction works, including the erection of any fence or boundary wall delineating the area of the proposed substation, before the approval and the updating of this draft plan and nor will the EA take any measures to restrict the access of the 10 lease holding households to this land before the APs are fully compensated.**

6. This draft LARP has been prepared by DABS as part of the Periodic Financing Request (PFR) to ADB for processing Tranche 5 of the MFF, based on preliminary design estimates of LAR impact. The substation project will be implemented through a turnkey contract, wherein the turnkey contractor will prepare the detailed design. The

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<sup>1</sup> The original MFF LARF, dated July 2008, was first updated during the periodic finance request for Tranche 4 in November 2011. The current update for tranche 5 is the second update.

adequacy of the land required, can only be confirmed after the detailed design. The LARP will be finalized upon completion of the detailed design and after pegs clearly marking the boundary of the substation complex are placed into the ground.

7. The EA will not proceed with any construction works, including the erection of any fence or boundary wall of the proposed substation compound; nor will the EA take any measures to restrict the access of the 10 lease holding households to this land, till the final LARP is prepared, approved and implemented. The final LARP will provide a complete census of DPs, an inventory of lost assets and the identification of those losing access to more than 10% of their productive vulnerable DPs, those living below the poverty line and women headed households, and a precise valuation of the compensation amounts. An external monitor will be engaged by the PMO to inspect the veracity of the final LARP and report to the PMO and ADB.

8. Compensation and assistance to be provided to people affected by the project is guided by the provisions in the approved Land Acquisition and Resettlement Framework for the MFF updated in July 2013. Entitlements for various categories of impacts and displaced persons are summarized in the entitlements matrix shown in Table 1-1.

**Table 1-1: General Entitlements Matrix**

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land permanently acquired and affected by substation	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.
Business Losses	Trees on affected land	Owner of trees (including informal settlers)	- Fruit bearing trees will be compensated at the value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same productive level of the tree lost. - Non–fruit bearing/timber trees will be valued based on the market value of their dry wood volume. - The compensation of the tree will be free of deduction for the value of the wood left to the AH.
Business losses by	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>2</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

<sup>2</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.

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 centers, markets, health centers, 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

9. Consultations were held with district government officials and APs at the district government office on 3 June. The APs are aware of the temporary nature of their term lease and perceive that by the time the project comes on line their lease, which is for another two years, would have expired. They are satisfied and happy about the disclosure that they will be compensated for any unexpired periods and also regarding the other commensurate allowances. The cut-off date for the entitlement for compensation is considered as 3 June 2013. After a LARP based on final

detailed design and land requirement for the substation complex is approved by the Government and ADB, it shall be disclosed to the affected persons before implementation. **Those affected by a new/revised land requirement for the substation complex will not be subject to the cut-off date provision and a new cut-off date will be declared for them.**

10. Consultations with APs will continue through the project cycle. Several additional rounds of consultations with the APs will be required while finalizing the land requirements for the substation and subsequently during the LARP updating/finalization.

11. A grievance redress mechanism will be available to allow an AP to appeal against 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.

12. The total estimated cost of compensation for premature termination of lease and all commensurate resettlement allowances for this Project is **AFN9,454,090 (US\$ 167,596)**.

## 2. Introduction

### 2.1 Background

1. The Asian Development Bank (ADB) has supported the Energy Sector of Afghanistan since 2001. The proposed 500 kV Dashte Alwan Substation project in north eastern Afghanistan in Baghlan province is being financed as the only project under Tranche 5 of the AFG: MFF Energy Sector Investment Program<sup>3</sup>. The project will augment the existing 300 MW transmission capacity between northern and southern Afghanistan to 1000 MW, to initially allow indigenous generation, as well as power import from Tajikistan, Turkmenistan, and Uzbekistan to supply Afghanistan's domestic needs. Subsequently, upon commissioning of the planned domestic generation projects in northern Afghanistan and with increased imported power arrangements, the link would transmit generation to south while allowing surplus power for export to Pakistan over a future Afghanistan-Pakistan interconnection as well as allow winter exports to Tajikistan.

2. The Project Executing Agency (EA) is Da Afghanistan Breshna Sherkat ("DABS"), Kabul. The project implementation will be managed by the Project Management Office within DABS, and at the substation site by the Project Supervision Consultants.

### 2.2 Objectives

3. This draft Land Acquisition and Resettlement Plan (draft LARP) has been prepared for the 500 KV Dashte Alwan Substation Project of the Afghanistan MFF Energy Sector Investment Program tranche 5 based on information collected by the tranche preparation consultants in June 2013 in consultation with the stakeholders. This project will require no involuntary land acquisition of private land since the land required for the construction of the substation and installing necessary equipment is government owned. However, the project will require compensating 10 lease holding farmers whose five year lease from the District Government for rain fed cultivation of the impacted land does not expire before another two years. The 10 Affected Households will be fully compensated in accordance with provisions of the laws in Afghanistan, the ADB Safeguard Policy Statement (2009) and the entitlements provided for in the Land Acquisition and Resettlement Framework of the overall MFF Program updated in July 2013 (LARF)<sup>4</sup>. The EA will not proceed with any construction works, including the erection of any fence or boundary wall delineating the area of the

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<sup>3</sup> The project, including 10 other investment projects, has been prepared under a sub-component of Energy MFF: ADB. 2008. *Report and Recommendation of the President to the Board of Directors for a Proposed Multitranchise Financing Facility and Administration of Grant Energy Sector Development Investment Program*. Manila (MFF 0026-AFG for \$570 million approved on 2 December 2008).

<sup>4</sup> The original MFF LARF, dated July 2008, was first updated during the periodic finance request for Tranche 4 in November 2011. The current update for tranche 5 is the second update.

proposed substation before the approval and the updating of this draft plan and before the APs are fully compensated.

4. The key objective of the LARP is to guide the PMO of DABS, consultants and the turnkey contractor on LAR procedures specific to this Project that must be complied with. The key tenets that will guide the compliance with LAR aspects during the Project phases are:

- a) land acquisition will be avoided or at least minimized;
- b) compensation will ensure maintenance of pre-project living standards of DPs;
- c) DPs will be fully consulted/informed on compensation options;
- d) DPs socio-cultural institutions will be supported/used;
- e) LAR procedures will equally apply to women and men;
- f) lack of formal title will not prevent compensation rights under the entitlements matrix;
- g) LAR will be conceived and executed as an integral part of the Project and budgets for LAR will be included in the Project costs;
- h) Impact to structures will be avoided or minimized.
- i) All LAR and compensation payments will be completed and endorsed by ADB prior to civil works commencement in the impact area.

5. This draft LARP has been prepared based on preliminary design estimates of LAR impact. The substation project will be implemented through a turnkey contract, wherein the turnkey contractor will prepare the detailed design. The adequacy of the land required, can only be confirmed after the detailed design. The LARP will be finalized by the turnkey contractor upon completion of the detailed design and after pegs clearly marking the boundary of the substation complex are placed into the ground. The EA will not proceed with any construction works, including the erection of any fence or boundary wall of the proposed substation compound; nor will the EA take any measures to restrict the access of the 10 lease holding households to this land, till the final LARP is prepared, approved and implemented. The final LARP will provide a complete census of DPs, an inventory of lost assets and the identification of those losing access to more than 10% of their productive vulnerable DPs, those living below the poverty line and women headed households, and a precise valuation of the compensation amounts. An external monitor will be engaged by the PMO to inspect the veracity of the final LARP and report to the PMO and ADB.

6. The LARP requires approval of ADB and disclosure to the ADB website and DPs. The external monitor will also issue a no-objection certificate (NOC) when all compensations have been fully implemented in the areas identified with LAR impacts. The turnkey contractor will not be permitted to commence civil works in impact areas until the NOC has been issued and endorsed by the PMO and ADB.

## 2.3 LAR-Related Project Appraisal and Implementation Conditions

- a) **Approval of Project:** Conditional to: i) LARP review, update, re-disclosure, and ii) preparation and disclosure of LARPs acceptable to ADB and Government for each tranche subproject/component with LARP.
- b) **Implementation – Start of Contract (construction) for subprojects with LAR impacts:** Conditional to the finalization and disclosure of —implementation-ready LARPs acceptable to ADB and reflecting final impacts, displaced persons (DP) lists, and compensation rates.
- c) **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.

## 2.4 Description and Location of the 500 kV Substation Project

7. The project site was determined adhering to the following precautions:

- Avoiding urban areas, densely populated areas, settlements, schools, public buildings and market places;
- Avoiding shrines, historical places, national parks and protected areas;
- Avoiding forest and water catchment zones;
- Keep electrical field, magnetic field, audible noise and TV interference as far as possible below national/ international accepted levels;
- Keep impact on flora, fauna, nesting places, animal trails, migration zones and sensitive ecological areas to a minimum:

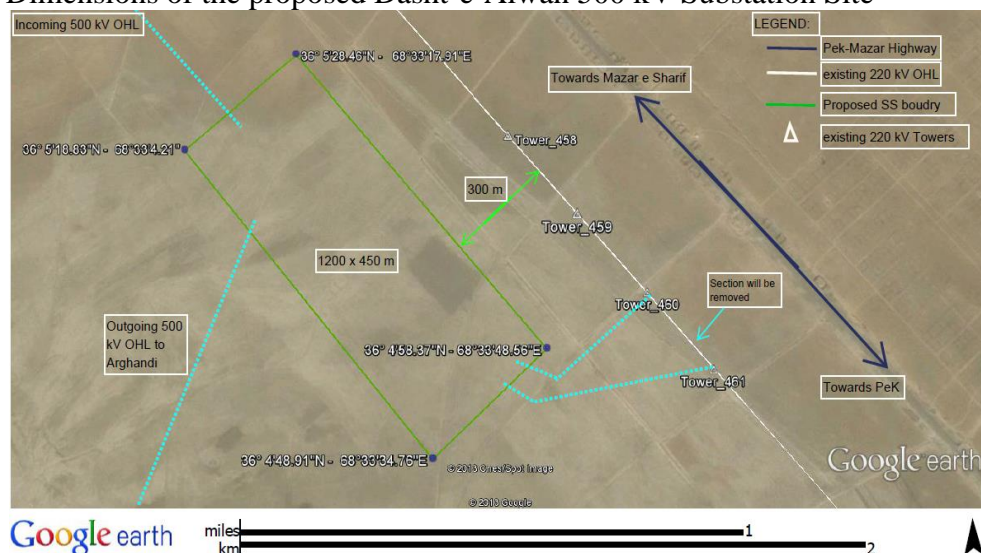
8. The 500 kV Dashte Alwan Substation Project consists of construction of a new 500/220 kV substation at Dashte Alwan, and is located some 25 kilometres (km) North West of Pul-e-Khumri, in Dashte Khoja Alwan district of Baghlan province. This substation will be connected by a new 500 kV transmission line traversing the Hindu Kush Mountains via the Salang Pass route, to be constructed under the North South Power Transmission Enhancement Project. The Dashte Alwan substation comprises the Northern end of the transmission line. The Southern end of the 500 kV North South Transmission Line is the existing Arghandy Substation in the outskirts of Kabul.

9. The Dashte Alwan 500/220 kV substation in later years will become the focal point for interconnection with the neighbouring countries of Turkmenistan, Tajikistan, and Uzbekistan. This substation site at Dashte Alwan is also identified by the Afghanistan's Power Sector Master Plan for direct current (DC) back-to-back convertor stations to permit synchronization between the different sources of imported power.

10. The site dimensions are 1.2 km X 0.45 km, a total of 540,000 m<sup>2</sup> or 54 hectares located along the national highway and the 220 kV transmission line between Pul-e-Khumri and Mazar Sharif. The land is owned by the Government of Afghanistan and is totally uninhabited but 50% of the required land is currently leased out to 10 farmers, for a five year term, that supplement their farming elsewhere by planting wheat in the leased land when the rains are on time . The coordinates of the proposed location and the dimensions of the plot are 36.5 degrees North and 68.3 degrees east, as shown in Figure 1 below.



Dimensions of the proposed Dasht-e-Alwan 500 kV Substation Site



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

1. The earlier planned site in the city of Pul-e-Khumri has been changed to the new site in Dashte Alwan, to minimize LAR impacts arising from the stand alone North South Transmission Enhancement Project. The earlier site is surrounded by urban development and the project transmission lines leading into and out of the substation would impact dwellings and businesses.

2. Land acquisition and resettlement (LAR) impacts of the Dashte Alwan Substation Project of the Energy T5 are minimized by locating infrastructure for the substation in government owned land, in an open and uninhabited area in a total area of 54 ha.

3. Even though 50% of the land i.e. 27 ha is used to plant wheat by 10 lease holding households, only when the rains are timely (on the average once in two years), the LAR impact on the 10 households with an estimated 60 affected persons is not significant.

4. In the Dashte Alwan Substation Project no structure will be impacted, there will be no physical displacement from housing of any APs; no businesses will be impacted. No land acquisition of private land will be required. After compensating the 10 DPs for the 2 year unexpired duration of their 5 year governmental lease, and paying them commensurate allowances for vulnerability or severity of loss of productive impact, if any, in accordance with the LARF, the government land will be transferred to DABS.

#### **3.1 Loss of access to productive assets**

4. The 10 households, that are leasing land to plant wheat when rains are on time, do not live on this land and do not rely on it as a primary source of income. They have regular farming operations in the not too distant neighbourhoods and appear to be leasing this land mainly because of its proximity to the road and ease of access. From this leased land the farming households, on an average, get only one crop in two years,

5. In accordance with the entitlements in the MFF LARF, incorporated in this LARP, the households will be entitled either to renewal of lease in other plots of equal value/productivity of plots lost, or to the market price of the gross yield of two crops of rain fed wheat, for the affected land, one crop for each remaining year of lease. Households found vulnerable during the final census (living below the poverty line, mentally or physically challenged, or women headed households) will also be entitled to a vulnerability allowance. Those households losing more than 10% of their current total productive assets (including the leased land) as a consequence of the cancellation of the lease will be paid a severe impacts allowance equal to the net yield of one crop of wheat for the affected land. These entitlements and the entitled persons will be enumerated by final LAR census survey to be conducted after the final design.



6. The calculation of the annual gross yield of wheat per crop for the 127 ha. of affected land is as under:

Table 1 Annual loss of gross yield of wheat for the affected land (21.6 ha)

<b>Crop Type</b>	<b>Total Affected Area (M<sup>2</sup>)</b>	<b>Productivity (Kg/M<sup>2</sup>)</b>	<b>Total Affected Product (Kg)</b>	<b>Unit Market Rate (AFN/Kg)</b>	<b>Total Cost (AFN)</b>
Wheat (Rain-fed)	270,000	0.4	108,000	20	2,160,000

## 4.0 Socio-Economic Information

1. This chapter presents the socioeconomic profile of the population in the Baghlan province. The substation site is located in the District Dashte Khoja Alwan of Baghlan province. The Baghlan province: is situated in the Northern part of Afghanistan, bordering Samangan province in the North, Kunduz Province in the East, Parwan Province in the South and Bamyan Province in the West. The province covers an area of 5,717 km<sup>2</sup>. Less than half is mountainous and semi-mountainous and more than half is flat area.
2. Baghlan has a total population of 863,700 and 143,950 households, with an average of 6 members each. Around 66% of its population lives in rural districts.
3. The major ethnic groups living in Baghlan Province are Tajiks and Pashtuns followed by Hazaras. Dari is spoken by about 70% of the population in general and by 73% of the village population. The second most frequent language is Pashtu, spoken by 20% of the population. The Hazaras also speak Dari. None of these groups may be considered as IP based on ADB SPS (2009) definition of IP.

### 4.1 Information on Poverty and Vulnerable Households

4. Afghanistan's economy is growing respectably mainly due to the emerging mining activities and the continued expansion of agricultural production. According to a recently presented World Bank study, given current high rates of population growth (2.8% a year), the economic growth at these levels will be too slow to reduce the number of people living in poverty over at least the next 15 years. With rapid population growth, a GDP growth of around 6% implies very slow progress in raising average per capita incomes and reducing poverty: it would take around a generation to double the per capita income.
5. The average per capita income in Afghanistan is currently among the lowest in the world at US\$528 p.a./p.c. The percentage of Afghans who are not able to meet their basic needs is 36%. Employment and poverty are unevenly distributed across the country, however. Even higher poverty incidences are found among the Kuchi population (54%) and in the South, West-Central and East regions (more than 44 percent). Poverty is likely to be felt in conflict-affected provinces, too, leading to a loss in household income and fewer opportunities for casual labour and generally lower wages (cf. World Bank 2012a).
6. The majority of the population in the Baghlan province relies on cultivated agriculture and animal husbandry for their livelihood. The majority of the households in the project area own some livestock including cows, sheep, donkeys or goats. Some villagers derive a significant part of their income from carpet weaving. Others derive income from the sale of milk and sheep wool. More specific information on the affected household's

sources of income will be collected through the census which will be conducted as part of the final LARP preparation.

7. Access to schools and health services in the project areas is higher than in other provinces. Currently, the literacy rate in Baghlan is roughly 21%, with men enjoying higher literacy rates than women. Between 20% and 30% of the households have access to safe drinking water, while 17% to 49% have access to electricity. 12. In the project provinces, men and women are economically active and contribute to the household economy. Men are the main responsible for agricultural activities from cultivating to irrigation and for looking after the crops up to collecting the harvest. Women support the men of their family in agriculture mainly during the cultivating time (weeding) and during the harvest. Women also contribute to agro processing (prevalingly with regard to their family's own products).

8. In case of purchasing food and clothes, a recent study shows that the majority of the decision is made by women. Men mainly decide if household devices, agriculture inputs and utensils or animals are purchased. The men are also the main decision makers for school enrolment for both boys and girls. Men control the major household assets. The man is the owner of the house, the agricultural land, the farming equipment and the animals (larger animals like cows, horses, and donkeys, and small animals like sheep and goats). Only chicken and ducks often belong to the women. For the LARP, the men will likely receive the cash compensation for affected assets.

## **5. Legal and Policy Framework**

1. This LARP is prepared following the ADB's provisions under SPS 2009. This chapter discusses the national legislation of Afghanistan and the differences and/or gaps in relation to the 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.

### **5.2 Afghanistan's Legal Framework on Land Acquisition and Resettlement**

2. 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.

3. 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).

4. 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).

5. 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.

6. 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.

### **5.3 The ADB Safeguard Policy**

7. The ADB Safeguard Policy Statement, 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 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 DPs to share project benefits. The affected people need to be provided with sufficient resources and opportunities to re-establish their livelihoods and homes as soon as possible, with time-bound action in coordination with the civil works.
- DPs are to be fully informed and closely consulted. DPs 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 affected people at key points, and specific opportunities provided for them to participate in choosing, planning, and implementation options. Grievance redress mechanisms for affected people are to be established. Where DPs are vulnerable, 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 DPs, and, where relevant, of their hosts, are to be protected and supported. DPs 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 barrier to ADB policy entitlements. DPs that neither have formal legal rights nor recognized or recognizable claims to land should be compensated for all non-land assets and for other improvements to the land.
- Identification: DPs 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 cut-off 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 affected people, 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 the project costs and benefits. This includes costs for 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 the 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.

#### **5.4 Identification of gaps between the ADB Policy and the Afghanistan Law**

8. The Land Acquisition Law (LAL) of Afghanistan and the ADB policy diverge on some key points related to the compulsory acquisition of land. The LAL 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 LAL require preparation of a documenting process, consultations with DPs, or any specification of procedure for the acquisition and compensation. Finally, the LAL does not entitle to compensation DPs without title nor provides compensation for income losses caused by LAR. Table 5-1 presents the differences between the LAL and the ADB safeguards, and identifies the resolutions taken on this LARP to reconcile the gaps.

**Table 5-1: Comparison of the ADB Safeguard Policy Statement (2009) and the LAL of Afghanistan**

ADB SPS 2009	Land Acquisition Law (LAL)	Remarks/Agreed Reconciliation Measures
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.



## **6. Entitlements**

### **6.1 Principles for Entitlement and Eligibility**

1. The compensation eligibility and entitlements for this LARP are detailed below:

- The negative impact on DP 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 the LARP will be disclosed to DPs and all key stakeholders and people's participation will be ensured in planning and implementation.
- 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. DPs that 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 displaced 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.
- Consultations with DPs will continue during the implementation of resettlement and rehabilitation works; and
- Compensation and rehabilitation is to be provided before the land is acquired.

DPs entitled to compensation or rehabilitation under the Investment Program 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;
- Leaseholders, 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).

2. Compensation eligibility will be limited by a cut-off date to be set on the completion day of the impacts assessment and DP census. All DPs 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.

## 6.2 Entitlements and Valuation

3. DPs are entitled to various types of compensation and resettlement assistance as detailed below. Some of these impacts have not been noted in the preliminary assessment and may not be applicable for the transmission line component, but were included in case these are identified during the LARP finalization:

- ***Acquisition of land*** will be compensated at replacement cost either through replacement plots of similar value<sup>5</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)

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<sup>5</sup> The value of the land will be determined by the Agricultural Department

- ***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 for permanent business losses will amount to 6 month of net income. 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 households (AHs below the poverty line, women household heads, mentally challenged headed households, etc.) will be provided an additional three months of average household income allowance (Afs 28,500) 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.

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<sup>6</sup>Transitional livelihood allowance is computed based on the prevailing wage rate of AF200 per day by 26 days or AF 5,200 per month. This is also the basis for cash compensation for

- **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.

4. 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 final LARP 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 DPs. The above described entitlements are summarized in the Entitlements Matrix provided in Table.

**Table 6-1: Entitlements Matrix**

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land affected by right-of-way (ROW)	AP with title, formal/customary deed, or traditional land right as vouched 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)

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lost wages. This rate will be adjusted based on the current prevailing wage rate during LARP finalization.

<b>Item</b>	<b>Application</b>	<b>Eligibility</b>	<b>Compensation Entitlements</b>
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>- In case of partial impacts full cash assistance to restore remaining structure.</li> <li>- Right to salvage material from demolished structure</li> </ul>
Crops losses	Crops on affected land	Owners of crops / sharecroppers	<ul style="list-style-type: none"> <li>- Cash compensation equal to replacement cost of crop lost plus cost of replacement seeds and restoration of future crop activities.</li> </ul>
Trees Loss	Trees on affected land	Owner of trees (including informal settlers)	<ul style="list-style-type: none"> <li>- 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.</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> </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<sup>7</sup>.</li> <li>-Employees: indemnity for lost wages up to 3 months income</li> </ul>
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

<sup>7</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.

<b>Item</b>	<b>Application</b>	<b>Eligibility</b>	<b>Compensation Entitlements</b>
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

## 7. Consultation and Information Disclosure

1. The head of engineering DABS PMO and resettlement specialist of the national consultants visited Dashte Khoja Alwan District in June, 2013 and had consultations with officials of the district government. Consultations were also held with a representative of the APs at the district government office on 3 June. The APs are aware of the temporary nature of their term lease and perceive that by the time the project comes on line their lease, which is for another two years, would have expired. They are satisfied and happy about the disclosure that they will be compensated for any unexpired periods and also regarding the other commensurate allowances for the vulnerability and severity of impact which they are not familiar with.

2. Consultations with APs will continue through the project cycle. Several additional rounds of consultations with the APs will be required while finalizing the land requirements for the substation and subsequently during the LARP updating/finalization. These will involve agreements on compensation, assistance options, and entitlements. The other round of consultations will occur when compensation and assistance are provided and actual resettlement begins. For continued consultations, the following steps are envisaged in the project

- The PMO through the resettlement specialist will organize public meetings to inform the APs about the compensation and assistance to be paid. Regular update of the progress of the resettlement component of the project will be placed for public display at the local DABS and district government offices.
- All monitoring and evaluation reports of the resettlement components of the project will be disclosed in the same manner as the LARP.
- Key features of the entitlements will be displayed at the closest market or intersection on the road adjacent to the site.
- Attempts will be made to ensure that vulnerable groups understand the process and to take their specific needs into account.

### 7.2 Disclosure of LARP

3. To keep project information transparent information will continue to be disseminated through disclosure of resettlement planning documents. A resettlement information pamphlet (attached as Annex 1) containing information on compensation, entitlement and resettlement management adopted for the Project has been made available in Dari and distributed amongst the DPs. The PMO will keep DPs informed about the impacts, the compensation and assistances proposed for them and facilitate addressing any grievances. **They will hold special meetings to orally brief those who are illiterate regarding their entitlements, the compensation methods and means of recourse to grievances redress mechanisms established**

**for the Project.** In addition, literate members of the community will be encouraged to provide the same assistance to the less literate DPs. Copies of the LARP are available at the DABs PMO and the district government, and will be provided to APs on demand. A copy of the LARP and the summary pamphlet has been disclosed in ADB's website in English. Moreover, as required in the new ADB public communications policy, monitoring reports on the LARP implementation will also be posted on the ADB website.



## 8. Grievance Redress Mechanism

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. A Grievance Redress Committee (GRC) will be established at the

district level with the primary objective of providing a mechanism to mediate conflict and cut down on 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 needs 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.

## **9. Institutional Arrangements**

1. The institutional arrangements for the finalization and implementation of this LARP follow the provisions described in the approved LARF.

### **9.2 Da Afghanistan Breshna Sherkat (DABS)**

2. Da Afghanistan Breshna Sherkat (DABS) is the executing agency (EA) for the project and has the primary responsibility 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 DDT comprises of the PMO Head of Engineering (team leader) the PMO Resettlement Expert and the PMO Environment Expert. The PMO has overall responsibility of 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 consultants for specific activities;
- coordinate with line departments, implementing organization and the Project Supervision Consultant (PSC);
- train resettlement teams; and,
- manage tasks involving local or central government or the affected communities' shuras.

3. The DDT will work closely with other staff of the PMO and will specifically look at safeguards issues. The DDT will assist the PMO in getting all the necessary clearances and implement the resettlement activities prior to start of any civil work. The DDT will be supported by a Resettlement Specialist (RS). The RS will work closely with the PMO DDT, and the Project Supervision Consultant at project site level.

4. The draft LARP will be finalized by the PMO (through the DDT). The Project Supervision Consultant will prepare the final LARP based on a DMS, DP census and survey after the land requirements are finalized by the turnkey contractor based on the final design of the substation. The PSC will also be responsible for implementing the final/implementation-ready LARP. LARP implementation will be monitored and evaluated by an external monitoring agency (EMA)

### **9.3 Provincial Valuation and Compensation Committee**

5. The assessment of all damages and losses will be done and the valuation of compensation will be decided by the Provincial Valuation and Compensation Committee (PVCC). The Committee consists of the following members (i) one representative of the Province governor responsible for land affairs, (ii.) one representative of the PMO (preferably a member of Due Diligence Team), (iii.) one representative of the

coordinator/facilitator, (iv.) one representative of the land users where lands are taken permanently or temporarily, (v.) one representative of the District Jirga, and (vi.) one representative of the contractor, responsible for the identification of losses, is also a member of the sub-commission without right to vote.

#### 9.4 Other Agencies and Institutions

6. 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.

## 10. Resettlement Budget/Compensation Valuation

1. Funds for the implementation of the LARP are part of the overall project budget as counterpart financing by the Government of Afghanistan (\$3.9 million). No land acquisition of private land is required under this project and neither will any structures, shops or dwellings, be damaged.
2. Due to the preliminary status of the design and total land requirement the cost of LARP implementation will be finalized after the elaboration of the final land requirement for the substation and the Detailed Measurement Survey.
3. The budget in this LARP includes provisions for i) compensation of loss of access to productive assets; ii) transition, vulnerability, and relocation allowances to be paid to APs; and iii) the services of an external monitoring agency. The costs for final LARP updating and preparation and other LAR related activities such as EA capacity building are included in the budget of the PSC contract.
4. As a safeguard measure the full range of all possibly applicable allowances are budgeted for the 10 APs that have been identified as impacted households.

### 10.2 Provisions for loss of access to productive assets

5. As a consequence of the project the 5 year leases for government owned rain fed agricultural land of 10 APs will be terminated two years before the term expires. On an aggregate these 10 APs farm an area of 27 ha or 270,000 m<sup>2</sup> planting, depending on the timeliness of the rain, one crop of wheat annually. The annual yield for this total affected area is provided in Table 10.1

Table 10.1: Annual wheat crop yield of the affected 27 ha of rain fed land

<b>Crop Type</b>	<b>Total Affected Area (M<sup>2</sup>)</b>	<b>Annual Productivity (Kg/M<sup>2</sup>)</b>	<b>Total Affected Product (Kg)</b>	<b>Unit Market Rate (AFN/Kg)</b>	<b>Total Cost (AFN)</b>
Wheat (Rain-fed)	270,000	0.4	108,000	20	2,160,000

6. Production loss for the 10 APs has been budgeted based on the above calculations of crop loss from 27 ha for two years (the number of years remaining before the lease expires) to compensate for loss of access to productive assets. This amounts to AFN 4,320,000 or @ AF56.41/1 US\$: US\$76,582.

### 10.3 Transition vulnerability, severe agricultural land impact, allowances

For the allowances, the following calculations were made:

- a) Transitional livelihood allowance  
 $10 \text{ Affected households} \times \text{AF}15,600 = \text{AF}156,000 @ \text{AF}56.41/1 \text{ US\$} = \text{US\$}2,765$
- b) Assistance to Vulnerable Households  
 $10 \text{ Affected households} \times \text{AF} 28,500 = \text{AF}285,000 @ \text{AF}56.41/1\text{US\$} = \text{US\$} 5,052$
- b) Severe Agricultural Land Impact Allowance  
 This is calculated at the gross yield of one crop of wheat for affected land lost land (27 ha combined for the 10 Affected households) =AFN2,160,000 @ AF56.41/1US\$ = US\$ 38,291

### 10.4 External Monitoring Agency recruitment

7. The cost of retaining an External Monitoring Agency with intermittent input of two person months within a period of 2 years are estimated as AFN1,300,000 or US\$ 23,046

**Table 10-2: Summary Resettlement Budget**

S.No	Item	US\$
1	Compensation for 2 years remaining lease	76,582
2	Allowance for Severe Agricultural Land Impact	38,291
3	Transition allowance	2,765
4	Vulnerability assistance	5,052
5	External Monitoring Agency	23,046
6	Sub-total	145,736
7	Contingency 15%	21,860
8	Total	167,596

## 11. Implementation Schedule

1. DABS will not proceed with any construction works, including the erection of any fence or boundary wall delineating the area of the proposed substation before the approval and the updating of this draft plan and before the APs are fully compensated.

2. The implementation schedule below, (Table 11-11) relates to i) finalization of land requirement for the substation; ii) the LARP updating, finalization, approval and disclosure; and iii) LARP implementation including LARP compliance monitoring. The responsible agency is also specified therein.

**Table 11-1: LARP Finalization and Implementation Milestones –Key Dates**

Activity	Dates	Responsibility
<i>i) Finalization of land required</i>		
Mobilization of Project Supervision Consultants	May 2014	DABS-PMO
Mobilization of turn- key contractor	June 2014	DABS-PMO
Design preparation and finalization of land requirement	October - November 2014	PSC – Turnkey contractor
<i>ii) LARP finalization, approval and disclosure</i>		
Detailed measurement surveys, census, socioeconomic surveys, and follow-up consultations to be implemented	December 2014-January 2015	PMO DDT-PSC-Resettlement Specialist
Provincial Valuation of Losses and Compensation Committee (CVLC) works together with DPs	January 2015	PMO DDT
Land plots required are confirmed and valuation of compensation payments and allowance entitlements mutually agreed	January 2015	PMO DDT
Updating resettlement leaflet and distribution amongst the APs	February 2015	PSC –Resettlement Specialist
Final LARP prepared and submitted to ADB and government for approval	January/February 2015	PMO –PSC Resettlement Specialist
GRC becomes operative	January 2015	PMO DDT
Disclosure	February 2015	PMO
Allocation of LAR funds	January 2015	DABS PMO
<i>iii) LARP implementation and Compliance Monitoring</i>		
Compensation delivery	March 2015	DABS PMO District Government

<b>Activity</b>	<b>Dates</b>	<b>Responsibility</b>
Internal monitoring	March/ April 2015	PSC, PMO DDT
Preparation of compliance report	May 2015	External Monitoring Agent
No objection from ADB to start civil works/including fencing.	May 2015	ADB
Start of civil works	May 2015	Turnkey Contractor
Preparation of bi annual LAR evaluation reports to ADB and disclosure	June 2015 – May 2017	External Monitoring Agent



## 12. Monitoring and Evaluation

1. 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.

### 12.2 Internal Monitoring

2. Internal Monitoring will be conducted by the PMO. Internal Monitoring and Evaluation (M&E) reporting will cover the following:

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

3. Internal monitoring will be carried out on a monthly basis by the Due Diligence Team 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 ensuring these actions are undertaken.

4. 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 DDT will monitor to ensure that no construction in the affected areas will commence until the payment of compensation has been fully completed and that concerns from DPs are identified timely and addressed effectively.

### 12.3 External Monitoring

5. DABS will assign an external monitoring agency (EMA) to carry out external monitoring and post-implementation evaluation of land acquisition and resettlement.

6. **Scope of Work:** The EMA appointed shall undertake the following tasks to independently externally monitor the implementation of the LARP:

#### A. Baseline

Validate the results of the Internal monitoring reports by:

- Random review of DMS forms for correct inventory of assets and entitlements. This review is to cover 10% of all the DMS forms;
- Random review of entitlement and compensation documents to ensure that the assessment of compensation is based on the agreed entitlement matrix and that all entitlements have been accurately applied;

- Random review of status of affected households within the LAR impact areas.

#### B. Evaluation of Delivery of Entitlements

The delivery of entitlements will be monitored as follows:

- Field check, site visits coordinated with the resettlement activities that are taking place;
- Evaluation of the quality and timeliness of delivering entitlements.

#### C. Evaluation of Consultation and Grievance Procedures

Consultation and grievance procedures will be monitored to:

- Assess whether grievance procedures are adequately implemented;
- Identify, quantify and qualify the types of conflicts and grievances (if any) reported and resolved;
- Provide assistance when required to APs to address grievances, as required, and act as observers on the grievance procedure.

#### D. External Monitoring of LARP Implementation and Follow-up Actions

The EMA will conduct external monitoring activities until compensation payments are completed. The EMA will:

- confirm compensation has been paid and point out pending issues;
- make recommendations for the issuance of no-objection to commence civil works in areas with no pending LAR issues or follow-up actions to address non-compliance issues or complaints; and
- identify lessons learned.

7. **Reporting:** The EMA will be required to submit the following:

- (i) Baseline and Inception Report – to be submitted within one week of mobilization to the PMO and ADB.
- (ii) Semi-annual Monitoring Reports – to be formally submitted by the EMA directly after compensation has been distributed in each of the affected areas. The EMA will prepare semi-annual monitoring reports to describe the progress of LARP implementation in sections where LARP implementation has not been completed. The semi-annual Monitoring Reports should particularly focus on:
  - description of M&E activities;
  - report on implementation of all aspects of the LARP;
  - deviations, if any, from the provisions and principles of the resettlement policy specified in the RP;
  - identification of problems, issues and recommended solutions; and
  - description of findings in relation to whether the project activities have been completed as planned and budgeted, and recommendations, timetable and budget for addressing outstanding problems;

- (iii) Compliance report to verify successful LARP implementation to be issued within 1 week after compensation and LAR procedures for all affected areas are completed and prior to construction. .
- (iv) Post LARP Evaluation Report. The EMA will submit a final evaluation of the LARP, two years after its implementation. The report will look into the impact of the LARP on the AH, assessing whether the LARP was successful in its objective of helping DPs restore or improve their livelihood and living conditions, and focusing on lessons learned which may be applied to similar projects.

8. ***Participation of Displaced Persons:*** The EMA will ensure the participation of DPs by means carrying out focus group discussions.

## **Annex 1: PROJECT INFORMATION LEAFLET**

Islamic Republic of Afghanistan: 500 kV Dashte Alwan Substation Project (T5)

Funded by the Asian Development Bank

Executing Agency: Da Afghanistan Breshna Sherkat (DABS)

Expected Implementation Period: 2014 – 2017 (including detailed design)

### **Project Description**

The 500 kV Dashte Alwan Substation Project consists of construction of a new 500/220 kV substation at Dashte Alwan, and is located some 25 kilometres (km) north west of Pul-e-Khumri, in Dashte Khoja Alwan district of Baghlan province. This substation will be connected by a new 500 kV transmission line traversing the Hindu Kush Mountains via the Salang Pass route, to be constructed under the North South Power Transmission Enhancement Project.

The coordinates of the proposed location and the dimensions of the plot are 36.5 degrees North and 68.3 degrees East

### **Expected Impact and Indicative Entitlements**

This project will require no involuntary land acquisition of private land since the land required for the construction of the substation and installing necessary equipment is government owned. However **the project will affect 10 households involving a total of 60 affected persons**, whose five year lease from the District Government for rain fed cultivation of the impacted land does not expire before another two years.

The 10 Affected Households will be fully compensated in accordance with provisions of the laws in Afghanistan, the ADB Safeguard Policy Statement (2009) and the entitlements provided for in the Land Acquisition and Resettlement Framework of the overall MFF Program updated in July 2013 (LARF). The EA will not proceed with any construction works, including the erection of any fence or boundary wall delineating the area of the proposed substation before the approval and the updating of this draft plan and before the APs are fully compensated.

## Entitlements Matrix

Item	Application	Eligibility	Compensation Entitlements
Permanent agricultural/residential/commercial land loss	Land affected by site acquisition	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 Losses	Trees on affected land	Owner of trees (including informal settlers)	- Fruit bearing trees will be compensated at the value of 1 harvest multiplied by the number of years needed to re-grow a tree at the same productive level of the tree lost.
Item	Application	Eligibility	Compensation Entitlements

Item	Application	Eligibility	Compensation Entitlements
			of their dry wood volume. - The compensation of the tree will be free of deduction for the value of the wood left to the AH.
Business losses by	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
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 centers, markets, health centers, shrines, other religious or worship sites, tombs. Cash

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

### **Grievance Redress Mechanism**

A grievance redress mechanism will be established commencing detailed design stage for redress of grievances and complaints. The indicative mechanism is as follows:

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.

Contact Details for Inquiry during Pre-Implementation Stage:

- DABS Kabul Office
- DABS Baghlan